
45 Maresfield Gardens, Hampstead NW3 5TE

Enforcement Notice Appeal
Statement

APP/X5210/C/15/3133473

for Mr Kfir Chervinski

November 2015

Doyle

Doyle Design LLP
86-90 Paul Street
London
EC2A 4NE

T. 020 3305 7476
M. 07766 237 754

1 INTRODUCTION..... 3

2 MAIN ISSUES..... 6

3 DESIGN AND CONSERVATION 7

4 PARKING AND ACCESS..... 12

5 RESPONSE TO OBJECTIONS..... 24

6 PLANNING CONDITIONS, AGREEMENTS AND UNDERTAKINGS 29

7 ALTERNATIVES 31

APPENDIX A: INFORMATION..... 33

APPENDIX B: ORIGINAL PLANNING SUBMISSION AND DOCUMENTS SUBMITTED WITH THIS STATEMENT 35

APPENDIX C: DRAWINGS AND PLANS..... 36

APPENDIX D: RELEVANT PLANNING PERMISSIONS AND APPEAL DECISIONS 37

APPENDIX E: REPORTS OF TITLE 45

APPENDIX F: DRAFT UNILATERAL UNDERTAKING 46

APPENDIX G: OPTIONS FOR THE TREATMENT OF THE CROSSOVER 47

APPENDIX H: PHOTOGRAPHS OF HISTORIC AND CONTEMPORARY BOUNDARY TREATMENTS 48

1 Introduction

Address

- 1.1 Full property and appellant details are provided at Appendix A.
- 1.2 There are varied references to the property address through the planning record. The report of title (attached at Appendix E) confirms the address as Flat 1, April House, 45 Maresfield Gardens, London. NW3 5TE.

Service of Notice

- 1.3 The Appellant continues to query the validity and effect of the Notice, which affects two property interests, but appears to have been served at only one property.
- 1.4 The Town and Country Planning Act 1990 Section 172 (2) Service of Notice states that a copy of an enforcement notice shall be served—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

- 1.5 There are overlapping interests between Nos. 1 & 2 April House, specifically the forecourt area. The northern parking space is used by No.1 April house and the southern space by No.2. The requirements of the Enforcement Notice affect both interests, but the Notice appears to have only been served at No. 1 April House.

Documents submitted with this statement

- 1.6 This Statement is supported by a Transport Statement prepared by Paul Mew Associates (October 2015).
- 1.7 A full list of appeal documents is given at Appendix B.

Decision Notice

- 1.8 The application 2015/3684/P was refused by notice date 9th September 2015, after the Enforcement Notice EN15/073 had been served and after the enforcement appeal had been lodged. There are a number of discrepancies between the planning reasons for refusal and

reasons for the Notice.

- 1.9 The Planning reason for refusal 1 equates to reason 'a' in the enforcement notice. Planning reason for refusal 2 equates to reason 'b' in the notice. However, references to policies differ.
- Planning reason for refusal 1 claims the proposals are contrary to policy CS11 (Promoting sustainable and efficient travel), but omits any reference to CS14 (Promoting high quality place and conserving our heritage),
 - Reason for the Notice 'a' claims the proposals are contrary to policy CS14 (Promoting high quality place and conserving our heritage), but omits any reference to policy CS11 (Promoting sustainable and efficient travel).
 - Planning reason for refusal 2 claims the proposals are contrary to policy CS11 (Promoting sustainable and efficient travel) and omits any reference to CS14 (Promoting high quality place and conserving our heritage).
 - Reason for the Notice 'b' claims the proposals are contrary to policy CS14 (Promoting high quality place and conserving our heritage), but omits any reference to policy CS11 (Promoting sustainable and efficient travel).

Development Plan Policy

- 1.10 The Development Plan is the London Borough of Camden Local Development Framework and the London. The following core strategy and development polices relate to this appeal.

Core Strategy 2010

- CS5 - Managing the impact of growth and development
- CS11 - Promoting sustainable and efficient travel) (Planning refusal only)
- CS14 - Promoting high quality place and conserving our heritage) (Enforcement reasons only)

Development Policies 2010

- DP19 - Managing the impact of parking
- DP21- Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies 2010.

- DP24 - Securing High Quality Design
- DP25 - Conserving Camden's heritage

Guidance

- CPG1 Design
- Fitzjohns/Netherhall Conservation Area statement (2001)

Description of development

- 1.11 The planning application form states: *'Alterations to front boundary treatment including means of access.'*
- 1.12 The Council Decision Notice states: *'Installation of boundary treatment including means of access and hardstanding and the rearrangement of two off-street parking spaces (Retrospective).'*
- 1.13 The Enforcement Notice description on the alleged breach states: *'The erection of metal gates and brick gate piers on the front boundary of the property.'*
- 1.14 The Appellant's preference is for the first description. The formation of the hardstanding occurred prior to the appeal development. The vehicle parking arrangement or layout upon the existing hardstanding and the resurfacing materials do not appear to comprise development. The front boundary gates and piers constitute development by virtue of the fact they rise above 1m: it is this building operation that triggers the need for planning consent.
- 1.15 The front garden hardstanding was present prior to the development, covering almost the entire front garden with the exception of perimeter planting. The hardstanding cannot therefore be considered part of this proposal.
- 1.16 The entire front boundary was previously open to the street. This arrangement permitted unrestricted parking of up to three vehicles and did not restrict vehicles over-running the area of pavement to the right hand side. The appellant claims that the rearrangement of the forecourt layout does not of itself comprise development, even though this has the practical effect of altering how cars access and use the forecourt.

2 Main issues

2.1 The appellant suggest the following main issues.

- The effect of the proposal on the host property and the character and appearance of the surrounding area having regard to the current local and national planning policies. This is addressed in Chapter 3, Design and Conservation.
- The effect of the development upon highway and pedestrian safety, and upon on-street parking provision. This is addressed in Chapter 4, Access and Parking.
- The objectors' comments in relation to the planning application. This is addressed in Chapter 5, Response to Objections.
- Controls available through planning agreements and conditions. This is addressed in Chapter 6, Planning Conditions, Agreements and Undertakings.
- Whether the requirements of the Notice are excessive in the light of alternative proposals and the scope of permitted development rights. This is addressed in Chapter 7, Alternatives.

3 Design and conservation

Policy and guidance

- 3.1 The Development Plan requires development of the highest standard of design that respects local context and character and preserve and enhances heritage assets including conservation areas (CS14 Promoting high quality places and conserving our heritage). All development should consider character and setting, the quality of materials, the provision of visually interesting frontages at street level and the provision of appropriate hard and soft landscaping, including boundary treatments (DP24 Securing high quality design). Policy requires that new hard and soft landscaping should be of high quality and should positively respond to local character.
- 3.2 Development Plan Policy DP25- Conserving Camden's Heritage states that the Council will take account of conservation area statements when assessing applications within conservation areas and only permit development within conservation areas that preserves and enhances the character and appearance of the area.
- 3.3 The Fitzjohns/Netherhall Conservation Area statement (2001) refers to Maresfield Gardens. It describes an underlying consistency of front gardens behind a physical boundary that relates sensitively to the architecture behind. Where this has been lost the statement concludes the underlying character of street and conservation area has been harmed. Maresfield Gardens has several examples of such harm and of traditional boundary treatments altered inappropriately.
- 3.4 The Council resists developments that create, or add to, an area of car parking that has a harmful visual impact (DP19 Managing the impact of parking). It requires off-street parking to preserve a building's setting and the character of the surrounding area and requires hard landscaping treatments such as boundary treatment to offset adverse visual impacts.

Effect upon the host building

- 3.5 The appeal property is located within the Fitzjohns/Netherhall Conservation Area. The Officer's delegated report correctly states that the appeal property is considered to make a positive contribution to the Conservation area. This is confirmed in the adopted conservation area guidelines. However, reading the conservation area assessment as a whole, it is clear that this positive contribution relates to the original nineteenth century house to the north, not the side extension forming Nos. 1 & 2 and the subject of this appeal.
- 3.6 Nos. 43-53 odd (including No.45) are listed as making a positive contribution to the conservation area. However, the character description of Sub Area One (Fitzjohns) and states; 'No.45 was extended with an over-dominant gable attempting to echo its neighbour but undermining it

instead’.

- 3.7 It is therefore clear that, prior to recent approved alterations, the appeal property detracted from the conservation area (see figure 2 below). This undermines the Council’s case that the host building is of merit and it is the boundary and access changes that have harmed the setting and diminished the value of the host building.
- 3.8 The appeal proposals, combined with the other approved alterations to the host building, have together removed the harm caused by the earlier building and open forecourt and resulted in an overall enhancement of the host, of the setting of the original 19 century house to the north, and of Maresfield Gardens and the Fitzjohns/ Netherhall conservation area as a whole.

Boundaries

- 3.9 The conservation area statements states that Nos.43-49 are 1880’s houses built with front walls of over-burnt brick and double entrances originally for carriages. Conservation area guideline FN31, boundaries, includes three relevant points.

‘Alterations to the front boundaries between the pavement and houses can dramatically affect and harm the character of the conservation area as walls alongside the road and within properties add to the attractive appearance of the front garden and architectural setting of the 19th century buildings’.

‘Proposals should respect the original style of boundary and these should be retained and reinstated where they have been lost’.

‘The loss of boundary walls where it has occurred detracts from the appearance of the front garden by reducing the area of soft landscaping in this urban residential area.’

- 3.10 The original boundary wall has been lost. The condition before the appeal development was a wide open forecourt that was uncharacteristic and detracted from the conservation area, as the conservation area statement acknowledges. A list of negative features states; *‘Maresfield Gardens: ‘No.45 – loss of boundary’.*
- 3.11 The loss/absence of the boundary and open forecourt clearly detracted from the appearance of the host property, the front garden and the street. This was the most open forecourt in the area and was surely a prime example of the dramatic effect and harm referred to in the guidelines.
- 3.12 The appeal proposals comprise brick piers with simple copings that reflect and complement other piers in the street.
- 3.13 The open forecourt and extensive hard paved area detracted from the architectural setting of the host building and neighbours whilst the appeal proposals incorporate new boundary piers

and gates that enclose the forecourt and reflect the double (*'in and out'*) horse drawn carriage entrances typical of the area.



Figure 1: Double 'in and out' gateways are a typical historic feature (originally to allow horse drawn carriages to enter and leave properties).

Hardstanding

- 3.14 The officer reports states that: *'The front garden of the property has been laid with hardstanding and demarcated with two off street parking spaces and a central entrance area which leads to the front door of Flat 1'.*
- 3.15 The forecourt was laid out as hardstanding prior to the appeal development (see figure 2 below). This is not therefore the subject of this appeal. The appeal scheme improves upon the earlier condition by introducing more planting and reducing the area of forecourt dedicated to car parking, for example by demarcating footpaths.

Piers and gates

- 3.16 There is a considerable emphasis in the Council's case on the effect of the form and location of piers and gates upon parking and access. However, this should be balanced by careful consideration of their effect on the host building and the conservation area.
- 3.17 The officer delegated reports states that: *'The brick piers and gates are not in keeping with the host dwelling in terms of both their design and appearance.'* And goes on to claim: *'There hasn't been a formal front boundary and as such the front of the property has increased openness which is something which is welcomed in a conservation area.'*
- 3.18 Perhaps the second quote is a typo., but the position of adopted guidance in is the exact opposite. The conservation area character statement states; *'Front boundary treatments vary along the street with no predominant style... The underlying consistence is that of front gardens*

behind a physical boundary that relates sensitively to the architecture behind. Where this has been lost the underlying character of street and conservation area has been harmed.'

- 3.19 The piers and gates establish a symmetrical arrangement centred upon the main front door and characteristic of the historic 'in and out' entrances characteristic of the area.
- 3.20 The choice of brick with concrete copings matches that of adjacent boundary walls and complements the brick of the host building. However, the Officers delegated reports states that: *'The choice of materials does not compliment the host dwelling which is finished in white render. It is not considered that the choice of brick chosen matches the original brick which is a characteristic of the Fitzjohns Netherall Conservation Area'*. The Council's position contradicts the position in the conservation area statement: *'The use of bricks in the construction of front boundary walls provides a consistent theme; however they exhibit a range of heights, brick types, decorative detailing and railings.'*
- 3.21 Appendix H includes photographs of both historic and contemporary brick piers and boundary walls. These demonstrate the wide variety of materials and details used, including multi-stock bricks similar to the appeal proposals.
- 3.22 The proposals reflect a degree of variety that is characteristic of the area whilst following the more general theme of brick piers with copings and black painted metal gates and railings.

Soft landscape

- 3.23 The officer's delegated report states that: *'The front garden of the proposal would have some planters but would not have attractive soft landscaping which can be found within the parts of the conservation area'*.
- 3.24 The amount of soft landscaping should be assessed against the position prior to the appeal development. There has been no loss of areas of soft landscaping. The open forecourt was previously laid out with brick paviors with small areas or perimeter planting and raised planters. The raised brick planter between the parking area and the property has been retained. Planters with box hedging have been installed between the paths and parking spaces. This approach was initially welcomed by Council officers, who advised that further planters should be installed to further soften the appearance of the alterations to the front of the building. This was done.



Figure 2: Sales brochure extract showing forecourt parking and planting

4 Parking and access

Policy and guidance

- 4.1 The Council seeks to ensure that developments provide the minimum necessary car parking provision (DP18 Parking standards and limiting the availability of car parking) and encourages the removal of surplus car parking spaces (DP19 Managing the impact of parking).

Planning History of approving parking spaces

- 4.2 There are examples of forecourt parking and new walls and gates relevant to this appeal. There are also a number of planning permissions and appeal decisions of relevance.
- 4.3 Summaries are provided at Appendix D.

18 Prince Arthur Road



- 4.4 Application approved at appeal (decision attached). The proposed access reduced the length of the residents' parking bay that is partly in front of the appeal site by about 2.7m. The Inspector concluded that the proposal would at least preserve the character and appearance of the Fitzjohns/Netherhall Conservation Area and that it would not materially adversely affect the availability of on-street car parking.

48b Netherhall Gardens



- 4.5 Recently approved redevelopment of a semi-detached house with narrow vehicular entrance, high walls to either side; and in close proximity to neighbouring vehicular entrance and crossover to the right hand side. Slab paving continues across the entrance so that the entrance is not signalled to passing pedestrians. The detailing of the concrete dropped kerb is poor, detracting from the appearance of the street.

48c Netherhall Gardens



- 4.6 A recently approved redevelopment with high front boundary walls and crossover misaligned with driveway. Slab paving continues across the entrance so that the entrance is not signalled to passing pedestrians. The detailing of the concrete dropped kerb is poor, detracting from the appearance of the street. The resident parking bay is misaligned with the crossover and the gates, so that visibility for vehicles entering or leaving the space is highly restricted.

41a Maresfield Gardens



- 4.7 Narrow vehicular entrance to university halls of residence accessing 3 off street spaces. Tall walls to either side. The parking spaces are aligned perpendicular to the gates, so that vehicles entering or leaving the space are also turning, further restricting visibility. This also serves as a service access. Slab paving continues across the entrance so that the entrance is not signalled to passing pedestrians. This entrance is one property to the south of the appeal property.

8 Nutley Terrace



- 4.8 Double garage parking space with tall fence to right hand side. Visibility further restricted because the parking is aligned obliquely, not perpendicular, to the street. Slab paving continues across the entrance so that the entrance is not signalled to passing pedestrians. The forecourts are insufficiently deep, so that cars parked in front of garage doors obstruct the pavement. Consent has been granted for a narrower gateway (off-set to right and closer to boundary) with tall brick piers to either side.

40 Netherhall Gardens



- 4.9 Narrow driveway with tall brick piers and wall. Consent was granted for the removal of one of the two vehicular entrances, raising boundary wall height, and formation of double garage and forecourt parking. The resulting increased in vehicle movements is concentrated on the single narrow gateway.

7a Netherhall Gardens



- 4.10 Conversion to a house with creation of front parking space, but no crossover formed, whilst the property is located at a T junction

7b Netherhall Gardens



- 4.11 Formation of two front parking spaces with separate vehicular entrances, one with a vehicular crossover, the other without. High boundary wall to the right hand side. The entrance is adjacent to a T Junction. Left hand parking space aligned obliquely, further restricting sight lines.

Accessibility

- 4.12 The site has a PTAL score of 6a (excellent) indicating a high level of accessibility by public transport. The potential impact of any reduction in on or off-street parking opportunities available for residents will therefore be less than in an area with low transport accessibility.
- 4.13 Limiting parking space numbers accords with the Council's aim of restricting the amount of car parking space in order to promote sustainable transport choices and reduce the growth in the number of motorised journeys as set out in CS11 Promoting sustainable and efficient travel and DP18 Parking standards and limiting the availability of car parking.
- 4.14 Whilst neighbours are obviously concerned about the direct effect of any proposed developments upon the parking opportunities they currently enjoy, policy and guidance offers only qualified support.

Pedestrians

- 4.15 The first pedestrian surveys were undertaken at the earliest opportunity in early July 2015. Further surveys have been undertaken in late September 2015 and set out in the Transport Statement submitted with the appeal. The LPA could have chosen to delay determining the planning application and postpone issuing the decision notice until further survey evidence was available. They chose not to do so.
- 4.16 The surveys demonstrate that there is a low pedestrian density relative to the amount and

width of pavements, with associated low pedestrian movement numbers.

- 4.17 The officers delegated report speculates: *'As such the figures may be questioned and it may mean a similar time later in the year there could be more pedestrians using the pavement who could be injured as a result of not seeing the car.'* These concerns are not supported by either set of surveys and the Officers fears are therefore unfounded.

Vehicle-pedestrian visibility and safety

- 4.18 Cars entering or leaving the forecourt area need to cross the pavement.
- 4.19 The Officers delegated report states that the proposal fails to demonstrate that there would not be issues with highway safety along Maresfield Gardens and that a car can enter and leave the parking space in a safe manner.
- 4.20 It is acknowledged that vehicle to pedestrian sight lines are reduced for pedestrians travelling south and vehicle leaving the northern parking space. However, there appears to be common agreement that these concerns relate only to the northern parking space and only in relation to pedestrians travelling southbound and for cars existing the northern space.
- 4.21 The Transport Statement demonstrates that there will be no issue with vehicles entering the northern parking space, particularly where the resident parking bay is adjusted, increasing visibility, but that driver-pedestrian visibility will be restricted for vehicles leaving the space.
- 4.22 Camden Council does not prescribe a specific required visibility envelope for vehicle to pedestrian sightlines. Proposals should there be judged on sites specific circumstances and national guidance (Manual for Streets). Manual for Streets notes that the absence of wide visibility splays at private driveways will encourage drivers to emerge more cautiously (Section 7.8.3 and 7.8.4) and account should be taken of the frequency of vehicle movements, the amount of pedestrian activity and footway width.
- 4.23 The Transport Statement surveys undertaken in term time demonstrate that there is a low pedestrian density, with associated low number of pedestrian movements and low flow of traffic in Maresfield Gardens. This should be considered alongside the predicted low number of vehicle movements (one return movement per week day) into and out of the northern parking space that serves a single dwelling.
- 4.24 Reduced vehicle to pedestrian sightlines are likely to encourage drivers to emerge more cautiously, improving pedestrian safety on the footpath (Section 5.37). National guidance (Manual for Streets) indicates that reduced vehicle to pedestrian sight lines "will encourage drivers to emerge more cautiously".



Figure 3: Narrow gateways framed by tall brick piers and walls restricting visibility are a typical feature of both historic and contemporary accesses.

- 4.25 The width of the footway means that vehicle to pedestrian sightlines are generally good, because most pedestrians will move along the middle of the relatively wide pavement, not close to boundary walls. Where the proposed crossover alterations are carried out, pedestrians approaching the property will note the delineation of the crossover indicating the presence of the parking space and this will signal the likelihood of cars exiting the adjacent space.
- 4.26 Proposals to adjust the on street parking bay will further improve pedestrian to vehicle visibility for vehicles entering the northern parking space.

Off-street parking

- 4.27 The Council agrees that the dimensions of the proposed parking spaces are in line with Camden guidance.¹
- 4.28 The proposals will not result in an increase in off-street parking. The previous arrangement permitted up to three cars to park on the forecourt whilst the appeal scheme permits only two. The Officer's delegated report accepts the appellant's claim that up to three cars were previously capable of being parked on the forecourt: *'Historically at the site, there was a vehicle access and there were usually two or three cars which could be parking (sic) within the front garden.'* The proposals will therefore result in a reduction from two to three spaces to a maximum of two off-street parking spaces. The proposals will not therefore result in any increase in private off street parking, but a reduction, helping to restrict car use and reduce congestion and pollution in line with CS11, making private transport more sustainable and minimising provision for private parking; CS11, promoting sustainable travel modes; and DP18, minimising necessary parking provision.
- 4.29 The officer's delegated report claims that *'there are examples of off street parking in front gardens on some properties along Maresfield Gardens. These spaces have an open entrance and usually only one parking space'*. The Parking and Access Survey submitted by the appellant demonstrates that this is a mischaracterisation, or at least far from the norm. In fact, as the submitted survey indicates, front access and forecourt parking with multiple spaces is very much the norm along stretches of Maresfield Gardens, particularly around near the appeal site.

1 Officer Delegated Report Section 4.3.



Figure 4: Wide multi-car forecourt parking areas with wide crossovers are common, many wider than the dropped kerb in front.

On street parking

- 4.30 The Transport Statement submitted with this appeal demonstrates that there is sufficient reserve parking capacity within 200 metres of the site (Section 4.17) and the average overnight parking stress can be categorized as ‘*moderate*’ (72%). The Statement concludes that the proposals will not result in the loss of parking opportunities on Maresfield Gardens, because there is sufficient reserve parking capacity in the vicinity of 45 Maresfield Gardens to accommodate any displaced resident parking resulting from the forecourt parking layout (Section 5.48).
- 4.31 Reducing the length of the adjacent resident parking bay is designed to address objectors’ concerns in relation to pedestrian-vehicle sight lines. The reduction in the length of the parking bay will not result in a loss of parking opportunities on Maresfield Gardens according to established standards (Section 6.5 of the Transport Statement). It will slightly reduce the occasional informal and substandard parking of up to 4 smaller cars within the bay. The current arrangement, where four smaller cars can sometimes squeeze into the (just over) three standard resident parking bay lengths, means that the middle two cars cannot comfortably exit the parking bay without numerous shuffles back and forth due to how close vehicles will be required to park.
- 4.32 The appellant has offered a unilateral undertaking to restrict access to resident parking permits for the owner/occupiers of the appeal property, materially reducing potential demand for on-street spaces. Please refer to Chapter 6 and Appendix F of this document.

Former open forecourt

- 4.33 The previous open forecourt arrangement permitted up to three cars to park on the forecourt. The third, right hand vehicle would inevitably cross over the pavement, because the kerb was practically flush and there were no gates or gate posts to restrict this movement. This has resulted in repeated damage and demonstrable harm to historic Yorkstone paving. This informal arrangement has grown up elsewhere in the area without being challenged by the LPA. The Enforcement Notice requires that the forecourt is returned to this earlier unsatisfactory arrangement. The Highway Authority will then need to decide whether it is expedient to block pavement over-running at this property, but not others in the area, (for example by installing bollards). Bollards will obstruct the pavement and the flow of pedestrians. The Notice clearly will not offer a full and final resolution of the concerns raised by the Council and others, and may make the situation worse.
- 4.34 The proposals improve upon the previous condition by ensuring that cars only travel across clearly delineated vehicle crossovers and cannot overrun and damage adjacent Yorkstone paving and granite kerbs.

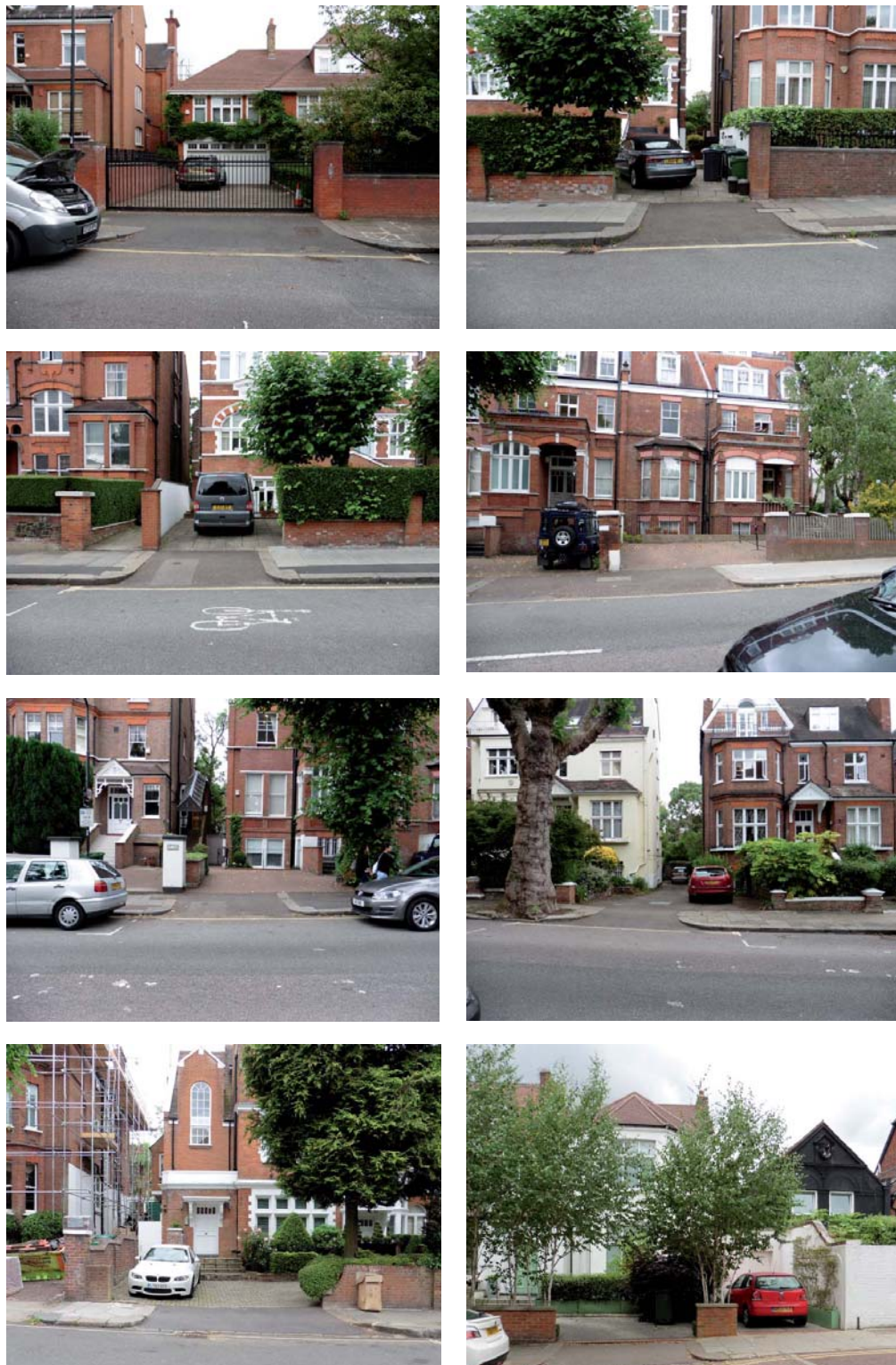


Figure 5: Wide vehicle entrances without boundary walls/piers that facilitate pavement overrunning are a common feature.

Design of the crossover

- 4.35 The existing wide crossover is simply detailed.
- 4.36 There is a wide variety of crossover geometries and details in the area. Many detract from the quality of the area (see figure 6).
- 4.37 Alterations to the crossover affect highway land/public highway and do not form a part of the appeal scheme, but alterations will be required where consent is granted.
- 4.38 The crossover will need to be carefully designed and detailed in order to complement the street scene.
- 4.39 Two options for the treatment of the crossover have been devised. Drawings are attached at Appendix G. The first shows a single wider crossover and the second shows the crossover divided into two with a central 'island' or nib. The schemes replicate the high quality materials typical in the area including as Yorkstone paving, granite sett bands and wide granite kerbs.
- 4.40 The works may be controlled either by a 'prior to first use of the parking space' planning condition or by legal agreement (see appendix F).

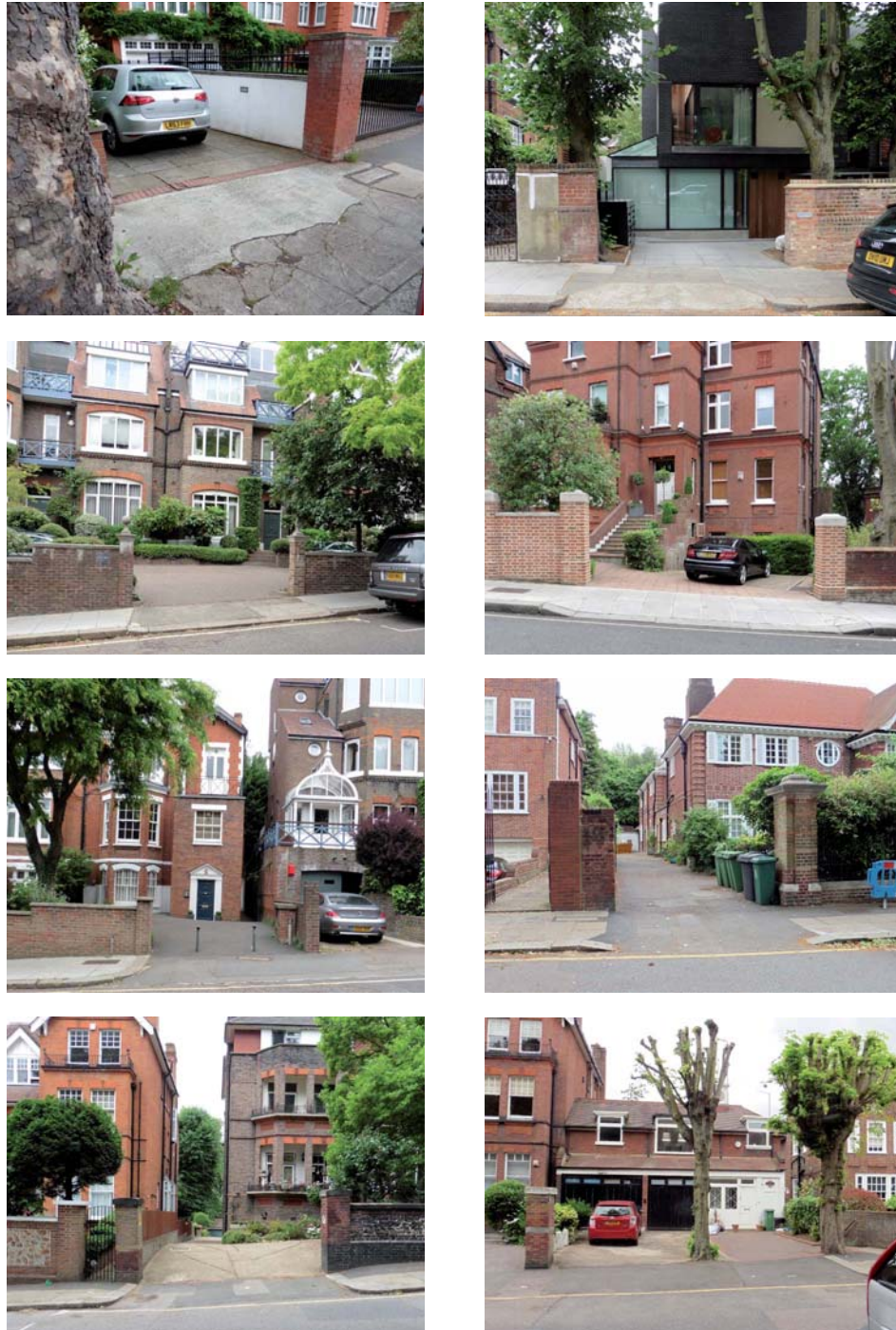


Figure 6: There is wide variety in the geometry and materials applied to crossovers.

5 Response to objections

- 5.1 The LPA received 11 letters of objection. Taking the summary from the Officer's delegated report, we respond as follows.

There is no justification whatsoever for increasing the off-street parking on this site, particularly since this would lead to the loss of kerbside residents parking (Heath and Hempstead Society).

- 5.2 The proposals will not result in an increase in off-street parking. The previous arrangement permitted up to three cars to park on the forecourt whilst the appeal scheme permits only two.
- 5.3 The Transport Statement submitted with this appeal demonstrates that there is sufficient reserve parking capacity within 200metres of the site (Section 4.17). The average overnight parking stress can be categorized as 'moderate' (72%)
- 5.4 The Transport Statement concludes that the proposals will not result in the loss of parking opportunities on Maresfield Gardens because there is sufficient reserve parking capacity in the vicinity of 45 Maresfield Gardens to accommodate any displaced resident parking resulting from the forecourt parking layout (Section 5.48).

The new position of the northernmost parking space is incompatible with regulations for the pavement and kerb, and due to the adjacent brick wall poses a risk to the pedestrian traffic.

- 5.5 Camden Council does not prescribe a specific required visibility envelope for vehicle to pedestrian sightlines. Proposals should there be judged on sites specific circumstances and national guidance (Manual for Streets).
- 5.6 Manual for Streets notes that the absence of wide visibility splays at private driveways will encourage drivers to emerge more cautiously (Section 7.8.3 and 7.8.4) and account should be taken of the frequency of vehicle movements, the amount of pedestrian activity and footway width.
- 5.7 The Transport Statements find a low flow of traffic and low flow of pedestrians adjacent to the site. The width of the footway means that the forecourt parking opportunity has sufficient vehicle to pedestrian sightlines. Reduced vehicle to pedestrian sightlines are likely to encourage drivers to emerge more cautiously, improving pedestrian safety on the footpath (Section 5.37).
- 5.8 Relatively narrow driveways with tall brick piers and boundary walls on either side are a typical and historic feature of the area and help to define the boundary and property threshold. The blanket application of standard visibility splays is likely to result in an erosion of environmental

quality and encourage vehicle to exit forecourt parking spaces less cautiously. This will also be contrary to conservation area guideline FN31, boundaries, which states that proposals should respect the original style of boundary.

The traffic survey was taken during exam season when many students would be off school due to study leave.

5.9 The first surveys were undertaken at the earliest opportunity in early July 2015. Further surveys have been undertaken in late September 2015 and are submitted with the appeal. The LPA could have chosen to delay determining the planning application and postpone issuing the decision notice until further survey evidence was available. They chose not to do so.

5.10 The surveys demonstrate that there is a low pedestrian density, with associated low number of pedestrian movements.

There is a high frequency of pedestrian movement during the majority of the year, particularly term time.

5.11 The submitted surveys were undertaken in term time and demonstrate that there is a low pedestrian density, with associated low number of pedestrian movements. This should be considered alongside the predicted low number of vehicle movements into and out of the northern parking space that serves a single dwelling.

The sightline from the new parking space is extremely bad due to the high walls.

5.12 It is acknowledged that vehicle to pedestrian sight lines are reduced for pedestrians travelling south and vehicle leaving the northern parking space.

5.13 The number of vehicles entering or leaving the northern parking space is predicted to be low whilst the pavement is relatively wide, so that pedestrians will not be forced to move along the pavement close to the boundary. The delineation of the crossover will indicate the presence of the parking space and the likelihood of cars exiting the adjacent space whilst national guidance (Manual for Streets) indicates that reduced vehicle to pedestrian sight lines “will encourage drivers to emerge more cautiously”. Proposals to re-delineate the on street parking bay will improve pedestrian to vehicle visibility for vehicles entering the northern parking space.

5.14 High walls are a typical feature of a number of driveways in the area. This is a historic characteristic.

5.15 The piers to either side of the plot are pre-existing and the effect on sightlines is therefore not materially different.

It is untrue that the reduction in parking bay by 3m would not result in a loss of parking opportunities on Maresfield Gardens.

- 5.16 Surveys indicate that sufficient on street parking spaces are provided with parking stress categorised as moderate. Overnight parking surveys demonstrate that there is sufficient reserve parking capacity within 200 metres of the site.
- 5.17 The proposed reduction in the length of the adjacent resident parking bay will not result in a loss of parking opportunities on Maresfield Gardens (Section 6.5)
- 5.18 The current arrangement, where four smaller cars can sometimes squeeze into the three standard resident parking bay lengths, means that the middle two cars cannot comfortably exit the parking bay without numerous shuffles back and forth due to how close vehicles will be required park.

The new location of the parking space that Flats 1 and 2 have chosen to take up would result in the loss of a Camden parking space. This would see private gain at the expense of public loss something Camden Council should always guard against.

- 5.19 The proposals will result in a reduction from three to two off-street parking spaces. The proposals will not therefore result in any increase in private off street parking. There will be no 'private gain' in terms of parking spaces whilst reducing private off-street parking can help to restrict car use and reduce congestion and pollution.
- 5.20 The alteration will not result in the loss of parking spaces according to established standards. It will slightly reduce the occasional informal and substandard parking of up to 4 smaller cars within the bay. Reducing the length of the adjacent resident parking bay will partly address objectors concerns in relation to sight lines.
- 5.21 The appellant has offered to enter into an undertaking to restrict access to resident parking permits, materially reducing potential demand for on-street spaces.

There was no demonstrable harm caused by the former open forecourt, on the contrary it enabled two cars to exit the forecourt without driving over the kerb.

- 5.22 The open forecourt was a blight on the conservation area, a fact acknowledged in the CA character statement. Adopted guidance resists the loss of boundary walls, piers and gates, opposes open forecourts, and promotes reinstatement wherever possible.
- 5.23 This informal arrangement has grown up elsewhere in the area without being challenged by the LPA. (REF)
- 5.24 The previous open forecourt arrangement permitted up to three cars to park. The third, right

hand vehicle would inevitably cross over the pavement. Cars repeatedly passed over the area of paving, because the kerb was practically flush and there were no gates or gate posts to restrict movement. This resulted in repeated damage and demonstrable harm to historic Yorkstone paving.

- 5.25 The proposals improve upon the previous condition by ensuring that cars only travel across clearly delineated vehicle crossovers and cannot overrun and damage adjacent Yorkstone paving and granite kerbs.

The brick pillars built without planning permission and the accompanying iron gates are inconsistent.

- 5.26 The walls and piers were described in drawings submitted to the LPA Enforcement Officer before building commenced. After construction commenced, planning officers advised that the two central gate piers should be lower in height with thin capstones/copings.
- 5.27 The gates and piers are symmetrically arranged in order to complement the host building. The two taller piers at each boundary capped with ball finials are pre-existing and have not been altered.
- 5.28 The bricks used in piers and boundary walls are varied across the area and do not usually match the host building. The brick piers complement the host building and match the darker tones of over-burnt brick piers typical of the area and mentioned in the conservation area statement.

The design of the gateposts and gates here are of a low standard (Heath and Hampstead Society).

- 5.29 The piers are constructed of multi-stock brick to complement the host building and matching neighbouring piers. The piers are capped with simple, thin concrete copings following the advice of planning officers.
- 5.30 The gates comprise a simple black painted metal grid typical of other development approved in the area.
- 5.31 LPA officers requested details of the gates prior to installation. Details of two options were submitted with a choice of either a historically derived style or simple modern gates. They expressed a preference for the latter, and these were installed.

We always oppose the construction of new off-street parking spaces in our Conservation Area; they are invariably damaging to garden and green spaces, and bring an increased urbanisation into our non-urban streets (Heath and Hampstead Society).

- 5.32 This approach represents a pre-determination and is inappropriate for any planning authority to follow. Each proposal should be judged on its merits.

- 5.33 The proposals do not involve the construction of any new off-street parking spaces. Historic plans indicate that the entire plot was laid out as garages/coach houses and probably a wide hardstanding.
- 5.34 The forecourt parking use is pre-existing and is not the subject of this appeal. However the Notice requires reversion to this unsatisfactory position, which the Society emphatically rejects.
- 5.35 The conservation area statement guideline F/N23 confirms that this is an 'urban residential area'. It is perfectly reasonable to debate whether the area should be categorised as 'inner urban' or 'suburban', 'nineteenth century inner urban suburb' etc. But the area is most definitely urban and is characterised by many crossovers, driveways and forecourt parking areas. The historic character of the area is partly formed by carriageway gates and piers, often arranged in an 'in and out' arrangement (because horse-drawn carriages could not easily be reversed). The proposals replicate this historic late Victorian/ Edwardian suburban form and entirely characteristic.
- 5.36 The previous forecourt was laid with concrete pavers. The appeal scheme comprises high quality natural stone paving.
- Front garden should be places where trees, flowers, shrubs and grass predominate, not be abandoned as car parks (Heath and Hempstead Society).***
- 5.37 There will be no net loss of trees, flowers, shrubs or grass. The previous arrangement comprised a hardstanding across almost the entire front area. The proposal includes the introduction of planters resulting in a general softening effect.
- 5.38 The historic layout comprised garages and forecourt, typical of occasional coach houses set between larger buildings. There is therefore no evidence of any historic loss of trees, flowers lawns or shrubs that needs to be reversed.

6 Planning conditions, agreements and undertakings

- 6.1 The works have already been carried out. Planning conditions or legal agreements would therefore not normally be considered necessary. However, a number of concerns raised by the Council and objectors may be addressed in this way.
- 6.2 The Enforcement Notice states: *'The Council do not consider that planning permission should be given because planning conditions could not overcome these problems.'* The LPA's case is built upon this assertion when in fact a number of planning conditions may help to mitigate or remove impacts they point to as unacceptable.
- 6.3 In order to support the appellant's case that the frequency of vehicle movements in and out of the parking space will be low, because it relates to a single dwelling, the following condition may have some utility:

The car space shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

- 6.4 The Council's criticism of the development is founded upon the fact that the access and parking space has been formed first, before the associated crossover has been repositioned. These alterations are normally and routinely secured separately through a Vehicle Crossover Application following the grant of planning consent. The Council's Vehicle Crossover Application process also includes provision for adjustments to adjacent resident parking bays. Notwithstanding these provisions, we offer the following condition (based upon Circular 11/95 Appendix A, Acceptable Model Condition No.17) where the Inspector considers it necessary to control this through the grant of planning permission:

The car (northern) parking space shall not be used until the Highways Authority has given its approval in writing for the construction of a vehicle crossover and the vehicle crossover has been constructed in accordance with the terms of the approved detail.

S106

- 6.5 The Council claims that a reduction in the length of the adjacent resident parking bay will have a material effect upon the availability of resident's parking spaces. Whilst this is disputed, the appellant offers the following approach, if the Inspector considers that this is justified.
- 6.6 The appeal property is a single dwelling. Under the Council scheme, each car owner resident at the property is entitled to apply for a resident parking permit with up to three permits issued per dwelling. A draft legal agreement (unilateral undertaking) is offered reducing the maximum number of applications from three to two (one). See Appendix F.

- 6.7 The undertaking also includes provision for the payment of a highways contribution towards the cost of altering the vehicle crossover.

- 6.8 The obligations contained in the Unilateral Obligation are conditional upon a specific finding by the Inspector that they are necessary ('Blue Pencil Clauses') and should become effective by the Inspector appointed to determine the Enforcement Notice Appeal and recorded as such in the decision letter issued in final determination of the Appeal.

7 Alternatives

- 7.1 The Appellant maintains that the Notice should be dismissed and consent granted. Where consent is withheld, the requirements of the enforcement notice nevertheless remain unsatisfactory and excessive and should be modified.
- Reversion to the previous scheme, required by the Notice, is undesirable in terms of the harmful effect upon character and appearance and safety and visibility.
 - Permitted development rights may be exercised to allow gates and piers of a reduced height (below 1m). The Notice cuts across the exercise of these rights.
 - Separate powers are available to Highway Authority to prevent vehicles over-running of the pavement in relation to the appeal scheme, whilst these powers will need to be employed if the scheme reverts to the former layout, as the Notice requires.
 - The arrangement of the southern parking space and central pedestrian gate and piers are not disputed by the Council and may be retained. They should not therefore be required to be removed by the Notice and in this respect the Notice is excessive.
 - The gates opening onto the northern space may be replaced permanently with fixed railings and/or a dwarf wall.
- 7.2 Reversion to the earlier scheme and the alternatives described above are all considered to be inferior to the option to retain the appeal scheme.
- 7.3 Where the appeal is otherwise unsuccessful, the appellant suggests the Inspector ought to vary the terms and scope of the notice in one or some combination of the above bullet points pursuant to s.176 of the Town and Country Planning Act 1990.

Appendix A: Information

6.4 A1 Information about the Appellant

Full name: Kfir and Liron Chervinski

Address: Flat 1 April House 45 Maresfield Gardens London

Postcode: NW3 5TE

Daytime telephone No: (Contact via Agent)

Fax no: (Contact via Agent)

Email address: (Contact via Agent)

Status: Appellant

Agent's Name: Michael Doyle

Agent's Address: Doyle Design LLP 86-90 Paul Street
London EC2A 4NE

Reference: 131.1PIL

Daytime telephone No: 020 3305 7476

Fax no: N/A

Email address: michaeldoyle.doyle@gmail.com

6.5 A3 **Information about the appeal**

Planning Inspectorate appeal reference number:

APP/X5210/C/15/3133473

Name of Local Planning Authority:

London Borough of Camden

Description of the development:

The erection of metal gates and brick gate piers on the front boundary of the property.

Address of the site:

Flat 1, April House. 45 Maresfield Gardens London NW3 5TE

Appendix B: Original planning submission and documents submitted with this Statement

Planning submission

- Drawing No. B15/620-02 Existing GF Measured Survey
- Drawing No. 2045(PLA)100 - Proposed revised front (street) elevation,
- Drawing No: 2045(PLA)104 - Roof Plan
- Maresfield Gardens Parking and Access Survey, Doyle TP+UD, July 2015.
- Technical Note, Paul Mew Associates, July 2015.
- Cover letter, Doyle TP+UD, 17/07/2015

Appeal Documents

- Appeal Statement, Doyle TP+UD, October 2015 (this document).
- Transport Statement, Paul Mew Associates, October 2015.

Appendix C: Drawings and Plans

- Original Estate Agent's Details

Parkheath

Sold on Service

Maresfield Gardens NW3
£5,250,000 – **Freehold**



Currently Arranged as 2 Separate Flats

Planning Permission to convert to a Single Dwelling

Planning Permission Granted to change Front Facade

Off Street Parking for 1 Car

Currently 4337 Sq. Ft. with Consent to increase close to 5,000 Sq. Ft

80' Garden

Lower Tier Patio/Garden

Prime Hampstead Location

5 Storey Accommodation

South Hampstead
8a Canfield Gardens
NW6 3BS
Sales 020 7625 4567
Lettings 020 7644 0800
nw6@parkheath.com

Belsize Park
208 Haverstock Hill
NW3 2AG
Sales 020 7431 1234
Lettings 020 7431 3104
nw3@parkheath.com

West Hampstead
(Registered Office)
192 West End Lane
NW6 1SG
Sales 020 7794 7111
Lettings 020 7794 7111
192@parkheath.com

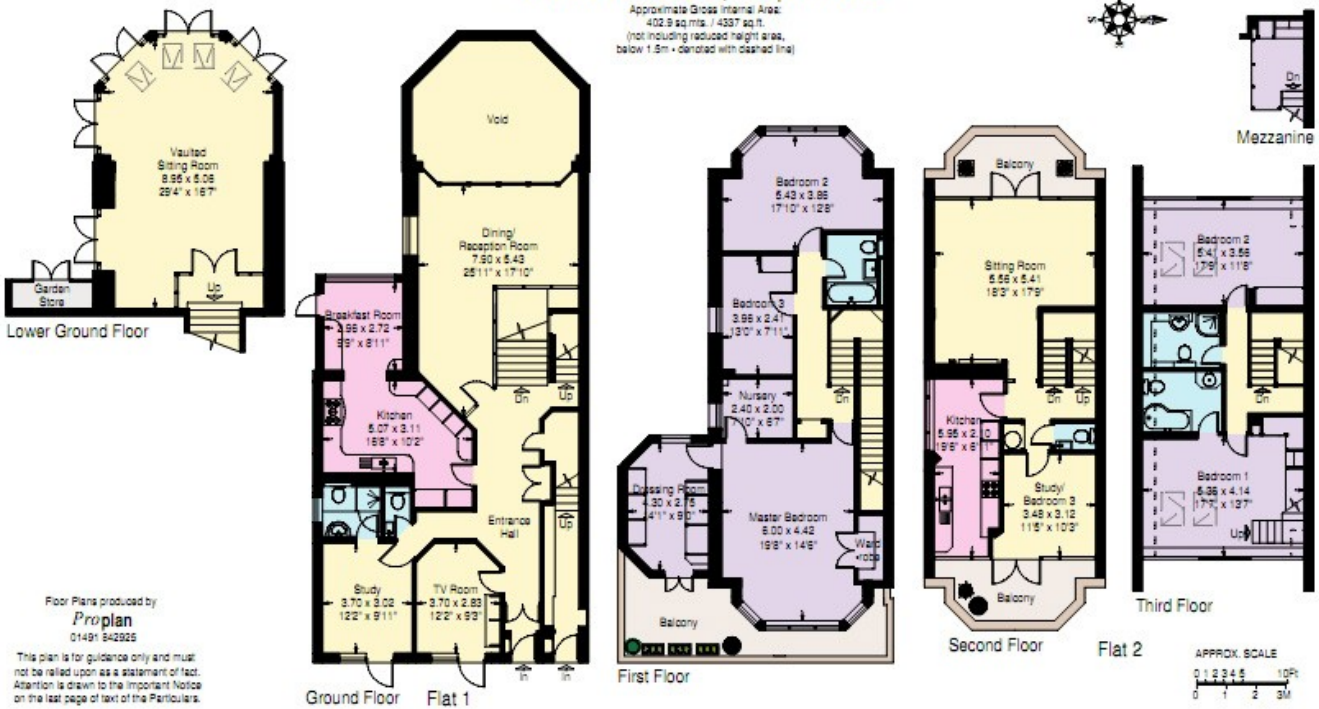
Property Management
155 Haverstock Hill
NW3 4QT
Tel 020 7722 6777
pm@parkheath.com

Belsize Park Office 020 7431 1234

www.parkheath.com

45 Maresfield Gardens, Hampstead NW3

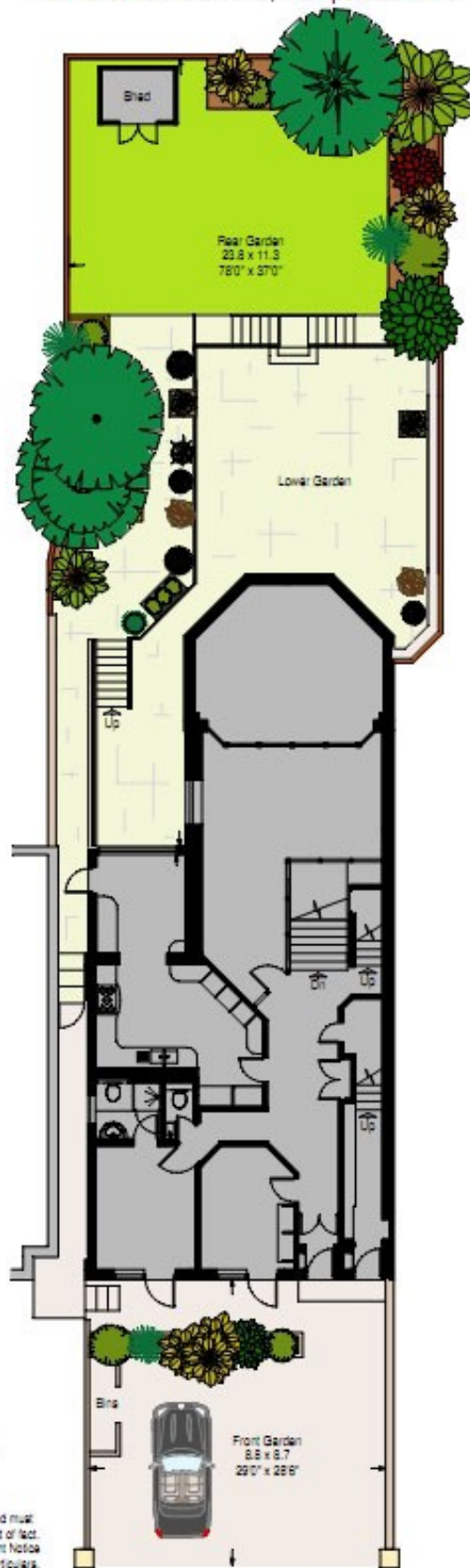
Approximate Gross Internal Area:
402.9 sq mts. / 4337 sq ft.
(not including reduced height areas,
below 1.5m - denoted with dashed line)



Floor Plans produced by
Proplan
01491 942925
This plan is for guidance only and must not be relied upon as a statement of fact. Attention is drawn to the Important Notice on the last page of text of the Particulars.

To clarify, we wish to inform prospective purchasers' that we have prepared these sales particulars as a general guide. None of the statements contained in these particulars are to be relied upon as statements of representations of fact. We have not carried out a detailed survey, or tested the services, appliances and specific fittings. Room sizes should not be relied upon for carpets and furnishing.

45 Maresfield Gardens, Hampstead NW3



Floor Plans produced by
Proplan
01491 842825

This plan is for guidance only and must not be relied upon as a statement of fact. Attention is drawn to the important notice on the last page of text of the Particulars.

