



**Nathaniel Lichfield
& Partners**

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**1 – 8 Harmood Grove, London
2016/1328/P**

**Grounds of Appeal - Statement of
Case**

Citadel Investments
20 June 2016

15081/NG/MW

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1.0 Introduction

1.1 This appeal is made on behalf of Citadel Investments, the freehold owner of 1 – 8 Harmood Grove, Camden against the decision of the London Borough of Camden to refuse planning permission under application ref: 2016/1328/P at the same address. The appeal is made in respect to Section 78 of the Town and Country Planning Act (1990) (As amended).

1.2 Given the scale of the proposals we consider written representations to be an appropriate means of determining this appeal request. Accordingly the appeal is made with reference to Part 1 of The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (Statutory Instrument 2009/452) as amended by The Town and Country planning (Appeals) (Written Representations Procedure and Advertisements) (England) (Amendment) Regulations 2013 Statutory Instrument 2013/2114.

1.3 The application proposed the installation of an additional 930mm extension to the height of the existing fencing at the front of 1 – 8 Harmood Grove. The extension to this fence is to be constructed in essence to match existing i.e. from thin irregular stainless steel robs/posts, with galvanised steel section bridging the existing automated sliding vehicular gate. Part of the extended fence, at the southern end of Harmood Grove, is already in situ and therefore the application was part retrospective. This section was extended in 2014 without obtaining the necessary planning permission as the freeholder was unaware that planning permission would be required for a minor extension in height to an existing fence.

1.4 The application site is not located within a conservation area and there are no listed buildings that might be impacted by the proposals.

1.5 In terms of the structure of these representations:

- Section 2 provides a background to the planning application;
- Section 3 sets out the areas of common ground;
- Section 4 examines the reasons for refusal and the grounds of appeal; and
- Section 5 sets our conclusions to support the grant of permission.

2.0 **Background to the application**

- 2.1 Before outlining the arguments in favour of allowing this appeal it is important to set out the reason the appellant applied to the Council for the proposed works and has subsequently appealed the decision. The appellant, owner and landlord of 1 – 8 Harmood Grove, wishes to extend the height of the existing fence that fronts the property by 930mm solely due to a number of break-ins that have been as a result of perpetrators scaling the current fence.
- 2.2 Most recently, in January of this year there was a burglary at the property with the perpetrators gaining access to the site by scaling the existing fence before breaking in to the building.
- 2.3 This is not the first time the fence has been scaled by people intent on breaking in to the building. It has therefore become evident that the height of the fence and gate that is in situ is not sufficient to preserve the safety and security of the occupiers.
- 2.4 A letter from the Crime Prevention Officer at the Metropolitan Police was submitted to accompany the 2011 planning application (LPA Reference: 2011/1005/P) which provided police confirmation that this small cul-de-sac is used by *“local youths who get involved in Anti-Social Behaviour and a number of surrounding occupiers have suffered burglaries.”* The fencing erected as part of this permission has since proved ineffective at restricting access to the private areas of the site.
- 2.5 Part of the extended fence, at the southern end of Harmood Grove, is already *in situ* and therefore this application is part retrospective. This section was extended in 2014 following a similar intrusion. The fence was extended without obtaining the necessary permission as the freeholder was unaware that planning permission would be required for a minor extension in height.
- 2.6 The planning application subject to this appeal was submitted on 9 March 2016 and was given a target determination date of 22 May 2016. We first contacted the Case Officer, Jagdish Akhaja, on the 13 April once the statutory consultation period was over to establish whether any substantive matters were raised.
- 2.7 He confirmed that there had not been any objections to the application but expressed concern regarding the design of the fencing. No reason was given for why he considered the design to be unacceptable, even when it was explained to him that the fencing extension would match the permitted Corton sheets that make up the northern and southern entrance gates. It was accepted by the case officer that this judgement had been made without the benefit of having attended the site in order to view the immediate context. Similarly there was no opportunity for a site meeting or offer to negotiate with the applicant or agent (despite our requests – see Appendix 1 for emails sent to Case Officer).

- 2.8 We subsequently liaised with the Design and Conservation Officer, Alfie Stroud (phone conversation 18 April 2016), who confirmed that he would speak with the Case Officer to establish if there could be a compromise on design without reducing the height of the proposed fencing (additional height being the purpose of the application).
- 2.9 Further exchanges took place between the Case Officer, the applicant and the Design and Conservation Officer (phone conversations on 25 April and 28 April 2016). However the Case Officer maintained his position that the proposed fence extension would be too high, referencing design grounds (albeit accepting that it is not in a conservation area). The Case Officer did not explain why it was too high or what design matters were raised as a consequence. No attempt was made to suggest a compromise.
- 2.10 We explained to the Case Officer that there is a clear identifiable need for the increase in height from a crime prevention perspective, it is a private area, away from public view and has received no objections, yet the merits and need were seemingly outweighed by officer's unsubstantiated concerns.
- 2.11 The applicant was very disappointed with the due process that LB Camden Council had taken in determining the application and its failure to discuss or indeed consider any form of compromise. The Council refused to work with the applicant in a positive and proactive way and therefore did not act in accordance with Paragraph 187 of the NPPF which states that:
- Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.*

3.0 **Common ground**

3.1 Having reviewed the reasons for refusal and the case officer's report, we consider the following to be matters which both the applicant and Council are in agreement:

- i The proposed development would not result in any detrimental harm upon the amenity of the existing occupiers of Harmood Grove.

4.0 Reason for Refusal

4.1 The planning application (LPA reference 2016/1328/P) was refused planning permission on 16 June 2016 by the London Borough of Camden under delegated authority. The case officer was Jagdish Akhaja. In refusing the full planning permission the following reason for refusal was given:

The proposed development, by reason of its height, bulk and detailed design would be detrimental to the character and appearance of the host building and adjacent Harmood Street Conservation Area. The proposal is therefore contrary to CS14 (Promoting high quality places and conserving the our heritage) of the London Borough of Camden Local Development Framework Core Strategy; and policy DP24 (Securing high quality design) and 25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies.

4.2 The London Borough of Camden considered the application to have a detrimental impact on the character and appearance of the host building and adjacent Harmood Street Conservation Area.

4.3 The Officer's Delegated Report sets out what Camden Council considers to be the main issues of the proposed development. We respond to these in turn below.

Impact on the Character and Appearance of the Host Building and Street Scene

4.4 The main issue identified by Camden Council is the impact the proposed fence has on the character and appearance of the street scene and surrounding area and the appearance of the host building.

4.5 Policy DP24 of Camden's Development Policies (Securing High Quality Design) requires development to "respect the character and appearance of the local area". Camden Planning Guidance CDP 1 (Chapter 6.35 to 6.38) states that "*due to the prominence of the boundary treatments in the street scene we will expect the design, detailing and materials used to provide a strong positive contribution to the character and distinctiveness of the area and integrate the site into the street scene.*"

4.6 The proposed fencing extension has been designed to match the material of the existing permitted gates at the northern and southern ends of the fence. It is to be made of stainless and galvanised steel poles with Corton sheets to match the existing gates. The proposed sheeting will provide ample space between the existing fence, which are composed of thin bars, allowing ample light to pass through. The design will also complement the elevation of the building in front of which it will be located and the existing low level Corton wall. The nature of the existing fence will maintain visual surveillance of the street and into the site. In the wider street scene the additional fencing will not

affect the character or appearance, given that it will not introduce a material which is not already present in this location.

- 4.7 The proposed development does accord with Policy DP24 as it is entirely in keeping with the material palate previously permitted. The 2011 permission establishes the principle of a boundary fence in this location, and the additional height that is applied for will not make a substantial difference to the openness of the street. Harmood Grove is a cul-de-sac, only accessed by those using the property. Its impact is therefore only on the occupants and visitors of the property. There have been no objections to the proposal and we understand that the occupants welcome the increased height for the security benefits it will bring. Indeed it is also understood that it is the occupants of Harmood Grove that will part fund the proposed increase in the height of the fence.
- 4.8 The Officer's Report states that the proposed development would:
...significantly increase the height of the boundary, its apparent nature and its dominance in relation to the street scene. Due to its resultant height it would unduly fortify the building and obscure or cover a significant part of the host building, particularly the window openings at 1st floor level.
- 4.9 This suggestion is in our view without justification without any attempt to assess the impact of the proposals on the street scene. Furthermore the additional height will not obscure or cover a significant part of the first floor windows. The fence is stepped away from first floor windows which have sill heights far above the existing fence line. The officer's assertion in this respect is therefore incorrect.
- 4.10 It should be noted that the Case Officer came to this conclusion without visiting the site; this was confirmed in a phone call on 13 April 2016 (and detailed by email on 29 April 2016 – see Appendix 1). Therefore, the Case Officer had not sought to properly assess the effect of the proposals in the wider street scene.
- 4.11 There was also no proactive approach offered to advise what would be considered an acceptable design or an acceptable height.

Safety and security issues

- 4.12 The Officer's Delegated Report states that *"the applicant has also failed to adequately demonstrate that additional fencing is required or further prevents instances of various types of anti-social behaviour or crime. It is also not explained why this could not be achieved with more appropriate boundary vegetation."*
- 4.13 The planning application submission clearly set out the need for additional fencing in this location. The boundary fencing was not part of the original development which was granted on 17 January 2005. The need for the boundary fence became apparent once the building had been constructed and occupied. Following a number of break ins at the property it was considered

that a boundary fence was needed to prevent unauthorised persons entering the site to tackle the safety and security issues.

- 4.14 A planning application (LPA reference 2011/1005/P) was approved for the initial fence in 2011 and was accompanied by a letter from the Crime Prevention Officer at the Metropolitan Police. This letter confirmed that the small cul-de-sac is used by...

...local youths who get involved in anti-social behaviour and a number of surrounding occupiers have suffered burglaries."

- 4.15 The fencing erected as part of this permission has since proved to be ineffective at completely restricting access to the private areas of the site. Indeed, most recently there was a burglary at the property with the perpetrators gaining access to the site by scaling the existing fence before breaking into one of the commercial units. This was not the first time that fence had been scaled by people intent on breaking into the building. The Council were provided with the crime reference number to discuss with their Crime Prevention Officer (email dated 10 May 2016 – see Appendix 1).

The Officer's Report asks why "*more appropriate boundary vegetation*" could not be erected instead of additional fencing. This would be entirely inappropriate for this location. Given the height of the existing fence (2.2m), any boundary vegetation would need to be in the form of trees to reach such a height that would offer increase security for the occupants. The erection of tall trees would impact on the amenity of occupants far more than the proposed fencing extension. It would restrict daylight, sunlight and outlook from the building onto the street and vice versa and would not offer substantial improvements in security. It would also be very impractical given the small scale of the site, the closeness of the building to the public highway and the operation of the access gates to the northern and southern ends of the development site.

- 4.16 An increase in the height of the existing fence is the most effective option for increasing security and will also have less of a detrimental impact on the amenity of residents and the character and appearance of the street.

Impact on Conservation Area

- 4.17 The Officer's Report states that "*the resulting height [of the fence extension] would be an unsympathetic alteration which would unduly fortifies the boundary and would be very apparent from the adjacent vistas along the residential roads and harmful to the adjacent to Harmood Street Conservation Area.*"

- 4.18 The Harmood Street Conservation Area covers a neighbourhood of mostly Victorian terraced houses constructed between 1840 and 1870 and is set within a mixed urban environment of mid and later twentieth century residential blocks, often with modern and utilitarian boundary treatments (for example, at Mutton Place and Powlett Place).

- 4.19 The application site is not located within a Conservation Area. The junction of Harmood Grove and Clarence Way is the boundary of the Harmood Street Conservation Area (HSCA). From this junction the application site is partially visible, however a bend in the road obscures the southern end of the application site from views from the HSCA, this is shown in Figure 1 below.

Figure 1: View looking south from the junction of Harmood Grove and Clarence Way.



Source: Google Street View 2015

- 4.20 This one view from the junction of the street is the only place where the extended fencing would be visible from the HSCA. The Officer's assertion that the resulting height of the proposed development would be "*very apparent from adjacent vistas along the residential streets and harmful to the adjacent to Harmood Street Conservation Area*" is incorrect and greatly over emphasises the impact that that the proposed development will have.
- 4.21 The proposed fence design to 1-8 Harmood Grove is an appropriate boundary treatment to a modern development within the very mixed quality setting to the Conservation Area. The fence is a bespoke, rather than utilitarian, design solution contrived in response to the applicant's evident security needs. The design clearly does not harm the historic, architectural or aesthetic value for which the Conservation Area was designated.
- 4.22 Set against the existing building of 1-8 Harmood Grove, the extended fencing will not be noticeable from longer distances. As can be seen in Figure 1, the boundary treatments of the surrounding properties are similar or taller in

height to the proposed fencing. Therefore, the proposals are completely in keeping with the streetscene and the surrounding properties which are closer to the Conservation Area boundary.

4.23

The southern end of the fencing, where the extended fence is already *in situ*, is not seen from the Conservation Area and so does not have any of the impacts suggested. The thin, open style, bars match the existing permitted fence and allow views through to the street. This element of the scheme should be approved as it has been *in situ* for two years and has not received any objections nor has it had any impact on the character and appearance of the streetscene or the Conservation Area.

5.0 **Conclusions**

- 5.1 Planning application 2016/1328/P was refused planning permission on 15 June 2016 by Camden Council. In refusing permission the Council considered the proposals height, bulk and design would be detrimental to the character and appearance of the host building and Harmood Street Conservation Area. The Council found that this harm outweighs the benefits associated with providing adequate security to the residential and commercial occupiers of the development.
- 5.2 The appellant does not agree with the Council's decision which has resulted in this appeal. The extended fence would be in keeping with the existing material pallet of the existing fence and gate. Furthermore, the extended fence will increase security for residents and commercial occupiers of the building which have been subject to a number of break ins where access has been gained by perpetrators have scaled the existing fence. Harmood Grove is a known area for anti-social behaviour, as confirmed by the Crime Prevention Officer of the Metropolitan Police.
- 5.3 To refuse this appeal is to prevent occupiers of this property from reasonably protecting their private property. The proposed security measures are entirely reasonable response to the security concerns that the occupier's evidence by the number of break-ins that have taken place.
- 5.4 On the balance of the evidence provided we respectfully request that the Planning Inspectorate allows this appeal.

Appendix 1 Email Correspondence

From: Matthew Williams <mjwilliams@nlplanning.com> Sent: Fri 29/04/2016 16:18
To: jagdish.akhaja@camden.gov.uk
Cc: Owain Nedin
Subject: RE: 1-8 Harwood Grove – LPA Ref: 2016/1328/P [NLP-DMS.FID371846]

Dear Jagdish,

1-8 Harwood Grove – LPA Ref: 2016/1328/P

We write on behalf of the applicant of the above referenced planning application following our recent telephone conversations. To confirm, you have informed us that the Council intends to refuse planning permission for the extension to the fencing. This refusal is for the reason that the proposed extension would be too high. The decision has been taken without a member of the planning department having attended site in order to view the immediate context or without a meeting or offer to negotiate with the applicant or agent (despite our requests). You have informed us that you will now undertake a site visit but that this will be alone and that, despite our request, we do not have an opportunity to attend.

Further, in citing that the fence is too high, referencing design grounds (albeit accepting that it is not in a conservation area) –you have not yet explained the reason why it is too high, the extent to which it is too high or offered a counter position as to what may be an appropriate height. You are aware, as we have informed you and as was detailed in the application, that the additional height is for the sole purpose of improving security to the property following a recent break in, where someone climbed over the fence. There is an identifiable need for the increase in height from a crime prevention perspective, it is a private area, away from public view and has received no objections, yet the merits and need are seemingly outweighed by officers concerns, of which we have yet to be fully informed.



You will appreciate that, on the basis of that above, the applicant is not satisfied with the due process that Camden have taken thus far in determining this application. You will be aware that the NPPF (paragraph 187) states that “*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.*”. The applicant does not believe that this application has been dealt with in the manner expected above.

We write to request that you reconsider your current position, in light of the above, and resolve to recommend approval or accept our offer to work with the applicant to reach a justifiable compromise as expected of the NPPF and Camden’s own Constitution.

I look forward to hearing from you.

Kind regards

Matthew Williams
Planner
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From: Owain Nedin <onedin@nlplanning.com> Sent: Tue 10/05/2016 15:43
To: jagdish.akhaja@camden.gov.uk
Cc: Matthew Williams
Subject: Harwood Grove [NLP-DMS.FID371846]

Jagdish,

Following our conversation, please find below the crime reference number relating to the latest break in at Harwood Grove and the reason the gate extension is proposed.

Crime reference number: 2301504-16

Kind regards

Owain

Owain Nedin
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