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| Delegated Report | | Analysis sheet | Expiry Date: | 14/07/2016 |
| | | N/A / attached | Consultation Expiry Date: | 14/07/2016 |
| Officer | | | Application Number(s) | |
| John Nicholls | | | 2016/2827/P | |
| Application Address | | | Drawing Numbers | |
| Flat 1 April House 45 Maresfield Gardens London NW3 5TE | | | See Decision Notice | |
| PO 3/4 | Area Team Signature | C&UD | Authorised Officer Signature | |
| | | | | |
| Proposal(s) | | | | |
| Installation of boundary treatment including means of access and hardstanding (Retrospective) | | | | |
| Recommendation(s): | Refused Planning Permission | | | |
| Application Type: | Full Planning Permission | | | |

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|------------------------------------|---|-----------|------------------|-----------|-------------------|-----------|
| Conditions or Reasons for Refusal: | Refer to Draft Decision Notice | | | | | |
| Informatives: | | | | | | |
| Consultations | | | | | | |
| Adjoining Occupiers: | No. notified | 30 | No. of responses | 10 | No. of objections | 10 |
| | | | No. electronic | 10 | | |
| Summary of consultation responses: | <p>The Council has received objections from the following: (Flats A, B, C, D, E and F, April House, 45 Maresfield Gardens; The Danish YWCA, 43 Maresfield Gardens; one from Forty-five Maresfield Gardens Limited, one from Motion on behalf of Forty-five Maresfield Gardens Limited, one from 50 Maresfield Gardens and two of the local ward Councillors).</p> <p>Cllr Baillie has commented as follows:</p> <ul style="list-style-type: none"> • In broad terms I recognise that the crossover application is an issue and: • A) I support the Council policy of resisting new crossovers in a conservation area. • B) There should be no loss of parking spaces in this already congested parking area. • While I appreciate the constraints of planning law and guidance; it will always be relevant to Camden's residents that the applicant here has wilfully ignored rules, built and changed the look of the area without permission and flagrantly disrespected local feeling. Please bear this in mind when considering this matter and the latest application for a window. <p>Cllr Spinella has commented as follows:</p> <ul style="list-style-type: none"> • The work done on Maresfield Gardens has effectively deprived the area of parking spaces at a time when parking spaces are at a premium and in high demand. That this was done before gaining planning application only compounds the matter and is seriously making a farce of Camden as a planning authority and our roles as a councillor and as a planning officer respectively. • This is clearly contravening Camden's Planning Guidance on maintaining on-street parking rights of existing occupiers, CPG 7 paragraph 5.19. Also I am pretty sure it exceeds the 5m wide requirement CPG 7 paragraph 6.9, Figure 2. • Camden Development Policies Appendix 2 C-3 also sets a maximum of one space per dwelling and the parking provision intended exceeds that, 3/4 cars. <p>The rest of the objections are summarised as follows:</p> <p><u>The application</u></p> <ul style="list-style-type: none"> • In my opinion this application does not differ materially from application 2015/3684/P which was refused last year and therefore | | | | | |

I'm surprised that the council is considering the applicants requests.

- This is not a new application it is just a rehashed version of the planning application 2015/3684/P that rightly was rejected last year. So this is an illegal application as it is not allowed to represent a planning application after it has already been rejected. It is not only not allowed it is also vexatious and an assault on the working norms of local government to present the same application twice.

Existing number of forecourt parking spaces

- The new application implies that there were previously three parking spaces outside flats 1 & 2. This has never been the case. It has always had two parking spaces and the applicants are trying to mislead the Council into believing that their new application reduces the parking spaces from three to two. This is simply incorrect.
- There is not sufficient area for three cars to park on the forecourt without our left-hand parking space being encroached upon – this cannot be done as we have a lease of a specified area with measurements. My wife and I have been using the left-hand parking space for nearly 20 years and, throughout this period, the forecourt area has only ever been used for the parking of two cars – see attached Original Photo showing the position before the recent works were carried out by the owners of Flat 1. Therefore, what in reality is now being proposed by the owners of Flat 1 is that the number of on-site parking spaces will remain at two as before, with the right-hand parking space being moved from its original position to a position next to the right-hand boundary.
- There have always been 2 parking spaces in the forecourt of 45 Maresfield Gardens, which did not (1) compromise pedestrian safety, nor (2) encroach on existing on-street resident parking spaces. The owners of Flat 1 45 Maresfield Gardens decided, unilaterally and without planning permission, to move their forecourt parking space from the centre to the north. This change, if permitted, will result in a loss of 1 Camden on-street parking space, add no off-street parking space and put the safety of pedestrians at risk.

Residents Parking Bay outside the adjoining property (Flats A to F, 45 Maresfield Gardens)

- The residents parking bay outside the adjoining property (Flats A to F, 45 Maresfield Gardens) can and regularly does accommodate four cars – see attached Residents Parking Bay (2) and Residents Parking Bay (3).
- The applicants claim that it can only accommodate three cars – this is not correct. Again, they are seeking to mislead Camden.
- If the crossover was to be extended to enable the owners of Flat 1 to use the right-hand parking space, which they have moved from its original position to the right-hand boundary, this would result in a reduction in this residents parking bay.
- Any reduction whatsoever in this residents parking bay will result in the loss of one parking space and this is unacceptable.
- any reduction to Camden's on-street parking bay directly in front of 45 Maresfield Gardens would be detrimental to the residents of the

nearby properties:

- The bay can comfortably accommodate 4 cars – see attached photographs. As you can see, this includes at least 2 oversized cars. However, any small reduction in the size of the parking bay, as proposed by the Appellant, would result in the loss of 1 on-street parking space, in direct contradiction to Camden policies.
- All 4 parking spaces in this bay are heavily used by the residents of 45 Maresfield Gardens for the following reasons:
- It is the only parking bay directly opposite 45 Maresfield Gardens, where there are 6 flats and currently 9 cars with no access to off-street parking.
- It is the only bay near 45 Maresfield Gardens which is illuminated by street lighting. It therefore provides more security when parking at night. As we know, the area is prone to muggings and car burglary and there is therefore added security when parking in this bay.
- Our section of road gets extremely busy during school pick-up and drop-off times, when every available resident parking space in the area is occupied.
- Camden's on-street parking spaces in Maresfield Gardens are very busy as parents use the street when dropping-off and picking-up their kids from the many schools in the area. In addition, most tenants on this road have at least 2 cars, putting a strain on on-street parking spaces at many times during the day (see attached images). What is the logic of reducing Camden's existing on-street parking capacity by 1 space? Would Camden ever consider reducing their on-street parking space, against their stated policy, if this unilateral and illegal action by Flat 1 did not take place?
- The covering proposal is misleading in claiming that "there will be no loss of Resident Parking opportunities". In actual fact, the application is proposing that the Resident Parking bay directly outside Flats A-F April House is reduced from a four car bay to a three car bay? I pay Camden council for a parking permit and as it is I find it difficult to park on my own street. This will reduce available resident bays further. This has a particularly big impact on elderly people and those with very young children who live adjacent to flats 1&2 45 Maresfield Gardens.
- This application (just like last year's rejected application) proposes moving an off street parking space with the result that an on street public Camden parking space is lost. This is an attempt to achieve private gain at the expense of a loss to the public; something Camden Council should always guard against.
- The second crossover will clash with the end of the existing street parking bay and result in its shortening. There are currently 4 car spaces in front of no 45 and this shortening of the bay will result in there being only sufficient length for 3 car spaces, which should be resisted.

Visibility

- Due to the line of planters, the gates and the brick pillars which have now been put in place, emerging vehicles have poor vehicle to pedestrian sightlines of pedestrians travelling in both directions.
- As mentioned in paragraph 1 above, the left-hand parking space

belongs to my wife and me. We constantly use our parking space and our view has been severely restricted by reason of the line of planters, the gates and the brick pillars which have now been put in place.

- During school opening and closing times, there is heavy pedestrian traffic, with many children passing, often without an adult next to them. This issue of visibility is, therefore, of great concern.
- The consequence of what the owners of Flat 1 wish to do is that there will remain two off-street parking spaces as before. However, there will be the loss of one residents parking space and a situation will have been created where exiting from the two off-street parking spaces will be hazardous and a danger to the many pedestrians, including children, passing by.
- This section of road is a thoroughfare for children and adults on their way to and from the schools located on this road and within its close vicinity. Therefore, there is heavy pedestrian traffic on this section of road during the pre-school and post-school periods. Most of the pedestrians are children & teenagers, often running, scooting or listening to music with their earphones. There is no way for a vehicle to exit the proposed new forecourt parking space, which is tight against the boundary wall, without endangering these pedestrians. If this will be permitted, it is only a matter of time before an accident will happen and Camden's approval of such new parking arrangement will surely be carefully scrutinised.
- There are over ten school campuses in the roads parallel to Maresfield Gardens and therefore a large number of children and families using the road during term time. These children are usually on scooters or running and pass in front of flats parking space in question. I have 2 young children who use this road daily and am gravely concerned for their and other children's safety given the proposals in the above application. The limited vehicle to pedestrian sightline, as identify by Doyle in their letter dated 17th July means that the driver of a vehicle exiting the northern parking space has almost non-existent sight of the road until they clear the wall. This is an accident waiting to happen.
- Furthermore the applicant drives a powerful 4x4 which is used precisely at the busiest times of the road when children are whizzing by on scooters or running. In the absence of any field of vision the driver can only be relying on sensors to back out of the parking space. This is highly dangerous.
- The proposed new siting of the parking space (just like in last years rejected application) which has already been created and used without permission, is extremely dangerous. No one driving out of this parking space could be able to see people walking down the pavement on the west side of Maresfield Gardens; so people would be put at risk of a traffic accident every time the car was driven out of the new parking space location.

Crossover

- The proposed extension of the crossover outside Flats 1 & 2 will enable, if granted, a car weighing over 2.5 tons to drive over council maintained manholes on a multiple occasion basis.

- This will create a new second crossover to a separately owned parking bay. We support the council's policy of resisting the forming of new crossovers in our Conservation Area.

Design

- The gates, wall, gatepost piers are of very poor design and does not fit into a conservation area.

Officer response: *See assessment sections of the report for a full response to these issues.*

The Heath and Hampstead Society has objected as follows:

1. This is a very confusing proposal, for retrospective approval of development on which enforcement procedures have been initiated. The applicants appear to rely on a previous Appeal decision given in their favour, but not on the real issues concerned: on procedural grounds. This is an unsatisfactory basis.
2. The facts seem reasonably clear; off-street car-parking exists on a site occupied by flats, not a single-family house. Such parking does not comply with Camden policies on car use, relief of congestion etc.
3. It is a gruesome eyesore in our Conservation Area, one of the most unacceptable examples we have seen. It is not stated whether the parking area received specific Planning permission prior to the Appeal referred to; we would find this very surprising.
4. We note that this site has been the location of several other proposals in recent years, on which we have had to raise objections. There is, therefore, a history of unacceptable proposals from these applicants.
5. This application seems to be for what is stated to be an improvement on the existing position (itself initiated by the applicants themselves), by reducing the number of parked cars from 3 to 2, and the construction of a boundary wall and gates. No garden space, trees or shrubs are included.
6. The site ought not to include any off-street car parking, let alone 2 spaces, and the wall, gates and gatepost piers are of poor design, especially the tasteless finials on the piers. The character of our Conservation would be seriously harmed.

Officer's comments to the above points are as follows:

1. *The works have been the subject of a previous planning application and enforcement notice. However, the appeal was dismissed on a technical matter and the planning issues were not considered by the Inspector. Therefore, in light of that decision the Council cannot turn away the current application, and therefore it will be determined on its own merits, but many of the issues discussed are those raised in the previous refusal and appeal statements. The application is one way of re-enabling the wider planning merits to be considered at appeal, should the application be refused. The current application was submitted before the Council served the most recent enforcement notice.*
2. *Off-street parking had existed at this property before the current works were undertaken and therefore the principal for off-street parking not up for consideration in this application. The application relates to the appearance and arrangement of front boundary gates and piers and the resulting alteration in how vehicles enter and leave the site.*
3. *See comment above about existing off street parking. The Society do not give any reasoning as to why they consider the arrangement is unacceptable.*
4. *Previous applications for unauthorised work should not prejudice the*

**CAAC/Local groups*
comments:**

*Please Specify

assessment of the current application against Council policies and are therefore not material considerations.

- 5. The current proposal does include a box hedge to help delineate car parking zones and pedestrian walk way and the number of spaces that were considered available is also up for discussion.*
- 6. The principle of forecourt parking is already established. Mapping evidence indicates the general layout was in place from at least the mid twentieth century. The existing finials (baubles) on top of the two existing boundary gate piers, is not up for determination, because they have been in place for many years. The issue concerns the layout of the new gate piers and gates and their relationship with the street and existing crossover.*

The Netherhall Neighbourhood Association has also objected as follows:

- With regard to the amended plans for the forecourt of No 45 and the introduction of a second crossover, the Netherhall Neighbourhood Association wish to express our objections on the following grounds: -
 - 1 This will create a new second crossover to a separately owned parking bay. We support the Council's policy of resisting the forming of new crossovers in our Conservation Area.
 - 2 The second crossover will clash with the end of the existing street parking bay and result in its shortening. There are currently 4 car spaces in front of No 45 and this shortening of the bay will result in there being only sufficient length for 3 car spaces. The NNA resist any loss of our street parking spaces.
- 1. This point is discussed in the Crossover section of this report.*
 - 2. This point is discussed in the Off-street parking section of this report.*

Site Description

The site is occupied by a 3 storey building (plus lower ground and roof levels) known as April House located on the western side of Maresfield Gardens. The building is divided into two flats, being flats 1 and 2. Just to confuse matters, the property it adjoins is also called April House and within it there are six more flats named A-F. I will refer to the application property as Flat 1 to try and save any confusion.

The property lies within the Fitzjohns/Netherhall Conservation Area and is considered to make a positive contribution to the Conservation area. The building is located slightly upslope from No. 43 Maresfield Gardens.

The former layout included an off-street forecourt with a double width cross over access, which was located slightly off centre to the south of the opening between the two existing gate piers located on each flank of the front boundary.

Relevant History

Application history

8600254- Change of use and works of conversion to form four flats on the ground floor and lower ground floor as shown on drawings No.0585A/06 and 07. **Granted 23/04/1986.**

9201060- Erection of a rear extension at first floor level to the existing flat including new entrance canopy on the ground level front elevation. **Granted 04/02/1993.**

2013/1071/P- Conversion of two existing flats into one single family dwelling (Class C3) and associated alterations. **Granted 22/07/2013.**

2014/1394/P- Alterations to replace windows and doors on front elevation at ground floor level with 2 windows and 3 doors, including installation of glazed canopy over entrance. **Granted 05/06/2014.**

2014/1956/P- Erection of a side extension at second floor level. Pending determination with recommendation for refusal.

2014/5724/P- Extension of existing basement level (retrospective). **Withdrawn.**

2014/5725/P- Extension of existing basement level (retrospective). **Granted 12/06/2015**

2015/1609/P - Erection of 1st floor side extension and alterations to front and rear elevations (retrospective) – **Granted 14/07/2015**

2015/3684/P - Installation of boundary treatment including means of access and hardstanding and the rearrangement of two off-street parking spaces (Retrospective) – **Refused - 09/09/2015**

Enforcement History

EN14/0713 – Excavation of basement and the approved scheme 2013/1071/P has not been implemented and works undertaken on site over and above those shown on approved drawings. The Notice required the property to either comply with plans approved by way of application 2015/1609/P, or comply with drawings showing the property as it was formerly as shown in planning application 2013/1071/P, and the obscuring of the glass in the lower half of the sliding sash window at the rear of the first floor side extension.

EN15/0735 - Erection of unauthorised gates piers and gates on front boundary of the property –

Notice served 28th July 2015 with a 3 month compliance period to remove the unauthorised gates and wall.

This was appealed on grounds (e), (a) and (f) under Section 174(2) of the Town and Country Planning Act 1990. However, this Notice was only assessed under Ground (e) and quashed as a result because the Inspector considered that the Council had not served the Notice on all of the persons with an interest in the land and therefore, by not doing so had substantially prejudiced various persons with an interest in the land.

The Council proposed alternative options with the planning agent for the owner of Flat 1. However, these were rejected because they required the owner to remove the already built brick piers and gates. Therefore, because no solution could be found to address the concerns of both parties, the Council served a new enforcement notice on 8th June 2016 requiring the owner of Flat 1 to:

Completely remove the two gate piers and gates from the front boundary of the property and remove any resultant debris from the site.

The Notice required this to be undertaken within 3 calendar months.

The reasons for serving the Notice were as follows:

- a) It appears to the Council that the above breach of planning control has occurred within the last 4 years.
- b) The as built gates and gate piers on the front boundary form an arrangement which is considered to be detrimental to highway safety by virtue of inadequate sightlines for vehicles leaving the site, contrary to the London Borough of Camden Local Development Framework Core Strategy 2010 policies CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving our heritage), and the London Borough of Camden Local Development Framework Development 2010 Policy DP19 (Managing the impact of parking) and DP21 (Development connecting to the highway network).
- c) The as built gates and gate piers on the front boundary form an arrangement which when in use results in the loss of part of an on-street residential parking bay, contributing unacceptably to parking stress in the surrounding area, contrary to the London Borough of Camden Local Development Framework Core Strategy 2010 policies CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving our heritage), and the London Borough of Camden Local Development Framework Development 2010 Policy DP19 (Managing the impact of parking) and DP21 (Development connecting to the highway network).

Relevant policies

LDF Core Strategy and Development Policies

National Planning Policy Framework 2012

London Plan 2015, consolidated with alterations since 2011

Camden LDF Core Strategy 2010

CS5 Managing the impact of growth and development

CS14 Promoting high quality places and conserving our heritage

Camden Development Policies 2010

DP19 Managing the impact of parking

DP21 Development connecting to the highway network

DP24 Securing high quality design

DP25 Conserving Camden's heritage

DP26 Managing the impact of development on occupiers and neighbours

Camden Planning Guidance (updated 2013)

CPG1: Design

CPG7: Transport

Fitzjohns and Netherhall Conservation Area Statement 2001

Assessment

Proposal

Retrospective permission is sought for the installation of a boundary treatment including means of access and hardstanding.

Background

Planning permission was previously granted for a three storey extension as part of an application to convert the property from two flats to one house (2013/1071/P). The conversion has not been implemented. However, work commenced on the site and some works which were approved under this permission were implemented. Those works included a replacement side extension and other alterations to both the front and rear of the building which did not benefit from planning permission and included:

- The fitting of a raised flat roof to the first floor side extension with a parapet wall and not setting this extension back far enough behind the front building line;
- Lowering the ground level at the front of the property, which has given the impression of the ground floor front elevation being taller;
- Alterations and additions to the windows/doors on the ground floor front elevation;
- Increasing the height of patio doors at the rear of the property;
- Not fitting obscure glazing to the bottom sash of the rear first floor side extension window to prevent overlooking;
- Building new gate piers and gates across the entrance to the property.

Various items have been addressed through the approval of a planning application to amend the original 2013 application (Ref: 2015/1609/P – 14th July 2015).

In addition, but not covered by the July 2015 approval to amend the scheme, were new gate piers and gates constructed on the front boundary. The former forecourt has now been subdivided as a result to form two distinct parking zones to the northern and southern edges of the former forecourt. These are sub-divided with a pedestrian footpath between flanked by planters and small box hedges. These zones line up with the gate piers on the front boundary.

However, these have been constructed in such a way that the northern parking space created by the gate piers is now considered unsafe to use because of the lack of sightlines and visibility north when

reversing out of this space. The relocation of the access arrangement also means that the vehicle using this northern space also has to cross the footway because the new space does not align with the existing crossover. In addition, and in order to improve sightlines and highway safety, the on-street residential parking bay would need to be reduced in size to accommodate the new arrangement.

Therefore, the main issue in this case is balancing the enhancements to the character and appearance of the conservation area at the expense of highway safety and the loss of on-street parking.

Since the original enforcement notice was served on 28th July 2015, an appeal was been lodged and the Notice quashed under Ground E. Therefore, the planning merits of the case are yet to be considered at appeal.

As part of the appeal process the appellants and residents submitted various reports which were commented upon in the appeal statements, and some of which are now re-submitted as part of this new application.

The documents submitted by the applicant include the following:

- Paul Mew Associates Traffic Consultants -Transport Statement - October 2015
- Paul Mew Associates Traffic Consultants -Transport Rebuttal Statement - December 2015
- Neighbouring Planning History – Doyle Design LLP November 2015
- Appeal Statement – Doyle LLP – November 2015

In addition, one of the objectors has re-submitted:

- Traffic survey submitted by Forty-five Maresfield Gardens Ltd – Motion – 29th October 2015

Although this is not one of the documents submitted as part of the application, its contents has been considered as part of this determination because it provides useful comment upon the Paul Mew Traffic Survey information provided by the applicant.

Assessment

Conservation Area – History and Front Boundary Treatments

The appellants have raised in their appeal statement November 2015 that harm is being caused to the character and appearance of the conservation area by the previously existing open forecourt and lack of boundary wall, as stated in policy FN31 of the Fitzjohn's / Netherhall Conservation Area Statement, and that proposals to replace these should respect the original style of boundary and reinstated where lost.

The original layouts of properties along Maresfield Gardens were built with front walls and double entrances for carriages to use as in/out drives. However, at April House, over time this arrangement changed and by 1935 a small detached out building had been constructed which may even have been a separate dwelling judging by the boundary line separating it from the main house front garden. Therefore, the open forecourt at the front of this property may well have been established as far back as between the two World Wars.

There is no dispute that the front boundary wall has been lost as can be understood from the historic

OS plans and Conservation Area statement. This wall was clearly lost before the designation of the conservation area in 1984 and the CAS in 1991. In the case of No. 45, the replacement main wall to the rest of the house has also been built using inappropriate materials as confirmed in the Negative Features section on page 21 of the Conservation Area Statement (CAS). The CAS serves to protect any future loss of boundary walls rather than requiring the infilling of existing gaps.

Design

The gate piers are brick built with coping stones located on top. These are built to a height of 1.7m and 1.8m high respectively north to south. The colour of the brickwork replicates the host building and is considered to be acceptable. The height is considered to be appropriate in the context of the wider boundary treatment in the street scene. Two taller existing piers with decorative baubles are located on the northern and southern junctions of the front boundary and side boundary of the property forecourt. These have remained the same and measure approximately 3.6m (southern pier) and 3.8m (northern pier) tall.

In addition, the gate design reflects that of the main entrance gate to the flats within the main part of No. 45 Maresfield Gardens, and have slim bar profiles and are painted black.

It is considered that both the gates and gate piers are acceptable in design and are not considered to harm the character and appearance of the conservation area.

However, it is not considered that the new wall has made such a contribution to the character and appearance of the conservation area that it outweighs the resulting impacts on highway safety and the loss of an on-street parking bay.

Transport

The gate piers, gates and associated parking bays were omitted by the applicant from the 2015/1609/P application as the proposal was considered to be contrary to planning policy. There were concerns over the position of the gates and gate piers and how they formed separate parking areas on the front forecourt that did not align with the existing crossover, which is narrower than the width of the forecourt.

In a policy context, Policy DP19 – Managing the impact of parking, states that the Council will seek to resist development which would; (a) harm highway safety or hinder pedestrian movement; (b) provide inadequate sightlines for vehicles leaving the site; (c) add to on-street parking demand or otherwise harm existing on-street parking conditions; (d) would require detrimental amendment to existing Controlled Parking Zones; and (f) it would create a shortfall of residents' parking.

Furthermore, Policy DP21 – Development connecting to highway network, which states that the Council expects development connecting to the highway network to; (e) avoid harm to on-street parking conditions or require detrimental amendment to Controlled Parking Zones; (f) ensure adequate sightlines for vehicles leaving the site; and (h) avoid causing harm to highway safety or hinder pedestrian movement.

In addition, Supplementary planning guidance CPG7: Transport clearly states in paragraph 7.9 that the Council will seek to ensure that new development does not cause harm to the highway network, to its users or the environment.

In paragraph 7.13 it further sets out that vehicles joining the highway network need clear views of pedestrians, cyclists and other traffic, and users of the highway network need clear views of those joining it, and that views can be obstructed by boundary treatments and parked cars.

On-street parking – Parking Stress

The Council's main concerns with the proposal are as follows:

The site is located within Controlled Parking Zone CA-B (Belsize), which operates between 9am and 6.30pm Monday to Friday and between 9.30am and 1.30pm on Saturdays. This zone is known to suffer from very high levels of parking stress with the latest figure being 114 permits issued for every 100 spaces available on-street. This level of parking stress has been observed by the Council, dating back to 2005, with the Annual Parking report detailing that 113 permits had been issued for 100 spaces. Over this period of time the parking stress levels have continuously been recorded as one of the highest in the borough, reaching a level of stress of 117 permits for every 100 spaces available in 2007. This position is further borne-out with recent images submitted by the local residents, showing that there are no free on-street parking spaces in the vicinity of 45 Maresfield Gardens.

The original off-street parking arrangements for the property included two spaces, one located to the left hand side of the front of the house and one to the centre. This is supported with the location and orientation of the existing crossover, which matches this arrangement. The owners have sought to claim that the former layout could accommodate 3 vehicles; however, the Council consider that although in theory this may have been possible, this would have been a very snug arrangement and should a third vehicle be on the forecourt, this would in effect block the pedestrian access to the properties. Mr Green, (who lives in Flat E) who has an interest in the use of the driveway and has a right to use the southern off-street parking space, has stated that there have only ever been 2 parking spaces used on the forecourt.

As the existing vehicle crossover served the two parking spaces, an area of hard standing on the driveway was provided on the right hand side which acted as a path which led to the front doors. The pathway provided a visibility gap between the parking spaces and the adjacent boundary wall of number 45. On the carriageway, there is an on-street parking bay located outside the property which begins at the boundary with No. 45's wall and runs northwards.

However, the location of this northern off-street parking space now lines up with the southern end of the on-street parking bay, which means that in order to meet Highway Safety concerns, would need to be trimmed back in order to accommodate the new off-street parking space, and a widened crossover.

Paul Mew Associates have provided car parking data and assessment as part of an accompanying statement to the owners appeal documentation. They measure the bay at 19.1m. However, they have suggested that the number of available car parking spaces available within the bay should be calculated using the Lambeth method, which uses the length of a vehicle as 5m, with figures rounded down to the nearest number even if available kerb space could accommodate an additional vehicle in reality. Therefore, the bay measured at 19.1m by Paul Mew is rounded down to only 3 available car parking spaces in line with the Lambeth methodology. Therefore, they have suggested that this bay could be reduced in length to accommodate a new crossover required by the provision of the new off-street northern parking bay. In this particular situation, the Council do not support the rounding down of this bay to only 3 spaces. The Lambeth Methodology is primarily designed for use in the London Borough of Lambeth, and as such is not directly linked to the London Borough of Camden. However, Camden do acknowledge that this methodology can provide a steer in terms of on-street parking considerations, but would advise any results are given minimum weight as not specifically designed for use in this borough. Camden focus more on the observed on-street use, meaning in this situation the number of bays should be rounded up to 4 and not down to 3. This position will be supported by the Council later in this report.

This consideration of 3 bays has also been based on wider parking stress surveys submitted with the appeal in connection with the original Enforcement Notice. The parking stress figure given by Paul Mew for the local area is 72% which is the average overnight parking survey result for 2 consecutive

nights in September 2015. However, the figures given for both Maresfield Gardens and Netherhall Gardens are over 80%, demonstrating a level of parking stress for both nights surveyed, but the Nutley Terrace figures reduce the overall impact.

The Council's concerns are that these figures only represent a very small snap shot over a short 2 night period, undertaken by a consultant commissioned by the appellant. As detailed previously, the Council's data, dating back to 2005 has always recorded levels in excess of 100 permits for 100 spaces available. As indicated, the zone is known to suffer from very high levels of parking stress with 114 permits issued for every 100 spaces available on-street. It is not clear from the Paul Mew Transport Statement October 2015, that the overnight parking stress survey has included just residential parking bays or / and single yellow lines. The impact of this is that the figures could be an under-representation of parking conditions and that the actual occupancy is much higher. The Council's concern over the survey is borne-out with the photographic images submitted by the local residents that clearly demonstrate that there are no free parking spaces close to the appeal site. The images present a situation that more closely matches the Council's own permit data, collected over a 10 year period. What the survey results also fail to take into consideration is that on-street parking is a flexible asset for the Council and local residents. It is able to adapt to the needs of the area, providing options for many users from servicing vehicles, blue badge holders and any size of private motor vehicle. This flexibility is crucial to the Council in providing access for all its users. The proposal is to reduce the flexibility of this space and simply create a dedicated off-street space for one individual with no net benefit for the Council and the wider varied users of this local area.

Camden has measured the length of the parking bay to be 18.84m in total. There are no individual marked bays, as this provides a more flexible use of the space to be made. The length of space taken up by an individual parked vehicle can vary considerably depending on many factors, and in CPZ areas suffering from parking stress, as in this case, all available space will be utilised regardless of the 5metre length detailed in a methodology document. The Council consider that the length of the parking bay is capable of accommodating 4 vehicles, creating a parking bay length closer to 4.8metres, as witnessed by Camden's own officers and supported by local residents in the images submitted. The Lambeth method of calculating the number of vehicles in spaces is a perfectly legitimate calculation, however, in this instance, the observed number of vehicles being parked in this space is 4 vehicles, resulting in an average length of 4.5metres per vehicle. Taking the approach detailed by Paul Mew, to simply trim 4m off this flexible parking bay, which itself is a large enough space to park 4 vehicles, would only benefit one individual. The loss of even 1metre would result in the loss of one on-street parking space, significantly dis-benefitting all other users of this space. The Council does recognise that as the parking space is one large space, it can accommodate a variety of users and if poor parking was to occur, then the bay could accommodate as few as 3 vehicles, as presented by the appellant. However, with the Council's permit data and the images provided by the local residents, it is more reasonable to conclude that this space is used for 4 vehicles on a regular basis. As this is a resident parking zone, this particular bay is used regularly by other residents from within No. 45 and therefore, being considerate they ensure they park to the outer edges of the bay allowing 4 vehicles to park perfectly well. This is well supported by local residents comments and objections made above, including various photographs submitted and included in the document submitted by Motion on behalf of Forty-Five Maresfield Garden Limited. This clearly demonstrates that four vehicles can be comfortably parked in this on-street parking bay.

The owners had claimed that 4 vehicles could only be accommodated with numerous back and forth parking movements, however, this could be said for many car parking spaces within central London in order to parallel park and would support that the CPZ is stressed, as all available on-street parking is utilised.

The bay is also popular because it has no overhanging trees and has good street lighting overhead therefore reducing the risk of their cars being deposited upon and having an added sense of security.

Therefore, the Council disputes the interpretation of the information submitted by the owner as part of the application and considers that the on-street parking bay can accommodate 4 vehicles. Therefore, this bay should not be reduced in size to accommodate the alleged reduced parking stress in the local area and thereby accommodate the new off-street parking arrangement created by the owner.

Crossover

The existing forecourt parking space has been divided into left and right sides with a footpath in between. The right hand side parking space is located immediately adjacent to the northern boundary wall with number 45 such that there is no longer a visibility gap to the north. Moving the formerly central bay northwards has resulted in the parking space no longer being aligned with the crossover. Vehicles using this bay therefore have to illegally cross the footway without the benefit of a full width crossover. An application to alter the crossover has not been made and the owner has been warned of the breach of S184 of the Highways Act 1980 by crossing the footway. Consent would be required for an extension to the cross over as the property comprises flats.

Furthermore the alterations cannot be made through a crossover application alone as this permitted development right only applies to single dwelling houses. In any case, such an application would be refused as it requires detrimental amendments to the adjacent on-street parking bay. The amendment would require a shortening of the on-street parking bay which would result in the loss of a much needed Resident parking space in this highly stressed controlled parking zone. This is contrary to Development Policy DP19 parts c), d), and f) and Camden's Highways crossover policy.

The applicant has submitted a plan showing the proposed parking arrangements and suggested proposed crossover, which would be their preferred option. The design results in a narrower overall crossover, with a central nib located between two crossovers for each of the off-street parking spaces. However, even with this amendment, there would still be the loss of on-street parking as the on-street parking bay is being reduced in length. As suggested in the submitted proposed drawing, the Council are unlikely to position the start of the parking bay that close to the re-positioned kerb radii as any vehicle overhanging the bay would block the crossover. Therefore, a greater extent of on-street parking would be lost. The central island nib would also not be of sufficient length to facilitate parking. In addition it would also likely lead to an increased level of maintenance cost for the Council, as vehicles entering and exiting the site would inevitably over run this central nib, causing it to be damaged. The Council do not consider that this solution would be beneficial to either the applicant or in mitigating the loss of the on-street parking and would not be willing to take on additional costs for maintenance when the existing layout and configuration is a low cost acceptable layout.

Although these works to the Highway would be outside of the boundary of the application site, the applicant would be willing to enter into a S106 obligation to cover the cost of works to be undertaken prior to the first use of the off-street parking spaces.

These are notable proposals; however, the crossover location is very much of concern to officers because of the impact it may have to on-street parking provision and the safe movements of vehicles around the site. These are addressed later in this report.

Sightlines

The current unauthorised arrangements also raise safety concerns with regard to the lack of visibility of the right hand (northern) parking space for pedestrians approaching from the north. It should be noted that although the southern parking space could have a similar issue, because this space is long established and aligns with the existing crossover, the situation is no worse than it was before the works took place. However, as the northern space no longer aligns with the crossover pedestrians will not be expecting a vehicle to suddenly appear from behind the boundary wall. This is a particularly sensitive pedestrian route, with high numbers of vulnerable road users (school children)

travelling to and from South Hampstead High School at the southern end of Maresfield Gardens at the start and end of the school day. The proposal is therefore contrary to Development Policy DP19 parts a) and b) and Policy DP21 parts e), f) and h).

The Paul Mew Transport survey submitted with the application has also provided pedestrian counts for both sides of the road covering the footways and counted people moving both north and south. The appellants acknowledge that vehicle to pedestrian sight lines are reduced for pedestrians travelling south and a vehicle leaving the northern parking space. However, they suggest that the footfall isn't high even during peak hours. Furthermore, using the Manual for Streets, which is National Guidance, they use this to explain the theory that in the absence of wide visibility splays at private driveways, drivers emerge more cautiously as a result. The response quoted from Manual for Streets 2, is primarily connected to junction layouts such as small access routes, not specifically in relation to private driveways. What this guidance document goes on to state is that consideration should be given to visibility and whether the proposals are appropriate. The introduction of brick piers connected to the relocation of the off-street parking position closer to the boundary wall is not considered appropriate, especially when the existing layout provided appropriate visibility. The previous arrangement had no such issues and provided adequate, appropriate and acceptable visibility. The unauthorised amendments have introduced a significantly worse arrangement for both vulnerable pedestrians and the wider local community when the loss of available on-street parking is also considered. One of the assumptions made in their statement is that most pedestrians will move along the centre of the pavement, which at 2.76m according to them is relatively wide, and not close to boundary walls.

The Council's argument against these points are that in either a forward or reverse gear, any vehicle leaving the northern space is doing so blind for the first 1.5m of bonnet (or more in a reverse gear) until they can see past the northern gate post. One of the concerns held by the Council is the fact that a large number of walkers in the local area would be children, both accompanied and unaccompanied due to the schools within the local area. Anyone walking with a child is more than likely to walk on the outside of the pavement and keep the child between the boundary wall and themselves. Therefore, this raises the levels of concerns on highway safety grounds because children are less predictable road users than adults, and may well be walking, running or riding a scooter closer to the boundary walls than the appellant states. According to Manual for Streets 2, when the above aspects are taken account of; frequency of vehicle movements, amount of pedestrian activity and width of footway. The best means to achieve visibility in a sympathetic manner can include use of railing instead of walls and the omission of a boundary wall at the exit location. The second consideration in Manual for Streets 2 was exactly what was previously in use, connected to this site and therefore fulfilled this requirement.

Another walking group which also may not fit the appellants assumption would be dog walkers. Often they too will walk on the outer edge of the pavement and keep the dog between them and the front boundary walls. Dogs also will naturally be drawn to these boundaries to mark their territory. Therefore, the assumption that most pedestrians will use the centre of the pavement is incorrect. The public highway is an asset for all users and there should be no obstruction to the highway by unreasonably impeding the primary right of the public to pass and re-pass. The most vulnerable users, such as those with visibility impairment utilise the back of footway, navigating along boundary walls. The unauthorised proposals have introduced an increased risk to both vulnerable users and the wider public use.

The proposals also include the provision of 2 gates in front of each parking space (4 in total) with a further 2 gates for pedestrian access plus gate posts and central brick pillars. The Council formally objects to the provision of the brick pillars, vehicle gates and gate posts and require these to be removed on Highway safety grounds. The proposed gates would not be able to be closed if a vehicle is parked within the property. This is clearly illustrated on the photographs submitted by officers and

objectors in the course of the previously refused associated application, which show parked vehicles extending the full length of each parking bay. It would also be completely unacceptable for the gates to open outwards onto the public highway.

Off street parking, open access forecourts and other cases

Furthermore, the previous appeal statement (also submitted as part of this application) included a list of properties showing similar boundary treatments in the local area to that fitted at the property which is the subject of the Enforcement Notice. In reviewing the list of 100 properties, it can be advised that three key dates should be highlighted; 1998 as this represents the introduction of the Controlled Parking Zone (CPZ) in this area, 2001 represents the Council introducing a new criteria in relation to the Highway Act for no loss of on-street parking in a CPZ and finally, 2011 represents the date of the Councils current adopted Local Plan coming into force. Despite the list being extensive, almost all of the boundary treatments detailed can be considered to either pre-date the introduction of the CPZ or the revised Highways Act criteria of 2001. The remainder of sites (bar three) were all submitted to the Council as applications prior to 2011 under the previous Unitary Development Framework and not the latest adopted Local Plan. It can further be advised that all of these boundary wall arrangements were either considered to be no different to their previous arrangement and therefore Highway safety had not been compromised as a result or were no worse than they had been previously. The list included:

7a Netherhall Gardens; 7b Netherhall Gardens; 40 Netherhall Gardens; 48b Netherhall Gardens; 48c Netherhall Gardens; 41a Maresfield Gardens; 8 Nutley Terrace. One property, 18 Prince Arthur Road was also mentioned, where on appeal, the Inspector allowed for the removal of part of a front boundary wall and the creation of a new off-street parking space in the front garden within the Redington Conservation Area. In order to access the garden, one residential on-street parking bay was required to be reduced in length by 2.7m.

These cases are considered to differ because the boundary treatment has not significantly changed the interaction with the public highway. The one exception at No. 18 Prince Arthur Road, with the partial removal of the boundary wall was added to with the offer of cycle stands and an electric recharging meter as compensation for the loss of on-street parking. The on-street space partially removed was claimed to be used by the owner nearly exclusively, and therefore this was considered to be an acceptable loss by the Inspector.

In this case (April House), there is no bay directly in front of the access proposed, but to the north of it, which is required to be removed to provide a widening of the existing crossover (which worked perfectly adequately until the gates and piers were fitted in accordance with Manual for Street 2), in order to accommodate highway safety standards due to a lack of visibility splay to the north.

Furthermore, at No. 18, an off-road space was created and a bay was lost. At No. 45, two off-road spaces already exist. This would result in the loss of a valued on-street space that is not just used by the appellant, while gaining no further off-road spaces. This is therefore not considered to be a comparable situation.

It is highlighted by the Council that the extension of the vehicle crossover would lead to the net loss of publicly available on-street parking spaces. On-street parking spaces can be used by many different people with different trip purposes throughout the day. Off-street parking spaces are private parking spaces and will generally only be used for one purpose, often by a specific vehicle, and will remain unused at other times.

The removal of the publicly available on-street parking spaces would be detrimental to the operation of the CPZ zone as this loss is not being compensated for. The repositioning of the private off-street parking spaces is not considered by the Council as appropriate in context of the CPZ operation. The loss of the

space would result in an increased level of pressure on the CPZ zone for all residents in the CPZ area which would result in a detrimental amendment to the CPZ.

The Council do not accept that the loss of publicly available on-street parking can be compensated for by displacing private vehicles to an off-street location. It is not considered a simple numbers equation, i.e. one on-street = one off-street. As detailed above on-street parking is publicly available for all users and residents of the CPZ area, whereas off-street parking is only available for the individual householder on a private basis. In addition, many of these properties included in a photographic survey shown in the appeal documentation and in the street show crossover's with open access arrangements, which are not dissimilar to the previous arrangement at the property, and many with more than one off-street car parking areas. Therefore, whilst making the point that multiple off-street parking is the norm in the area, the applicants would have to agree that where this occurs in the local area, the access arrangements are usually by way of a more open forecourt in order to accommodate these vehicles. Therefore, these properties must all harm the character and appearance of the conservation area such as the appeal property once did, because they too, do not have front boundary walls in place, in line with the Fitzjohn's / Netherhall Conservation Area Statement.

The owner claims that the previous open forecourt arrangement meant that one driver would always drive over the pavement to access one of the spaces. Therefore replicating the situation that now is proposed. They have argued that the previously existing situation has damaged the pavement. However, there seems little damage to the existing York stone paving to substantiate this claim. Images, of the previous arrangement also detail that the situation as described by the appellant would not have materialised as these show two vehicles parked side by side, in-line with the existing double width crossover.

Options for solutions / Agreements / Undertakings

As part of the appeal /application process various options have been put forward by the owner for discussion which they consider could form part of a solution to the issues at hand, whilst at the same time keeping the gate and pier arrangement. These are discussed below.

S106 legal agreement / undertaking

The owner has suggested that, in order to address the Council's concerns regarding the possible loss of one on-street parking bay to the north, they could enter into a legal agreement with the Council which would ensure that parking permits are restricted for the flat using the northern off-street parking space. Each car owner at the property is entitled to pay for a resident parking permit, with up to three permits issued per dwelling. The legal undertaking was offered to reduce the maximum number of applications from three to two.

However, The Council's concerns are that each adult in the household may apply for up to three on-street permits, with each permit being for up to three vehicles, although only 1 car can use the permit at a time. For example, one adult could have 9 cars (3 with permits parked on street and 6 parked off-street). However, in practice, most families only have 1 or 2 cars and if these are separately registered to each person, there would be 2 cars with 2 permits on the street (his and hers for example).

Therefore, this still means two adults living in the flat could still apply for two further permits, and even with one vehicle each, they could still have up to 6 vehicles between them, although only 2 would be able to park on street at a time. Therefore, this is not considered to reduce the on-street parking to the one vehicle originally suggested, which was the purpose of off-setting the possible loss of one on-street bay, and would not be an acceptable solution for the Council.

Finally, because of the way the Council issue's Parking permits, there is no formal mechanism

through its parking enforcement and permit service to administer checks when issuing said permits, and therefore even if it did address the concerns raised by the Council, it would be an unworkable solution. The Council's ability to accept this capping of permits would be considered as being unreasonable and un-enforceable. Existing residents already enjoy on-street parking permits and as there is no new development the Council would be seen as acting unreasonably in accepting an offer to remove existing parking rights, when there is no policy backing for this.

As detailed above, the proposal would result in the loss of on-street parking spaces available for all residents of the CPZ. This loss is not being compensated for on-street, and the mitigation measure proposed by the appellant is not considered reasonable by the Council. This is not a mitigation measure the Council can seek when existing residents could continue to seek to retain their existing parking permit rights by applying for on-street parking permits.

The proposal to cap the number of permits would not be possible within the current Council permit system, which is used across the entire borough. What has been suggested would require specific tailored terms and conditions for each individual address, coupled with specifically tailored wording for each address within the Traffic Management Order, the mechanism that controls the CPZ. To suggest that the Council would reconfigure the entire permit system and re-write the CPZ Traffic Management Order for one address would be financially prohibitive and totally unreasonable.

Electric car charging points and cycle stands

Policy DP18 seeks to ensure that developments provide the minimum necessary car parking provision. Part of that policy also sets out the expectation that developments will also be expected to meet the Council's minimum standards for cycle parking, and will seek the provision of electric car parking. However, these requirements in the policy should be triggered when new units are being created, and where new off-street parking is being provided. There is no increase in off-street parking and no new units are being created.

Furthermore, Appendix 2 of the LDF sets out that for residential development, one storage or cycle parking place should be provided per unit. Therefore, as the applicant has proposed the provision of two storage spaces for cycles, the Council has no objection to this in principle. The location of this on-site provision is adjacent to the southern flank boundary wall close to the front of the property. However, as detailed above, the proposals do not result in any new units being created, and no new occupiers, and therefore the Council's policies would not be triggered to seek this as a mitigation measure. However, the offer is welcomed.

The applicant has also shown on the proposed plans an electric car charging meter in the north corner west of the northern parking space.

Although this is located on the premises, and therefore would be for the exclusive use of the property owner, the applicant has offered that this could be controlled by way of a planning condition, and therefore could be re-located on the site should the Council consider that this would be a more appropriate solution.

Similar to the above position, this proposal is not seeking to add any new units, is not introducing new occupiers and is not seeking to increase the amount of off-street parking. Therefore, there is no Council policy that would be triggered to seek this as a mitigation measure. The suggested electric charge bay would be triggered if new parking was being created or there was an up-lift in the number of spaces or units, none of which is proposed.

As detailed above, the proposal would result in the loss of on-street parking spaces available for all residents of the CPZ. This loss is not being compensated for on-street, and the mitigation measure proposed by the appellant is not considered reasonable by the Council. This is not a mitigation

measure the Council could accept plus the electric charge bay would still only serve a sole occupier and not the wider community, so not compensating for the loss.

Although the provision of an electric charge point could be secured as a condition, should the applicant wish to go to the expense of installing the equipment, this would not be considered as an appropriate mitigation as this does not compensate for the reduction of publicly available on-street parking spaces, brought about as a direct result of this proposal.

Amenity

Due to the nature of the proposals, there is no harm considered to be caused to the amenity of neighbouring residential properties in terms of outlook, daylight and privacy.

Summary

The Council's key concern in this case, are that the proposals are detrimental to highway safety and the impact on on-street residential parking bays by virtue of inadequate sightlines for vehicles leaving the site. However, these issues are not considered to be overcome from any design considerations from the loss of the open forecourt, the proposed cycle storage and electric car charging point provision on the site, nor the offer to sign up to a legal agreement to reduce the number of available car parking permits that this property could apply for.

To conclude, having taken into account all of the above, it is considered that the harm created by the introduction of the gates and piers outweighs the harm caused by the open forecourt.

Recommendation: Refuse planning permission.

As an enforcement Notice has already been re-served on the unauthorised gates and gate piers, no further recommendation is required by the Council to take enforcement action.