

FRG/BPL/05  
20 February 2017

StudioMarkRuthven  
architecture

Kate Henry  
London Borough of Camden  
2<sup>nd</sup> Floor, 5 Pancras Square  
London  
N1C 4AG

Dear Mrs Henry,

**BY EMAIL** [Kate.Henry@camden.gov.uk](mailto:Kate.Henry@camden.gov.uk)

**115 FROGNAL, LONDON NW3 6XR, REF. 2016/5380/P  
RESPONSE TO LETTER OF OBJECTION**

We write in response to the letter of objection to the amended plans from Phillips Planning Services Ltd. on behalf of Mr and Mrs Finegold, occupiers of 113 Frognal.

**Principle of Demolition and Redevelopment**

The letter of objection highlights 'guidelines' within the Conservation Area Statement (CAS) which indeed, are a material consideration. The letter places emphasis on 'guideline' H5 - *'the Council will only grant consent for demolition where it can be shown that the building detracts from the character of the area'*.

In response, we draw your attention to the statutory provisions under Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires planning applications to be determined in accordance with policies of the statutory development plan unless material considerations indicate otherwise. The Development Plan includes:

- London Plan (2016);
- Camden Core Strategy (2010); and
- Camden Development Policies (2010).

Further, the Town and Country Planning (Listed Building and Conservations Areas) Act 1990 contains the key statutory provision in respect of development in conservation areas. Section 72(1) of that Act states: *"In the exercise [of planning functions], with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area"*.



We also refer to the 'South Lakeland' decision of the House of Lords which established that the test of preservation. 'Character' is a broad concept, embracing, for example, use and other characteristics (vitality, functionality, etc). 'Appearance' has a conventional meaning, that is, the 'look' of an area, or its design.

The House of Lords in the South Lakeland case decided that the "*statutorily desirable objective of preserving the character of appearance of an area is achieved either by a positive contribution to preservation, or by development which leaves character or appearance unharmed, that is to say preserved.*"

To that end, the proposal preserves the character of the Conservation Area and is consistent with the character of the surrounding area, the area of greatest effect is the visual impact of the loss of the existing building and of the proposed replacement building.

The letter of objection alleges that the applicant simply ignores the CAS as being out of step. We contest this point, as noted above, we acknowledge that the CAS is a material consideration and the CAS was a key consideration in the development of the proposal under consideration. However, we also note that the CAS was adopted in 2001 which pre-dates the adopted Camden Core Strategy (2010), Development Plan Policy (2010), the London Plan (2016) and the National Planning Policy Framework (NPPF) (2012). As such limited weight should be given to 'guideline' H5 which allows an existing building to be demolished if it 'detracts from the character of the area'.

We maintain that redevelopment of the site to provide a dwelling should not be resisted in principle as the residential land use is established and the opportunity to provide a dwelling that better utilises the site in a sustainable manner should be supported by the Council in line with the core planning principles of NPPF and the presumption in favour of sustainable development. We further state that Paragraph 137 of the NPPF requires local planning authorities to treat favourably, those proposals that preserve or better reveal the significance of a Conservation Area.

We draw your attention to a number of applications that have previously been consented for demolition and redevelopment in the Hampstead Conservation Area since the adoption of Camden Core Strategy (2010) and Camden Development Policies (2010). To refuse this application would be inconsistent practice with decisions made by the Planning Inspector and officers in the recent past with regards to the redevelopment of unlisted buildings.



<b>Planning ref.</b>	<b>Address</b>	<b>Description of Development</b>	<b>Outcome</b>
2012/3089/P	29 New End	Demolition of the existing building at 29 New End and creation of 17 residential (C3) units over lower ground, ground, first, second, third, fourth and fifth floor levels; creation of a new vehicular access and access to basement parking; works to boundary wall; works to soft and hard landscaping; and other incidental works.	Allowed at appeal
2014/7827/P	15a Parliament Hill	demolition of the existing house & the construction of a new 4 storey house with a basement), to include redesign of rear extension behind no.15 and its enlargement into rear garden of no.14, creation of a side roof dormer with passive ventilation, and minor changes to the front and rear elevations, fenestration, materials, roof lights and roof profile.	Granted subject to Section 106 legal agreement
2013/3998/P	14 Well Road	The erection of 3 storey dwelling (Class C3) following demolition of existing	Granted subject to Section 106 legal agreement
2014/5100/P	The Cottage Mount Tyndal Spaniards Road	Erection of two storey plus basement dwelling following the demolition of existing two storey dwelling	Granted subject to Section 106 legal agreement

The letter of objection further notes that paragraph 25.8 of the supporting text within Policy DP25 requires any replacement building to enhance the conservation area to an appreciably greater extent. The letter of objection expresses that 'the additional bulk would not preserve the open and spacious nature of the Hampstead Conservation Area'.

The Heritage Statement submitted in support of this application confirms that the architectural significance of No. 115 Frognal appears to be low. Stylistically, the Neo-Georgian exterior at No. 115 Frognal is extremely retardataire for the period, and a somewhat bland choice for the area, given its rich historical associations, and the more spirited, contemporary architecture displayed by some of the neighbouring houses, such as No. 3 Oak Hill Way (by Trevor Dannatt) and No. 111 Frognal (remodelled by Alison & Peter Smithson).



In response, we reiterate that the proposed scheme ambitiously seeks to provide a high quality contemporary building that is fitting of this part of the Conservation Area, it is, at the same time sensitively designed to preserve and enhance the character of the Conservation Area. As noted by the Camden Design Review Panel (DRP) in their December 2016 report, the panel is firmly supportive of the qualities of this building, including its scale, massing, form, landscaping and choice of high quality material. In addition, the DRP's recommendations regarding the clarity of the architectural expression have been implemented and this has achieved a design of a high architectural standard.

The proposal is consistent with Policy CS14 and Policy DP24 which require all developments to be of the highest standard of design and to consider the local character, setting, context and the form and scale of neighbouring buildings. We find there is no reason to resist the demolition of the existing building given that the proposal provides a high-quality contemporary replacement. The proposals will preserve and enhance the character and appearance of the surrounding Conservation Area and is consistent with Policy CS14 of the Camden Core Strategy (2010), Policies DP24 and DP25 of the Camden Development Policies (2010). The proposal has been informed by Camden Planning Guidance 1: Design (CPG1) and CPG2 (Housing) and the Hampstead Conservation Area Statement.

We also note that neighbours were consulted on the proposed scheme in September 2016 before an application was submitted to the Council. The concerns expressed during the consultation period namely in relation to impact on amenity were considered and duly addressed before the application was made.

Since the submission of the original application, we have worked proactively with the Council by addressing concerns raised by officers, local residents and amenity groups. The amended proposal is a product of several months of proactive engagement and negotiation, including that with the DRP.

It is our view that the proposal represents a high quality contemporary design that optimises the opportunity the site presents, whilst maintaining the sense of openness. The visual effect of the development on the character and appearance of this part of the Conservation Area is small, and the curtilage of the existing house is large enough to accommodate the sensitively designed additional massing.

Once again, we stress that the criteria set out in policy are not fixed requirements set to dictate design. The intent of the NPPF core planning principle directing planning to be *"not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives"*. The policy provides a context and encourages flexibility to deliver a high quality standard of design without enforcing a single design approach. The proposal would provide a positive contribution to the conservation area which is characterised by great variety of building types, ages and styles. It is our view that the replacement building enhances the conservation area to an appreciably greater extent than the neutral existing building.



## **Amenity**

The letter of objection claims the proposal would result in a dominant and oppressive built form. The letter of objection notes the proposal at first floor level would sit 9.5m from the side elevation of No. 113 Frognal. The letter of objection maintains that a gap of 9.5m between the buildings would result in an overbearing impact.

The submitted daylight and sunlight assessment concluded there are categorically no valid grounds to challenge the proposed development with regards to daylight and sunlight, nor does the proposal give rise to overlooking above and beyond that which already exists and as such, we consider the proposal to be in accordance with Policy DP26.

The proposal has also been amended to reduce the overbearing impact following previous concerns raised by neighbouring residents. The revised proposal maintains a sense of openness and thus the neighbouring objections in respect of the amended proposal appear to be wholly unreasonable.

## **Loss of Tree**

The letter of objection notes there is no need to remove T8, the common lime situated in the north-east corner of the site.

The tree to be removed is identified within the supporting Arboricultural Assessment (October 2016) as British Standard category U, unsuitable for retention. The tree's poor condition is based primarily on the state of the wood on its western side at the base. In this position there is a major supporting buttress which has become entirely degraded to the point that it provides no strength at all. The bark covering the buttress is dead and the wood behind it is soft and highly degraded. In addition to the tree's decayed base, a wide, open cavity is extending downwards from the top of stem where past heavy pruning has caused the onset of decay.

We recognise the value of trees and the contribution that mature and significant trees make to the character of the Conservation Area.

This application presents an opportunity to replace the existing dying tree with a tree of greater significance. The proposed planting scheme replaces the tree and enhances the landscaping of the site, there is reason to consider that the proposal to remove a diseased tree (T8) would not be unduly harmful to the overall appearance of the area.



## **New Driveway**

The letter of objection contends the quiet and characterful rural lane would be harmed by the provision of a new driveway access and has concerns in relation to the safety of vehicles backing onto it.

We do not consider the proposed access would harm the setting or the character of the lane, the proposed access would be sympathetically designed. The proposed access would enhance the overall setting of the house as it replaces a visually prominent asphalt drive that currently detracts from the character of the Conservation Area. We do not consider the proposed access would raise significant safety concerns and we are not aware of any objection from the Council's transport planning officers to this element of the proposal.

## **Conclusion**

We consider that the proposal provides a high quality contemporary replacement dwelling in place of the existing rather unremarkable house. The proposal would preserve and enhance the setting of the Conservation Area. The proposed scheme sympathetically optimises the site whilst maintaining a sense of openness. The loss of tree T8 is based on advice provided within the arboricultural report. The application presents an opportunity to replace a dying tree with a tree of significance and amenity value that will enhance the setting of the Conservation Area. The proposal would not result in harm to the amenity of neighbouring residents. The proposed access off the lane would be an enhancement as it replaces a prominent area of asphalt hardstanding that detracts from the setting of the Conservation Area.

We have engaged with neighbouring residents and officers at the Council over several months. The revised application is a product of ongoing negotiations and we consider the proposal to be consistent with the policies within the Camden Core Strategy (2010), Camden Development Plan Policies (2010), the London Plan (2016) and the NPPF (2012) and as such, the proposal should be taken forward with a positive recommendation.

We are of the view that the concerns expressed in the letter dated 15 February 2017 by Phillips Planning Services Ltd on behalf of the occupiers at No. 113 Frognal have been adequately addressed in the revised proposal.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Wagenfeld', with a small dot at the end.

**PHILIP WAGENFELD**

cc: Mr. P. Crocker