

REDINGTON FROGNAL
NEIGHBOURHOOD FORUM

29 March 2017

Dear Mr. Peres da Costa,

Application 2017/0579/P, 267 Netherhall Gardens: objection

We cannot understand why anyone would want to demolish a locally-listed building, which makes a positive contribution to the Fitzjohn's and Netherhall Conservation Area, only to replace it with an architecturally inferior building which will cause harm to the streetscape and the consistency of the buildings, thereby materially weakening the Conservation Area.

The large houses in Netherhall Gardens are noted in Bridget Cherry and Nokolaus Pevsner's "The Buildings of England, London 4: North" as originating from the later 19th century, which enjoyed popularity with prosperous artists. The area, all former demesne land, was "classified as upper middle- and middleclass and wealthy"¹ and number 26 is an excellent exemplar of Queen Anne/Arts and Crafts style architecture.

The existing house is currently divided to provide five apartments. The proposed replacement building would also provide five flats, so there is no housing gain resulting from the building's demolition. That the existing building has some more recent unsympathetic minor additions, are not sufficient grounds for demolition.

We also note the application to demolish this building is contrary to national legislation, to Camden policies, to Camden's Conservation Area management strategies and to Historic England's Conservation Principles, which are attached to this letter. The Conservation Area Appraisal specifically notes that number 26 makes "a positive contribution to the special character and appearance of the area."

Indeed, it seems likely that the previous appeal decision to grant consent for the demolition of this positive contributor was incorrect.

Yours sincerely,

Rupert Terry

Chairman
Redington Frogna! Neighbourhood Forum
<https://rfforum.wordpress.com/>

¹ 109. Booth, *Life and Lab.* map; Stanford, *Libr. Map of Lond.* (1891 edn.). <http://www.british-history.ac.uk/vch/middx/vol9/pp33-42> - [anchorn109](#)

Planning legislation and policy identified by Mr. Eddie Booth, Director, The Conservation Studio, for an analogous situation concerning the proposed demolition of 28 Redington Road, a positive contributor to the Redington Froggnal Conservation Area. The advice has been adapted by the Redington Froggnal Neighbourhood Forum for 26 Netherhall Gardens.

Legislation

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be taken in accordance with the development plan unless material considerations indicate otherwise. In this case, in addition to development plan policies, national policies and guidance, material considerations include the relevant guidance of English Heritage, which is addressed below, and the Council's Conservation Statement for the [Fitzjohn's and Netherhall Area (2001)].
- 3.2 S72(1) of the 1990 Act requires that, in the exercise of powers under the Planning Acts relating to land in a conservation area, '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*' The Court of Appeal has held² that '*considerable importance and weight*' must be given by decision makers to the duties under Section 72.

National policy

- 3.3 Section 12 of the NPPF addresses the historic environment with the expectation that the significance of heritage assets affected by development proposals will be assessed. In considering proposals, '*great weight should be given to the asset's conservation.*' (Paragraph 132).
- 3.4 Where a development proposal would lead to substantial harm or total loss, planning authorities are advised to refuse consent unless it can be demonstrated that harm is necessary in order to achieve public benefits that outweigh the harm (Paragraph 133).
- 3.5 Where the harm would be less than substantial, or where the heritage asset is not designated, there is still the requirement to weigh the harm against any public benefits of the proposal (Paragraphs 134 & 135).

² Barnwell Manor Wind Energy Ltd v East Northamptonshire DC, English Heritage, National Trust and Secretary of State for Communities and Local Government [2014] EWCA Civ 137

3.6 Where the proposal involves the loss of a building that makes a positive contribution to the significance of a conservation area, the NPPF advises that it should be treated *'either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134 as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area'* (Paragraph 138).

3.7 In addition, Historic England has published a range of guidance documents including:

- *Conservation Principles: Policies and guidance for the sustainable management of the historic environment* (2011) which considers the heritage values that combine to make the significance of heritage assets
- *Conservation Area Designation, Appraisal and Management: HE Advice Note No.1* (2016) provides guidance on the management of change in historic areas

Local policy

3.8 Camden's Core Strategy, adopted in 2010 has a wide range of objectives for an adaptive and vibrant economy, but these are tempered throughout by concerns to preserve the unique character and distinctiveness of the Borough's heritage. Policy CS14 supports this by:

- a) *requiring development to be of the highest standard of design that respects local context and character*
- b) *preserving and enhancing Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens*

3.9 The Council also adopted a set of Development Policies in 2010 of which DP24 requires a high standard of design in new development taking account of character, setting and context.

3.10 Policy DP25 addresses the conservation of Camden's heritage. Relevant clauses in respect of conservation areas state that the Council will:

- a) *take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas*
- b) *only permit development within conservation areas that preserves and enhances the character and appearance of the area;*

- 3.11 The Council's Conservation Area Statement for the [Fitzjohn's and Netherhall] Area was published in 2001. It notes [no.26 Netherhall Gardens] as a building that makes a positive contribution to the conservation area. The Statement provides a series of Guidelines that includes:

['F/N11 Within the Conservation Area total or substantial demolition of a building will require conservation area consent.'

['F/N12 The Council will seek the retention of those buildings which are considered to make a positive contribution to the character or appearance of the Conservation Area, and will only grant consent for demolition where it can be shown that the building detracts from the character of the area. Consent will not be granted for demolition unless a redevelopment scheme has been approved which will preserve or enhance the Conservation Area.']

Assessment

Heritage significance

- 4.1 Hampstead as a whole has long been recognised for the qualities of its architecture, its relationship with the open heath and for its extensive associations with notable residents. This recognition led to the Hampstead Conservation Area being first designated in 1968 immediately after the enabling legislation was provided in the Civic Amenities Act 1967. Designation of the [Fitzjohn's and Netherhall Conservation Area followed in 1984].
- 4.2 The buildings in the Fitzjohn's and Netherhall Conservation Area graphically illustrate the evolution of British architecture at the upper end of the social spectrum from the late Victorian period to the Modern Movement. This high quality of building at a low density combined with a mature landscape and a generous public realm give the conservation area a very high significance as a designated heritage asset.
- 4.3 No.[26 Netherhall Gardens] is not a designated asset, possibly because it has not been definitively associated with a particular architect.
- 4.4 Despite the current lack of provenance, No.26 is clearly the work of an accomplished designer.

4.5 Historic England's *Conservation Principles* (See 3.7 above) provides four sets of heritage values that together establish the significance of a heritage asset:

- The Evidential (archaeological) value of No.28 is slight, but
- The Historical value is considerable: the house plays an important part in the evolution and character of Redington Road and therefore in way the area illustrates the transition from Victorian to Modern architecture.
- The Aesthetic value is also high: subsequent alterations have not diminished the clearly readable characteristics of the original Arts & Crafts design so recognised by Bridget Cherry and Alastair Service (6.3 above).
- The Communal value is amply demonstrated by the inclusion of No.28 in the schedule of properties that make a positive contribution to the conservation area in the Audit section of the Council's Conservation Area Statement.

4.6 Collectively, the high level of these values suggests that [no.26] has a high intrinsic level of significance as a heritage asset. It also makes a positive contribution to the even higher significance of the conservation area. Not only is this recorded in the Council's own Statement, but it is also tested in the applicants' Heritage Statement.

4.7 The Heritage Statement follows the checklist provided in the Historic England *Understanding Place* guidance (See 3.7 above). The guidance clearly states that '*A positive response to one or more (of the questions) may indicate that a particular element within a conservation area makes a positive contribution*'. The following is a realistic analysis (using the current checklist):

i. Is it the work of a particular architect or designer of regional or local note?

No, but an attribution could emerge from further research.

ii. Does it have landmark quality?

No, it is consistent with the high quality character of the street but does not stand out particularly.

iii. Does it reflect a substantial number of other elements in the conservation area in age, style, materials, form or other characteristics?

Yes, its age is consistent with the original development of the street, it follows the eclectic pattern of architectural style in the street, it is built of materials that are consistent with the prevailing palette, and it has distinctive details that relate to the period of the area.

iv. Does it relate to adjacent designated heritage assets in age, materials or in any other historically significant way?

Yes, [no.26 contributes positively to the designated conservation area as an element of the original development of the area.

v. *Does it contribute positively to the setting of adjacent designated heritage assets?*

Yes. While the listed buildings in the area are not immediately adjacent, [no.26] contributes very positively to the [late Victorian] character of the street that provides their setting.

vi. *Does it contribute to the quality of recognisable spaces including exteriors or open spaces within a complex of public buildings?*

Yes, it contributes positively to the very recognisable character of Netherhall Gardens, which is defined by low density, generous gardens and mature trees.

vii. *Is it associated with a designed landscape, e.g. a significant wall, terracing or a garden building?*

Yes, it is closely associated with the original layout of [Netherhall Gardens]. With its neighbours, it helps to define the character of the street through the set-back building line and front gardens.

viii. *Does it individually, or as part of a group, illustrate the development of the settlement in which it stands?*

Yes. [Netherhall Gardens] was largely developed over a period of [about ten years from 1879 to 1888] and [no.26] has a significant part in that evolution.

ix. *Does it have significant historic associations with features such as the historic road layout, burgage plots, a town park or a landscape feature?*

Yes, it is clearly associated with the original development of the street.

x. *Does it have historic associations with local people or past events?*

[This will require further research].

xi. *Does it reflect the traditional functional character or former uses in the area?*

Yes.

xii. *Does its use contribute to the character or appearance of the area?*

Yes.

4.8 This analysis strongly supports the Council's inclusion of [no. 26 Netherhall Gardens] in its schedule of a buildings that make a positive contribution to the conservation area. To summarise, the conservation area has a very high significance as a designated heritage asset, [No.26] has high significance of itself but as an undesignated heritage

asset, and it also follows that [no. 26] is an important component in the significance of the conservation area.

5. Conclusions

- 5.1 The analysis in Section 4 above, taking account of the guidance set out by Historic England, establishes the significance of the conservation area, the significance of [no. 26] and the contribution the building makes to the significance of the conservation area.
- 5.2 The first conclusion is that this confirms the Council's own assessment in its Conservation Area Statement that [no. 26] makes a positive contribution. Policy DP25 commits the Council to taking account of Conservation Area Statements when considering applications in conservation areas and, given that [F/N12] seeks the retention of such positive buildings, it follows that there must be a presumption against demolition. [F/N12] goes on to say that consent will only be given where it can be shown that the building detracts from the character of the area and there is no suggestion that this is the case.
- 5.3 Secondly, in the unlikely event that demolition could be entertained, the Council's planning policy also requires a high quality of design that respects local context and character. While the scheme reflects the locality by borrowing from its details, there is little quality in taking the progression of architecture backwards as this simply dilutes the achievements made a century ago.
- 5.4 Thirdly, it is necessary to consider the expectations of the NPPF. Under Paragraph 138, the high significance of the existing building and the important contribution it makes to the very high significance of the conservation area suggests that its complete loss should be treated as substantial harm under Paragraph 133. In such a case of substantial harm to the significance of the designated asset (the conservation area), local authorities are advised to refuse consent unless the harm is justified by substantial public benefits. It is notable that the applicants' Heritage Statement makes no attempt to articulate any public benefits to justify the proposal.
- 5.5 Fourthly, in respect of the legislation, Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. This is a high test to which, the Courts have held, '*considerable importance and weight*'

must be given. Clearly, the total demolition of a building that is significant in its own right but also makes a positive contribution to the character of a highly significant conservation area cannot be said to be preserving that character. And, given that the positive contribution is a conclusion that the Council has itself already reached in its Conservation Area Statement, it follows that it is *desirable* to preserve rather than demolish.

5.6 Finally, it has not been established that retaining and developing the existing building is incapable of achieving the objective of creating flats.