

Delegated Report		Analysis sheet		Expiry Date:	31/05/2018
		N/A		Consultation Expiry Date:	0305/2018
Officer			Application Number(s)		
Charles Thuaire			2018/1611/P		
Application Address			Drawing Numbers		
Bosinney Gayton Road London NW3 1TX			See decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposal(s)					
Installation of steel fence above brick wall on street frontage and new steel entrance door with side panel (retrospective)					
Recommendation(s):		Refuse permission and warning of enforcement action to be taken			
Application Type:		Householder application			

Conditions or Reasons for Refusal:	Refuse Permission					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	06	No. of objections	06
Summary of consultation responses:	<p>A site notice and press advert were displayed and published between 12/04/2018 and 3/05/2018.</p> <p>Objections from nos. 6 & 18 Gayton Crescent; 47, 59, 61 & an unspecified address in Gayton Road-</p> <p>Ghastly, out of character, monstrous, does not blend into conservation area, looks unfinished project as temporary corroded metal;</p> <p>shrubby only there for very short period; no hedge or green wall ever here- timber hoarding was immediately replaced by punk wall; no residents ever remember this hedge- dishonest statement made;</p> <p>bushes are sufficient barrier to prevent littering/overlooking; stated problems unfounded and misleading; windows mean people can peer through; thicker hedge would solve the problems;</p> <p>copper finish not similar to green screen;</p> <p>need more greenery in road.</p>					
CAAC/Local groups comments:	<p><u>Heath and Hampstead Society</u>- object- Approval for house was based on green screen being provided- this alone is reason for refusal. 'Distressed steam punk' is actually distressing and detracts from conservation area. Refuse and issue EN.</p> <p><u>Hampstead Conservation Area Advisory Committee</u>- no objection.</p> <p><u>Gayton Residents Association</u>- object- In original approved scheme, loss of garden was compensated by low wall and shrub-clad fence with greenery; no residents remember any green hedge actually provided- photo submitted is a photo-shopped image; glass panels invite overlooking, no problems with littering in street; design and lack of greenery detracts from conservation area, streetscape and amenity.</p>					

Site Description

The application site comprises a 2 storey with basement L-shaped contemporary-styled house situated on the north side of Gayton Road, close to the junction with Hampstead High Street. It abuts the more traditional Victorian terraced property of 1 Gayton Road and adjoins the rear commercial yard of 22 Hampstead High Street. It effectively replaced the previous house here, Vine Cottage, which was rebuilt and extended following planning permission in 2009- see history below.

The property is located within the Hampstead Conservation Area and is not listed nor a positive contributor building as defined in the Conservation Area Statement.

Relevant History

2009/1622/P- planning permission granted 08/12/09- Erection of a 2 storey single family dwelling house with basement, following the demolition of existing 2 storey cottage.

Condition 2 required details of the green boundary screen to be submitted and approved prior to occupation of the building and then installed and maintained in accordance with the approved details. These details were never submitted for approval and the condition was never discharged.

Condition 3 required details of elevations and facing materials to be submitted to and approved prior to work commencing on the development and then built in accordance with the approved details. This condition was discharged by an approval of details on 21.9.10 ref 2010/4208/P.

Relevant policies

National Planning Policy Framework 2018

The London Plan 2016

Camden Local Plan 2017

A1 - Managing the impact of development

D1 - Design

D2 - Heritage

Hampstead Neighbourhood Plan- referendum version May 2018, due for adoption on 8th October.

DH1- design

DH2- conservation areas

Camden Planning Guidance

CPG1 Design (2018) – chapters 2 (design excellence), 3 (heritage), 6 (landscape design and trees)

CPG6 Amenity (2018)

Hampstead Conservation Area Statement- October 2001

guidelines H10, H21-24

Hampstead Conservation Area Design Guide – section 6 on front walls and hedges

1. The Proposal

1.1 This application seeks planning permission in retrospect for the installation of brick wall and steel fence on the front garden boundary. The applicant claims that this was installed as a replacement to a previously installed boundary treatment of brick wall surmounted by a timber fence with shrubbery. The brick wall plinth remains the same as before but above it is a new metal fence with narrow glass slot panels allowing limited views into the front garden. The metal is in a copper hammered finish so that by oxidisation it develops a green/brown organic pattern. Similarly the adjoining front entrance door and side panel have been replaced by copper-finished metal ones.

2. Issues

2.1 The issues are- design and impact on the host building, impact on streetscene and conservation area, amenity

3. Background

3.1 The rebuilt house has a very contemporary design with one main street elevation and one recessed elevation of the side wing, both comprising metal framed fenestration, metal roofs, and brick walls with an interesting stippled pattern of projecting brick headers. The front 'garden' in front of the recessed wing is actually a glass roof covering a basement room. Surrounding this are narrow ledges and balconies upon which are placed planter pots, notably 3 small palm trees immediately behind the new metal fence that are visible above it in street views.

3.2 Planning permission for the house (ref. 2009/1622/P) was subject to a condition 2 which required the following-
'Prior to the first occupation of the building a plan showing details of the green boundary screen including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green boundary screen, and a programme for an initial scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The green boundary screen shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.'

3.3 This condition was never discharged and, as the house is currently occupied, the new fence is in breach of this condition. According to the agent's Design Statement (DS), a green screen was initially installed on the frontage here by means of a shrubbery-clad timber fence on top of the low brick wall. No details have been given of this and indeed the photo shown in the DS appears to be a computer-generated image of a hedge above the wall. The DS states that the owners after occupation of the new house experienced problems with littering and overlooking here and so they decided to replace the hedge by a more secure and solid metal fence. In subsequent conversation with the case officer on 20.8.18, the applicant stated that in fact a plastic fence with green pockets was installed about 2 years ago; however as it was not successful, it was very soon afterwards replaced by the current steel fence.

3.4 The new house here replaced a previously existing one (Vine Cottage) with front garden and ash tree facing the street. According to the officer report for the application ref 2009/1622/P, this new house had a basement within this garden area and thus resulted in the loss of the garden and tree. Consequently the scheme proposed a planted boundary screen to compensate for the loss of these natural features and to give a modernist

interpretation of a traditional front garden setting. The Design & Access Statement accompanying the original application suggested a steel wire frame of lightweight detail along the front boundary with a creeping vine growing over it, which would create an effective green barrier to compensate for the loss of landscaping here, and stated that the worked-up details of this could be secured by condition. Hence the above-mentioned condition 2 was attached to the permission.

3.5 Therefore it is considered important to ensure that a landscaped boundary treatment is provided along this frontage to reinstate the impression of a traditional front garden and hedge greenery. This is evident in the officers' report, the application documents and the eventual permission's requirements.

3.6 Planning permission ref. 2009/1622/P was also subject to a condition 3 which required the following-

'The details of the sections, elevations and facing materials to be used on the building shall not be otherwise than as those submitted to and approved by the Council before any work is commenced on the development. Such details shall include proposed junctions through window frames/reveals, doors, eave details and gutter details. These parts of the development shall not be carried out otherwise than in accordance with the details thus approved'.

3.7 This condition was discharged by an approval of details decision on 21.9.10 ref 2010/4208/P. The details reflected the approved plans for the original permission which showed a simple plain metal door and side panel on the front elevation to match the other fenestration.

4. Design and heritage

4.1 The metal fence and new replacement entrance door with its side panel, as installed with its unusual brown/green effect, is considered incongruous and unsympathetic to the special contemporary design of this new house, and inappropriate for this street and conservation area in the heart of Hampstead village.

4.2 It is recognised that Hampstead is home to many very contemporary designed buildings dating back from the 1930's and that good modern design is encouraged and welcomed here. The current house continues this modernist tradition and is unusual with its bespoke brick patterning. The new metal fence is also unusual in its design idiom that could arguably be considered appropriate in other areas such as Kings Cross or Camden Town which have a more industrial or commercial character. However in this case, the design is considered alien to Hampstead village which has a completely different historic residential character. The green oxidised copper effect may spread over the whole fence over time and it gives an organic feel to the metal fence. However it creates a jarring contrast with the very precise and geometric architecture of the house itself. Indeed it appears rusty, messy and unfinished and it introduces an incongruous element that detracts from the simplicity and elegance of the host building. This combination of metallic sheet metal and glass adds new and industrial elements to the otherwise thoughtful and simple design palette. The new entrance door does not match the other black metal framed fenestration on the building. A more traditional simple painted metal fence and door would be more appropriate in this context. Alongside the brick façade and plinth wall, this would have complemented the contemporary mews-style property using a simple palette of materials. However what has been built differs from the original design ethos and is considered to harm the character and appearance of the building and surroundings. No objection is raised to the current low brick plinth wall.

4.3 It should be noted that the new 2m high fence and the new door with side panel, as a replacement for the previous metal door, cannot be regarded as 'permitted development', as condition 7 of the planning permission for the house removes these rights and the works have

introduced novel facing materials.

- 4.4 Moreover as explained above, the planning history behind approving the house shows that a green wall was required to compensate for the loss of a previously existing tree and landscaped front garden here. The new structure does not achieve this in terms of either appearance or biodiversity value, nor would an alternative solid structure in just plain black metal which ordinarily in other circumstances would be acceptable here. The existing palm trees that rise up behind the fence are not considered sufficient to provide adequate greenery to compensate for the lack of a proper planted trellis or hedge.
- 4.5 Furthermore the feature is unsympathetic in the streetscape of Gayton Road which is in the heart of Hampstead village. The site is immediately flanked by robust higher buildings, abutting the street and adjoining similar terraced commercial properties along the High Street which are within the core of the village. Further west, Gayton Road is characterised by traditional Victorian terraced houses with front bays and small front gardens. The new metal fence and door in a 'distressed steam punk effect' (as described in the application's DS) is considered to be an alien feature here which has no precedent in this street or Hampstead generally, and would be harmful to the street's overall character.
- 4.6 CPG1 on Design has useful guidance on boundary walls and fences in paras 6.35- 6.38. In particular the following is pertinent. Para 6.35 states that 'Boundary walls, fences and railings form the built elements of boundary treatments. They should be considered together with the potential for elements of soft landscaping. For example, we encourage the combination of low brick boundary walls and hedges as a boundary treatment'. Para 6.36 states that 'Due to the prominence of the boundary treatments in the streetscene we will expect the design, detailing and materials used to provide a strong positive contribution to the character and distinctiveness of the area and integrate the site into the streetscene'.

Conservation Area

- 4.7 Consequently it is considered that the retention of the installed features would harm the character and appearance of this part of the Hampstead conservation area. Hampstead Conservation Area Statement (CAS) has a section on 'current issues' affecting the conservation area; under the design heading, it states that 'where development has not positively contributed to the character and appearance of the Conservation Area, it usually involves: *inter alia*, use of inappropriate materials and lack of 'good manners' or respect to historic context'.
- 4.8 The CAS Guideline H10 on front gardens states that 'Alterations to the front boundaries between the pavement and houses can dramatically affect and harm the character of the Conservation Area as the walls/railings alongside the road and within properties add to the attractive appearance of the front gardens and architectural setting of the buildings in the Conservation Area. Proposals should respect the original style of boundary and these should be retained and reinstated where they have been lost. Particular care should be taken to preserve the green character of the Conservation Area by keeping hedges. The loss of front boundary walls where it has occurred detracts from the appearance of the front garden by reducing the area for soft landscaping in this urban residential area.'
- 4.9 Guideline H22 on new development states that 'Hampstead has a variety of building types, ages and styles. There are striking examples of modern architecture and design, however modern development has not always taken account of the area's history and its context. Modern architectural design will not be resisted per se, but it should be considerate to its context'.
- 4.10 Given the design assessment and policy/guidance context above, it is considered that the new fence is an inappropriate form of garden boundary treatment and does not provide adequate planting and greenery for that previously lost here. The design and materials of the fence and door are not sympathetic or considerate to the modern style of the host building nor

the historic context of the street as a whole. It thus fails to comply with these conservation area guidelines and causes harm to the character and appearance of the conservation area.

4.11 Considerable importance and weight has been attached to the harm and special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, under s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act (ERR) 2013.

4.12 Para 196 of the NPPF (2018) states that 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

4.13 It is considered that the new metal fence and replacement door here results in 'less than substantial harm' to the character and appearance of the conservation area. There is no demonstrable public benefit created as a result of the new fence to this private dwellinghouse. In the absence of any obvious public benefit (as opposed to the alleged private benefits of privacy and security as claimed by the applicant), the proposal is considered to be contrary to Section 16 of the NPPF (2018) which seeks to preserve and enhance heritage assets.

Other issues

4.14 Although the applicant has stated in his DS that a 'green wall' was initially installed here, there is no clear evidence of this ever happening and this is backed up by comments from neighbours in this street. Google street views between 2008 and 2017 do not indicate any other structure existing after the previous builders' hoarding and before the current metal fence, although this is not conclusive. It is not clear if the entrance door was ever originally installed as a plain metal one or whether the current copper-finished one was the first door here.

4.15 Although the applicant complaints about littering and overlooking are not disputed, it is considered that a substantial hedge or creeper-clad fence would provide an equally effective solid barrier as a metal fence and prevent these problems. The new fence with its slot windows offers no more security or privacy than the approved scheme and therefore does not seem to address the reasons for changing the original design concept as set out in the applicant's DS. Indeed as residents say, the narrow slot windows afford new albeit limited views into the front windows and rooflight, whereas an alternative thick hedge would not. It is thus considered that there are no mitigating factors here that would demonstrate that a 'green screen' cannot work here and that the metal fence is the only viable and workable option.

5. Impact on Neighbours

5.1 The fence faces the street and is away from neighbours. As such, it is considered not to result in any harm to neighbouring properties. Thus it has no impact on neighbour amenity (or indeed the occupant's own amenity) in terms of privacy, outlook, sunlight, daylight, or light spill.

6. Conclusion

6.1 Given the above assessment, the fence, entrance door and side panel are considered unacceptable in design and heritage terms and are contrary to policies D1 and D2 of the London Borough of Camden Local Plan 2017 as well as policies DH1 and DH2 of the new Hampstead Neighbourhood Plan.

6.2 The scheme is recommended for refusal and also for enforcement action to secure the removal of the unauthorised fence, door and side panel, the submission of appropriate details for approval of a new green screen, and the installation of the approved details of the screen and door.

Recommendation

1. Refuse planning permission;
2. Serve an enforcement notice as follows-
 - (a) That the Head of Legal Services be instructed to issue a Breach of Conditions Notice under Section 187A of the Town and Country Planning Act 1990, as amended, and, in the event of non-compliance with the Notice, the Head of Legal Services be authorised to commence legal proceedings under Section 187A of the Act or other appropriate power to secure compliance with the Notice.

The Notice shall allege the following breaches of planning control:

1. Failure to comply with condition 2 of the planning permission granted 8.12.09 ref 2009/1622/P as follows-

Prior to the first occupation of the building a plan showing details of the green boundary screen including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green boundary screen, and a programme for an initial scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The green boundary screen shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green boundary screen is suitably designed and maintained in accordance with the requirements of policies SD9, N5 and B1 of the London Borough of Camden Replacement Unitary Development Plan 2006 and Camden Planning Guidance 2006.

2. Failure to comply with condition 3 of the planning permission granted 8.12.09 ref 2009/1622/P as follows-

The details of the sections, elevations and facing materials to be used on the building shall not be otherwise than as those submitted to and approved by the Council before any work is commenced on the development. Such details shall include proposed junctions through window frames/reveals, doors, eave details and gutter details. These parts of the development shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies B1 and B7 of the London Borough of Camden Replacement Unitary Development Plan 2006.

The Notice shall require within a period of 3 months of the Notice taking effect:

1. Remove entirely the steel fence above the brick wall on street frontage;
2. Submit a plan showing details of a green boundary screen including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green boundary screen, and a programme for an initial scheme of maintenance the local planning authority.
3. Within 2 months of the date of discharge of condition 2, the green boundary screen shall be fully provided in accordance with the approved details and thereafter retained and maintained in accordance with the approved scheme of maintenance.
4. Remove entirely the steel door and side panel on the front elevation and replace by a metal door and panel in accordance with the details shown on the plans approved on 21.9.10 ref 2010/4208/P pursuant to condition 3 of planning permission dated 8.12.09 ref 2009/1622/P.

The Notice shall specify the reason why the Council considers it expedient to issue the notice:

The metal fence, entrance door and side panel, by virtue of their design, materials and location, are considered to be incongruous and unsympathetic features that harm the character and appearance of the host building, streetscene in Gayton Road and Hampstead conservation area. Furthermore the metal fence does not provide adequate greenery to compensate for the previous loss of landscaped garden here and thus results in an erosion of the green character of this streetscene and conservation area. This is contrary to policies D1 (design) and D2 (heritage) of the London Borough of Camden Local Plan 2017 as well as policies DH1 (design) and DH2 (conservation areas) of the Hampstead Neighbourhood Plan 2018.