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DATE: 7 February 2019

YOUR REF:

OUR REF: AG/6242/2

Dear Sirs

**8 Frognal Lane, London NW3 7DU ("the Property")  
Planning Application 2018/6025/P**

**1. Introduction**

We are instructed by Rebecca Simonds, the owner of the second floor flat at 8 Frognal Lane, to strongly object to application 2018/6025/P ("the Application") recently submitted by The Crawford Partnership on behalf of Mr Andrew Kirk ("the Applicant") for planning permission to develop land at 8 Frognal Lane, NW3 7DU ("the Property") by:

*"Erection of a roof extension to create 1x2-bed flat with terrace at 3rd floor level (Class C3). Extending the existing side dormer. Installation of balconies and alterations to fenestration on the rear elevation at first & second floors" ("the Development").*

The objection is based on the following grounds:

- (i) Adverse impact on the Conservation Area; and
- (ii) Contravention of Development Plan policies resulting in loss of residential amenity through design, overdevelopment, overlooking, loss of light, noise and disturbance, and adverse impact on parking.

**2. The Property**

The Property is a three storey Victorian residential property located on the south side of Frognal Lane which comprises a street of beautiful Victorian houses which were built in the 1890s that have maintained their original frontage. The existing property at 8 Frognal Lane within the Redington/Frognal Conservation Area ("the Conservation Area") in West Hampstead is part of a series of identical buildings. The Property is

divided into four flats on the lower ground, ground, first and second floor each accessed via a main core staircase. The existing building is a complete piece of architecture. It has many design features that demonstrate the building terminating on the second floor. The existing mansard style roofing with the decorative parapets and prominent Dutch style gables are all proportionate roof features which terminate this solid, grand and historic late Victorian red brick building.

The Development would have a direct impact on our client as an additional storey will be built directly above our client's property.

### **3. Governing Planning Policy**

Planning applications must be determined in accordance with the statutory Development Plan unless material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act (2004)). The relevant Development Plan for the determination of the Application is:

- The London Plan, The Spatial Development Strategy for Greater London (Consolidated with Alterations Since 2011) (March 2016) (the "London Plan"); and
- The Camden Local Plan 2017.

As the Application involves heritage assets, namely the Redington/Frogna! Conservation Area, the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990") Act is relevant as it sets out the legislative duties of Camden Council ("Council") as decision maker.

The Redington and Frogna! Conservation Area Statement is also relevant as it defines the special character of the Conservation Area and sets out the Council's approach to its preservation and enhancement.

The National Planning Policy Framework (July 2018) (the "NPPF") shapes development plan policies and is a material consideration in planning decisions and as such is relevant to the Application.

#### **Heritage Legislation**

The following section of The Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act") set out the legislative duties of the Council as decision maker is relevant as the Property is within the Redington/Frogna! Conservation Area which is itself a designated heritage asset.

Section 72 (1) states "With respect to any building or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area".

### **National Planning Policy Framework ("NPPF")**

- Paragraph 192 provides "In determining applications, local planning authorities should take account of:
  - a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness."
  
- Paragraph 193 states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."
  
- Paragraph 196 provides "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."

### **Relevant Development Planning Policy – Camden Local Plan 2017**

The following policies apply to heritage assets:

- Policy D2 (Heritage) of the Camden Local Plan provides that "the Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas...".

In relation to Conservation areas, the Council will:

*"e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;*

*f. resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;*

*g. resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and*

*h. preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage."*

The following policy applies to design in development:

- Policy D1 (Design) of the Camden Local Plan provides that:

*"The Council will seek to secure high quality design in development. The Council will require that development:*

- a. respects local context and character;*
- b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;*
- c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*
- d. is of sustainable and durable construction and adaptable to different activities and land uses;*
- e. comprises details and materials that are of high quality and complement the local character;*
- f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*
- g. is inclusive and accessible for all;*
- h. promotes health;*
- i. is secure and designed to minimise crime and antisocial behaviour;*
- j. responds to natural features and preserves gardens and other open space;*
- k. incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*
- l. incorporates outdoor amenity space;*
- m. preserves strategic and local views;*
- n. for housing, provides a high standard of accommodation; and*
- o. carefully integrates building services equipment.*

*The Council will resist development of poor design that fails to take the opportunities available."*

The following policies apply to managing the impact of development in Camden:

- Policy A1 (Managing the impact of Development) of the Local Plan states that *"The Council will seek protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity.*  
*We will:*
  - a. seek to ensure that the amenity of communities, occupiers and neighbours is protected;*
  - b. seek to ensure development contributes towards strong and successful characteristics by balancing the needs of development with the needs and characteristics of local areas and communities;*
  - c. resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network; and*
  - d. require mitigation measures where necessary.*

*The factors we will consider include:*

- e. visual privacy, outlook;*
- f. sunlight, daylight and overshadowing;*
- g. artificial lighting levels;*
- h. transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;*
- i. impacts of the construction phase, including the use of Construction Management Plans;*
- j. noise and vibration levels;*
- k. odours, fumes and dust;*
- l. microclimate;*
- m. contaminated land; and*
- n. impact upon water and wastewater infrastructure.”*

#### **4. Application of the Policy to the Proposed Development**

##### **(i) Impact on the Conservation Area**

Section 72 of the 1990 Act requires special attention to be paid to preserving or enhancing the character or appearance of the conservation area. The test in paragraph 196 of the NPPF rehearsed above applies in this case to the Redington/Frogna Conservation Area which is a heritage asset.

The Redington/Frogna Conservation Area (“RFCA”) was designated in 1985. The RFCA has a high level of significance as a designated heritage asset. The Property contributes positively to the special historic and architectural interest of the RFCA and its setting within the southern part of Frogna Lane which enjoys architectural symmetry in the form of detached and semi-detached properties which were built by the same or a limited number of developers in the 1890s.

The Development fails to preserve and enhance the character and appearance of the RFCA and harms the character and appearance of the Conservation Area due to its design and complete disregard for the setting of the Property within the Conservation Area. The Development would completely destroy the local character and distinctiveness of this quiet and peaceful part of West Hampstead.

Paragraph 193 of the NPPF states that “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” Significance can be harmed through development within its setting. As heritage assets are irreplaceable, any harm or loss requires clear and convincing justification which has not been provided by the Applicant.

The harm to the Property has been underplayed in the Applicant’s Design and Access Statement accompanying the Application. The addition of an extra floor outside the original footprint of the building will dramatically alter the appearance of the building in terms of height, scale, massing which will result in overdevelopment. The roofline will be altered affecting the architectural symmetry of the building itself and its relationship with neighbouring properties.

Residential activity at rooftop level would bring a more dynamic roof level profile which would be a harmful addition to the building blighting the visual amenity and the character and appearance of the RFCA and Frogmal Lane.

It would also set a dangerous precedent for future rooftop development which would have a cumulative effect in eroding the character and appearance of the RFCA.

**(ii) *Contravention of Development Plan policies***

**Design**

The Property was originally one single residential dwelling and was converted into flats approximately 40 years ago as were many of the properties in the vicinity of the Property. By having a dwelling on every floor has maximised its usage and adding a further dwelling on the roof would stretch the character and structure of the building beyond its original design and function, both externally and internally. This will result in a detrimental visual impact creating additional bulk on the roofspace which will harm the setting of the Property.

The Applicant's Design and Access Statement refers to a pre-application planning advice (2018/2202/PRE) for which the application was submitted in May 2018. The Council's main observation was that "the applicants building was considered to be part of four identical buildings and the roof extension would therefore affect the unity of this group".

The examples the Applicant uses as comparison bear no resemblance to the proposed development.

*Roof*

The existing roof structure is a solid termination of the core of the building. The erection of a roof extension would disrupt the existing roof line and would disturb the natural downward progression of rooflines along Frogmal Lane towards the Finchley Road. It would also bring much more prominence to the roof and interventions such as windows and balconies would disturb the intrinsic balance in the building's design.

*Windows*

The proposed windows to the front of the building are totally out of keeping with the other house in the row of four houses and spoil the roofline.

*Railing Detailing*

The Applicant proposes black steel railing detailing or roof cresting along the ridge of the roof which is described in the Design and Access Statement as "a traditional feature commonly incorporated at roof level in period buildings and further enhances the new mansard appearance" which will "minimalize the effect of the new massing" but in fact it will only serve to highlight the design differences between the proposed development and existing properties as none of the other properties in the line have this detailing at roof level.

*Access to the new floor*

The ground, first and second floor dwellings entered through the main front door all use the original entrance hall and for the dwellings on 1st and 2nd floor the original staircase, which has light, width, landings and rise that makes

access for both people and furniture safe. The lower ground flat is accessed by a separate entrance on side of Property.

To access the proposed development at roof level, an additional staircase will need to be created. The plans refer to 'minor changes to 2nd floor to allow creation of an additional flight of stairs to access a new 3rd floor', however they appear to be far from minor.

The creation of a new platform to support the additional flight means 4 straight stairs are being replaced by 3 on the turn and a higher bannister installed. These 3 stairs will therefore have a rise inconsistent with others and be on a sharp turn. This has significant implications:

- access will be potentially dangerous for residents;
- it will be difficult, if not impossible, to remove furniture from our client's flat and deliveries would be equally impacted; and
- the light in the stairwell for the whole of house would be significantly decreased.

Our client's second floor flat is currently in the loft area of the Property; above her ceiling is an air gap and then the roof. To add an additional floor will require removing/replacing/strengthening the roof a matter of centimetres above the ceiling which has significant implications and concerns for our client:

- There will be increased noise from the stairs and floor above the second floor flat;
- The additional flight of stairs will involve the removal/damage to/covering up of two beautiful original leaded glass multi-pane windows to the side of the house at 2nd floor level and the removal of the original bannister, which are part of the aesthetic of the building and its character.

### **Noise and Disturbance**

The Application gives no assurances on how this work would impact on the existing residents. Clearly the proposed development would create considerable disturbance on the living conditions of our client and the other residents from the construction impact and the potential for noise, dust and vibration to existing residents. These impacts are not simply building control issues or matters between the landlord and tenants but are material planning considerations.

The Applicant should be required to produce a construction impact assessment given the potential for such wide ranging impacts. This should also consider the impacts of the cumulative works proposed in this, previous and future applications.

### **Overlooking**

The development proposes the installation of balconies on the first and second floors. This coupled with the roof extension will result in our client being significantly overlooked resulting in loss of privacy and a sense of enclosure. Further this creates potential for noise and impacts from the items placed on the balconies which could include parasols, patio heaters, gazebos, barbeques and other balcony clutter.

### **Loss of light**

The creation of the dormer on the side of the building will result in a loss of light to our client's kitchen window which will significantly impact our client's enjoyment of her property.

### **Parking**

The application contains no details in relation to how the Development will be serviced and does not reassure our client that the servicing of the Property will not have a negative impact on amenity.

Frogna Lane is a busy, congested road particularly during peak times and during the school run and parking is already insufficient for current residents. The Development will undoubtedly place additional pressure on our client's parking which is already strained given its location.

### **5. Conclusion**

The Development fails to comply with the Development Plan for the area and will harm the Property and the adversely affect the character and appearance of the RFCA and the local distinctiveness of Frogna Lane within the RFCA. The public benefits of the Development are minimal at best. In our view it is clear that the outcome of any NPPF paragraph 196 balancing exercise would come down in favour of preserving the heritage asset and refusing planning permission. The Development will also result in a permanent and unacceptable loss of amenity to our client whose quiet enjoyment will be completely blighted by the Development. Accordingly and in light of the above, the application should be refused.

We reserve the right to make additional representations if any additional information is submitted by the Applicant or if there are any new material considerations.

Yours faithfully



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