

**Date: 23/05/2019**  
**Our ref: 2018/1611/P**

**Your Ref: APP/X5210/W/19/3220178**  
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The Planning Inspectorate  
Room 3P  
Kite Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Dear Bridie Campbell-Birch,

**Town and Country Planning Acts 1990 (as amended)**  
**Appeal by Mr Barry McKay**  
**Site at Bosinney Gayton Road NW3 1TX**

I write in connection with the above appeal against the refusal of planning permission (Our ref: 2018/1611/P) for Installation of steel fence above brick wall on street frontage and new steel entrance door with side panel (retrospective).

- 1.1 The Council's case is set out in detail in the officer's delegated report which was sent with the appeal questionnaire and it will be relied on as the Council's principal Statement of Case. It is attached again here as an appendix for convenience. Copies of the relevant Camden Local Plan (July 2017) policies and accompanying Camden Planning Guidance have also been sent with the questionnaire.
- 1.2 In addition to these submissions, I would be pleased if the Inspector would also consider various matters set out below relating to the site context, application history, confirmation of the status of policy and guidance, and comments on the appellant's appeal statement.

## **2.0 Summary**

- 2.1 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 on 8.12.09. This permission is summarised in the History section of the attached officer report. As the appellants acknowledge, there was a long and complex history of decisions before this final permission was issued for the new house.

- 2.2 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 site. As the previous officer report for the last permission for this house in 2009 stated, 'the cottage site creates a break between the consistent Victorian domestic character and form of Gayton Road and that of the more historic High Street'. Gayton Road has a consistent pattern of 3 storey plus basement Victorian houses with small front gardens and low front walls. However at its western end near the junction with the High Street, the buildings have a different typology- they are in a mix of residential and commercial use, are 3 storeys high and face directly onto the road with no setbacks for front gardens. The appeal site is actually at the junction between these latter buildings and the commercial shopping frontage blocks of the High Street. It creates an important visual gap between these 2 frontages by being a lower building with a pitched roof cottage-like form and by having a setback front garden area.
- 2.3 The planning application to retain the unauthorised fence subject of this appeal was registered on 5.4.18. Consultation took place by means of a site notice and press advert between 12.4.18 and 3.5.18; also letters were sent to Hampstead Conservation Area Advisory Committee (CAAC) and Hampstead Neighbourhood Forum on 5.4.18. Objections were received from 6 residents in Gayton Road and Crescent, Heath and Hampstead Society and Gayton Residents Association. The CAAC stated they had no objection. These responses are summarised in the Consultation section of the officer report.
- 2.4 This application (ref 2018/1611/P) was refused on 16.10.18 for the following reason:
1. 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.
- 2.5 A Breach of Condition notice (ref EN18/0886) was also served on 23.10.18 regarding the failure to comply with condition 2 of the planning permission granted 8.12.09 ref 2009/1622/P.
- 2.6 The Assessment section of the officer report discusses in its sections 1, 3 and 4 the proposal, the background to the history and design of the cottage and its front garden, and an analysis of the design and heritage issues around the unauthorised fence. In particular it is important to understand the context behind the design of the house and why it was necessary to retain a small front garden with a planted boundary screen. Para 3.4 of the officer report explains this and refers to the Design & Access Statement for the original application ref 2009/1622/P, the

subsequent officer report and permission for this new house. These 3 documents are also attached in appendices for convenience.

- 2.7 Notably this site originally had a garden area and the new house's basement resulted in the loss of this garden and potential for replacement tree planting. Consequently a planted boundary screen was proposed to compensate for the loss of these natural features and to give a modernist interpretation of a traditional front garden setting. Please see paras 6.11 and 6.19 - 21 of the officer report for the 2009/1622/P scheme which explain this further. The Design & Access Statement for the original application shows a sketch montage of the new house with this planted screen on page 13 (copied below) and explains the nature of the proposed landscaping and boundary treatment on page 17 (para 47). Hence condition 2 of the ensuing planning permission dated 8.12.09 required details of this green boundary screen to be submitted for approval.



### **3.0 Status of Policies and Guidance**

- 3.1 The Camden Local Plan 2017 was formally adopted by the Council on 3<sup>rd</sup> July 2017 and has replaced the previous Core Strategy and Development Policies. These documents went through an examination in public and the appointed Inspector found the documents to be sound in a decision published on 15<sup>th</sup> May 2017.
- 3.2 The relevant policies of the Camden Local Plan to this appeal would be: D1 – Design, D2 – Heritage.

- 3.3 The Council approved the designation of the Hampstead Neighbourhood Area and the Neighbourhood Forum on 7th October 2014. Following statutory consultation and examination in public plus a local referendum, the Hampstead Neighbourhood Plan relevant to this area was adopted on 8<sup>th</sup> October 2018.
- 3.4 The relevant policies of this Neighbourhood Plan to this appeal are: DH1- design, DH2- conservation areas.
- 3.5 The Council adopted its Camden Planning Guidance (CPG) on 7<sup>th</sup> November 2011; Council has recently reviewed and updated these CPGs in 2 phases, the first in March 2018 and the final set in March 2019.
- 3.6 The following CPGs are relevant here: CPG 'Design' (2019) – chapters 2 (design excellence), 3 (heritage), 4 (landscape and public realm), esp paras 4.54 to 4.57 on boundary walls etc; CPG 'Altering and extending your home' (2019) – chapter 5 on front gardens, notably paras 5.4 to 5.11 on front gardens and front boundary treatments.
- 3.7 Please note that the CPG1 Design, as originally referred to in the officer report for this application, has since been revised and expanded so that the issues relating to residential extensions and alterations are now contained in a new CPG, as noted above. As both these new/amended CPGs were not previously sent with the questionnaires, they are both attached here as appendices. However it should be noted that there has been no material change to the guidance within these CPGs that would have altered the Council's decision.
- 3.8 In addition there is the Hampstead Conservation Area Statement which was adopted by the Council in October 2001. Guidelines relevant to this case are H10 and H21-24. There is also a Hampstead Conservation Area Design Guide which was produced to give design advice following the imposition of an Article 4 direction in September 2010 controlling extensions and alterations within the conservation area. Section 6 on front walls and hedges is relevant here.

#### **4.0 Comments on the Appellants' Grounds of Appeal**

- 4.1 The issues regarding design are clearly spelt out in the officer delegated report. It is not intended to repeat the arguments here nor to counter the appellants' arguments on what is essentially a subjective opinion on the design and heritage impact of a boundary fence. However a few comments can be made here:
- 4.2 Para 4.3 of the appellant's statement states that 'the intention of condition 2 resulted from an incorrect assumption that trees and shrubbery were present at the time the application was approved'. However the original officer report for this application in its paras 6.20 and 6.21 implies that such a garden with greenery did previously exist here. It refers to a small garden existing on the site, as well as a previously existing tree that was felled without authorisation; it further stated that this garden provided a green visual relief between the side extension of the existing cottage and Gayton Road. Thus it concluded that 'while the scheme proposes the loss of this garden area similar to the refused scheme, it does propose a planted

green boundary wall to mitigate against the loss of this garden area'. The fact that there may not have been any actual trees and shrubs here is irrelevant- the condition was designed to ensure the provision of some planting along the boundary to give the impression of a landscaped garden which would have previously existed here.

- 4.3 Again in para 7.15, the reason for wanting some greenery here is questioned. The condition requiring details of a planted boundary screen was imposed 10 years ago and was considered at that time reasonable and appropriate to replace previously existing greenery here. The rationale behind this is still considered appropriate now for historical and townscape reasons to retain a setback planted garden area as a visual break. The Council is not insisting on a traditional hedge here- the original proposal in the Design & Access Statement envisaged a form of trellis wire screen with climbers across it; para 6.21 of the original officer report stated that 'the green screen creates a well proportioned modern take on the traditional front garden setting.'
- 4.4 Para 7.16 refers to the new fence having plastic pockets on its internal face available for planting. This feature was never mentioned before by the appellant nor was it evident on site at the time of the case officer's site visit. It had been assumed that a previous plastic fence with such pockets had been removed, as explained in para 3.3 of the officer delegated report. Nevertheless it is considered that this would not create a satisfactory alternative boundary treatment, as it is unlikely that such small pockets would accommodate any substantial planting nor would they result in adequate greenery to grow over and in front of the fence to be visible in the streetscene due to the pockets' inward-facing location. As the new fence is solid with only very narrow glass panels, any current planting within the internal 'garden' is not generally visible to the passer-by nor within the wider townscape, apart from the tops of palm trees growing above the fence height. The original intention of the new house's design was to have a semi-permeable front boundary which would some views of a front garden through a planted trellis. However the current solid fence does not allow this and any mitigating features such as planted pockets would still not allow such visual permeability.
- 4.5 Para 7.10 refers to a contemporary built form which does not need to adhere to the Victorian character of the street. It is agreed that the site is a transition one in the townscape and it is not necessary nor appropriate to match the traditional front garden treatments further downhill in Gayton Road which have low brick front walls. A more contemporary and higher boundary enclosure would be acceptable here, but it would need to be sympathetic to the simple and elegant style of the new house. The Council would wish to see greenery here as discussed above; however, if it was decided that this was not necessary, then a simple black painted metal fence and gate would be more appropriate which would blend in with both the host house and also other commercial premises around this end of the road, as explained in para 4.2 of the officer report.
- 4.6 The photo on page 29 of the appellant's statement is supposed to show the context of the appeal site adjoining commercial premises which differ from more domestic boundaries. This is not contested, but this photograph is particularly unhelpful and indeed useless as it really only shows tarmac and roadworks at night time while the



host building and the surrounding frontages are almost invisible! A better photo taken in April 2018 is shown below.



## 5.0 Conclusion

- 5.1 For the above reasons, the Inspector is respectfully requested to dismiss the appeal. No conditions are recommended in the event of the appeal being allowed.

Yours sincerely,

**Charles Thuairé**  
Senior Planner  
Regeneration and Planning  
Supporting Communities  
London Borough of Camden

## **Appendices-**

1. Officer delegated report 2018/1611/P
2. Design & Access Statement for application 2009/1622/P
3. Officer committee report 2009/1622/P
4. Planning permission 2009/1622/P dated 8.12.09
5. CPG Design (2019)
6. CPG Altering and extending your home (2019)

**Appendix 1**

Officer delegated report 2018/1611/P



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

Conditions or Reasons for Refusal:	Refuse Permission					
Informatives:						
<b>Consultations</b>						
Adjoining Occupiers:	No. notified	<b>00</b>	No. of responses	<b>06</b>	No. of objections	<b>06</b>
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 &amp; 18 Gayton Crescent; 47, 59, 61 &amp; an unspecified address in Gayton Road-  Ghastly, out of character, monstrous, does not blend into conservation area, looks unfinished project as temporary corroded metal;  shrubbery 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;  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;  copper finish not similar to green screen;  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.