

Planning Appeal Statement

4 St Mark's Square, Camden,
London, NW1 7TN

Prepared For
Mr and Mrs Carter

8943
June 2019

Planning References:
2018/4555/P & 2018/5122/L



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1 INTRODUCTION

1.1 On behalf of the applicants, Mr and Mrs Carter (The Appellant), we are appealing the decision made by the London Borough of Camden (The LPA) to refuse planning permission and Listed Building Consent (Planning Reference 2018/4555/P and 2018/5122/L) at 4 St Mark's Square, London, NW1 7TN (The Site) for the 'Erection of timber fence above existing boundary wall to St Mark's Square and Princess Road. (Retrospective)' (The Proposal).

1.2 The reasons for refusal of planning permission 2018/4555/P were:

1: The timber fence above the front boundary wall, by reason of location, height and materials, is an unsympathetic and incongruous addition which is detrimental to the character and appearance of the host building which is Grade II listed, the streetscape, and the wider Primrose Hill Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017

2. ENFORCEMENT ACTION TO BE TAKEN

The Director of Culture and Environment will instruct the Borough Solicitor to issue an Enforcement Notice alleging a breach of planning control.

1.3 The reasons for refusal for Listed Building Consent 2018/5122/L were:

1. The addition of the timber fence above the front boundary wall, by reason of size, location, height and materials, is unsympathetic and incongruous addition which is detrimental fails to preserve the special historic and architectural interest and harms the setting of the Grade II listed building, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

2. ENFORCEMENT ACTION TO BE TAKEN

The Director of Culture and Environment will instruct the Borough Solicitor to issue an Enforcement Notice alleging a breach of planning control.



2 THE SITE AND PLANNING HISTORY

- 2.1 The Site is located on the north side of St Mark's Square, with Princess Road adjacent to the East boundary. The appeal property is a four-storey property including a basement and habitable space in the roof. It has a front and side garden edged by a 1.6m cream painted brick boundary wall with a 0.44m tall, brown, wooden fence above. The property is a Grade II Listed Building and falls within the Primrose Hill Conservation Area.
- 2.2 The Site was previously prone to members of the public throwing objects into the garden space, climbing the boundary wall and accessing The Appellant's private front and side garden. The wooden fence was erected on top of the wall to deter such activity to create a safe and secure environment. This is the main reason for the submission of the planning and listed building consent applications and the further appeal.
- 2.3 The work was undertaken without the benefit of planning permission or listed building consent. The appeals, therefore, seek consent for the retention of the fence.

PLANNING HISTORY

- 2.4 A planning application 2018/4555/P and Listed Building Consent application 2018/5122/L were registered on 23rd October 2018. The heritage officer objected to the applications and the planning officer recommended refusal of the application. The Appellant was happy to negotiate alterations to the fence in order to overcome the Council's concerns. The Council's alterations included painting the fence black, removing alternate slats and removing the part of the fence fronting St Marks Square. These alterations were taken into account by The Appellant, but they considered that these may worsen the appearance of the fence.
- 2.5 Therefore, the owner seeks to regularise the erection of the existing small timber fence as above The Site's boundary wall edging the footpath on St Mark's Square and Princess Road through this appeal. The fencing to be regularised is 0.44m tall, made up of 6 brown, close-board, timber slats. Relatively dense vegetation and trees are located behind the wall with the fence appearing between the two (see photographs below and Appendix).



Street-view of the Site (Photo 1 - 4 St Mark's Square)



Front elevation of The Site (Photo 2 – 4 St Mark's Square)



3 PLANNING POLICY

- 3.1 Section 70 of the Town and Country Planning Act 1990 and 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the development plan unless other material considerations indicate otherwise. In the case of this application, the relevant development plan documents consist of the London Plan (March 2016) and the Camden Local Plan (adopted July 2017).

THE NPPF 2019

- 3.2 Paragraph 127 of the NPPF states that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.



3.3 Paragraph 192 gives emphasis to heritage assets, going further to state that 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 rates the possible level of harm to a heritage asset; This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. This will be considered further in section 4.

THE LONDON PLAN 2016

- 3.4 Policy 3.5 of the London Plan (2016) Policy 3.5 states that ‘Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment, taking account of strategic policies in this Plan to protect and enhance London’s residential environment and attractiveness as a place to live.’
- 3.5 Policy 7.8 echoes this; Point C) ‘Development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate’ and Point D) Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.

CAMDEN LOCAL PLAN 2017

- 3.6 Policy D1 reiterates a need for high quality design in development, requiring 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.

3.7 Policy D2 focuses assessment on heritage assets and settings including Listed Buildings and Conservation Areas; preserving and, where appropriate, enhancing assets.

3.8 In addition, regarding amenity, Paragraph 2.2 of Camden's Planning Guidance (CPG) on Amenity (March 2018) states that 'Interior and exterior spaces that are overlooked lack privacy, which can affect the quality of life of occupants. The Council will therefore expects development to be designed to protect the privacy of the occupants of both new and existing dwellings to a reasonable degree'.

3.9 Whilst it is not quoted in the reason for refusal, Policy C5 is relevant because it sets out the provisions for a safe and secure environment; 'Crime and the fear of crime can undermine people's quality of life, health and wellbeing. Planning plays an important role in reducing crime and helping to create safe and secure places.' The Council are to create safe places while retaining the character of the dynamic borough.



CONSERVATION AREA STATEMENT; PRIMOSE HILL

- 3.10 Camden's Primrose Hill Conservation Area was designated in 1977. The Conservation Area Statement for Primrose Hill references primary roads, which include Princess Road. It states that residential gardens, on this road 'often contain mature trees and are bounded by medium height brick walls that side on to secondary roads and alleyways'. The area statement refers to St Mark's Square, but this focuses on St. Mark's Church and its features not boundary treatment in the street or that on residential dwellings.

PLANNING GUIDANCE: DESIGN 2019

- 3.11 Camden's Design SPD 2019 advises, '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, the Council encourages the combination of low brick boundary walls and hedges as a boundary treatment. Boundary treatments should: delineate public and private areas; contribute to qualities of continuity and enclosure within the street scene; and provide site security and privacy.



4 APPEAL ASSESSMENT

- 4.1 The following assessment considers the details of the reason for refusal for both application 2018/4555/P and 2018/5122/L. The key issues raised, are the impact of the development on the character and appearance of the host building (Grade II listed), the streetscape, and the wider Primrose Hill Conservation Area. These are considered below.
- 4.2 The impact on amenity and security are also considered because these were included in the assessment of the application and the Planning Officer's delegated report.
- 4.3 As referenced above, security and safety of the Site's private amenity space is crucial for the occupiers of the dwellinghouse. This is the main reason for the submission of the application. Therefore, this should be taken into account in the assessment of this appeal.

DESIGN AND HERITAGE

- 4.4 Policy D1 from the Camden Local Plan sets out that the Council will seek to secure high quality design in development. The parts of the policy most relevant to this appeal, require that development:
- respects local context and character;
 - preserves or enhances the historic environment and heritage assets;
 - comprises details and materials that are of high quality and complement the local character;
 - integrates well with the surrounding streets and open spaces;
 - is secure and designed to minimise crime and antisocial behaviour;
 - incorporates high quality landscape design.
- 4.5 As referred to above, the fencing to be regularised is 0.44m tall, made up of 6 brown, close-board, timber slats, located above the 1.6m cream/brown brick boundary wall



that edges The Site. Boundary treatment varies on St Mark's Square and its adjoining roads. To the majority, the original brick boundary walls remain but there have been a variety of additions erected above/on top of the walls. These include, railings, timber close-board fencing and trellises of varying heights, styles and materials. The examples found closest to The Site are listed in the appendix (photos dated February 2019).

- 4.6 It is noted that the height of The Site boundary increases with the addition of the fence above, but this is a minimal increase of 0.44m. Also, the variation in boundary treatment found at 1 St Mark's Square and 6, 16, 18 and 22 Albert Terrace (See Appendix), illustrates how boundaries are not uniform within the Primrose Hill Conservation Area.
- 4.7 There is no strong, rigid, pattern of boundary treatment on St Mark's Square, or the adjoining Regent's Park Road or Prince Albert Terrace. The alterations to the boundary treatment vary in height and materials. Due to the significant variations and number of alterations of the boundary treatment on St Mark's Square and the adjoining roads, the original boundary treatment character is somewhat diminished. The presence of these variations in size, height and materials lend weight in support of the appeal proposal. The installation of a small close-board fence at 4 St Mark's Square does not harm the Conservation Area, nor would it harm the Grade II Listed heritage asset.
- 4.8 In addition, dense trees line the boundary wall and fence, retaining a high degree of soft landscaping on Site, to preserve a sense of 'green' within the area. A number of front boundaries, which have similar alterations with a fence/trellis/ brick detailing addition, do not have this quality or degree of landscaping. For example, 6 Albert Terrace (junction of Regent's Park Road) or 18 Prince Albert Road (See Appendix), show alterations above the boundary wall with minimal or no landscaping. The soft landscaping creates a positive contribution to the visual amenity of The Site and the surrounding Conservation Area, softening the front and side boundary that edges the boundary of the Listed heritage asset.



AMENITY

- 4.9 Paragraph 2.2 of Camden's Planning Guidance (CPG) on Amenity (March 2018) states that *'Interior and exterior spaces that are overlooked lack privacy, which can affect the quality of life of occupants. The Council will therefore expects development to be designed to protect the privacy of the occupants of both new and existing dwellings to a reasonable degree'*. As referred to in the officer report (paragraph 4.1), the Council state, 'impact on outlook is not considered substantial in this instance and would not so unduly impact of nearby occupants as to warrant refusal'. In addition, the Council refer to a 'fortress approach'. Therefore, complying with the Amenity CPG (2018). The proposal would not impact on the outlook of the adjacent neighbours and therefore amenity of The Site and surrounding neighbours is unaffected.

SECURITY AND SAFETY

- 4.10 Policy C5 of the Local Plan 2017 advocates 'Planning plays an important role in reducing crime and helping to create safe and secure places'. As specified in Section 2, The Site has been prone to members of the public climbing the wall, accessing the private garden space, and throwing objects over the boundary. The new, existing, fence looks to create safe and secure place.
- 4.11 The main reason for the erection of the fence is the desire for a more secure, private, amenity space for the occupiers of The Site. There have been a number of instances of intruders accessing into private garden, jumping over the old wall, as well as objects being thrown over. These objects have hit children playing in the lower garden space.
- 4.12 In addition, the bench adjacent to The Site on Princess Road is a popular spot for people to frequently loiter and sleep more than four times a week (Bench location in Photo A, below). It was reported to a number of homelessness action lines, by the occupier of The Site. This was done most recently in December 2018 to ensure the safety of those concerned as well as the safety of others. The erection of the fence provides the security required for such frequent occurrences.



Photo A - Photograph of bench next to boundary of The Site

- 4.13 Also, the police have visited The Site to inform the occupier that the police had witnessed an intruder jump over the old boundary fence. Since the addition of the existing fence there have been no instances of intruders or objects being thrown into the garden space.
- 4.14 The officer report (paragraph 5.2), notes that the 'Design Out Crime' Officer advised that the fence would not increase security of the garden. The owner of The Site made Bell Cornwell aware that since the erection of the fence in May 2018 the problem of people climbing the boundary into their garden space had stopped. Therefore, in this instance, the proposal complies with Policy C5 of the Local Plan 2017, reducing the possibility of crime and increasing the safety of the private garden space.
- 4.15 The merits of the proposal in achieving enhanced security and safety for the property, in line with Policy C5, must be taken into account when assessing the proposal as a whole.
- 4.16 Taking into account all the reasons for refusal and the further assessment stated in our case above, it is considered that the development would not harm design, heritage or amenity. The Council's concerns do not hold significant enough weight to result in a reason to dismiss this planning appeal.



5 CONCLUSION

- 5.1 For the reasons stated above, regarding existing development, soft landscaping, security and safety, it is our case that the boundary treatment would not be an unsympathetic and incongruous addition and would not be detrimental to the character and appearance of the host building, the streetscape or the wider Primrose Hill Conservation Area.
- 5.2 The appeal proposal amounts to a small, limited, development that appropriate for The Site and in keeping with the range of boundary treatments in the surrounding area. As a result, it would not harm the significance of the Primrose Hill Conservation Area or the Grade II Listed Building. Therefore, it complies with Paragraph 127, 192 and 193 of the NPPF 2019, Policy 3.5 and 7.8 of the London Plan 2016, Policies D1, D2 and C5 of the Camden Local Plan 2017 and Planning and Guidance on Design 2019.
- 5.3 Accordingly, having regard for all considerations raised, we respectfully request that the appeal proposal is allowed in line with the proposed timescales.
- 5.4 Furthermore, notwithstanding our appeal case above, that the fencing is acceptable for a number of reasons, if the Inspector has any concerns about the fence, the Appellant would be open to considering small alterations if these are considered necessary to make the fence acceptable and can be secured by condition. For example, if the Inspector has concerns over the finish of the timber fence, then changes could be secured by condition; such as painting the fence a different colour.



6 APPENDIX – PHOTOGRAPHS

6.1 All photographs below are dated 6th February 2019



Photo 1 - 4 St Mark's Square



Photo 2 - 4 St Mark's Square



Photo 3 - 4 St Mark's Square



Photo 4 - 1 St Mark's Square



Photo 5 - 1 St Mark's Square



Photo 6 - 6 Albert Terrace



Photo 7 - 6 Albert Terrace



Photo 8 - 16 Prince Albert Road



Photo 9 - 18 Prince Albert Road

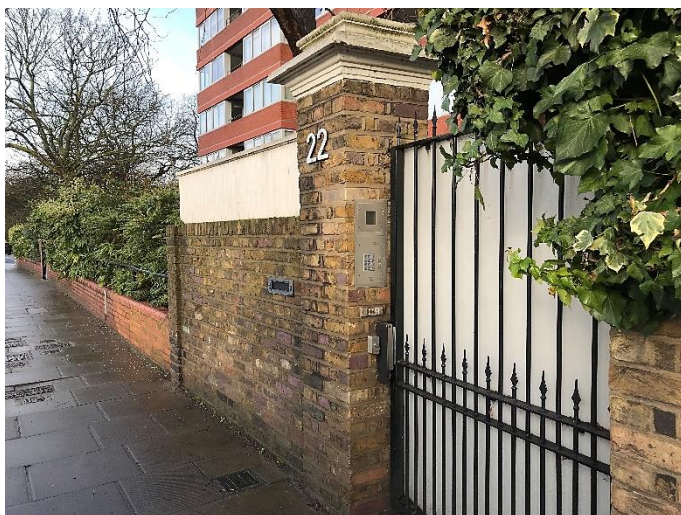


Photo 10 - 22 Prince Albert Road



Photo 11 - 22 Prince Albert Road



Photo 12 - 22 Prince Albert Road