



Planning Statement

**Foley Tree House
11 East Heath Road
NW3 1DA**

September 2019



Prepared By:

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Section 1 Introduction

Instructions

- 1.1 Leith Planning Ltd has been instructed to prepare and submit a planning application for extensions and alterations to the two-storey ancillary building known as Foley Tree House, East Heath Road, London, NW3 1DA.

Description of Development

- 1.2 The description of development reads as follows:

“Extensions and alterations to Foley Treehouse, East Heath Road, London, NW3 1DA.”

- 1.3 Following a previous refusal for extensions and alterations of the Foley Tree House (application reference 2018/4177/P), this new proposal has been amended so that:
- The size of the extensions have been reduced by 17 square meters.
 - The first-floor balcony no longer forms part of this application as it has been approved by way of application reference 2019/2562/P dated 5th July 2019.
 - The proposed extensions have been altered so that there are no works proposed to the elevation (south) facing directly towards the dwelling at 15 Well Rd. For the avoidance of doubt all works are limited to the north and east elevations only. Resultantly, the existing fabric of the treehouse will entirely block any view of the extension from 15 Well Rd. Furthermore, the existing storey- high boundary fence, open space and existing planting between the two neighbouring dwellings will filter out any supplementary artificial lighting. There will be no impact on neighbouring amenity or the street scene of Wells Road.
- 1.4 As we have taken into account all comments from the previous application and have redesigned the proposed extensions and alterations in response, we anticipate that this redesigned proposal will be approved without delay.

Site Description

- 1.5 The site is within the authority of Camden Borough Council. The site comprises the Grade II Listed Foley House, which is three storeys and basement in height and dates from c1771. It also includes later additions, is fully detached and is set back from the East Heath Street frontage behind a high brick wall. The building is set within extensive gardens (to the southwest of Foley House) and also includes an associated listed porch (on the East Heath Road frontage), listed stables (to the south of Foley House) and a listed garden wall (to the south-east of Foley House).
- 1.6 The rear garden is designated within the UDP as being a private open space (East Heath Open Space) and also includes a tennis court (adjacent to Well Walk), a small pond, and a detached garage building on the north-west corner of the site. The garden area also includes areas of hard and soft landscaping, with a number of semi-mature and mature trees. The application site is also within Hampstead Conservation Area, an area of archaeological priority and adjacent to a designated area of public open space (Hampstead Heath).

Planning History

1.7 The recent and referable planning history for the site is set out below:

Application reference: 2019/2562/P

Location: 11 Foley House, East Heath Road, London, NW3 1DA

Description of development: Replacement of existing 1st floor balcony and glazed balustrade to annexe building (aka 'The Treehouse') with like-for-like balcony and balustrade

Decision: Granted

Decision Date: 11th June 2019

Application reference: 2018/4177P

Location: 11 Foley House, East Heath Road, London, NW3 1DA

Description of development: Erection of ground floor single storey glazed extension, replacement of first floor balcony to same footprint. Demolition of existing ground floor terrace.

Decision: Refused

Decision Date: 26th September 2018

Application reference: 2017/6888/P

Location: 11 Foley House, East Heath Road, London, NW3 1DA

Description of development: Retention of two storey ancillary building for work/studio space in connection with main dwelling.

Decision: Granted

Decision Date: 9th February 2018

Application reference: 2009/2777/P

Location: 11 Foley House, East Heath Road, London, NW3 1DA

Description of development: Erection of two storey ancillary building for work/studio space in connection with main dwelling following demolition of existing garage

Decision: Granted

Decision Date: 12th November 2009

Section 2

National Planning Policy Framework

- 2.1 The National Planning Policy Framework was published in February 2019. The key paragraphs of relevance to the determination of this application for extensions and alterations to the two-storey ancillary building at Foley House include reference to Achieving well-designed places and Achieving sustainable development. In this regard attention is drawn to the following key paragraphs.

Achieving sustainable development

- 2.2 **Paragraph 8** states that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 2.3 **Paragraph 11** states that plans and decisions should apply a presumption in favour of sustainable development. For **decision-taking** this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
- 2.4 The development is considered to be sustainable and satisfies the social, economic and environmental dimensions. The proposed extensions and alterations to the existing Treehouse will enhance the existing ancillary accommodation provided on site. As such, the development proposed satisfies achieving sustainable development as set out in the National Planning Policy Framework.

Achieving well-designed places

- 2.5 **Paragraph 127** states that planning policies and decisions should ensure 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.

- 2.6 The development subject of this application is well-designed and reflects the existing built form of the Treehouse. The proposed development has been redesigned to respond to comments made to a previous application and is considered well-designed.

Conserving and enhancing the historic environment

- 2.7 **Paragraph 189** states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 2.8 The application site is located in the Hampstead Conservation Area and the Treehouse provides ancillary accommodation to Foley House which is a Grade II Listed building. It should be noted that this application is for minor extensions and alterations only to the existing property and will have no impact on the Conservation Area or Listed Building. As such, it is considered that this proposal is fully in accordance with conserving and enhancing the historic environment as set out in the National Planning Policy Framework.

Decision-making

- 2.9 **Paragraph 38** notes that local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 2.10 For the reasons set out within this submission, it is considered that the proposed development constitutes sustainable development and is wholly in accordance with

the National Planning Policy Framework. Therefore, we would ask that the Council support this application without delay.

Section 3 London Plan

3.1 The Development Plan covering Camden Council includes the London Plan (published March 2016), the Camden Local Plan (adopted July 2017) and the Camden Supplementary Planning Documents (updated as of March 2018). The provisions of local plan policy will be addressed at section 4, however, the key relevant policies and paragraphs from the London Plan are considered in detail below.

3.2 **Policy 7.6 Architecture Strategic**

- A. Architecture should make a positive contribution to a coherent public realm, streetscape and wider cityscape. It should incorporate the highest quality materials and design appropriate to its context. Planning decisions
- B. Buildings and structures should:
 - a. be of the highest architectural quality
 - b. be of a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm
 - c. comprise details and materials that complement, not necessarily replicate, the local architectural character
 - d. not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate. This is particularly important for tall buildings.

3.3 The proposed extensions and alterations have been designed to match the appearance of the existing ancillary accommodation provided. The proposed glazed ground floor extension will enhance the ancillary living accommodation and has been designed to reflect the existing built development on site. It is considered that the proposed extensions and alterations are wholly in accordance with Policy 7.6 of the London Plan.

3.4 **Policy 7.8 Heritage Assets and Archaeology Planning decisions**

- A. Development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate.
- B. Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.
- C. New development should make provision for the protection of archaeological resources, landscapes and significant memorials. The physical assets should, where possible, be made available to the public on-site. Where the archaeological asset or memorial cannot be preserved or managed on-site, provision must be made for the investigation, understanding, recording, dissemination and archiving of that asset.

3.5 The proposed extensions and alterations to the existing Treehouse will not be visible from the wider Conservation Area. Furthermore, the amendments to the existing Treehouse have been designed to reflect the existing built development on site and will remain subservient and discreet from the main dwelling known as Foley House. The proposed development is wholly compliant with Policy 7.8 of the London Plan.

London Plan Comment

3.6 For the reasons set out above it is our view that the proposed extensions and alterations at Foley Treehouse is well designed, of an appropriate scale, respectful of

its surroundings and does not result in detrimental effects on the amenities of neighbouring properties, nor the visual amenities of the local area and Conservation Area. The scheme as submitted is therefore deemed to be compliant with the provisions of the adopted London Plan and a form of development we would kindly request the Council approve.

Section 4 Adopted Development Plan

- 4.1 The Camden Development Plan relevant to the application site comprises the Camden Local Plan which was adopted in July 2017 and the Camden Supplementary Planning Documents which were updated as of March 2018. From a review of the Council's Proposals Map it is understood that the application site is allocated within the Hampstead Conservation Area, as East Heath Open Space and an Archaeological Priority Area.
- 4.2 The key determinative policies of reference to the determination of this planning application are addressed in detail below.

Camden Local Plan (Adopted 2017)

4.3 Policy D1 Design

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 for improving the character and quality of an area and the way it functions.

The Council expects excellence in architecture and design. We will seek to ensure that the significant growth planned for under Policy G1 Delivery and location of growth will be provided through high quality contextual design.

- 4.4 The minor extensions and alterations proposed as part of this application are well-designed and compliment the scale, form, height and design of the existing Treehouse. In addition, the redesign of the proposals and the removal of development to the South facing elevations responds to the matters raised by the previous refusal. The development will have no detrimental impact on the local area nor on the amenities of neighbouring residents, this has been demonstrated within the Design and Access Statement submitted in support of this application. As such, the development proposed is wholly in accordance with the provisions of Policy D1.

4.5 Policy D2 Heritage

The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.

Designated heritage assets

Designed heritage assets include conservation areas and listed buildings. The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a. the nature of the heritage asset prevents all reasonable uses of the site;
- b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;
- c. conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- d. the harm or loss is outweighed by the benefit of bringing the site back into use.

The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

Conservation areas

Conservation areas are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. In order to maintain the character of Camden's conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within 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.

Listed Buildings

Listed buildings are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. To preserve or enhance the borough's listed buildings, the Council will:

- i. resist the total or substantial demolition of a listed building;
- j. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and
- k. resist development that would cause harm to significance of a listed building through an effect on its setting.

- 4.6 The application site is located in the Hampstead Conservation Area and is an ancillary building to Foley House which is a Grade II Listed building. The site is not a prominent building nor highly visible within the Conservation Area. In assessing the impact of the proposed development, if any, on the character and appearance of the Conservation Area and the Listed building, it is considered that due to its scale within the existing street scene, the scheme would not result in any harm to the character and appearance

of these designated heritage assets. As such, it is considered that this proposal is fully in accordance with the provisions of Policy D2.

Camden Planning Guidance 1 – Design

4.7 3. Heritage

Camden has a rich architectural heritage and we have a responsibility to preserve, and where possible, enhance these areas and buildings.

- We will only permit development within conservation areas that preserves and enhances the character and appearance of the area
- Our conservation area statements, appraisals and management plans contain more information on all the conservation areas
- Most works to alter a listed building are likely to require listed building consent
- The significance of 'Non-Designated Heritage Assets' (NDHAs) will be taken into account in decision-making
- Historic buildings can and should address sustainability and accessibility

4.8 The proposed alterations to the existing ancillary building will preserve the character of the Hampstead Conservation Area and Foley House, the Grade II Listed building. It is considered that the site is not a prominent building nor highly visible within the Conservation Area, therefore there would be no harm to the designated heritage assets. The design of the alterations, included within the Design and Access Statement submitted with this application, have been carefully thought out to ensure that the development preserves and enhances the character of the heritage assets.

Camden Development Plan Comment

4.9 For the reasons set out above, the development proposed is wholly compliant with the aims, objectives and policies contained within the Camden Development Plan. As such, we would kindly request that the Council now determine to grant consent for this development.

Section 5 Principle of Development – Planning Comment

- 5.1 **Section 70(2)** of the Town and Country Planning Act 1990 requires a local planning authority, in dealing with a planning application, to have regard to the provisions of the development plan, as far as material to the application, and to any other material considerations.
- 5.2 **Section 38(6)** of the Planning and Compulsory Purchase Act 2004 refers to determinations to be made under the Planning acts as follows:

“If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the Plan unless material considerations indicate otherwise.”

Location and Project

- 5.3 There is an elementary and fundamental problem which needs to be resolved at the outset in the making of decisions under s.38 (6). The first point is often determinative – location comes first followed by project because an examination of for example; the Planning Policy Framework demonstrates that location governs what might or might not be granted permission in the area concerned.
- 5.4 **Location:** The development proposes the minor extensions and alterations to an existing ancillary accommodation and as such, is wholly appropriate in terms of the site location.
- 5.5 **Project:** The ‘project’ in this instance is wholly compliant with the policies contained within the London Plan, the Camden Development Plan and the National Planning Policy Framework as set out at Sections 2, 3 and 4 of this submission. The quality of the design and layout enhances the positive characteristics of its surroundings within this predominantly residential area, and does not result in harm to the Conservation Area.
- 5.6 **Statutory Development Plan:** Given that the criterion set out in the Camden Council Development Plan are met, there is a legitimate expectation, based on Section 38(6) of the Planning and Compulsory Purchase Act 2004 that the proposed development will be permitted. The matter of other material considerations is dealt with at Section 6 below.

Section 6 Other Material Considerations

Other Material Considerations – Generally

- 6.1 Section 70(2) of the 1990 Act deals with ‘determination of applications: general considerations’ and requires that the authority in dealing with the application shall have regard to the provisions of the development plan, so far as material to the application and to any other material considerations. Whether a consideration is material is a matter for the courts; the weight to be accorded to a material consideration is a matter for the decision-maker, as upheld in *Bolton BC v Secretary of State for the Environment* [1991] J.P.L. 241; *Fairclough. Homes Ltd and Rayford Properties v Secretary of State for the Environment* [1992] J.P.L. 243.

Material Consideration – Design

- 6.2 In determining whether or not to grant planning permission the local planning authority clearly may use their own judgment as to whether the development in question is aesthetically ugly or visually intrusive. However, Government policy as set out in the National Planning Policy Framework is a material consideration. All design matters have been dealt with in the Design and Access Statement that has been submitted in support of this application. For the avoidance of doubt it should be noted that the proposed extensions and alterations have been designed to reflect the existing Treehouse on site. Furthermore, the limited scale and proposed design ensures that the development will have no harm upon the character and appearance of the Conservation Area.

Decision Making: the “overall advantage”: weighing material considerations

- 6.3 There is inevitably a balancing-exercise to be carried out; few decisions are free of such an approach. The phrase “overall advantage” reflects this balance; at the end of the day the decision-maker must attach what weight he considers appropriate to the material considerations in question. The so-called “overall advantage” is nothing more than the weighing of often disparate planning considerations so that it can be said that the advantages outweigh the disadvantages. In this case the application is in accordance with the development plan, plus there are strong material considerations in favour of the proposals, as detailed above.

Section 7 Conclusions

- 7.1 The proposed development subject of this application is in full accordance with the Development Plan, namely the London Plan, the Camden Development Plan and the National Planning Policy Framework.
- 7.2 As set out in Section 1 of this report, the proposed amended design is considered to fully overcome the previous reasons for refusal. The size of the extensions have been reduced by 17 square meters and the proposed extensions have been altered so that there are no works proposed to the elevation (south) facing directly towards the dwelling at 15 Well Rd. For the avoidance of doubt all works are limited to the north and east elevations only. Resultantly, the existing fabric of the treehouse will entirely block any view of the extension from 15 Well Rd. Furthermore, the existing storey- high boundary fence, open space and existing planting between the two neighbouring dwellings will filter out any supplementary artificial lighting. There will be no impact on neighbouring amenity or the street scene of Wells Road.
- 7.3 For the reasons set out above and within this Planning Statement we would ask that Officer's support this application and approve the development without delay.