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## Appeal Decision

Site visit made on 3 September 2019

**by Robert Hitchcock BSc DipCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> November 2019**

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### **Appeal Ref: APP/X5210/W/19/3229977**

### **Flat basement and ground floor, 1 Lyndhurst Road, London NW3 5PX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Magid against the decision of the Council of the London Borough of Camden.
  - The application Ref 2019/0969/P, dated 19 February 2019, was refused by notice dated 17 April 2019.
  - The development proposed is a proposed off-street parking space and crossover with associated alterations to the front boundary wall.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues in this appeal are:
  - Whether the proposed development would preserve or enhance the character or appearance of the Fitzjohns Netherhall Conservation Area (CA); and,
  - The effect of the proposed development on the promotion of sustainable transport modes.

### **Reasons**

#### *Character and appearance of the Conservation Area*

3. The site lies within a leafy suburb of predominantly large, mostly individually styled, residential properties set in generous plots. The area is noted Council's Conservation Area Statement (CAS) for its tree coverage and characterful streetscapes developed in the C19 and early C20. The site includes a large four-storey semi-detached villa divided into flats. The front garden area is partially paved with limited landscaping. The site is identified as making a positive contribution to the CA.
4. The CAS describes the importance of the streetscapes across the CA as contributing to its significance. Notably, this includes the detailed front walls and vegetated private gardens. At the time of my site inspection the majority of the original front wall was in place, however, the lawn area had been covered over in loose spoil.

5. The proposed development would reinstate an historic opening, possibly a cart access, shown on early OS mapping at the western end of the front boundary. This would require the removal of a faithfully replicated section of the wall, the replacement gate piers and the closest part of the original wall. The formation of a new vehicular access would be similar to the altered access at the adjoining villa such to provide some symmetry across the combined frontage. However, neither the proposed access or the existing access to no2, appear to be in the original form as illustrated on the historic map and therefore would not accurately reinstate a former site feature.
6. Furthermore, part of the original wall would be demolished to accommodate additional driveway width and the relocated pedestrian access. The removal of both the replicated section and part of the original detailed front boundary walls would remove elements of the site identified as contributing positively to the character and appearance of the CA.
7. The proposed works would also result in an expansion of the existing hardstanding that, whilst limited in scale, would be significantly more visible due to the increased width of openings within the front boundary. Combined with the presence of a parked vehicle this would become a visual detractor that compounds the effects of forecourt parking in the locality. The existing examples show a high propensity to impose on the relationship between the dwellings, their associated frontages and the characteristic enclosure by boundary walls. Together these reduce the quality of the character and appearance of the street scene and therefore part of the identified significance of the CA.
8. Under the duty imposed under s 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons set out above, I conclude that the development would fail to preserve the character and appearance of the streetscape of Lyndhurst Road.
9. Whilst this harm would be no greater than less than substantial within the context of Paragraph 196 of the National Planning Policy Framework (the Framework), less than substantial harm does not equate to a less than substantial planning objection. I note the potential public benefits of the proposal such as the more faithful appearance of the gate piers through additional height and coping, the resurfacing of the existing hardstanding in traditional materials, the reinstatement of formal landscaping to the site frontage and improved drainage. However, these are not enhancements dependent on the success of this planning appeal and, in any case, would not outweigh the less than substantial harm I have identified.
10. The appellant has directed me to an appeal decision<sup>1</sup> where the formation of a parking space and crossover within the CA was allowed. In the absence of full details of that case within the evidence, I am unable to ascertain the full circumstances of that decision. Furthermore, the existence of development elsewhere does not represent an appropriate reason to find in favour of a proposal that would cause harm in this case, or lead me to alter my findings on this issue.

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<sup>1</sup> APP/X5210/A/12/2176136

11. For the reasons set out above I consider the proposed development would result in less than substantial harm to the character or appearance of the CA and therefore conflict with Policies D1 and D2 of the London Borough of Camden Local Plan 2017 (CLP), and policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018 which, amongst other matters, seek to protect or enhance the character or appearance of heritage assets.

*Sustainable transport*

12. The main dispute between the parties in this respect is the effect of the development on the policy aim to encourage sustainable forms of travel. Policy T1 of the CLP is explicit in this aim - seeking the prioritisation of walking, cycling and use of public transport. Policy T2 of the CLP subsequently imposes restrictions on the formation of new parking spaces to discourage car ownership.
13. The proposal would provide one off-street private vehicle parking space in lieu of on-street parking currently available to wider residents. It is agreed that the annexing of part of the existing parking provision in the area would not currently result in any significant impact on residential parking stress in the vicinity. However, the development would incrementally reduce the availability of public parking and indicate an intent on the side of the appellant to persist with private motor vehicle use.
14. The facilitation of car ownership beyond those accepted as necessary for mobility, operational or servicing requirements are identified by the Council as having the potential to maintain or adversely impact levels of air pollution and road congestion. None of these exceptions are claimed in this instance and taken with the requirement to remove part of the existing boundary wall and part of the garden would be contrary to the objective of Policy T1 and in direct conflict with Policy T2 of the CLP in the absence of other justification.
15. The appellant suggests that the effect would be neutral in terms of car ownership and could offer improvements through the installation of an electric vehicle charging point. Even if it were possible to limit the use of the space to a cleaner technology vehicle, this would still lie outside the policy aim to reduce car ownership and would not address concerns in relation to traffic congestion. It would not, therefore, prioritise sustainable modes of transport.
16. The appellant has directed me to an appeal decision<sup>2</sup> that suggests that the replacement of former parking provision lost to conversion of a garage resulted in no net increase in off-road provision. However, whilst I am aware of an historic cart access, or similar frontage opening, there is little evidence before me to demonstrate any motorised vehicle parking has utilised the site in recent history to qualify the proposal as 'replacement' provision. Furthermore, the exceptional circumstances described within that decision letter identify significant differences to the case in point. Notably, the presence of on-site parking at all other properties and an unusually low PTAL rating for its locality. These balanced aspects are not applicable to the appeal locality.
17. The appellant suggests that a legal undertaking to prevent application for an on-street parking permit could provide support to the case that the development will not increase private vehicle ownership or add to any parking

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<sup>2</sup> APP/X5210/D/17/3186971

pressure in the locality. However, the findings in *Westminster City Council v SSCLG and Acons [2013]*, and that such an undertaking would relate to restrictions imposed on individuals rather than relating to land use, suggest that this lies outside the scope of s106 of the Town and Country Planning Act 1990 (as amended) and therefore cannot be attributed weight in this instance.

18. As a statement of intent to rely on private motorised vehicle ownership, the proposed development would fail to prioritise sustainable travel modes and cause a harmful effect on the Council's sustainable transport objectives. It is therefore in conflict with Policies T1 and T2 of the CLP which seek to promote sustainable transport modes.

### **Conclusion**

19. For the above reasons, I conclude that the appeal should be dismissed.

*R Hitchcock*

INSPECTOR