



Appeal Decision

Site visit made on 20 October 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2020

Appeal Ref: APP/X5210/W/20/3255392

12 Oakhill Avenue, London NW3 7RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Kon Asimacopoulos against the Council of the London Borough of Camden.
 - The application Ref 2020/0924/P, is dated 18 February 2020.
 - The development proposed is new metal gates and fencing to the existing front boundary low wall.
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Decision

1. The appeal is dismissed and planning permission for new metal gates and fencing to the existing front boundary low wall is refused.

Background and Main Issues

2. The Council had not determined the planning application prior to the appeal being lodged. However, a decision notice was submitted alongside its appeal statement, and this indicated that the application would have been refused on two grounds. The first is the effect of the proposed boundary treatment on the character and appearance of the host property, the streetscene and the surrounding area. The second is because the Council considers that a financial contribution towards highway and public realm works would be required to repair any damage to the footway arising from the development. I note also the Council's comment that in its view that the second reason could be overcome by entering into a section 106 legal agreement.
3. On the basis of all the information before me, I therefore consider that the main issues are:
 - Whether or not the development would preserve or enhance the character or appearance of the Redington/Frogna Conservation Area; and
 - Whether or not a contribution towards highway and public realm works is necessary, and if so is there an appropriate mechanism in place to secure such a contribution.

Reasons

Character and appearance

4. The appeal site lies within the Redington/Frogna Conservation Area (the Conservation Area). I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Area. As heritage assets are irreplaceable, the National Planning Policy Framework (the Framework) states that they should be conserved in a manner appropriate to their significance (paragraph 184). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 194) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 196).
5. The Conservation Area is predominantly residential in character. It primarily consists of large detached and semi-detached houses of a variety of architectural styles, in a verdant setting on the slopes west and south west of the historic centre of Hampstead Village. Its significance derives in part from its status as a well-preserved prosperous late Victorian and Edwardian suburb. The 2004 Redington/Frogna Conservation Area Statement (the CAS) also identifies public realm features such as original pavement materials, boundary walls, signage and vegetation as contributing greatly to the area's quality, character and appearance.
6. Oakhill Avenue is a broad street which runs downhill from Redington Road to Bracknell Gardens. There are various boundary treatments on display along the length of the street, including solid high brick walls screening the side and rear of dwellings on Redington Road from Oakhill Avenue, and several brick wall and railing combinations. Otherwise low brick walls of varying ages, often with hedges or other planting, are the prevailing form of boundary along Oakhill Avenue. The combination of the width of the street, the generally low and reasonably open boundaries, the trees set along the side of the road and generous garden planting give the street a green and spacious character.
7. No 12 is a large detached Arts and Crafts style house, set back from the pavement in an elevated position above the street. The landscaped front garden slopes down from the front of the dwelling to a low brick boundary wall. The proposal is to demolish and replace the existing boundary wall with a new brick wall with five wrought iron railing panels between tall brick piers. Three wrought iron gates would be installed to control access to the property – a wide electric sliding gate at each end of the boundary wall for vehicles, and a central hinged single gate for pedestrian entry.
8. The piers, railings and gates would be stepped in line with the fall of the land and so would not be of a consistent height relative to the pavement. The submitted drawings show that each gate or panel of railings would have a height at their midpoint of around 2m. This would make them a relatively tall boundary feature and, based on my observations on my site visit, because of this they would be unusual within the context of Oakhill Avenue. Although the house would still be visible through the railings, the height of the proposed fencing and gates would nonetheless diminish the open nature of the street. This would be somewhat oppressive when considered alongside the other boundaries on the street, and would be particularly noticeable for pedestrians passing along the same side Oakhill Avenue in the vicinity of the appeal property, I consider therefore that, because of their height, the proposed

development would be detrimental to the character of the Conservation Area. In coming to this view, I note also that the CAS specifically identifies the introduction of high railings to inappropriate front boundaries as a factor which can dramatically affect the streetscape and harm the character of the Conservation Area as a whole.

9. The appellant has drawn my attention to other iron gates and railings on Oakhill Avenue, at Nos 3, 5, 7, 15 and 21 (on the other side of the road from the appeal property), and the adjacent property at No 14. I do not have the full details of these other examples including their dimensions, but was able to view them all at the time of my site visit. It was clear to me visually (including by reference to my own height, which is some way short of 2m) that none of the other railings or gates elsewhere on the street is as tall as those proposed in this case. Indeed, with the exception of the gates at Nos 3, 5 and 14, which in each case only make up a small part of the frontage of their respective host property, the other gates and railings were considerably lower than those in the current proposal. Even if I therefore accept that iron railings would be appropriate within the context of Oakhill Avenue, because of their height those proposed in this case would be more dominant and intrusive, and thus more harmful, than the other examples nearby.
10. The appellant has indicated that the principal motivation behind the proposal is to improve security to the property, by preventing unrestricted access to the front garden and the front parts of the house. I have sympathy with what is an understandable and legitimate concern, and have taken it into account in reaching my decision. The appellant has suggested that recorded crime in the borough of Camden in 2018 was about 40% higher than the London average, and although no source for that statistic has been provided I have no particular reason to doubt its veracity. However, in my view the use of such a headline figure obscures as much as it illuminates, given the size of the borough and the diverse character of its different areas, as well as the all-encompassing nature of the 'recorded crime' label. It is not clear to me whether there is a specific local crime or security issue which the development is intended to address, nor if other less intrusive measures could be taken instead. The evidence before me does not therefore amount to a substantive justification for the installation of high railings and gates which would outweigh the harm I have found.
11. I note that the existing boundary wall to No 12 is not an original feature of the property, but it is nevertheless in keeping with the traditional character and appearance of the house and the wider area. The appellant has indicated that the wall has structural problems which can be seen as cracks, and it therefore needs to be replaced. While to my eye such cracking appeared limited, I have no reason to doubt that there may well be structural matters which need to be addressed. However, even if as a result of these it would be more effective to replace rather than repair the wall, this again does not amount to a justification for the high railings and gates given the harm I have found.
12. I conclude that the development would not preserve or enhance the character and appearance of the Redington/Froggnal Conservation Area. Given the size of the Conservation Area as a whole, in the Framework's terms the harm to its significance as a designated heritage asset would be less than substantial. However, no public benefits arising from the proposal have been suggested which could be weighed against this harm.

13. The proposal therefore conflicts with Policies D1 and D2 of the 2017 Camden Local Plan, which together seek to ensure that new development is of a high quality design which contributes positively in complementing local character, whilst preserving or enhancing the historic environment and heritage assets including conservation areas. It also conflicts with the provisions of the Framework which seek to conserve and enhance the historic environment.

Contribution towards highways and public realm works

14. The Council has stated that carrying out the proposed development would be likely to cause damage to the footway in front of the appeal property, and that therefore a financial contribution in the form of a section 106 planning obligation is required. The appellant disputes whether such a contribution is necessary, on the basis that any works could be agreed under the provisions of the Highways Act 1980, but nevertheless a completed section 106 planning obligation has been provided.
15. However, the harm I have found in respect of the effect of the proposal on the character and appearance of the Conservation Area represents a compelling reason for dismissing the appeal and refusing planning permission for the development. This conclusion could not be altered by any finding in respect of the submitted planning obligation. It is therefore not necessary for me to consider whether a contribution towards highway and public realm works is required.

Conclusion

16. For the reasons given above the appeal is dismissed.

M Cryan

Inspector