



**TOWN AND COUNTRY
PLANNING ACT 1990**

Appeal by Mr Andrew Kirk

**Installation of glazed
balustrade at roof level to
create a roof garden,
enlargement of existing side
dormer window and
installation of glazed access
rooflight**

**8 Frogna Lane
London
NW3 7DU**

October 2020

**Prepared by
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**LPA Reference
2019/5693/P**

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Appendices

1. Decision Notice and approved drawings for the conservatory and roof terrace at 12 Frognal Lane (LPA reference 9501899)

1. INTRODUCTION

1.1 My name is Hayden Todd and I am an Associate Director with Aitchison Raffety, Chartered Town Planning Consultants. I have a Bachelor's Degree in Environmental and Resource Planning (Hons) and am a Member of the Royal Town Planning Institute. I am instructed by Andrew Kirk ("The Appellant") in respect of this appeal.

1.2 The planning application was submitted to the Council on 11 November 2019 and sought permission for the Installation of glazed balustrade at roof level to create a roof garden, enlargement of existing side dormer window and installation of glazed access rooflight at 8 Froggnal Lane, London (2019/5693/P). The application was refused planning permission under delegated powers on 20 October 2020 for the following reason:

1. *The proposed development, by virtue of its location, material, bulk and design, would have a detrimental impact on the composition of the host building, the uniformity of the group of four buildings to which it belongs, and the character and appearance of the streetscene and Redington/Froggnal Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017 and policy SD5 of the Redington/Froggnal Neighbourhood Plan Submission Version May 2020.*

2. SITE DESCRIPTION AND SURROUNDINGS

2.1 The appeal site is a 349 square metre rectangular shaped residential plot, located on the south side of Froggnal Lane, opposite the junction with Bracknell Gardens. It is sustainably located and forms part of the Redington and Froggnal Conservation Area.



Application site outlined in red

2.2 The site comprises a late Victorian detached building with four levels of accommodation, including a lower ground floor and loft space. The building has a prominent double storey front bay projection with Dutch styled gable above. It has a crown roof with a large flat section, arched porch, front and side dormers and prominent side chimneys. The façade is well preserved and attractively decorated. The rear aspect of the property is of limited historic value and includes a flat roof four storey rear projection and raised terrace. The building is finished in red facing brickwork with a clay tiled roof.

- 2.3 The property is divided into four flats that are located on each of the separate floors. The two ground floor flats (lower and upper) have private raised terraces. The first and second floor flats have no outdoor amenity space.
- 2.4 A low pillared brick wall with planting extends along the frontage, delineating the site from the adjoining highway. A mature tree is positioned adjacent to the side boundary which filters and partly conceals views of the appeal building.



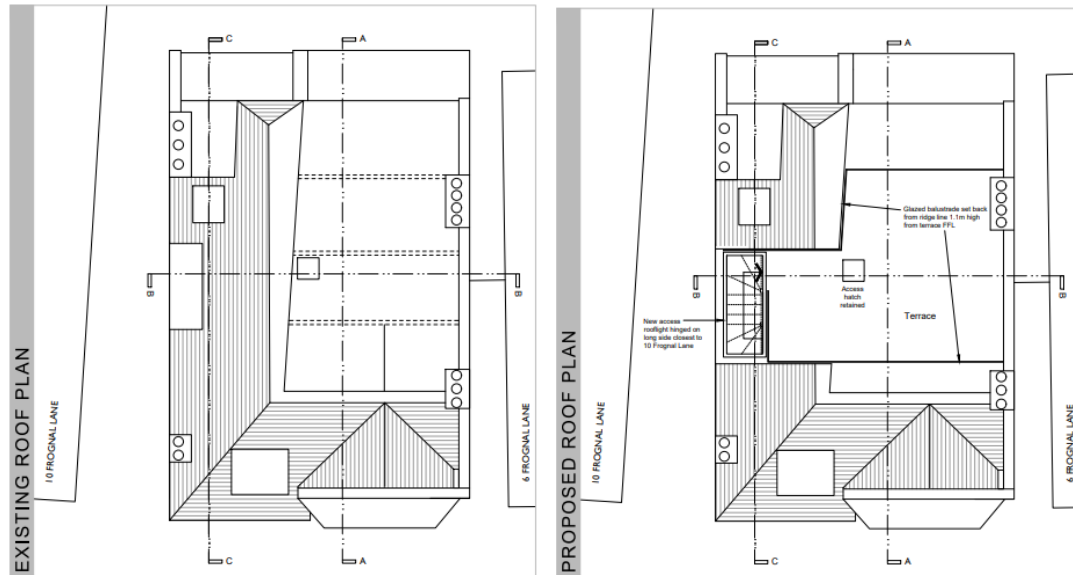
Street view of the appeal site

- 2.5 The surrounding area is residential in character and consists of various detached, semi-detached and terrace residential properties, many of which have been constructed in a similar architectural style. The buildings predominantly date from the late 1800s and have three to four levels of accommodation, although there is a considerably larger block of flats located nearby. The buildings on the southern side of the Lane are formally arranged around a large triangular private woodland area.
- 2.6 Ground levels decrease in a south-westerly direction. The site is in Flood Zone 1 and therefore at low risk of flooding.

3. PROPOSED DEVELOPMENT

- 3.1 Planning permission was sought for the installation of glazed balustrade at roof level to create a roof garden, enlargement of existing side dormer and installation of glazed access rooflight.
- 3.2 The proposed development would raise and enlarge the existing side dormer to provide a safe and functional access to the crown roof. The enlarged dormer maintains the rectangular proportions of the existing structure. The proposed dormer would be set down from the adjacent four storey flat roof rear projection. It would be finished in materials that match the external appearance of the existing building.

- 3.3 The proposed terrace would be created on the crown roof. The terrace would be centrally positioned and enclosed with a glazed balustrade set-back from the front, side and rear eaves, where it would not be overly visible from public or private viewpoints.
- 3.4 The proposed roof terrace would be accessed via a hinged rooflight in the enlarged side dormer.



Existing and proposed roof plan demonstrating the minor nature of the development

- 3.5 No changes are required or proposed to the existing flats. The purpose of the proposed development is to provide a high quality outdoor amenity area.

4. RELEVANT PLANNING HISTORY

- 4.1 An application for the erection of a mansard roof extension to provide a 2 bedroom flat with terrace at third floor level (Class C3), and alteration to existing side dormer (2019/5690/P) was refused planning permission on 27 May 2020. This refusal is subject to a live appeal.
- 4.2 An application for external balconies on the rear elevation at ground and first floor levels, and a single storey rear extension with raised timber deck terrace to the lower ground floor flat (2019/2321/P) was granted condition permission on 18 July 2019.
- 4.3 An application for a single storey rear extension to the lower ground floor flat (2019/0485/P) was granted conditional permission on 18 April 2019.
- 4.4 An application for a roof extension to create one x 2 bedroom flat, with terrace at third floor level, extending side dormer, installation of balconies and alterations to fenestration on the rear elevation (2018/6025/P) was refused planning permission on 13 March 2019.
- 4.5 An application for renewal of permission for additions and alterations, including excavation of front lightwell, new stairs and porch, part excavation of lower ground floor level, and rear single storey extension, all in connection with the creation of additional residential

accommodation to the lower ground floor flat (2011/0165/P) was granted conditional permission on 1 June 2011.

- 4.6 An application for additions and alterations, including excavation of front lightwell, new stairs and porch, part excavation of lower ground floor level, and rear single storey extension, all in connection with the creation of additional residential accommodation to the lower ground floor (2007/6036/P) was granted conditional permission on 26 February 2008.
- 4.7 An application for a rear extension at lower ground and ground floor level, including the provision of balconies at the three upper levels, together with excavations and alterations to the front of the property to form a front basement area, and the alteration of a dormer window in the eastern roof slope (P9601999R3) was granted conditional permission 15 November 1996.

5. PLANNING POLICY FRAMEWORK

Development Plan

- 5.1 The starting point for assessing development proposals is always the Development Plan. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states *“if regard is to be had to the development plan for the purpose 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”*.
- 5.2 The Development Plan in Camden is made up of the London Plan and the Camden Local Plan. The Draft Redington/Froggnal Neighbourhood Plan, various Camden Planning Guidance Documents (PGD), the Redington and Froggnal Conservation Area Statement (2000) and the National Planning Policy Framework (NPPF) are also material planning considerations.

London Plan (March 2016)

- 5.3 The London Plan sets the overall strategic plan for London, detailing the economic, environmental, transport and social framework for the development of London. The London Plan seeks to increase housing supply and to achieve a good standard of design in all forms of development. The following policies are relevant to the assessment of this appeal:-

Policy 7.4	Local Character
Policy 7.6	Architecture
Policy 7.8	Heritage assets and archaeology

Camden Local Plan

- 5.4 The Camden Local Plan was adopted on 3 July 2017 and is the key strategic document in Camden’s Development Plan. It sets out the vision for shaping the future of the Borough and contains policies for guiding planning decisions. The below policies are relevant to the assessment of to this proposal:-

Policy D1	Design
Policy D2	Heritage

Redington/Froggnal Neighbourhood Plan Submission Draft

Redington/Froggnal Neighbourhood Plan Submission Draft has not been 'made' by the Council and is still subject to change. It can therefore only be given limited weight in the assessment of this appeal. The following draft policy was included in the reason for refusal:

Policy SD5 Dwelling: Extensions and Garden Development

Other Relevant Documents

- 5.5 Although not part of the Development Plan the below documents are relevant to the assessment of this appeal:-

Redington and Froggnal Conservation Area Statement (2000)
CPG Altering and extending your home (2019)
CPG Design (2019)

The National Planning Policy Framework (2019)

- 5.6 The revised National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. The document sets out the up-to-date national policy position and must, therefore, be used in the determination of this planning application. The most relevant sections are highlighted below.
- 5.7 Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. Paragraph 8 identifies the three dimensions to sustainable development which are, economic, social and environmental.
- 5.8 Section 4 requires Local Planning Authorities to approach decisions on proposed development in a positive and creative way. Paragraph 38 states that decision makers should seek to approve applications for sustainable development where possible.
- 5.9 Section 12 'Achieving well-designed places' at paragraph 124 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. It notes that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 5.10 Section 16 'Conserving and enhancing the historic environment' at paragraph 189 places a duty on Local Planning Authorities to ensure an applicant describes the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset's importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 190 requires Local Planning Authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal.
- 5.11 Paragraph 192 emphasises that Local Planning Authorities should take account of, the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation

of heritage assets can make to sustainable communities, including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

- 5.12 Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It emphasises that the weight given to an asset's conservation should be proportionate to its significance, and notes that this great weight should be given irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 5.13 Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 5.14 Paragraphs 195 and 196 address the balancing of harm against public benefits. If a balancing exercise is necessary (if there is any harm to the asset), considerable weight should be applied to the statutory duty where it arises. Proposals that would result in substantial harm or total loss of significance should be refused, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss (as per paragraph 195). Whereas, paragraph 196 emphasises that where less than substantial harm will arise as a result of a proposed development, this harm should be weighed against the public benefits of a proposal, including securing its optimum viable use.
- 5.15 Paragraph 201 confirms that not all elements of a Conservation Area will necessarily contribute to its significance.

6. THE CASE ON BEHALF OF THE APPELLANT

- 6.1 The Council refused the application for a single reason, which is summarised below:-
- The proposed development, by reason of its location, material, bulk and design, would have a detrimental impact on the composition of the host building, the uniformity of the group of four buildings to which it belongs, and the character and appearance of the street scene and Redington/Frognal Conservation Area
- 6.2 It is considered that the appeal proposal is fully acceptable having regard to relevant planning policies and guidance, and we wish to put forward the following points in support of the case.

Character and appearance

- 6.3 The main legislative framework for development effecting designated heritage assets is set out in Sections 66 (1) and 72 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 and requires special attention to be paid to the desirability of preserving Listed Buildings and land in Conservation Areas.
- 6.4 Policy D1 of the Local Plan seeks to secure high quality design and that new development respects the local context and character. Policy D2 of the Local Plan requires development to preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and

their settings. It states that the Council will not permit development that results in harm to heritage assets unless the public benefits of the proposal convincingly outweigh that harm.

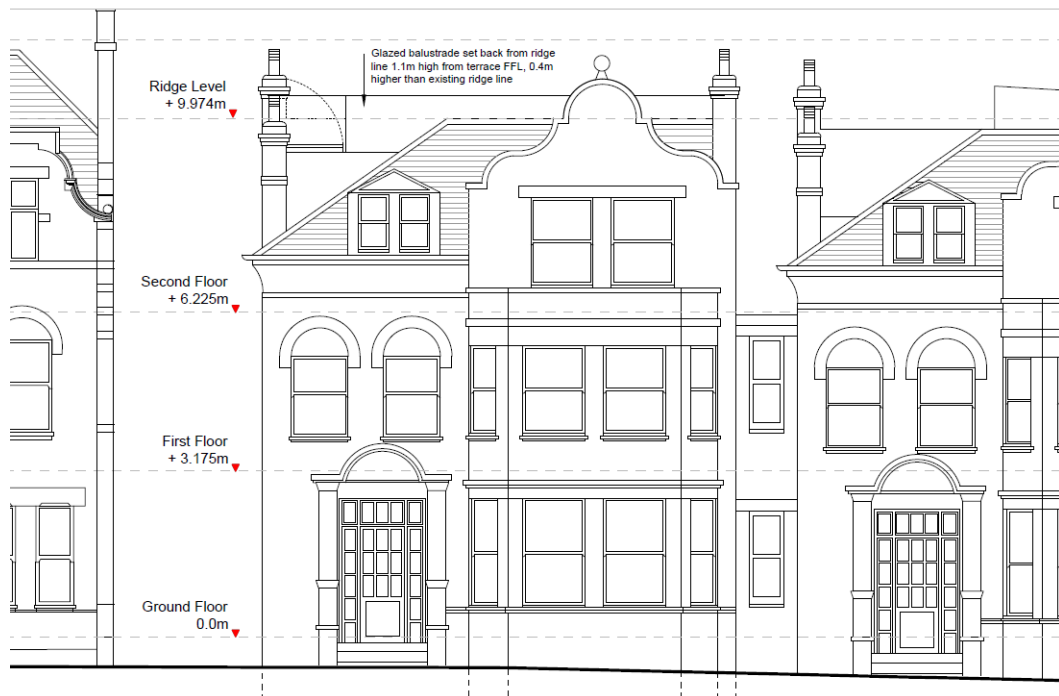
- 6.5 Policy 7.4 of the London Plan requires development to have regard to the form, function and structure of an area, and to the scale, mass and orientation of surrounding buildings. Policy 7.6 of the London Plan states that architecture should make a positive contribution to a coherent public realm.
- 6.6 Policy SD5 of the Redington/Frogнал Neighbourhood Plan Submission Draft states extensions must be designed to complement the character of the original building and context. It requires extensions to be subordinate and notes that balconies must not be added to existing frontages where they would be out of keeping with the established character of the property and surrounding area.
- 6.7 These policies are consistent with the NPPF, which seeks a high quality of design and that new development is sympathetic to local character, while not preventing appropriate innovation or change. In terms of the historic context, the NPPF states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alterations or destruction of the heritage asset or development within its setting. It confirms that not all elements of a Conservation Area will necessarily contribute to its significance.
- 6.8 Frogнал Lane and this part of the Conservation Area consists predominately of large Victorian and Edwardian buildings. The buildings generally have well preserved facades and many have been constructed in similar architectural styles, resulting in a cohesive and attractive street scene, with a defined sense of place. The rear elevations and roof forms of the surrounding buildings have been subject to various extensions and alterations, which has resulted in a greater diversity and eroded the character and value of this aspect of the Conservation Area. The significance of the area as a designated heritage asset is largely derived from the aesthetic value and similarities in the architecture, which together with the historic interest of the period buildings, form attractive and distinctive street scenes that provide a clear visual link to the past.
- 6.9 The appeal site conforms to this general character and consists of a large, late Victorian, building that has been attractively designed and decorated with a prominent and distinctive Dutch gable. The rear aspect of the property is plain and has been subject to various extensions and alterations. The site forms one of four detached buildings in a row that have been constructed in an identical architectural style. Although not subject to any type of Local Listing or specifically identified as important in the Conservation Area Statement for Redington/Frogнал, this group of buildings make a positive contribution to the character and appearance of the street scene and this area's defined sense of place.

Glazed balustrade

- 6.10 The proposed development would introduce a roof terrace with associated glazed balustrade to the central part of the building. The main design concern expressed in the Officer's Report relates to the visibility of the glazed balustrade from the street scene and long range views from Bracknell Gardens, which the Council considers to be incompatible with the architecture of the original roof and wider Conservation Area. With reference to these points, replication of historic architectural forms is not always desirable and design should be honest to its time,

allowing new development to compliment, rather than compete, with the original form and style. The lightweight and contemporary appearance of the glazed balustrade would add visual interest and would not result in any adverse harm to the character and appearance of the building or surrounding Conservation Area. It could be finished in high quality frameless glass adding to its contemporary and visually pleasing appearance. Furthermore, the proposed glazed balustrade would have a lightweight and transparent appearance, reducing its visual prominence and ensuring it would sit discreetly in the roofscape where it would not be immediately obvious to the casual observer.

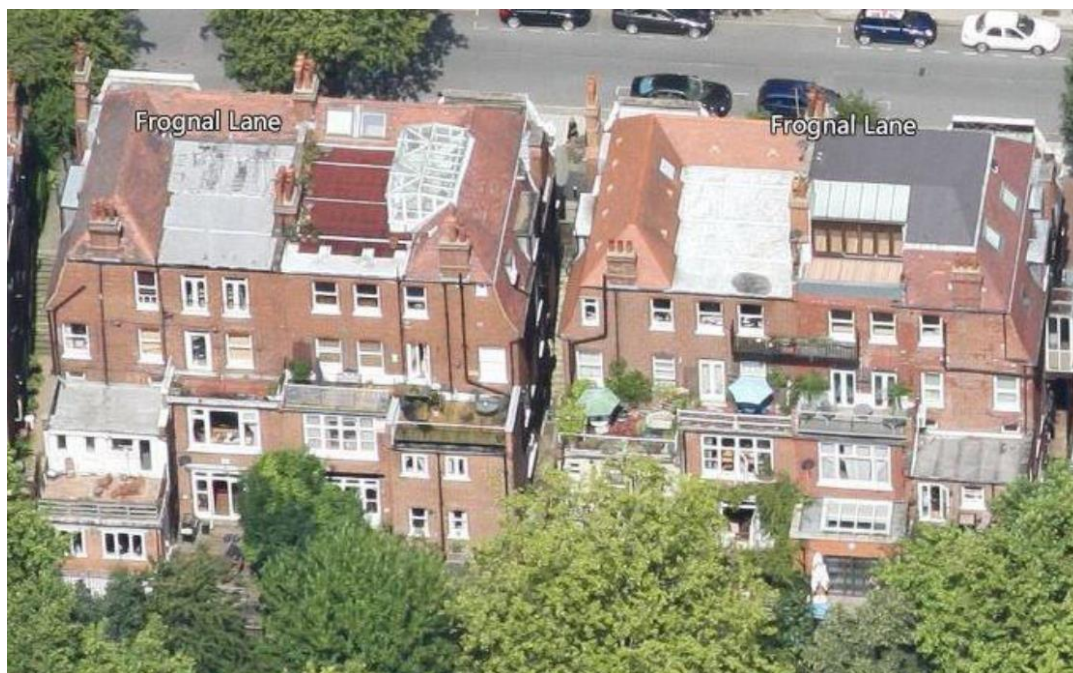
- 6.11 The proposed terrace would be centrally positioned on the roof of these substantial and closely grouped buildings, that enclose the highway. The high level and set-back position of the proposed roof terrace would partly conceal the balustrade from normal viewpoints in the immediate context of the site and street scene. It is acknowledged that the balustrade may be visible in some long range views from Bracknell Gardens. However, these limited views would be restricted to a small upper section of the glazed balustrade and would not draw the eye with any negative perception of a harmful impact. The small section of glazing would be viewed within the context of these substantial buildings and the wider roofscape where it would represent a minor, visually pleasing and subservient addition.



Views of the glazed balustrade would be restricted and not result in any harm to the visual amenity of the building or wider street scene

- 6.12 There have been a miscellany of changes to the roofs of the surrounding properties, including various plant, dormers and other terraces. Even to the limited extent that the roofs can be seen in public or private views, there is no longer homogeneity or consistency of design in the roofscape, which would mitigate any harmful impact. It is noted that the Council approved a large conservatory roof terrace on a nearby property (12 Frognal Lane) ([Appendix 1](#)), which has not resulted in any harm. Many other properties in the surrounding area also have comparable roof terraces, adding to the case that this minor addition to the appeal site would

not result in any additional harm to the significance and importance of this Conservation Area as a heritage asset.



Roof terraces on the adjoining properties which form part of the diverse character of this aspect of the Conservation Area

Enlargement of side dormer

- 6.13 The Council has raised concerns with the enlargement of the side dormer, which they consider to detract from the overall composition of the building and to harm the uniformity of the group of four buildings which it forms part. This is not the case and this minor roof enlargement would respect and respond appropriately to the original building, group of buildings and street scene.
- 6.14 The proposed changes to the side dormer are minor and preserve the character and appearance of the building and surrounding Conservation Area. The proposal extends the original building lines of the dormer, maintaining its simple form, which is entirely appropriate on this secondary and partly concealed flank elevation. With reference to this, it is immediately obvious when viewing the restrained and simple arrangement of the side aspect of these closely grouped properties, that a more functional design approach has been adopted and that the largely concealed side elevations do not contribute towards the significance of these attractive late Victorian buildings as non-designated heritage assets. The simple rectangular form of the enlarged dormer would also be compatible with the adjacent and significantly larger flat roof four storey rear projection, adding to the case that this minor enlargement to the existing dormer would not result in any harm and is compatible with this aspect of the building.
- 6.15 The enlargements to the dormer are relatively modest in scale and would be viewed in the context of these substantial Victorian properties, where it would represent a minor and subordinate addition. The proposed dormer would be finished in matching red brickwork, which would integrate and blend the proposal into the main building form and surrounding

built environment. The matching materials, minor nature and set-back position of this modest roof enlargement would clearly conserve the composition of this substantial Victorian building.



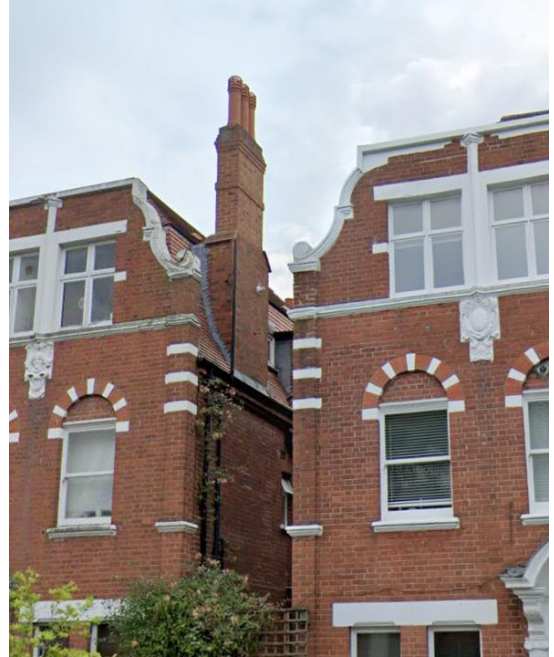
The proposal would represent a modest enlargement of the existing dormer, ensuring it would not harm the character of the building or street scene

- 6.16 The enlarged dormer is set-back from the attractively designed façade, where it would only be visible in glimpsed views between the existing buildings, reducing its visual prominence and ensuring it would not disrupt the rhythm or architectural language of the street scene. The set-back position of the dormer on this secondary elevation would also ensure it would not have any implications on the red tiled sweeping roofs that are an important characteristic of this Conservation Area. The minor addition to the partly concealed side aspect of the building, would preserve the important attributes and characteristics that contribute towards the significance of the building and Conservation Area as heritage assets.



*The proposed dormer is similar in form as the existing dormer
and would not be overly visible from normal viewpoints*

- 6.17 Any impact on the uniformity of this group of four identically constructed buildings would be minimal and not significant enough to justify a reason for refusal. The dormer is set-back from the attractively designed and decorated front elevation. It is positioned to the rear of the main gable projection and chimneystack, in a central position on the plain and partly concealed side gable wall. As noted above, views of the dormer are restricted and limited to glimpses between the main building forms of these substantial buildings where it would not be overly prominent or disrupt the cohesive and attractive appearance of this street scene. The appeal building is the last of four buildings constructed in a similar style and adjoins different building types that are higher and have more prominent and larger mansard roofs. The minor enlargement of the existing side dormer would not have any implications on the harmony or rhythm of the street scene in this transition zone.
- 6.18 The proposed dormer is well integrated and of a style and design that respects the original building and surrounding built environment. The enlarged dormer has a simple flat roof form, reflecting and repeating the form of the existing dormers on the side aspect of these properties. The proposal would not only maintain the form, albeit at a slightly enlarged scale, of the existing dormer but also the alignment of the below windows, conserving the simple arrangement of the secondary side elevation. Furthermore, side dormers and other various roof additions are a common architectural feature in this sub character area, 'The Triangle', of the Redington/Frognal Conservation Area. The proposed enlarged dormer would be read and understood within the context of this varied and diverse roofscape, where it would not appear unduly obtrusive or result in any additional harm to the character and appearance of this part of the Conservation Area.





The enlarged dormer would be viewed in the context of other side additions and various other roof arrangements where it would not result in any additional harm

Rooflight

- 6.19 The Officer's Report states that *'whilst the proposed glazed access rooflight would not be observable from public views, it is still considered too large for the roof. The size of the rooflight should be subordinate to the roof slope and fitted flush within the roof surface.'* Rooflights are a minor form of development and do not normally required planning permission. It is difficult to understand how the Council have come to the view that the proposed rooflight is not subordinate to this substantial building, or how it could result in any harm to the significance of the area as a designated heritage asset. These comments reflect the Council's overly restricted approach to the assessment of this application.

7. CONCLUSION

- 7.1 The proposed development is for a roof terrace with glazed balustrade and the enlargement of the side dormer.
- 7.2 The proposed terrace and associated balustrade would not be overly visible from the public realm given its position on the roof. The recessed position and transparent nature of the balustrade would also reduce its visual prominence, mitigating any harmful impact and ensuring the proposal would conserve the significance of this area as a designated heritage asset.
- 7.3 The proposed dormer is of a style and design that respects the side aspect of the building. It would be only visible in a limited number of viewpoints, where it would not harm the attractive and cohesive appearance of the street scene. The dormer would also be positioned at a high level and viewed in the context of other various roof additions, ensuring it would respect and respond appropriately to the character and appearance of the surrounding roofscape and Conservation Area.
- 7.4 The dormer would be finished in matching materials and would not have any implications on the composition of the building. Any impact on the consistent appearance of this group of four buildings would be minimal and not significant enough to justify a reason for refusal, particularly given the dormer is positioned adjacent to a different building type.
- 7.5 The proposed development is acceptable in planning terms and we respectfully request that the appeal is allowed.