

APPEAL BY MR AND MRS PETERS

**AGAINST THE DECISION OF THE LONDON BOROUGH OF CAMDEN
TO REFUSE PLANNING PERMISSION**

Installation of sliding metal gates, railings, brick piers and replacement brick wall to front boundary; replacement of front entrance door and steps and side gate; erection of pergola to rear garden and various hard and soft landscaping works to front and rear gardens.

10 Ferncroft Avenue, London, NW3 7PH

**LPA APPLICATION REF: 2021/0188/P
DATE OF DECISION: 23 November 2021
DATE OF APPEAL: 14 December 2021**

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1.0 SITE & SURROUNDINGS

- 1.1 In terms of context the application site is located within the administrative area of the London Borough of Camden, a Borough in north-west London (partly within inner London) divided into 18 three-member wards. The application site is located within the administrative ward of Frognal and Fitzjohns.
- 1.2 No. 10 is located on the northern side of Ferncroft Avenue and comprises of a three storey detached dwelling house. On-site parking is provided on hardsurfacing to the front of the site with access via a dropped kerb from Ferncroft Avenue.
- 1.3 The local area comprises large residential dwellings that are primarily semi-detached, however detached dwellings are dispersed throughout the local area. Ferncroft Avenue is an attractive tree lined street with a consistent building line and a variety of front boundary treatments.
- 1.4 The appeal property is not listed but the site is located within the Redington Frognal Conservation Area and is considered to have a positive contribution to the area. Both adjacent dwellings are Grade II Listed. The site also falls within the Redington Frognal Neighbourhood Plan area.
- 1.5 The site is well served by public transport and is within walking distance to Finchley Road where bus routes for West Hampstead (south) and Finchley Road (south-east) and Hamstead (east) tube stations, are available. The site is located in an area with a Public Transport Accessibility Level (PTAL) Rating of 3.
- 1.6 The site is within flood zone 1 and therefore has a low probability of flooding.

2.0 THE APPLICATION

- 2.1 The application was registered by the Local Planning Authority (LPA) on 12th February 2021. The application was assigned reference number 2021/0188/P.
- 2.2 The application sought full planning permission for the installation of sliding metal gates, railings, brick piers and replacement brick wall to front boundary; replacement of front entrance door and steps and side gate; erection of pergola to rear garden and various hard and soft landscaping works to front and rear gardens.
- 2.3 The application was refused on 23 November 2021 for the following reason:
1. *The proposed front boundary treatment, by reason of its size, design and materials, would be a discordant and hostile addition to the street scene, causing harm to the character and appearance of the host property and the Redington Frognal Conservation Area, and to the sense of safety in the public realm, contrary to policies D1 (Design), D2 (Heritage) and C5 (Safety and Security) of the London Borough of Camden Local Plan and policies SD1 (Refurbishment of existing building stock), SD5 (Dwellings: Extensions and garden development) and SD6 (Retention of architectural details in existing buildings) of the Redington Frognal Neighbourhood Plan.*
- 2.4 A copy of the Delegated Officer Report can be found at **Appendix 1**.

3.0 PLANNING HISTORY

- 3.1 On the 4th of August 2020 full planning permission (reference 2020/0113/P) was granted for the erection of a single storey rear extension and enlargement of rear garden terrace; installation of one dormer window to the front and one dormer to the rear roof slope; replacement of pebble dash to front bay window with hanging tiles; repaving of driveway.
- 3.2 On the 29th of March 2021 approval was granted (reference 2021/0186/P) for details pursuant to condition 3 (green roof) and 6 (external materials) relating to planning permission 2020/0113/P (as detailed above).
- 3.3 On the 29th of March 2021 planning permission (reference 2021/0189/P) was granted for the variation of condition 2 (approved plans) of planning permission 2020/0113/P (as detailed above), specifically, to amend glazing details to the south east and rear facing elevations, brick panels to rear elevation, brick slips to the front bay, lead cladding to the rear elevation of existing ground floor and link to rear extension, new door and concrete steps to north west elevation, new gutter, rainwater and soil vent pipework, new vent tiles and brickwork, and boiler and fireplace flues to side and rear elevations.
- 3.4 On the 12th of February 2021 an application for planning permission for the installation of an air conditioning unit in acoustic enclosure and associated timber screen in rear garden (reference 2021/0190/P) was registered by the Council. This application has yet to be determined.

4.0 NATIONAL PLANNING POLICY/LEGISLATION

LEGISLATION

- 4.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

NATIONAL PLANNING POLICY

The National Planning Policy Framework (2021)

- 4.2 At the heart of the NPPF is a presumption in favour of sustainable development (paras 7-14) and paragraphs 8, 9 & 11 are helpful in applying this presumption.

- 4.3 Paragraph 11 sets out how this is to be applied. It states that, for decision-taking, this means:

- *Approving development proposals that accord with an up-to-date development plan without delay; or*
- *Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless*
 - *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 4.4 The NPPF introduces three dimensions to 'Sustainable development' (Economic, Environmental & Social - para 8), and advises that they are mutually dependent and should not be undertaken in isolation.

- 4.5 In applying this approach, firstly, development must be considered to be sustainable taking into account all three of the dimensions of sustainable development; a development that is sustainable in only one dimension would not be considered sustainable for the purposes of the presumption. The appellant considers that the development meets all three threads of sustainable development.

- 4.6 Secondly, the decision-taker is required to consider whether the development accords with an up-to-date development plan – and if it does planning permission should be granted unless material considerations indicate otherwise. The appellant considers that the development accords with the development plan.

- 4.7 Thirdly, the decision-taker is required to determine whether there are any relevant development plan policies, or the policies which are most important for determining the application, are out-of-date and if not, grant permission unless:
- *the application of policies in this Framework (NPPF) that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.*
- 4.8 Section 12 refers to achieving well-designed places. Paragraph 130 states that planning policies and decisions should ensure that developments; (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, (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development 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.
- 4.9 Section 16 refers to the historic environment and requires a consideration whether the proposal sustains and enhances the significance of heritage assets, making a balanced judgement having regard to the scale of harm or loss and the significance of the heritage asset (paragraphs 194-198). Paragraph 203 further requires the effect of an application on the significance of non-designated heritage assets, making a balanced judgement having regard to the scale of harm or loss and the significance of the heritage asset.

5.0 THE DEVELOPMENT PLAN

5.1 For the purposes of this appeal, the adopted Development Plan for the London Borough of Camden comprises of the London Plan (2021), the Camden Local Plan (2017) and the Camden Planning Guidance documents (CPG's). This also includes the Redington Frognal Neighbourhood Plan, which was adopted in September 2021.

5.2 The reason for refusal refers to policies D1, D2 and C5 of the Camden Local Plan; and policies SD1, SD5 and SD6 of the Redington Frognal Neighbourhood Plan. For brevity, a brief description of the policy aspirations are set out below. The full policy wording is attached at **Appendix 2**.

Camden Local Plan (2017)

5.3 The Camden Local Plan (2017) sets out the visions, objectives and related strategic planning policies for delivering development in Camden. It was adopted in July 2017.

5.4 The following policies have been cited within the reason for refusal:

Policy D1 – Design

5.5 Requires development proposals to incorporate exemplary standards of sustainable and inclusive design and architecture. Further, it states, in the correct context, imaginative modern architecture is encouraged provided that it respects Camden's heritage and local distinctiveness.

Policy D2 – Heritage

5.6 Requires that all development must ensure heritage assets and their settings are conserved or enhanced in a manner that is appropriate to their significance.

Policy C5 – Safety and Security

5.7 Requires developments to demonstrate that they have incorporated design principles which contribute to community safety and security.

Redington Frognal Neighbourhood Plan (2021)

5.8 The Redington Frognal Neighbourhood Plan (2021) seeks to ensure that development is sustainable and preserves or enhances the character or appearance of the Redington Frognal Conservation Area.

5.9 The following policies have been cited within the reason for refusal:

Policy SD1 – Refurbishment of Existing Building Stock

- 5.10 Requires that re-development or extensions to existing building stock should include consideration of front boundary walls and hedges. The policy states that where they contribute to the character and appearance of the area, they should be preserved or reinstated. The policy also supports the use of hedges as front, side and rear boundaries, in order to enhance amenity, biodiversity and streetscapes.

Policy SD5 – Dwellings: Extensions and Garden Development

- 5.11 Requires extensions to existing buildings to complement the character of the original building and context.

Policy SD6 – Retention of Architectural Details in Existing Buildings

- 5.12 This policy states that front boundary walls, which contribute positively to the character and appearance of the area, should be retained.

Policy Guidance Documents

- 5.13 The following documents set out relevant policies and guidance for the assessment of the appeal proposal. Whilst not referred to specifically in the reason for refusal, they provide context and guidance for the assessment of the proposal. The relevant sections are attached at **Appendix 3**.

The Camden Design CPG (2021)

- 5.14 The Camden Planning Guidance was adopted in 2021 and is a supplementary planning document. It provides guidance on detailed design issues for all developments within the borough. Chapter 4 relates to Landscaping and of particular relevance to this appeal, 'Boundary' walls, fences and railings'.

Conservation Area Statement – Redington/Frognaal (2004)

- 5.15 This statement provides the Council's approach to the preservation and enhancement of the Redington/Frognaal Conservation Area. The appeal site is within the Redington Frognaal Conservation Area, and more specifically, sub-area 2: The Crofts. Frontages, boundaries, and front parking areas are all identified as works that can have a significant impact on the character and appearance of the conservation area.

6.0 THE APPELLANTS CASE

Reason for refusal : The proposed front boundary treatment, by reason of its size, design and materials, would be a discordant and hostile addition to the street scene, causing harm to the character and appearance of the host property and the Redington Frognal Conservation Area, and to the sense of safety in the public realm, contrary to policies D1 (Design), D2 (Heritage) and C5 (Safety and Security) of the London Borough of Camden Local Plan and policies SD1 (Refurbishment of existing building stock), SD 5 (Dwellings: extensions and garden development) and SD6 (Retention of architectural details in existing buildings) of the Redington Frognal Neighbourhood Plan.

- 6.1 Policy D1 of the Camden Local Plan (the Local Plan) requires development to be of a high-quality design and respect the local context and character, preserve, or enhance the historic environment and heritage assets as well as use high quality materials and detailing that complement the local character. The policy continues that the Council will require new development to be secure and designed to minimise crime and antisocial behaviour.
- 6.2 Local Plan Policy D2 looks to preserve and where appropriate, enhance, Camden's heritage assets and their settings. The effect of the proposal will be assessed on the harm caused to the significance of the designated heritage asset; in this case the designated heritage asset is the Redington Frognal Conservation Area.
- 6.3 Local Plan Policy C5 aims to make Camden a safer place and requires developments to demonstrate that they have incorporated design principles which contribute to community safety and security.
- 6.4 Policy SD1 of the Redington Frognal Neighbourhood Plan (RFNP) requires the consideration of maintaining or increasing soft natural garden spaces within sites and consideration of active frontages to streets so as to provide overlooking and surveillance. It also encourages landscaping to be an integral part of the design and layout of the development and include planting with species of high biodiversity value.
- 6.5 RFNP Policy SD5 relates to extensions and garden development and requires the consideration of the retention of front boundary walls and hedges that contribute to the character and appearance of the conservation area.
- 6.6 RFNP Policy SD6 states that front boundary walls, which contribute positively to the character and appearance of the area, should be retained and where such features have been removed previously, their reinstatement is encouraged.
- 6.7 The Camden Design CPG in relation to boundary walls, fences and railings expect boundary treatments to *'contribute to qualities of continuity and*

enclosure within the street scene and provide site security and privacy'. It continues further by expecting the design, detailing and materials used for boundary treatments to provide a strong contribution to the character and distinctiveness of the area and integrate the site into the streetscene. Finally, for boundary treatments in a conservation area, the guidance expects that the works preserve and enhance the existing qualities and context of the site and surrounding area.

- 6.8 The proposal subject to this appeal, comprises of 4 main elements, being:
- replacement of front door, front steps and side gate;
 - installation of pergola to the rear garden;
 - hard and soft landscaping works to the front and rear gardens;
 - replacement of the front brick wall and timber fence with new brick wall, railings, and gates.
- 6.9 The delegated officer's report sets out that the first three elements of the proposal listed above are acceptable and therefore are not discussed in detail in this statement. Rather this statement will focus primarily on the replacement of the front boundary treatment, which the officer's report states that by virtue of their size, design and materials would be a discordant and hostile addition to the street scene, causing harm to the conservation area and the sense of safety in the public realm.

Character and Appearance

- 6.10 The existing front boundary treatment comprises of a low-level brick wall, which steps down in height over the frontage and includes a solid timber fence above. Neither element is an original feature of the property. The brick wall is constructed in modern, unsympathetic bricks, with an integrated timber fence that is not in keeping with the character of the 'Crofts' sub-area of the Redington Frognal Conservation Area. Both the wall and fence are in a state of disrepair. It is noted that the Redington Frognal Neighbourhood Plan policy SD5 seeks to retain front boundary walls that contribute to the character and appearance of the conservation area, however, the existing front boundary treatment, which includes the timber fence atop of the brick wall, is not a traditional feature of the property, nor does it contribute positively to the character and appearance of the conservation area.
- 6.11 It is noted that both the officer's report and the Redington Frognal Neighbourhood Forum do not specifically mention the existing timber fence in their comments, however, this does form part of the existing boundary treatment and its existence does represent the applicant's fallback position. There is no proposal to remove the timber fence from the property, should this appeal be dismissed.

- 6.12 The proposal would seek to remove the unsympathetic boundary wall/fence to the property and replace it with a low-level brick wall, with brick piers, built in reclaimed materials that would match the dwelling and local area. Above the brick wall, traditional wrought iron railings would be provided to a height of no more than 1.5m, which is lower than the existing timber fence, and include a new sliding gate across the driveway in the same design, to a height of no more than 1.5m. The proposed wrought iron gates and railings have been selected as they are sympathetic to the period of the existing property and its architectural character. The permeable design of the gate and railings allow for a better appreciation of the front garden landscaping as viewed from the street by providing an increased level of permeability then that of the solid gate/solid fence. In addition, the proposed design to the gate and railings also allows for an increase in passive surveillance from the site whilst allowing for an increase in security. The wrought iron gates and railings are proposed in a traditional design that are sympathetic to the appearance of the dwelling and the wider conservation area.
- 6.13 The design and finish of the proposed boundary treatment would be completed in high quality materials which complement the local character and harmonise well within the streetscape, the wider conservation area and when compared to the existing boundary treatment. Furthermore, when open, the proposed gates would slide back behind the metal railings and be largely screened from the streetscene.
- 6.14 In addition to replacing the current unsightly boundary treatment, the proposal would also incorporate greening and new soft planting within the front garden area of species of high biodiversity value and the replacement of the existing hardstanding with a permeable free draining driveway. As part of the refurbishment works being carried out to the property, the appellant is removing around a third of the paved driveway for greening enhancement. This is in accordance with policy SD6 of the Redington Frognal Neighbourhood Plan and meets the aspirations of the Redington Frognal Neighbourhood Forum in seeks achieving as much greenery as possible within gardens. The additional hard and soft landscaping package that is proposed as part of this scheme is considered to further enhance the appearance of the site, to the benefit of the street scene and the wider conservation area.
- 6.15 The scope of works that can be carried out at the site by permitted development rights (by virtue of the General Permitted Development Order) is also a significant material planning consideration. Permitted development would allow, without the benefit of planning permission, a front boundary gate to be installed at the premises to a height of 1m. The proposal seeks to provide wrought iron gates to a height of 1.5m and therefore is considered to have a negligible difference to the appearance of the site to what would otherwise be permitted without planning consent. It should also be acknowledged that the specific design of a gate could not be controlled by permitted development and, as such, a solid gate which fortifies the site, and which would be visually harmfully to the character of the street scene (compared to the proposed

wrought iron rail gates) could be installed at the site without permission, and may have been at several in the local area.

- 6.16 Relevant to this appeal proposal are the existing front boundary treatments within the local area, which form an integral part of the existing character and appearance of the Conservation Area. Whilst it is noted that the prevalent front boundary treatments to this part of Ferncroft Avenue are brick walls with hedging, there are still a range of approaches that have been taken including brick walls, brick walls with timber fencing, rendered walls, and all with a variation in their heights and finish. Access into driveways along Ferncroft Avenue are further varied with a mix of those properties with no gates or those finished with metal or wooden, solid or visually permeable, gates.
- 6.17 There are several examples within the locality of metal railings and gates across the vehicular access. These boundary treatments form part of the local character and appearance of the area and in several instances benefit from recent planning permissions from the Council. Enclosed in **Appendix 4** are a selection of photographs from properties on Ferncroft Avenue and adjacent streets (all within the Redington Frognal Conservation Area) that benefit from almost identical metal railings and or gates to the front of their properties. It is clear that they form a familiar design feature within the conservation area. As such, the proposal subject to this appeal would not be out of character with the local area or result in any identifiable harm to the character and appearance of the conservation area. The proposal is considered to be in keeping with the established character of the local area.



- 6.18 Planning permissions have recently been granted for vehicular gates on Ferncroft Avenue, where the proposed works were considered to have an acceptable visual impact. These include No 28 Ferncroft Avenue, which benefits from a front boundary treatment comprising low level brick wall, metal railings above and two tall opaque solid timber gates across each vehicular access. This scheme was granted planning permission (reference

2017/0699/P) by Camden Council. The Officers report (attached at page 2 of **Appendix 5**) states *'the timber vehicular gates are consistent with other properties nearby and the use of hedging in the middle section shall soften the boundary treatment. Overall, the proposed development is considered acceptable in design terms.'*



- 6.19 Whilst, it is noted that each planning application should be determined on its individual merits, the above examples and those within **Appendix 4** provide strong justification that the works proposed would not appear as discordant or hostile in the streetscene. The vast majority of railings and gates to existing properties locally are wrought iron similar to that proposed and would be seen within the context of similar boundary treatment throughout the local area. The proposed development would therefore be in keeping with the established character and appearance of the host property and the wider Conservation Area.

Safety and Security

- 6.20 The appellant has raised concerns with the Council about their own safety and security at the appeal site. This has followed on from several recent incidents.

- 6.21 Specifically, a recent overnight burglary whilst the appellant was alone at home with their young children, the recent armed mugging of two neighbours on their front driveways, the break-in of their own car whilst on the driveway on more than one occasion, the recent theft of a neighbour's car from their driveway and several break ins of cars within the local area. These incidents have eroded the appellant's sense of safety and security within their property and have been psychologically and extremely upsetting to the appellant. As a result, the appellant is very uncomfortable about unknown people being able to approach their front door directly and the appellant's sense of security is further affected by the fact that the existing property is located at street level whereby people can view straight into the property (compared to neighbouring properties in Ferncroft Avenue which are raised above street level). Furthermore, 10 Ferncroft Avenue is one of very few properties within the street which are detached, and which has points of entry either side (compared to that of neighbouring semi-detached properties) which poses an additional security risk to the appellant.
- 6.22 The preamble to Local Plan policy CS5 'Safety and Security' states that '*Crime and the fear of crime can undermine people's quality of life, health and wellbeing*', and therefore recognises the appellant's very real concern around crime and their need to feel safe and secure within their own home.
- 6.23 The proposal to use permeable railings for the front gate will allow for personal security whilst at home in the property, whilst still adhering to best practice design guidance in relation to street safety and security. Passive surveillance of the street scene and the site itself will remain possible through the use of open, visually penetrable railings. This will retain an 'active frontage' to the site and allow for the deterrence of crime through natural surveillance whilst allowing the appellant to feel safe and secure within their own home.
- 6.24 The appellant would further highlight that the design for the gate as originally submitted as part of this application, but later amended, was for a solid gate and boundary fence atop of the wall to restrict any visibility into and out of the site to achieve maximum privacy and security. However, as demonstrated by the submission of amended plans for a permeable rail gate and railings above the wall (the scheme the subject of this appeal), the appellant has been willing to compromise on the design to address the Council's concerns about visibility in and out of the site and to avoid the site becoming enclosed. As set out previously within this report, it is considered that the current design achieves both a level of security for the appellant whilst respecting the character and appearance of the conservation area and the streetscene.
- 6.25 For the reasons outlined above the development therefore complies with the intent of Local Plan policy CS5.

7.0 SUMMARY AND CONCLUSION

- 7.1 By virtue of the nature of the proposal, its high-quality design and material finish and its replacement of an unsightly, non-traditional front boundary treatment, the proposal would enhance and preserve the character and appearance of the host building and the Redington Frognal Conservation Area. The proposal is in line with the aspirations of Policies D1, D2 and C5 of the Camden Local Plan 2017 and policies SD1, SD5 and SD6 of the Redington Frognal Neighbourhood Plan 2021.
- 7.2 Contrary to the LPA's concerns that the proposal would create a '*discordant and hostile addition to the streetscene*', as set out in this statement, the proposal has been designed to be in keeping with the established boundary treatments within the local area and would replace an unsightly and untraditional front wall and fence that detracts from the character and appearance of the conservation area. Furthermore, the proposal would improve the existing hard and soft landscaping within the front garden area, providing additional greening to the site, and resulting in a significant improvement to the character and appearance of the host building.
- 7.3 The proposed brick wall, wrought iron railing and gates respond positively to the material finishes in the locality. The proposal is modest in scale and would assimilate well in the streetscape, preserve the existing streetscene and contribute positively to the character of the area.
- 7.4 The proposal provides a safe and secure home for the appellant whilst ensuring that good practice design standards have been met, allowing for passive surveillance of the streetscene from within the property.
- 7.5 In summary, the proposed development fulfils the three dimensions of sustainable development, as defined by the NPPF. The proposed development is in accordance with the adopted Development Plan and the Inspector is respectfully requested to allow the appeal.