

London Borough of Camden,
Planning – Development Control,
5 Pancras Square,
London,
N1C 4AG.

Dear Sir/Madam,

NO.1 THE OLD ORCHARD: RETROSPECTIVE PLANNING APPLICATION FOR BOUNDARY TRELLIS FENCE AND PROPOSED FURTHER ADDITION

Please find enclosed on behalf of our client, Mr Doll-Steinberg, an application for retrospective planning permission for the installation of a trellis to the boundary fence at the rear of his property, along with planning permission for a small additional element of fencing.

In compliance with local and national validation requirements, the following documents are included within the application:

- Signed and dated application forms and Certificates.
- Site Location Plan;
- Drawing Nos:
 - Drawing 4.0 V1: Shed and Fence Elevation
 - Drawing 4.1 V8: Trellis/Fence as Built
 - Drawing 4.2 V2: Trellis/Fence with Addition
- Supporting Letter from Peter Reader Landscapes
- Planning and Heritage Statement (included within this letter) with appendix.

The application fee of £238.00 has also been paid directly through the Planning Portal.

PLANNING AND HERITAGE STATEMENT

The Site

This application site is located within the Old Orchard development which was constructed in the 1970s and comprises 6 two-storey houses that occupy a triangular backland plot. The wider development is bounded on all sides by 19th century terraced houses that face onto Nassington Road, Tanza Road and Parliament Hill.

The property is set out between two floors. The entrance is located on the first floor where the open plan living area is located, and the bedrooms are located on the ground floor. In appearance, the dominant materials on the site are sand coloured brick with dark wood. The rear elevation is characterised by large

panes of glazing, this runs across the width of the rear elevation of the first floor where access to a narrow balcony is provided.

The site is not a listed building, nor is it a locally listed building. However, the site is located within the South Hill Conservation Area but is not covered by an Article 4 Directive.

Background to the Application

This application is submitted to the London Borough of Camden in response to Planning Application reference 2020/3293/P submitted by Jessica Simor and Philippe Haag at No.2 The Old Orchard. Planning permission was granted on 18/09/2020 for the *“External alteration to involve addition of staircase to rear elevation and addition of 1 rooflight to the front.”*. This property is directly attached to the application site.

During the determination of that application, our client submitted comments to the Council outlining their concerns on the impact that this application would have on their privacy and amenity enjoyed within their own property. An objection was made by Mr Doll-Steinberg to the Council during the public consultation period in September/October 2020 which referenced concerns in regard to the potential loss of privacy. These concerns were also raised with Councillor Higson who was in direct communication with the Case Officer.

It is clear that these concerns were not given sufficient weight at the time. Our client has a staircase from the first floor of his house to the garden, however it is located and designed in such a way as not to give rise to a privacy problem for a neighbour. Furthermore, in contrast to the new staircase at No 2 our client’s staircase is spiral and located on the rear elevation of their property away from the boundary. Our client supported the principle of a staircase being in place at No.2 but asked that it did not overlook his property. In reality, all concerns could have been addressed and problems avoided, with a minor alteration to the proposals and the relocation of the stairs to a more central position.

It is worth noting that a site visit was not undertaken by the Case Officer (this is in part related to restrictions owing to the Covid 19 pandemic). The judgement and assessment of the previous application proposals were based solely on photographs. This led to the misconception that there were significant existing views from No 2 The Old Orchard to No 1 The Old Orchard which had been stated by No 2 to the Case Officer.

As a site visit did not take place it also led to the misconception that our client’s house has direct garden access from a secondary location (Jonathan McClue’s Deputy Team Leader’s comments after the Members Briefing Panel held on 15th of February 2021 to Councillor Higson states *“The only property that did not have direct access to the garden from outside the house was No. 2 because it is in the middle of the terrace”*. Our client’s property however does not have direct garden access.)

Supporting photographs are included within Appendix 1, however, the images below prepared by our client, indicate the location of the balconies and stairs in question and proximity of this to their windows.



As expected, the erection of this staircase has had significant impact on privacy and security at our client's home and the new landing pad/step that has been put in place at the bottom of the stairs (as demonstrated on the approved plans) has raised the height in the neighbours' garden further exacerbating the issue.

The Proposals

The application seeks permission for the following:

"Retrospective Planning Application for Boundary Trellis Fence and Proposed Further Addition to the Fence"

These proposals are detailed in full within the accompany drawing pack prepared by Peter Reader Landscapes.

The planning application seeks to regularise the existing position at the site. Following discussions with Council Officers, it was confirmed with the application that planning permission would be required for the trellis that had been installed on top of the garden fence located on the boundary between Nos 1 and 2 The Old Orchard.

The trellis is constructed of larch battens and set in a particular way that breaks up the joins between the batten layers, allowing light through. This is shown on the photographs at Appendix 1.

Within the officer's report for application reference 2020/3293/P, the erection of a trellis was suggested by the applicants as a method of resolving the privacy concerns being raised by our client. This is noted in the Officer Report for the application and Officers also referenced this in correspondence relating to the proposals. Therefore it was considered as a reasonable solution to overcoming any privacy issues and it was not appreciated by the applicant that planning permission would be required for the works. However, now that it has been brought to his attention, this application seeks to regularise the position.

It became clear that once constructed it would be necessary to test on site what the appropriate height of the trellis would need to be to overcome the issues arising from the adjacent staircase. The proposals are therefore the minimum height required to regain privacy to their home.

As a wider point however, it is difficult to understand why planning permission was granted for the adjacent staircase when it was clearly acknowledged by the applicant and Officers that the impact of this would need to be mitigated. This mitigation should have been resolved as part of that application, ideally by moving the staircase away from the boundary, but in all options not leaving this to our client to resolve at their own cost. Our client has therefore worked with a well-regarded local landscape designer to solve the problem to mitigate the privacy and security issues caused by the No 2 staircase.

As demonstrated within the accompanying drawing pack, and detailed within the statement below, careful consideration has been given to the design and material palette of the fence and trellis. Overall, it is considered that what is proposed is a carefully designed solution which reinstates our client's privacy and security whilst respecting the character of the application site.

In addition to the regularising of the current situation, this application also proposes that addition is a small rhomboid shape extension to the trellis (as demonstrated on the excerpt of the plan at Figure 1 below). This extension will measure 400mm in height and 1000mm in length. This is required to ensure privacy at the applicant's property is maintained owing to the installation of the landing pad at the bottom of the recently installed stairs at No.2 the Old Orchard.

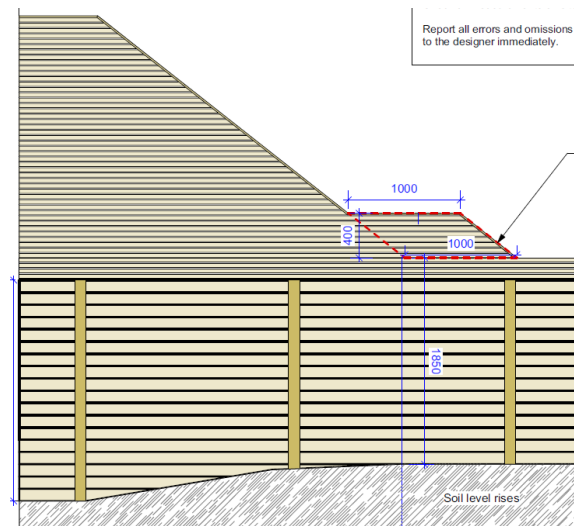


Figure 1: Proposed extension to trellis

The boundary fence is less than 2m in height, therefore, this element is allowed for under Schedule 2, Part 2, Class A of the General Permitted Development Order (GDPO) 2015. The new fencing is therefore excluded from the application as planning permission is not required for this.

Planning Policy Overview

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise. The Courts have held that the Government's statements of planning policy are such 'material considerations' which must be taken into account, where relevant, in decisions on planning applications.

The Development Plan for this site comprises:

- National Planning Policy Framework (2021);
- The London Plan (2021);
- Camden Local Plan (2017);
- Policies (Updated 2021);
- Camden Planning Guidance:
 - Home Improvements (January 2021);

- Design (January 2021);
- South Hill Park Conservation Area Statement (2001).

The policies that are of relevance to this application are set out below.

National Planning Policy Framework (NPPF) (2021)

The NPPF is the overarching policy framework for England and sets out the Government's Planning Policies to be applied. Paragraph 10 of the NPPF states that at the heart of the framework is a "presumption in favour of sustainable development". Paragraph 11 of the NPPF notes that for decision taking sustainable development means approving development proposals that accord with an up-to date development plan without delay.

In terms of decision taking, Paragraph 38 sets out that Local Planning Authorities should approach decisions on proposed development in a positive and creative way. It states that decision-makers at every level should seek to approve applications for sustainable development where possible.

Chapter 16 "Conserving and Enhancing the Historic Environment" details in Paragraph 192(c) that Local Planning Authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

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. Paragraph 196 states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The London Plan (2021)

- Policy D4 – Delivering Good Design
- Policy HC1 – Heritage Conservation and Growth
- Policy D3 – Optimising site capacity through the design led approach

Camden Local Plan (2017)

- Policy A1 – Managing the impact of development
- Policy D1 – Design
- Policy D2 – Heritage

Planning and Heritage Assessment

When assessing this application, the principal planning considerations are as follows:

- Impact of the proposals on the character and appearance of the conservation area; and
- Impact of the proposals on surrounding amenity.

These points are addressed in turn below.

Heritage and Design

The application site is located within the South Hill Conservation Area. Therefore, the main consideration arising from these proposals is the impact on the identified heritage assets. Adopted national and local planning policy requires that development proposals preserve or enhance the character of heritage assets. In this case, the designate heritage asset is the South Hill Conservation Area.

The assessment is considered proportionate to the importance of the identified heritage assets and is sufficient for the decision maker to understand and assess the impact of the proposals given their nature and extent. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 establishes a statutory duty for Local Planning Authorities in respect to any buildings or other land in a conservation area, that: “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

Policy D1 ‘London’s form, character and capacity for growth’ notes that development should have regard to the characteristics, qualities and value of different areas, including (inter alia) urban form and structure, heritage assets and views and landmarks. Policy HC1 ‘Heritage conservation and growth’ outlines the need for sensitive management of London’s heritage assets.

Locally, planning policy D2 requires development to maintain the character of Conservation Areas and development that causes harm to that, and the appearance, will be resisted.

The proposed external alterations will not impact upon the overall character or appearance of the Conservation Area. It is understood that lack of visibility does not always equate to lack of harm, however, in this instance the proposed fence is located in a rear garden and will not be visible at any point from the Conservation Area. Indeed, the wider Old Orchard site is not readily visible from anywhere within the Conservation Area and as such would be considered to have a limited impact in itself. Further to this, the proposed material palette and design have been carefully considered to reflect the surrounding area and to complement the existing character.

Therefore, considering the above, the proposals are seen to comply with Policy D2 of the Local Plan and the South Hill Conservation Area Statement, and do not have a negative impact on the character or appearance of the Conservation Area.

Impact on Amenity

Policy A1 of the Camden Local Plan sets out that the Council will “seek to ensure that the amenity of communities, occupiers and neighbours is protected”. While carrying out their assessment, Officers will consider visual factors, privacy and outlook as well as sunlight, daylight and overshadowing.

In order to protect amenity, the Council will expect development to avoid the harmful effects on the amenity of existing and future occupiers. Where this is not possible, appropriate measures to minimise potential negative impacts are permitted.

As set out within the background information above, this application is submitted as a direct result of the decision made by the Council to grant planning permission ref: 2020/3293/P. It is believed that the requirement for the application that is before you now could have been avoided through a proper and thorough assessment of the impact of the approved proposals on No.1 The Old Orchard. However, the staircase has been installed (as approved) and it is now necessary for the applicant to seek to mitigate the impact of this development on their privacy, amenity and to ensure the security of the site.

Within the Amenity Supplementary Planning Document, it is confirmed that interior and exterior spaces that are overlooked lack privacy and the places most sensitive are habitable rooms at the rear of residential buildings. The guidance confirms that habitable rooms “*are considered to be residential living rooms; bedrooms, and kitchens*”. The guidance also sets out in paragraph 2.10 that fences can act as privacy screens where necessary; “*Carefully sited permanent domestic structures, such as solid fences, pergolas, garden sheds, bin stores, and cycle storage, can also act as privacy screens*”.

The design of the trellis follows the line of the neighbouring staircase exactly and does not extend beyond it. The larch battens of the trellis are positioned in such a way so as to not create a solid fence and to allow

light through and avoiding a sense of enclosure. It is worth noting it is also significantly lower than No 2's privacy wall from No 3, as can be seen in the enclosed photos at Appendix 1.

Understandably, owing to the Covid 19 Pandemic, it was not possible for the case officer to visit the site when assessing application ref: 2020/3293/P. An appendix of site photographs accompanies this application; however, we would request that the allocated officer carry out a site visit in respect to this application. Photographs, whilst helpful, are not a substitute for a site visit.

Subsequently, it is considered that the proposals contained within this application serve to protect the amenity of the applicant as well as that of the neighbouring occupier as well as ensuring the security of the application site. It is evident that a considered approach was taken to the positioning and design of the trellis and therefore, it is considered to comply with the Council's policies on the matter.

Conclusion

This Planning and Heritage Statement has been prepared in support of a planning application for:

"Retrospective Planning Application for Boundary Trellis Fence and Proposed Further Addition"

This statement has set out the most relevant planning and heritage matters in respect of the proposed development, and it is considered that the proposals adhere to those.

The proposed addition to the garden fence will ensure that the privacy and amenity of the occupants of the application site as well as the adjoining property will be maintained and allowing for the applicant to reasonably enjoy their property without overlooking. Furthermore, the materials proposed have been carefully considered and do not negatively impact upon the appearance of the conservation area.

In the light of the above, the proposals are consistent with the relevant planning policies and guidance at national, regional and local level. Therefore, the application should be considered acceptable by the Council, and we respectfully request that planning consent is granted.

Yours faithfully,

Caroline McIntyre MRTPI

APPENDIX 1

APPENDIX 1

SUPPORTING PHOTOGRAPHS – 1 THE OLD ORCHARD

Site & Pre Staircase



View from balcony at No.1 in 2010

The large bamboo at No. 2 planted by the original owner of was removed to make way for a staircase on the boundary.

Much of the foliage at No. 2 viewed here has now disappeared (see below View from balcony at No. 1 2022).



Existing privacy wall between Nos.2 and 3 The Old Orchard. This is significantly higher than the trellis at No 1.



View from kitchen of No.1 before the staircase was erected at No.2.

SPRING

Post Staircase & Trellis



View from kitchen window of No.1 – handrail of stairs at No.2 in view.



View from No.1 The Old Orchard of person on the top of the stairs at No.2

Security compromised by ability to lean over to No 1 from the staircase.

SPRING



View of stairs of No.2 from ground floor bedroom of No.1 (application site).



View from balcony at No.1 in 2022 before work to install trellis.

SPRING

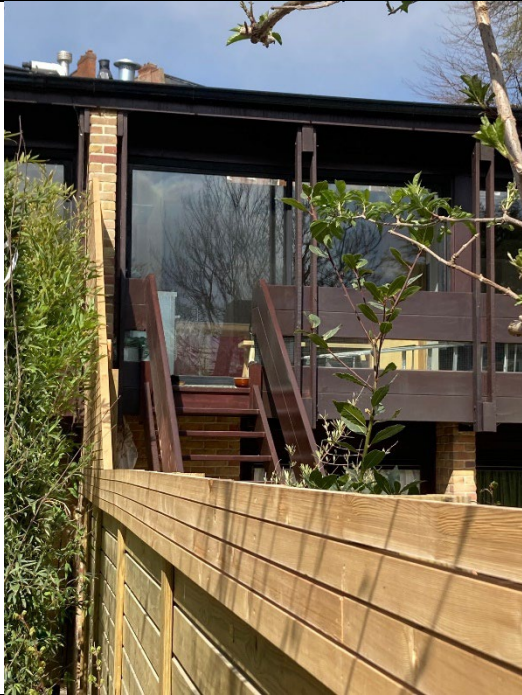


View from bedroom at No.1 prior to completion of existing trellis – staircase clearly visible.



View from kitchen window in No.1 of staircase.

SPRING



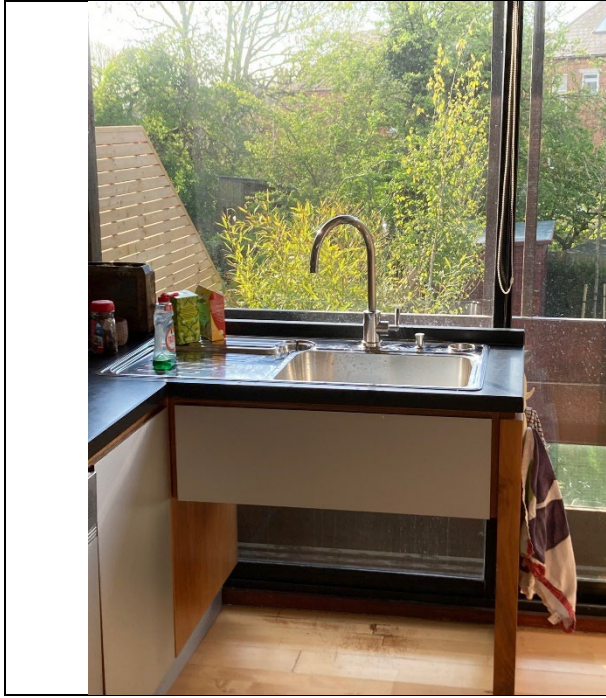
View of staircase at rear of No.2 with sloping trellis at No.1.



View of trellis that has been installed between No.1 and No.2

The trellis is smaller than No 2's privacy wall behind and lets in light.

SPRING



View of trellis from kitchen of No.1.