

PLANNING APPEAL
AGAINST AN ENFORCEMENT NOTICE SERVED BY THE LONDON BOROUGH OF
CAMDEN IN RESPECT OF THE UNAUTHORISED ERECTION OF AN
OUTBUILDING IN THE REAR GARDEN

AT: 282 FINCHLEY ROAD, LONDON, NW3 7AD

ON BEHALF OF: TRUMROS LIMITED

Planning Inspectorate Appeal Reference No
APP/X5210/C/22/3308835

APPEAL STATEMENT

of DEREK R HORNE DipTP MRTPI

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CHAPTER ONE

1.0.0 INTRODUCTION

1.0.1 My name is Derek Horne. I hold a Diploma in Town Planning from the former Central London Polytechnic and I am a Corporate Member of the Royal Town Planning Institute. I am Principal in the firm of Derek Horne & Associates, located at Longdene House, Hedgehog Lane, Haslemere, Surrey, GU27 2PH.

1.0.2 Our Company offers a consultancy service covering all fields of development work including office, industrial, housing, recreation, retail and conservation projects to developers, property companies, financial institutions, pension funds, industrialists, land owners, local authorities and other public bodies.

1.0.3 My experience covers a period in excess of 50 years, during which I have specialised in all aspects of the planning profession; with over 21 years working within local authorities and in excess of 30 years in private practice. Between 1986 and August 1992 I held the position of Managing Director to Covell Matthews Wheatley Planning Limited, a major planning practice with offices in London, Reading and Cambridge. Prior to that I was Head of the Planning Department of Guildford Borough Council, a position I held for 7 years.

1.0.4 I have been retained by Mr Ronald Hofbauer of Trumros Ltd who is a Director of the company, to prepare and present an appeal statement in support of this appeal.

1.05 This appeal is lodged with the Planning Inspectorate in response to the Council's decision to serve an Enforcement Notice in relation to this alleged unauthorised erection of an outbuilding in the rear garden of the appeal site.

1.06

In Chapter Two, I set out details of the alleged unauthorised development. In Chapter Three, I describe the appeal site and the surrounding area. The planning history of the appeal site is addressed in Chapter Four. Government advice, as contained within the National Planning Policy Framework is addressed in Chapter Five, the policies of the Mayor of London in Chapter Six and the policies of the London Borough of Camden in Chapter Seven. In Chapter Eight, I set out the planning issues which I consider arise from the Council's reasons for issuing the Enforcement Notice. In Chapter Nine, I set out my planning considerations and In Chapter Ten my summary and conclusions.

CHAPTER TWO

2.0.0 DETAILS OF THE ALLEGED UNAUTHORISED DEVELOPMENT THE SUBJECT OF THE ENFORCEMENT NOTICE

2.0.1 The Enforcement Notice dated 16th September 2022 the subject of this appeal was served upon the owner of 282 Finchley Road, London, NW3 7AD.

2.0.2 The Notice alleges under paragraph 3:
“Without planning permission, the erection of an outbuilding in the rear garden”.

2.0.3 The following reasons are given for serving the Enforcement Notice:

- a) The development has occurred within the last 4 years.
- b) The outbuilding, by virtue of its size, design and siting, detracts from the nature conservation, biodiversity and amenity value of the rear garden and also fails to reduce the risk of flooding at the site, contrary to the aims of policies A1, A2, A3, CC2, CC3 and D1 of the Local Plan and SD2, SD4, SD5 and BG1 of the Neighbourhood Plan;
- c) The outbuilding, by virtue of its size, design and siting, detracts from the character and appearance of the application site and the wider area, including the Redington Froggnal Conservation Area, contrary to the aims of policies D1 and D2 of the Local Plan and SD4 of the Neighbourhood Plan;
- d) In the absence of an adequate Tree Survey and Arboriculture Impact Assessment, the applicant has failed to demonstrate the development does not cause unacceptable harm to trees, contrary to the aims of policies A3 of the Local Plan and BGI 2 of the Neighbourhood Plan;
- e) In the absence of an adequate noise and vibration assessment, the applicant has failed to demonstrate the development does not generate unacceptable noise and vibration impacts contrary to the aims of policies A1 and A4 of the Local Plan;
- f) The outbuilding, by virtue of its size, design and siting causes unacceptable harm to the amenity of surrounding residential occupiers by way of loss of

- visual privacy, overlooking and loss of outlook, contrary to the aims of policies A1 and A4 of the Local Plan and SD4 and SD5 of the Neighbourhood Plan; and
- g) Failure to justify the need for active cooling by reducing and mitigating the impact of overheating through the application of the cooling hierarchy, thereby failing to minimise carbon dioxide emissions, contrary to policies CC1 and CC2 of the Local Plan and Neighbourhood Plan policy SD1.

2.0.4 The Notice requires the following to be done:

1. Permanently remove the outbuilding including foundations; make good any resulting damage and restore the garden to its previous condition.

2.0.5 One month is given for compliance with the Enforcement Notice after it takes effect on 29th October 2022.

2.0.6 An appeal against the Enforcement Notice was lodged with the Planning Inspectorate dated 12th October 2022. A copy of the Enforcement Notice and the initial appeal are included in **Appendix 1** of this Statement.

CHAPTER THREE

3.0.0 DESCRIPTION OF THE APPEAL SITE AND THE SURROUNDING AREA

3.0.1 The appeal site is situated in a primarily residential area on the northern side of the Finchley Road, a short distance from Finchley Road and Frognal stations.

3.0.2 Finchley Road is a heavily trafficked route into Central London, with relatively high ambient noise levels. Whilst much of Finchley Road is commercial in character, that part of Finchley in the vicinity of the appeal site is wholly residential, with residential properties fronting Finchley Road on its north side either side of the appeal site.

3.0.3 The appeal site is occupied by one of a pair of semi-detached 3-storey houses. Number 282 has been subdivided into 8 flats with a short front garden facing onto Finchley Road. The pair of semi-detached properties are situated on elevated land overlooking Finchley Road. Within the front garden of the appeal site with direct access onto Finchley Road is a single storey flat roof garage, which is currently vacant and used as an office.

3.0.4 Either side of number 282 and 284 Finchley Road to the north, are residential properties of between 4 and 5 storeys. Immediately adjacent to the north is a more recent housing development of 3 and 4 stories called Studholme Court.

3.0.5 Albermarle Mansions, located immediately to the south east and abutting the appeal site comprises a block of 12 flats in a building 4 storeys in height. It has a very small garden located adjacent to the appeal site with windows at first and second floors directly facing onto the appeal site garden.

3.0.6 Numbers 1, 2 and 3 Heath Drive are all three storey Edwardian residential properties occupied as flats with extremely small rear gardens. These properties all contain windows in the upper floors which, consequently,

directly overlook the garden of the appeal site.

3.0.7 The rear garden of number 282 Finchley Road measures approximately 27 metres in length with a width tapering from approximately 7 metres immediately to the rear of the existing principal dwelling, down to just under 3 metres at the end of the garden.

3.0.8 The outbuilding the subject of this Enforcement Notice, measures a maximum of approximately 3 metres wide by 5.3 metres long and a height of 2.5 metres to a flat roof.

3.0.9 The outbuilding is constructed of stained timber walls on a concrete base with a felt roof. It is located approximately 11 metres from the rear elevation of the principal building with a staggered elevation of between 0.2 and 1 metres from the side boundary of No. 284 Finchley Road, and between 0.7 and 1.1 metres from the rear boundary of the gardens of properties fronting Heath Drive.

A Location Plan showing the appeal site and surrounding properties, together with photographs is included in **Appendix 2** to this Statement.

CHAPTER FOUR

4.0.0 PLANNING HISTORY OF THE APPEAL SITE

4.0.1 An application seeking prior approval for the change of use from offices (B1a) to residential at ground and first floor levels was granted for four 1-bedroom residential units and the installation of a secure bicycle store for 4 bikes, subject to a Section 106 legal agreement, under reference number 2018/4695/P in a decision dated 4th December 2018, see **Appendix 4**.

4.0.2 An application seeking prior approval for the change of use from offices (B1a) to residential at ground and first floor levels to provide eight 1-bedroom residential units and installation of a cycle store was granted subject to a Section 106 legal agreement, under reference number 2018/6295/P in a decision dated 11th March 2019, see **Appendix 5**.

4.0.3 In a Decision Notice dated 5th November 2019, planning permission was granted for a single storey rear extension and the installation of 2 roof lights to the rear and side roof slopes, under reference number 2019/4111/P, see **Appendix 6**.

4.0.4 Under reference number 2021/6220/P, a planning application was submitted on 21st December 2021 in respect of Lyncroft Studios, Flat 1, 282 Finchley Road, for retrospective planning permission for the erection of an outbuilding in the rear garden. The Council records reveal an Officer's Report recommending that planning permission be refused, and that enforcement action be taken. Planning permission was subsequently refused in a Decision Notice dated 13th July 2020. An Enforcement Notice dated 16th September 2022 was subsequently issued in respect of the outbuilding. Copies of the plans submitted with the application the Officer's Report are included in **Appendix 3** of this Statement.

CHAPTER FIVE

5.0.0 GOVERNMENT ADVICE

- 5.0.1** Paragraphs 7 of the National Planning Policy Framework declares that the purpose of the planning system is the achievement of sustainable development.
- 5.0.2** Sustainable development is explained in Paragraph 8 as meaning, in relation to the environmental objective referred to in Paragraph 8c, to protect and enhance the natural, built and historic environment, including effective use of land.
- 5.0.3** Paragraph 10 indicates that at the heart of the framework is a presumption in favour of sustainable development.
- 5.0.4** Paragraph 11 advises that decisions should apply a presumption in favour of sustainable development.

CHAPTER SIX

6.0.0 THE LONDON PLAN MARCH 2021

6.0.1 Below, consideration is given to the policies of the Mayor of London. Extracts from the document to which reference is made are included in Appendix 7 to this statement.

6.0.2 Policy GG2 is entitled “Making the best use of land”. The policy indicates that in order to create successful mixed-use places that make the best use of land, those involved in development must, inter-alia: -

- b) Prioritise sites which are well connected by existing public transport, and
- c) Proactively explore the potential to intensify the use of land to support additional homes and workspaces and promoting higher density development.

6.0.3 Policy D6 addresses the topic of housing quality. Sub-paragraph “A” of this policy requires housing development to be of high-quality design and provide adequately sized rooms. The policy refers to Table 3.1, details of which are set out below in relation to 1-bedroom and 2-bedroom dwellings. The full text of the Policy and Table 3.1 are included in Appendix 7 to this Statement.

Type of dwelling		Minimum gross internal floor area ⁺ and storage (square metres)			
Number of bedrooms (b)	Number of bed spaces (persons(p))	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37)*	N/A	N/A	1
	2p	50	58	N/A	1.5
2b	3p	61	70	N/A	2
	4p	70	79	N/A	2

Notes to Table 3.1

Key

b: bedrooms

p: persons

* Where a studio / one single bedroom one person dwelling has a shower room instead of a bathroom, the floor area may be reduced from 39 sq.m. to 37 sq.m. as shown bracketed.

6.0.4 Paragraph 3.6.1 points out that the Plan sets out minimum space standards for dwellings of different sizes in Policy D6 Housing Quality and Standards and Table 3.1 (**See Appendix 7**).

CHAPTER SEVEN

7.0.0 LONDON BOROUGH OF CAMDEN LOCAL PLAN POLICIES 2017

- 7.0.1** Below consideration is given to the Camden Local Plan 2017. Extracts from this document to which reference is made are included in **Appendix 8** of this statement.
- 7.0.2** Policy H1 sees to “maximise” the supply of housing exceeding the target of 16,800 homes from 2016/17 to 2030/31. Policy H1(a) indicates that self-contained homes are the priority land use of the Local Plan. Policy H1(d) states that where sites are underused, maximum reasonable provision is expected.
- 7.0.3** Paragraph 3.8 indicates Camden’s full objectively assessed housing need for 2016-2031 is 16,800 (1,200 per year). This comprises a minimum annual monitoring target for Camden as set out in The London Plan 2015 of 889, to which reference is made in paragraph 3.16 thereof. Please note that this figure was increased to 1038 in The London Plan March 2021.
- 7.0.4** In paragraph 3.33, the Council states that residential densities in areas of higher public transport, accessibility should be at the higher end of the appropriate density range.
- 7.0.5** Policy H2 encourages the inclusion of self-contained homes in non-residential developments.
- 7.0.6** In paragraph 3.143, the Council makes reference to the nationally described internal space standards, which were incorporated into The London Plan 2016 (3.3). These standards are repeated in The London Plan 2021 (see Table 3.1 – **Appendix 7**).

- 7.0.7** Policy A1 deals with managing the impact of development. The policy seeks to protect the quality of life of occupiers and neighbours in relation to such matters as visual privacy, outlook, artificial lighting, noise and vibration.
- 7.0.8** Policy A2 deals with open space. Policy A2(b) seeks to safeguard open space on housing estates, whilst allowing flexibility for the reconfiguration of land use.
- Policy A2(e) seeks to protect non-designated spaces with nature conservation, townscape and amenity value, including gardens, where possible.
- 7.0.9** Policy A3 addresses biodiversity. Policy A3(c) seeks to protect features of conservation value, including gardens, wherever possible. Policy A3(j) seeks to resist the loss of trees and vegetation of significant amenity, historic culture or ecological value, including proposals which may threaten the continued wellbeing of such trees and vegetation.
- 7.0.10** Design is the topic of Policy D1. The policy, inter-alia, states that it will require development to respect context, and character, be of sustainable and durable construction, with details and materials of a high quality and compliment local character. For housing Policy Da(n), proposals are required to provide a high standard of accommodation.
- 7.0.11** Policy D2 of The Local Plan addresses the topic of heritage. It states that the Council will preserve and, where appropriate, enhance the Borough's rich and diverse heritage assets and their settings, including conservation areas.
- 7.0.12** Policy D2(e) requires that development within the conservation area preserves or, where possible, enhances the character and appearance of the area.

- 7.0.13** Policy D2(g) states that it will resist development outside a conservation area that causes harm to the character and appearance of the conservation area.
- 7.0.14** Policy D2(h) seeks to preserve trees and garden spaces that contribute to the character and appearance of the conservation area.
- 7.0.15** Policy CC1 addresses the topic of climate change mitigation. The Policy requires all developments to minimise the effects of climate change.
- 7.0.16** Policy CC2 addresses the topic of adapting to climate change. The Policy requires all developments to adopt appropriate climate change measures such as, inter-alia:
- a) Protection of existing green spaces and promoting new appropriate green infrastructures
 - b) Not increasing, and wherever possible, reducing surface water run off through increasing permeable surfaces and use of sustainable drainage systems.
 - c) Incorporating biodiverse roofs and combination and green roofs.
 - d) Measures to reduce the impact of urban dwelling overheating, including the application of the cooling hierarchy.
- 7.0.17** Policy T2 deals with parking and car free development. It requires all new developments in the borough to be car free.

CHAPTER EIGHT

8.0.0 REDINGTON FROGNAL NEIGHBOURHOOD PLAN (SEPTEMBER 2021)

8.0.1 Below consideration is given to the Policies set out in Redington Frognal Neighbourhood Plan, extracts from which referred to below are included in **Appendix 9** of the Statement.

8.0.2 Policy SD1 requires garden development to comply with Policies SD2 to SD5 of the Neighbourhood Plan and maximise the area of soft, natural landscaping, to act as a carbon sink to help mitigate against climate change and the urban heat island effect.

8.0.3 Policy SD2 requires new developments to preserve or enhance the green garden character and appearance of the “Conservation Area”. This includes, inter-alia, trees and hedges and the open garden suburb character created by well vegetated front, side and rear gardens.

8.0.4 Policy SD3 encourages the provision of electric charging points for existing and proposed parking spaces.

8.0.5 Under Policy SD4, development is required to complement the character of the Redington Frognal Area and the immediate site context. Amongst the matters that are listed for “consideration” are:

- i) The scale, massing and height should respond to the characteristics of the area – the prevailing area being two to four stories high.
- iii) Development should not cause significant detriment through loss of light or increased shading.
- v) The plot ratio coverage of buildings to open spaces should respond to the character of the area.
- vii) A soft natural garden space should be maintained or increased.

8.0.6 Policy SD5 requires outbuildings to be designed to complement the character of the original building and context. The Policy requires all seven of the matters listed to be considered. These include under SD5(iii) that outbuildings should not involve a “significant” reduction in the overall natural soft surface and have no significant adverse impact on the amenity, biodiversity and ecological value of the site.

Outbuildings must be considered against sub-paragraphs i – viii thereof, of which the following are particularly important:

- iv) Minimise hard surface areas to those necessary for the maintenance of the site, always allowing for drainage of surface water.
- vi) Where tree removal is unavoidable, such as the removal of dead, dying or unsafe trees, they should be replaced by similar or other mature species.

8.0.7 Policy BG1.2 seeks the retention of existing trees and their incorporation in any development. The Policy requires that trees important to biodiversity, rear garden tree corridors, local character or the Conservation area should be protected.

8.0.8 In Section 5.1 of the Neighbourhood Plan, guidance is provided on sites identified as having possibilities for redevelopment. Under reference Number RF8, Nos. 282 and 284 Finchley Road are identified as a potential site for the development of up to 12 flats in a new 4-5 storey building.

CHAPTER NINE

9.0.0 ISSUES ARISING FROM THE COUNCIL'S REASONS FOR ISSUING THE ENFORCEMENT NOTICE, THE SUBJECT OF THIS APPEAL

9.0.1 Issue 1) Whether the outbuilding by virtue of its size, design and siting, detracts from the nature, conservation, biodiversity and amenity value of the rear garden, contrary to Policies A1, A2, A3, CC2, CC3 and D1 of the Local Plan and SD2, SD4, SD5 and BG1 of the Neighbourhood Plan.

Issue 2) Whether the outbuilding, by virtue of its size, design and siting, detracts from the character and appearance of the application site and the wider area, including the Redington Frogna Conservation Area, contrary to Policies D1 and D2 of the Local Plan and SD4 of the Neighbourhood Plan.

Issue 3) Whether the development has caused unacceptable harm to trees, contrary to the aims of Policies A3 of The Local Plan and BG1 2 of The Neighbourhood Plan.

Issue 4) Whether the development has caused unacceptable noise and vibration impacts, contrary to the aims of Policies A1 and A4 of The Local Plan.

Issue 5) Whether the development causes unacceptable harm to the amenity of surrounding residential properties by way of loss of visual privacy, overlooking and loss of outlook, contrary to the aims of Policies A4 of The Local Plan and SD4 and SD5 of The Neighbourhood Plan.

Issue 6) Whether the development by virtue of active cooling has failed to minimise carbon dioxide emissions contrary to Policies CC1 and CC2 of The Local Plan and Policy SD1 of The Neighbourhood Plan.

CHAPTER TEN

10.0.0 PLANNING CONSIDERATIONS

- 10.0.1** The outbuilding, the subject of this appeal is illustrated in the drawings that were submitted by EA Town Planning Ltd which accompanied an application seeking planning permission for the erection of an office storage building in the rear garden (retrospectively) dated 21st December 2021, reference number 2021/6220/P.
- 10.0.2** In answer to Question 10, the applicant declared that commencement of the building took place in November 2021.
- 10.0.3** In answer to Question 19, the applicant declared that the proposal was not within 20 metres of a water course and that surface water was to be disposed of by a main sewer. In relation to matters associated with biodiversity and geological conservation, the application declared no impact.
- 10.0.4** The writer is advised that following the submission of the above application, there was no dialogue with the Council. The planning application was subsequently refused in a Decision Notice dated 13th July 2020 and the Enforcement Notice was issued on 16th September 2022. Copies of the application form, the accompanying plans, the Officer's Report and the Decision Notice dated 13th July 2022 are all included in **Appendix 3** of this statement.
- 10.0.5** The outbuilding, the subject of this appeal, measures 5.3 metres in length by 3.0 metres in width and 2.8 metres in height. The flat roof slightly overlapping the external walls of the building.
- 10.0.6** From the writer's experience on site, the building is approximately the dimensions of a conventional single garage.

- 10.0.7** The outbuilding is located centrally within a garden measuring approximately 27 metres long. It is clad in stained timber with a flat roof and located approximately 11.0 metres from the main rear wall of the existing principal building.
- 10.0.8** Before consideration of the issues identified in Chapter Nine, the writer would firstly highlight the Council's record in regard to its aspirations of meeting or exceeding its housing targets.
- 10.0.9** In the Council's Annual Monitoring Report of 2017/18 published in 2019, it is recorded on Page 13, Paragraph 3, that against an annual target of 1,120 net additional homes, 854 additional homes were completed, that is a shortfall of 266 dwellings.
- 10.0.10** Enquiries of the Council's website indicate that the above figures for 2017/18 are the most recently published.
- 10.0.11** Whilst the outbuilding the subject of this appeal would not provide for an additional dwelling, it will certainly provide welcome additional residential accommodation ancillary to one of the existing self-contained flats.
- 10.0.12** In **Appendix 5** of this Statement, details are provided of the residential accommodation with the 8 flats, which are located in the principal buildings, with the benefit of planning permission granted under reference number 2018/6295/P. These vary in floor area from 14.66 sq. meters (Flat 6) to 25.68 sq. meters (Flat 2). If the outbuilding the subject of this appeal is used as ancillary residential accommodation to Flat 2, that flat would then meet with the minimum floorspace requirements of both the London Plan and the Camden Local Plan 2017.
- 10.0.13** Consideration is now given below to the issues identified in Chapter 9.

- 10.1.0** Issue One:
Whether the outbuilding, by virtue of its design and siting, detracts from the nature, conservation, biodiversity and amenity value of the rear garden.
- 10.1.1** I am advised that the construction of the outbuilding, the subject of this Enforcement Notice, did not involve the felling of any trees, notwithstanding the appellants entitlement to fell trees within his garden, (which is not within a conservation area) and none of the trees are protected by a Tree Preservation Order.
- 10.1.2** I am advised that the building was constructed using a concrete raft foundation rather than the use of footings, which would require more substantial foundations deeper into the ground. In this way, it was intended to cause minimal interference with the root systems of the existing trees. It is acknowledged that by virtue of their close proximity to the outbuilding, some branches of the lower canopies of the trees were removed.
- 10.1.3** As stated in Paragraph 10.0.2 above, construction of the outbuilding was commenced in November 2021. When the writer recently visited the appeal site, the existing trees did not appear to be suffering from the building works, which were undertaken a year earlier. Confirmation of this is provided in a report by an Arboriculturist dated 1st November 2022 (see **Appendix 10**).
- 10.1.4** Prior to the erection of the outbuilding, the subject of this appeal, the appeal site was primarily laid to lawn, with a number of semi-mature trees spread throughout the rear garden. The writer is advised that no trees have been felled. Part of the rear garden further from the principal building is laid with artificial grass – presumably for ease of maintenance.
- 10.1.5** Since the outbuilding is situated in an area of land previously laid to grass, which was regularly mowed, the loss of garden lawn of itself would have no

direct material impact upon the ecology of the land. Moreover, since no trees have been removed as a consequence of the erection of the building, with only minor reductions in the canopies of trees adjacent thereto, the development has not had a material impact upon the verdant character of the garden. In addressing this point, it should be appreciated that the garden is not located within a conservation area and the trees are not the subject of a Tree Preservation Order. Consequently, there is currently no restriction upon the felling of all or any of the existing trees.

10.1.6 The outbuilding is of modest size in terms of height, width and depth, and is constructed of traditional materials. It occupies a relatively small proportion of the rear garden, and its physical impact has been lessened by the retention of all existing trees. It is located within a garden surrounded by residential properties. By virtue of its modest size and height, and the retention of existing vegetation, it is not considered the outbuilding materially detracts from the amenity value of the rear garden. On the contrary, it could very well be argued that the outbuilding would actually enhance amenity provision and encourage greater use of the garden, with facilities for storing garden furniture, open air play materials etc, during winter and when not in use, as well as providing additional quality recreational space.

10.1.7 The existing trees in the garden meant that part of the garden had much more limited use, receiving little or no direct sunlight. It was for that reason that the outbuilding was deliberately sited precisely where it would cause minimal impact to the normal use of the garden, in what was a densely shaded area, well to the rear of the open space and away from the rear of the principal building, thus allowing maximum use of the open and sunnier parts of the garden.

10.2.0

Issue 2:

Whether the outbuilding by virtue of its size, design and siting detracts from the character and appearance of the application site and wider area, including the Redington & Frognal Conservation Area.

10.2.1

The character and appearance of the appeal site and the wider area can be described as residential, with the rear garden of the appeal site, along with the neighbouring rear garden of number 284 Finchley Road, being surrounded by the rear gardens of neighbouring residential properties. In contrast to the rear gardens of the appeal site and number 284 Finchley Road, all the surrounding rear gardens are small with very short rear gardens. The surrounding buildings rise to between three and five stories. This is clearly illustrated in Map 24 of the site reference RF:282-284 Finchley Road in the Redington Frognal Neighbourhood Plan (see **Appendix 9**).

10.2.2

This map illustrates the dense residential character of the surrounding area with rear gardens laid to grass and with some trees.

Even with the retention of the outbuilding, the subject of this appeal, the character of the appeal site and the surrounding area, which is enclosed by the surrounding buildings, will remain materially unchanged.

Arguably, the neighbourhood plans for the re-development of numbers 282 and 284 Finchley Road, replacing the existing two storey semi-detached houses with a “four to five storey building of twelve units”, would have a far greater impact upon the character and appearance of the application site and the wider area than the outbuilding the subject of this appeal, and a reduction in the availability of amenity space to the occupiers.

10.2.3

For the above reasons, it is concluded that the outbuilding, the subject of the appeal does not detract from the character and appearance of the appeal site and the wider area, including the adjacent Redington Frognal Conservation Area.

- 10.3.0** Issue 3:
Whether the development has caused unacceptable harm to the trees
- 10.3.1** The writer is advised that no trees have been felled within the appeal site to accommodate the outbuilding the subject of this appeal.
- 10.3.2** Whilst the existing trees have all been retained, the question arises as to whether the proximity of the outbuilding to these trees has caused material harm which would prejudice their retention.
- 10.3.3** In order to answer this question, the appellant has retained the services of an Arboriculturist to examine the trees. His findings are appended to this statement (see **Appendix 10**). The Inspector will see that the findings conclude the outbuilding has not caused unacceptable harm to the existing trees.
- 10.4.0** Issue 4:
Whether the development has caused unacceptable noise and vibration impacts
- 10.4.1** It is acknowledged that the appeal site is located in a residential area surrounded by residential properties. However, it is also pointed out that Finchley Road is a heavily trafficked route into Central London. Consequently, ambient noise levels are high from passing traffic. The appeal site is located within an area where some properties are likely to have installed air-conditioning.
- 10.4.2** At the time of the writer's site visit, noise from the air-conditioning unit, which is located externally on the outbuilding, was inaudible. However, in view of the concerns expressed by the Council, the appellant removed the offending air-conditioning unit. Its removal will no doubt be confirmed by

their Inspector on his site visit.

10.5.0 Issue 5:

Whether the development causes unacceptable harm to the amenity of surrounding residential properties by way of loss of visual privacy, overlooking and loss of outlook.

10.5.1 The rear garden of the appeal site is surrounded by residential properties which back onto the appeal site.

10.5.2 To the east, are the rear gardens of the flats comprising 1-12 Albermarle Mansions, and 1-5 Heath Drive. These gardens are situated at a lower level than the rear gardens of the appeal site. Currently, the boundary between the appeal site and these properties is poorly defined. Consequently, any person within the rear garden of the appeal site can look down into the west facing windows of the lower floors of the existing buildings. This was possible before the erection of the alleged unauthorised outbuilding.

10.5.3 However, it is conceded that it would also be possible to look towards the west facing windows of the lower floors of these adjacent properties from the east facing window in the eastern elevation of the outbuilding.

10.5.4 Any privacy concerns arising from the above circumstances can be fully overcome by the provision of a 2-meter-high close boarded fence. If one were erected along the eastern boundary of the rear garden of the appeal site, this would preclude the possibility of overlooking, and any perceived loss of privacy from the garden of the appeal site and also from the east facing window of the unauthorised outbuilding.

10.5.5 It should be pointed out that properties to the east contain windows at upper floor levels which face directly towards the appeal site. In addition. One of

these properties at first floor level has a patio / balcony that directly faces the appeal site. This clearly overlooks the garden of the appeal site. Notwithstanding the foregoing, if the Inspector considers there to be potential overlooking of any neighbouring property, he is invited to impose a condition requiring the erection of a 2-metre high close-boarded fence along the eastern boundary of the rear garden to the appeal site.

10.5.6 Those residential properties situated to the west are not considered to be overlooked. The rear garden boundary between numbers 282 and 284 Finchley Road comprises a 1-metre high close-boarded fence.

The properties beyond in Studholme Court have rear elevations facing the appeal site at first floor level. See photograph number (to be added). Whilst it is possible to look into the rear garden of number 284 Finchley Road, so can the occupants of number 282 Finchley Road look into the rear garden of the appeal site. Such a relationship is commonplace and can be easily rectified by either party, if required.

10.6.0 Issue 6:

Whether the development by virtue of active cooling has failed to minimise carbon dioxide emissions.

10.6.1 In Paragraphs 5.1 to 5.3 of the Officer's Delegated Report in respect of Planning Application Reference Number 2021/6220/P for the erection of the outbuilding the subject of the Enforcement Notice, the Council raises objection to the air-conditioning unit that was mounted to the rear of the outbuilding. I am advised that this air-conditioning unit has been removed by the Appellant and, consequently, planning permission is no longer being sought for its retention.

CHAPTER ELEVEN

11.0.0 SUMMARY AND CONCLUSIONS

- 11.0.1** The Enforcement Notice, dated 16th September 2022, the subject of this appeal, alleges, without planning permission, the erection of an outbuilding in the rear garden of 282 Finchley Road.
- 11.0.2** The Enforcement Notice requires the permanent removal of the outbuilding, including foundations and the making good any resulting damage and restore the garden to the previous condition.
- 11.0.3** One month is given for compliance with the Enforcement Notice after it takes effect on 29th October 2022.
- 11.0.4** An appeal against the Enforcement Notice was lodged with the Planning Inspectorate dated 12th October 2022. The appeal was lodged under Grounds (a) and (g).
- 11.0.5** The appeal site is situated in a primarily residential area on the northern side of Finchley Road. Finchley town centre is located nearby and is served by Finchley Road and Frognal stations.
- 11.0.6** Either side of the appeal site are attractive period residential properties of between 4 and 5 storeys in height.
- 11.0.7** The rear gardens of Albermarle Mansions and Numbers 1, 2, and 3 Heath Drive all abut the appeal site with windows in the rear and side elevations of the buildings which overlook the garden of the appeal site.
- 11.0.8** Along with its neighbouring property, Number 284 Finchley Road, the appeal site has an uncharacteristically long rear garden compared with neighbouring properties.

- 11.0.9** The principal building on the appeal site is the subject of a prior approval, which was granted for the change of use of ground, first and second floor levels from offices to residential, to provide four 1-bedroom flats and a bicycle store in December 2018. Subsequently, prior approval was granted to convert the same three floors to eight 1-bedroom flats in March 2019.
- 11.0.10** Planning permissions was subsequently granted for the erection of a single storey rear extension, and the installation of two roof lights in November 2019.
- 11.0.11** On the 21st December 2021, a planning application seeking planning permission for the erection of an office storage building in the rear garden of the appeal site was submitted to the Council. The application was subsequently refused in a decision dated 13th July 2022.
- 11.1.0 Government Advice**
- 11.1.1** Government advice in Paragraph 8c of the National Planning Policy Framework indicates that its environmental objective is to protect and enhance the natural, built and historic environment, including the effective use of land. Paragraphs 10 and 11 of the same document refer to a presumption in favour of sustainable development.
- 11.2.0 Development – The London Plan 2021**
- 11.2.1** Policy GG2 Of the London Plan urges those involved in development to make best use of land, prioritise sites well connected to public transport and proactively explore the potential to intensify the use of land to support additional homes and workplaces and promoting higher density development.
- 11.2.2** Table 3.1 and Policy D6 of the London Plan set out the minimum gross

internal floor area for 1-bedroom dwellings, to which paragraph 3.6.1 refers.

11.3.0 The London Borough of Camden Local Plan Policies 2017

11.3.1 Policy H1 seeks to “maximise” the supply of housing, exceeding the target of 16,800 homes from 2016/17 to 2030/31.

11.3.2 Paragraph 3.8 indicates fully objectively assessed housing need for the period of 2016-2031 to be 16,800 dwellings (1,200 per year) with an annual monitoring target of 889 in accordance with the London Plan 2015. Please note this figure of 889 was increased to 1038 in the London Plan 2021.

11.3.3 In Paragraph 3.143 of the Local Plan, the Council makes reference to the internal space standards for residential development in Table 3.1 of the London Plan.

11.3.4 Policy A1 seeks to protect the quality of life of occupiers and neighbours.

11.3.5 Policy A3 seeks to protect features of conservation value, including gardens, wherever possible. Policy A3(J) seeks to resist the loss of trees and vegetation of significant amenity, historic, cultural or ecological value, including proposals which may threaten the continued wellbeing of such trees and vegetation.

11.3.6 Policy D2 states that the Council will preserve, and where appropriate, enhance the Borough’s rich and diverse heritage assets and their settings, including conservation area. The Policy also states that it will resist development outside a conservation area if it causes harm to its character and appearance.

11.3.7 Policies CC1 and CC2 address the topic of climate change.

11.3.8 Policy 12 requires all new developments to be car free.

11.4.0 Redington Frognal Neighbourhood Plan

11.4.1 Policy SD1 requires compliance with Policies SD2 and SD5 of the Neighbourhood Plan and maximise the areas of soft, natural landscaping to act as a carbon sink to mitigate against climate change.

11.4.2 Policy SD2 requires new developments to preserve or enhance the green character of “the conservation area”.

11.4.3 Policy SD4 requires development to complement the character of the Redington Frognal area and the immediate site context.

11.4.4 Policy SD5 requires outbuildings to compliment the character of the original building and context.

11.4.5 Policy BG1.2 requires trees that are important to biodiversity, rear garden tree corridors, local character or the conservation area to be protected.

11.4.6 Section 5.1 of the Neighbourhood Plan identifies sites which have possibilities for re-development. One of the sites identified is the appeal site, Number 282 Finchley Road, along with the other half of the pair of semi-detached properties (Number 284 Finchley Road). These properties are identified as a site for re-development of up to 12 flats in a new 4-5 storey building.

11.5.0 Planning Considerations

11.5.1 The outbuilding the subject of this appeal measure 5.3 meters in length, 3.0 meters in width and 2.8 meters in height. It is located centrally within the garden, which is approximately 27 meters long, clad in timber and located approximately 11.0 meters from the rear wall of the principal building.

11.5.2 Below consideration is given to the issues identified in Chapter 9.

11.5.3Issue 1:

Whether the outbuilding by virtue of its design and siting, detracts from the nature, conservation, biodiversity and amenity value of the rear garden.

The outbuilding is of modest size in terms of height, width and depth, and is constructed of traditional materials. It occupies a small part of the existing garden, and its impact has been lessened by the retention of all existing trees. By virtue of its modest size and the retention of existing vegetation, it is not considered the outbuilding materially detracts from the amenity value of the rear garden.

11.5.4Issue 2:

Whether the outbuilding by virtue of its size, design and siting detracts from the character and appearance of the application site and the wider area including the Redington Frogna Conservation Area.

The character and appearance of the appeal site and the wider area can be described as residential. With the retention of the outbuilding, the character of the area will remain materially unchanged. Consequently, the outbuilding will not detract from the character and appearance of the appeal site and the wider area, including the Redington Frogna Conservation Area.

11.5.5Issue 3:

Whether the development has caused unacceptable harm to the trees.

No trees within the appeal site have been felled to accommodate the outbuilding the subject of this appeal. The arboriculture report prepared on behalf of the Appellant confirms that no unacceptable harm has been caused to any of the existing trees.

11.5.6Issue 4:

Whether the development has caused unacceptable noise and vibration impacts.

The air-conditioning unit, which was attached to the outbuilding, the subject of this appeal and which, presumably was the Council's suspected cause of noise and vibration, has been removed. It is therefore anticipated that, with its removal, the outbuilding no longer gives rise to unacceptable noise and vibration impacts.

11.5.7Issue 5:

Whether the development causes unacceptable harm to the amenity of surrounding residential properties by way of loss of visual privacy, overlooking and loss of outlook.

In response to the presumption that privacy concerns have arisen by virtue of a window in the eastern elevation of the outbuilding, the Inspector is invited to include a condition in any planning permission that may be granted to retain the outbuilding, the subject of this appeal to require the erection of 2 meter high close-boarded fence along the eastern boundary of the rear garden of the appeal site. Such a fence would not only remove any overlooking from the window in the outbuilding, but would also remove any overlooking from the existing garden.

Those properties to the west of the rear garden including Number 284 are not considered to be overlooked by the outbuilding since there is no window in the elevation facing these properties.

11.5.8Issue 6:

Whether the development by virtue of active cooling has failed minimise carbon dioxide emissions.

The air-conditioning unit, which is presumed to be the cause of the Council's concern, has been removed. It is presumed that this matter has therefore been addressed.

11.5.9 For the above reasons, it is considered that the outbuilding, the subject of the Enforcement Notice to which the appeal relates, is not contrary to Policies A1, A2, A3, A4, CC1, CC2, CC3, D1, D2, SD1, SD2, SD4, SD5, BG1 and BG1 2 of the Neighbourhood Plan.

11.5.10 This Statement has been prepared in accordance with the guidance of my professional institution and the opinions expressed by me are my true professional opinions and I would invite the Inspector to quash the Enforcement Notice, the subject of this appeal and grant planning permission for the retention of the outbuilding.