

28 Redington Road, Hampstead, NW3 7RB



Appeal against non-determination of a Planning Application:

Erection of 4 storey plus basement building (with accommodation at 4th floor level within the roof) to provide 8 flats (1 x 1 bed, 5 x 2 bed, 1 x 3 bed and 1 x 4 bed) including front balcony and rear roof terraces, hard and soft landscaping and 7 basement car parking spaces with car lift, following demolition of the existing building (Class C3).

Camden Council ref: 2016/2997/P

Planning Inspectorate Ref: APP/X5210/W/3164577

Representation on behalf of the Redington Froggnal Association

May 2017

1. Introduction

- 1.1 The planning application was validated by Camden Council on 28 July 2016 (2016/2997/P). It sought permission for the redevelopment of No.28 Redington Road with a four-storey-and-basement block of flats following demolition of the existing building. Now, an appeal has been lodged against the non-determination of the application.
- 1.2 From the outset, concerns were raised about the likely effect of the proposals on the significance of heritage assets, notably the special architectural and historic interest of the Redington and Frognal Conservation Area. These were expressed in a heritage statement prepared by The Conservation Studio on behalf of the Redington Frognal Association which represents local residents.
- 1.3 That statement, which can be found among the application documents, is also appended to this appeal representation for ease of reference. The two should be read together.
- 1.4 This update has been prepared for the appeal by Edmund Booth BA DipUD MRTPI IHBC FSA, a Director of The Conservation Studio and formerly English Heritage's Historic Areas Adviser for North and East London, including Hampstead.

2. The Heritage Statement

- 2.1 The Redington Frognal Association's statement described the location and set out the relevant planning legislation and policy. It then provided an analysis of the heritage significance of both the Redington and Frognal Conservation Area and of No.28 Redington Road.
- 2.1 This led to a series of robust conclusions:
 - That the conservation area has a very high heritage significance
 - That No.28 is an important component in that significance and is therefore of high significance itself, albeit not designated
 - That Camden Council has properly concluded that No.28 makes a positive contribution to the character of the conservation area
 - That a presumption against demolition follows from Policy DP25 and appraisal guideline RF4
 - That total loss should be treated as substantial harm (NPPF pp.138 & 133) that would not be offset by public benefits
 - That demolition would not preserve the character of the conservation area (S72/1990 Act)
 - That, in the unlikely event of demolition being agreed, the policy aims for high architectural quality would not be served by replication

3. The appellants' case

- 3.1 The appellants' Statement of Case (SoC) suggests that the contribution made by the existing building is '*limited and essentially neutral*'. This is not the view of anyone else: the building is singled out by distinguished architectural historians, Bridget Cherry¹ and Alastair Service², it is praised by The Victorian Society and by the Redington Froggnal Association, and it is noted for its positive contribution by Camden Council in the conservation area appraisal.
- 3.2 The SoC also asserts that that its contribution is limited by subsequent alterations that affect its design integrity. However, while an addition was made to the left hand side and there have been some alterations to the fenestration, No.28 is nonetheless instantly 'readable' as an Edwardian house with Arts & Crafts detailing.
- 3.3 The SoC further suggests that the contribution of No.28 to the significance of the conservation area and to its character is limited being due to its '*residential typology, its massing and its situation within the site, rather than its inherent architectural quality.*' However, buildings are only noted in The Buildings of England because of their architectural quality and, here, Bridget Cherry makes favourable comparisons with the '*Free Classical style of Arnold Mitchell*'. Mitchell was, of course, the celebrated architect of the nearby University College School.
- 3.4 To suggest that demolition would be justified and the conservation area unharmed because the replacement would reproduce existing architectural detail is completely at odds with the claim that No.28 has no inherent qualities. Paragraph 138 of the NPPF is clear that the loss of a positive building should be treated as substantial or less-than-substantial harm.
- 3.5 Total loss of an element of high significance within a conservation area of very high significance would cause substantial harm. The NPPF advises (para.133) that in such circumstances consent should be refused unless the loss is necessary to achieve substantial public benefits that outweigh the loss. Clearly, the reproduction of Arts & Crafts detailing is not a substantial public benefit, nor is it necessary.
- 3.6 Even if the level of harm to the conservation area was deemed to be less-than-substantial (para.134), it would still be necessary for the harm to be weighed against the public benefits of the proposal, which in this case are remarkably few.

¹ Cherry, B & Pevsner, N – *The Buildings of England - London 4: North* – 1998 p.231

² Service, A – *Victorian and Edwardian Hampstead* – 1989

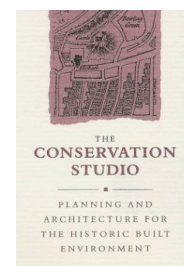
3.7 Claims for the architectural quality of the proposed replacement might be viewed differently if they related to a cleared site. However, as the case stands they do not amount to a justification for demolition. For the purposes of this appeal, therefore, they have very little relevance.

4. Conclusions

- 4.1 The appellants have under-valued the significance of No.28 as an important element in a conservation area of very high significance.
- 4.2 The appellants' challenge to Camden Council's designation of No.28 as a building that makes a positive contribution to the character of the conservation area is unconvincing.
- 4.3 By contrast, the significance of No.28 is supported by eminent historians and the Victorian Society.
- 4.4 Total loss of a significant element in a conservation area of very high significance would cause substantial harm that is not justified by any substantial public benefits.
- 4.5 Demolition would neither preserve nor enhance the character of the Redington and Frognal Conservation Area.
- 4.6 Demolition would be contrary to Camden's Core Strategy Policy CS14, contrary to Camden Council's Development Policy DP25, and contrary to Guideline RF4 of the Council's Conservation Area Statement for the Redington and Frognal Conservation Area.
- 4.7 Demolition would be contrary to the NPPF (paras.138 & 133).
- 4.8 Demolition would be contrary to the duty under S.72(1) of the 1990 Act to which '*considerable importance and weight*' must be given by decision makers (Barnwell).
- 4.9 In these circumstances, it is the strong recommendation of the Redington Frognal Association that this appeal should be dismissed.

Edmund A Booth
Director – The Conservation Studio

18 May 2017



APPENDIX: Original heritage statement

28 Redington Road, Hampstead, NW3 7RB



Application for Planning Permission:

Erection of 4 storey plus basement building (with accommodation at 4th floor level within the roof) to provide 8 flats (1 x 1 bed, 5 x 2 bed, 1 x 3 bed and 1 x 4 bed) including front balcony and rear roof terraces, hard and soft landscaping and 7 basement car parking spaces with car lift, following demolition of the existing building (Class C3).

Camden Council ref: 2016/2997/P

Representation on behalf of Local residents

August 2016

1. Introduction

- 1.1 An application has been made to Camden Council for planning permission (2016/2997/P) for the redevelopment of No.28 Redington Road with a four-storey-and-basement block of flats following demolition of the existing building.
- 1.2 Concerns have been raised about the likely effect of the proposals on the on the significance of heritage assets, notably the special architectural and historic interest of the Redington and Frognal Conservation Area. Accordingly, this response has been prepared by The Conservation Studio on behalf of local residents and the Redington and Frognal Neighbourhood Forum.
- 1.3 This statement has been written by Edmund Booth BA DipUD MRTPI IHBC FSA, a Director of The Conservation Studio and formerly English Heritage's Historic Areas Adviser for North and East London, including Hampstead.
- 1.4 He is also Course Director for the MSc in Building Conservation at the Weald & Downland Museum; a Research Associate of the University of York; and a member of the Design Council/CABE panel of Built Environment Experts.

2. Site location

- 2.1 Redington Road leads largely northwestwards from the western edge of Hampstead, curving north to meet the West Heath. It forms a spine to the Redington and Frognal Conservation Area. Although the road was laid out in 1875, its development was gradual. No.28 was built on the east side in 1906/7 in a distinctive Arts & Crafts style complementing the eclectic mix of Queen Anne, Edwardian and neo-Georgian elements used in other houses, some by distinguished architects such as Philip Webb, Arthur Mackmurdo and Charles Quenell.
- 2.2 This is the '*well-preserved late 19th and early 20th century residential street*' as noted in the applicants' heritage statement (KM Heritage p6). While there have been later developments due to the sub-division of plots, the character of Redington Road is very much that of a prosperous Edwardian suburb. While the architecture of the area is typically diverse, it is united by a consistent use of materials and detailing associated with the period – for instance, red brick, roughcast, clay tiles, decorative chimneys, generous eaves and verges, dormer and bow windows.

3. Planning legislation and policy

Legislation

- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be taken in accordance with the development plan unless material considerations indicate otherwise. In this case, in addition to development plan policies, national policies and guidance, material considerations include the relevant guidance of English Heritage, which is addressed below, and the Council's Conservation Statement for the Redington and Froggnal Conservation Area (2002).
- 3.2 S72(1) of the 1990 Act requires that, in the exercise of powers under the Planning Acts relating to land in a conservation area, '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*' The Court of Appeal has held³ that '*considerable importance and weight*' must be given by decision makers to the duties under Section 72.

National policy

- 3.3 Section 12 of the NPPF addresses the historic environment with the expectation that the significance of heritage assets affected by development proposals will be assessed. In considering proposals, '*great weight should be given to the asset's conservation.*' (Paragraph 132).
- 3.4 Where a development proposal would lead to substantial harm or total loss, planning authorities are advised to refuse consent unless it can be demonstrated that harm is necessary in order to achieve public benefits that outweigh the harm (Paragraph 133).
- 3.5 Where the harm would be less than substantial, or where the heritage asset is not designated, there is still the requirement to weigh the harm against any public benefits of the proposal (Paragraphs 134 & 135).
- 3.6 Where the proposal involves the loss of a building that makes a positive contribution to the significance of a conservation area, the NPPF advises that it should be treated '*either as substantial harm under paragraph 133 or less than substantial harm under paragraph 134 as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area*' (Paragraph 138).

³ Barnwell Manor Wind Energy Ltd v East Northamptonshire DC, English Heritage, National Trust and Secretary of State for Communities and Local Government [2014] EWCA Civ 137

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- 3.7 In addition, Historic England has published a range of guidance documents including:
- *Conservation Principles: Policies and guidance for the sustainable management of the historic environment* (2011) which considers the heritage values that combine to make the significance of heritage assets
 - *Conservation Area Designation, Appraisal and Management: HE Advice Note No.1* (2016) provides guidance on the management of change in historic areas

Local policy

- 3.8 Camden's Core Strategy, adopted in 2010 has a wide range of objectives for an adaptive and vibrant economy, but these are tempered throughout by concerns to preserve the unique character and distinctiveness of the Borough's heritage. Policy CS14 supports this by:
- a) *requiring development to be of the highest standard of design that respects local context and character*
 - b) *preserving and enhancing Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens*
- 3.9 The Council also adopted a set of Development Policies in 2010 of which DP24 requires a high standard of design in new development taking account of character, setting and context.
- 3.10 Policy DP25 addresses the conservation of Camden's heritage. Relevant clauses in respect of conservation areas state that the Council will:
- a) *take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas*
 - b) *only permit development within conservation areas that preserves and enhances the character and appearance of the area;*
- 3.11 The Council's Conservation Area Statement for the Redington/Frognaal area was published in 2004. It notes No.28 Redington Road as a building that makes a positive contribution to the conservation area. The Statement provides a series of Guidelines that includes:
- 'RF4 The Council will seek the retention of those buildings which are considered to make a positive contribution to the character or appearance of the Conservation Area, and will only grant consent for demolition where it can be shown that the building detracts from the character of the area.'*

4. Assessment

Heritage significance

- 4.1 Hampstead as a whole has long been recognised for the qualities of its architecture, its relationship with the open heath and for its extensive associations with notable residents. This recognition led to the Hampstead Conservation Area being first designated in 1968 immediately after the enabling legislation was provided in the Civic Amenities Act 1967. Designation of the Redington and Froggnal Conservation Area followed in 1985.
- 4.2 The buildings in the Redington and Froggnal Conservation Area graphically illustrate the evolution of British architecture at the upper end of the social spectrum from the late Victorian period to the Modern Movement. This high quality of building at a low density combined with a mature landscape and a generous public realm give the conservation area a very high significance as a designated heritage asset.
- 4.3 No.28 Redington Road is not a designated asset, possibly because it has not been definitively associated with a particular architect. However, Bridget Cherry in *The Buildings of England* (Pevsner) notes No.28 as 'c.1907 in the Free Classical style of Arnold Mitchell', a view echoed by Alastair Service in *Victorian and Edwardian Hampstead*. Certainly Mitchell was the designer of the nearby University College School, built in 1905-7 and described in Pevsner as 'one of his major works'. Parallels have also been drawn with the grade II* listed Garth House at Edgbaston, which is by William Henry Bidlake. The fact that Arnold Mitchell's middle name is Bidlake deserves further research.
- 4.4 Despite the current lack of provenance, No.28 is clearly the work of an accomplished designer, added to which it was for some time the residence of Major General Rana of the ruling family of Nepal.
- 4.5 Historic England's *Conservation Principles* (See 3.7 above) provides four sets of heritage values that together establish the significance of a heritage asset:
- The Evidential (archaeological) value of No.28 is slight, but
 - The Historical value is considerable: the house plays an important part in the evolution and character of Redington Road and therefore in way the area illustrates the transition from Victorian to Modern architecture.
 - The Aesthetic value is also high: subsequent alterations have not diminished the clearly readable characteristics of the original Arts & Crafts design so recognised by Bridget Cherry and Alastair Service (6.3 above).
 - The Communal value is amply demonstrated by the inclusion of No.28 in the schedule of properties that make a positive contribution

to the conservation area in the Audit section of the Council's Conservation Area Statement.

- 4.6 Collectively, the high level of these values suggests that No.28 has a high intrinsic level of significance as a heritage asset. It also makes a positive contribution to the even higher significance of the conservation area. Not only is this recorded in the Council's own Statement, but it is also tested in the applicants' Heritage Statement.
- 4.7 The Heritage Statement follows the checklist provided in the Historic England *Understanding Place* guidance (See 3.7 above). While the Statement accepts several positive responses to the checklist questions, it concludes that the contribution of No.28 is '*limited and essentially neutral*' (KM Heritage p16). This is illogical given that the guidance clearly states that '*A positive response to one or more (of the questions) may indicate that a particular element within a conservation area makes a positive contribution*'. The following is a more realistic analysis (using the current checklist):
- i. *Is it the work of a particular architect or designer of regional or local note?*
No, but the acknowledgement by eminent architectural historians suggests that an attribution could emerge from further research.
 - ii. *Does it have landmark quality?*
No, it is consistent with the high quality character of the street but does not stand out particularly.
 - iii. *Does it reflect a substantial number of other elements in the conservation area in age, style, materials, form or other characteristics?*
Yes, its age is consistent with the original development of the street, it follows the eclectic pattern of architectural style in the street, it is built of materials that are consistent with the prevailing palette, and it has distinctive details that relate to the period of the area, such as the chimney stack rising from the front elevation, the bow window and the deep eaves and verges.
 - iv. *Does it relate to adjacent designated heritage assets in age, materials or in any other historically significant way?*
Yes, No.28 contributes positively to the designated conservation area as an element of the original development of the area.
 - v. *Does it contribute positively to the setting of adjacent designated heritage assets?*
Yes. While the listed buildings in the area are not immediately adjacent, No.28 contributes very positively to the Edwardian character of the street that provides their setting.

vi. Does it contribute to the quality of recognisable spaces including exteriors or open spaces within a complex of public buildings?

Yes, it contributes positively to the very recognisable character of Redington Road, which is defined by low density, generous gardens and mature trees.

vii. Is it associated with a designed landscape, e.g. a significant wall, terracing or a garden building?

Yes, it is closely associated with the original layout of Redington Road. With its neighbours, it helps to define the character of the street through the set-back building line and front gardens.

viii. Does it individually, or as part of a group, illustrate the development of the settlement in which it stands?

Yes. Redington Road was largely developed over a period of some 40 years and No.28 has a significant part in that evolution.

ix. Does it have significant historic associations with features such as the historic road layout, burgage plots, a town park or a landscape feature?

Yes, it is clearly associated with the original development of the street.

x. Does it have historic associations with local people or past events?

Yes, it has associations with the Nepalese ruling family.

xi. Does it reflect the traditional functional character or former uses in the area?

Yes.

xii. Does its use contribute to the character or appearance of the area?

Yes.

- 4.8 This analysis strongly supports the Council's inclusion of No.28 Redington Road in its schedule of a buildings that make a positive contribution to the conservation area. To summarise, the conservation area has a very high significance as a designated heritage asset, No.28 has high significance of itself but as an undesignated heritage asset, and it also follows that No.28 is an important component in the significance of the conservation area.

The proposals

- 4.9 The application proposes complete demolition of No.28 Redington Road and its replacement with a four-storey block of eight flats above a basement car park. Rather than continuing the historical evolution of architectural design in Redington Road, the scheme opts for a mix-and-match approach to adopting elements from existing buildings in the area. Ironically, these include details from the very building that the scheme proposes to demolish.

5. Conclusions

- 5.1 The analysis in Section 4 above, taking account of the guidance set out by Historic England, establishes the significance of the conservation area, the significance of No.28 and the contribution the building makes to the significance of the conservation area.
- 5.2 The first conclusion is that this confirms the Council's own assessment in its Conservation Area Statement that No.28 makes a positive contribution. Policy DP25 commits the Council to taking account of Conservation Area Statements when considering applications in conservation areas and, given that RF4 seeks the retention of such positive buildings, it follows that there must be a presumption against demolition. RF4 goes on to say that consent will only be given where it can be shown that the building detracts from the character of the area and there is no suggestion that this is the case.
- 5.3 Secondly, in the unlikely event that demolition could be entertained, the Council's planning policy also requires a high quality of design that respects local context and character. While the scheme reflects the locality by borrowing from its details, there is little quality in taking the progression of architecture backwards as this simply dilutes the achievements made a century ago.
- 5.4 Thirdly, it is necessary to consider the expectations of the NPPF. Under Paragraph 138, the high significance of the existing building and the important contribution it makes to the very high significance of the conservation area suggests that its complete loss should be treated as substantial harm under Paragraph 133. In such a case of substantial harm to the significance of the designated asset (the conservation area), local authorities are advised to refuse consent unless the harm is justified by substantial public benefits. It is notable that the applicants' Heritage Statement makes no attempt to articulate any public benefits to justify the proposal.
- 5.5 Fourthly, in respect of the legislation, Section 72 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. This is a high test to which, the Courts have held, '*considerable importance and weight*' must be given. Clearly, the total demolition of a building that is significant in its own right but also makes a positive contribution to the character of a highly significant conservation area cannot be said to be preserving that character. And, given that the positive contribution is a conclusion that the Council has itself already reached in its Conservation Area Statement, it follows that it is *desirable* to preserve rather than demolish.

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- 5.6 Finally, it has not been established that retaining and developing the existing building is incapable of achieving the objective of creating flats.

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