

Belsize Park – Howitt Road – Howitt Close

Appeal Reference – PP/X5210/W/23/3315974

Statement of Case

In support of: Erection of mansard roof extension to create 7 self-contained flats (Class C3)

On behalf of: Daejan Properties Limited

12 May 2023 (FINAL)

CONTENTS

PERSPECTIVES OF THE APPEAL PROPOSAL.....	i
1. INTRODUCTION AND BACKGROUND	1
2. THE APPEAL SITE AND SURROUNDINGS.....	4
3. RELEVANT PLANNING HISTORY	6
4. PLANNING POLICY AND GUIDANCE.....	14
5. RESPONSE TO REASONS FOR REFUSAL	27
6. CONCLUSIONS.....	34

APPENDICES

1. SCHEDULE OF DOCUMENTS SUBMITTED WITH THE APPEAL	
2. PRE APPLICATION BROCHURE (PRE APPLICATION SUBMISSION NO. 1)	
3. LPA RESPONSE TO PRE APPLICATION SUBMISSION NO. 1	
4. PRE APPLICATION BROCHURE (PRE APPLICATION SUBMISSION NO. 2)	
5. LPA RESPONSE TO PRE APPLICATION SUBMISSION NO. 2	
6. SUPPLEMENTARY DESIGN RESPONSE TO LPA RESPONSE NO. 2	
7. LPA RESPONSE TO SUPPLEMENTARY DESIGN RESPONSE	
8. LPA EMAIL DATED 8 DECEMBER 2021	
9. CONSERVATION OFFICER COMMENTS DATED 2 JANUARY 2022	
10. LPA EMAIL DATED 25 FEBRUARY 2022 RESPONDING TO HERITAGE TECHNICAL NOTE	
11. DESIGN AND ACCESS STATEMENT ADDENDUM FOR REVISED APPLICATION	
12. HERITAGE STATEMENT ADDENDUM FOR REVISED APPLICATION	
13. LPA EMAIL DATED 13 JULY 2022 CONFIRMING SUPPORT FOR REVISED APPLICATION SCHEME	
14. OFFICER'S REPORT TO MEMBERS BRIEFING ON 9 JANUARY 2023 (REVISED APPLICATION)	
15. OFFICER'S REPORT TO PLANNING COMMITTEE ON 30 JANUARY 2023 (REVISED APPLICATION)	
16. HISTORIC ENGLAND INITIAL ASSESSMENT REPORT DATED 3 APRIL 2023 REJECTING APPLICATION FOR STATUTORY LISTING	
17. APPEAL SCHEME PLANS, ELEVATIONS AND SECTIONS WITH PHOTOVOLTAIC PANELS ADDED	

PERSPECTIVES OF THE APPEAL PROPOSAL



1. INTRODUCTION AND BACKGROUND

- 1.1. Freeths LLP are instructed by Daejan Properties Limited (DPL) to submit an appeal against London Borough of Camden's (the LPA) refusal of planning permission for the erection of a mansard roof extension to create 7 self-contained flats (Class C3) on 3 August 2022 (Reference: 2021/3839/P).
- 1.2. Planning permission was refused (under delegated powers) for the following reasons:
- i. The proposed roof extension, by reason of its detailed design, bulk, massing, height, materials and undue prominence, would compromise the form, character and appearance of the host building and would thus harm the character and appearance of the streetscene and Belsize Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.
 - ii. In the absence of detailed drawings of the proposed solar PV panels, it has not been adequately demonstrated that the proposed development would minimise the effects of climate change or meet the highest feasible environmental standards, contrary to policy CC1 (Climate change mitigation) of the London Borough of Camden Local Plan 2017.
 - iii. The proposed development, in the absence of a legal agreement to secure a contribution to affordable housing, would fail to maximise the contribution of the site to the supply of affordable housing in the borough, contrary to policies H4 (Maximising the supply of affordable housing) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

- iv. The proposed development, in the absence of a legal agreement securing a Construction Management Plan, implementation support fee and Construction Impact Bond, would be likely to give rise to conflicts with other road users and be detrimental to the amenity of the area generally, contrary to policies A1 (Managing the impact of development), T4 (Sustainable movement of goods and materials) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.
 - v. The proposed development, in the absence of a legal agreement to secure the new dwellings as "car-free", would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.
- 1.3. A schedule of documents submitted with the appeal is attached at **Appendix 1** to this Statement of Case (SoC). The various referenced planning application documents have a Planning Appeal Document (PAD) no. and are subsequently referred to by PAD no. throughout this SoC. Appendices to this Statement are simply referenced as Appendix 1, 2, 3 etc.
- 1.4. A copy of the associated Officer's Report (delegated) and decision notice have previously been provided as **PAD no. 20** and **PAD no. 21** respectively.
- 1.5. Details of the appeal site and surroundings are set out at Section 2, relevant planning history including details of the appeal proposal and its determination at Section 3, relevant planning policy and guidance at Section 4, the appellant's response to the reasons for refusal at Section 5 and overall conclusions at Section 6.

- 1.6. This SoC cross refers to, and should be read in conjunction with, the SoC prepared by The Heritage Practice which addresses reason for refusal no. 1 in respect of design and heritage matters.

2. THE APPEAL SITE AND SURROUNDINGS

- 2.1. The appeal site comprises a 3 storey, with part basement, residential apartment block which was constructed in the 1920s.
- 2.2. The existing building is 'L' shaped in plan with 2 wings and a centralised entrance and stairwell. Externally the building has two lower floors of brickwork and a top floor of render. There is a large projecting coping at the top of the existing walls and a large flat roof. Windows to the principal living spaces comprises a tri-partite arrangement with a single, six light aperture to the centre, and flanking two light apertures, all with glazing bars. These are set within projecting bays that add interest to the rhythm of the elevations.
- 2.3. A small quantum of communal amenity space surrounds the building. There is no parking on the site.
- 2.4. The building is located on the bend at the southern end of Howitt Road at its junction with Glenilla Road, Belsize Park. The area immediately surrounding the application site is residential in nature. The surrounding properties are 3, 4 and sometimes 5 storeys along Belsize Grove and Belsize Park Gardens and 2 storeys with mansard roofs along Howitt Road. The majority of the properties are terraced. Views of the site are predominantly from Howitt Road and Glenilla Road.
- 2.5. The site is located within the Belsize Conservation Area and specifically sub area 4 (Glenloch) which is one of a number of character areas within the wider Conservation Area. In this respect the Belsize Conservation Area Statement (BCAS) notes that this is a distinctive area of Edwardian terraced housing developed by the Glenloch Insurance Company close to Belsize Park Underground Station and Haverstock Hill. Generally, the houses in the area are smaller in scale and there is a tighter grain than elsewhere in the Conservation Area, where larger, grander, villa development is more common. No specific reference is made to Howitt Close in the Statement, other than the fact it is referenced as a positive contributor to the character and appearance of the area.
- 2.6. Howitt Close is neither statutory listed nor locally listed. Photographs of the property and its surroundings are included in the Design and Access

Statement (**PAD no. 11**) and a detailed description of the site and wider area with particular regards to heritage and design matters is set out in the Heritage Statement (**PAD no. 13**).

3. RELEVANT PLANNING HISTORY

- 3.1. Planning permission for an additional floor comprising 14 flats at third floor was refused on 29 June 1961 for a number of reasons including density, daylight impacts, over development and lack of car parking. Given the age of the decision and changes in planning policy since then it is not considered to be relevant to the determination of this appeal.
- 3.2. The application which is the subject of this appeal followed 2 pre-application submissions. The first in March 2020 (Reference 2020/1404/PRE) and the second in October 2020 (Application Reference 2020/5007/PRE). Whilst the principle of additional development at this site was agreed at an early stage further discussions took place with Officers regarding the detailed design of the proposed extension and associated heritage impact prior to the submission of the planning application.

PRE Application Submission No. 1

- 3.3. The first pre application submission dated 18 March 2020 comprised a significant amount of information in order to assist the LPA with assessing the proposal against relevant planning policy and guidance. Specifically the briefing pack submitted to the LPA included :
- i. Supporting Letter (prepared by Freeths LLP)
 - ii. Pre Application Brochure (prepared by Bubble Architects)
 - iii. Heritage Statement (prepared by Cotswold Archaeology)
 - iv. D-002 – Existing site plan
 - v. D-003 – Existing roof plan
 - vi. D-004 – Existing front elevations
 - vii. D-005 – Existing rear elevations
 - viii. D-012 – Proposed site plan
 - ix. D-013 – Proposed third floor plan
 - x. D-014 – Proposed roof plan
 - xi. D-015 – Proposed front elevations
 - xii. D-016 – Proposed rear elevations

- 3.4. A copy of the Pre Application Brochure is attached at **Appendix 2**.
- 3.5. During the first round of pre-application discussions (by way of a meeting on 30 April 2020) the Conservation Team identified the flat roof as a feature of significance but concluded that an alternative roof form could be acceptable if the detail of the scheme was correct. The LPA's first formal response letter, dated 12 May 2020, and attached at **Appendix 3** specifically states:

“The building is terminated with overhanging eaves and a flat roof, a unique feature of the building. At the same time however, a different roof form on the building could be possible. If this building were to be able to accommodate a roof extension, its design would need to be informed by a deep understanding of the building, its architectural style and composition with attention paid to every detail in order to ensure a high quality and appropriate response.”

PRE Application Submission No. 2

- 3.6. A further pre application submission dated 26 October 2020 tabled revised plans addressing comments from the earlier pre application response. The associated Pre Application Brochure is attached at **Appendix 4**.
- 3.7. The second round of pre application discussions explored a number of alternative designs for the roof extension, and Officers concluded that the final design had an acceptable relationship with the host building, subject to the finessing of some of the details.
- 3.8. The LPA's second formal response letter, dated 7 December 2020, and attached at **Appendix 5** specifically states:

“The progress that has been made throughout the pre-application process is encouraging and the form of the roof extension now has a more comfortable relationship with the host building...the mansard's response to the chamfered eastern corner is now thought to be a successful one.”

- 3.9. The outstanding points identified in the response were in respect of the detailed design of the dormers and choice of materials.
- 3.10. Pursuant to the above further design options were submitted on 4 January 2021 in order to address the points raised in the formal pre application response. The LPA provided a response to the further design options on 9 January 2021 which refined the issues to be addressed through the planning application. These documents are attached at **Appendix 6** and **Appendix 7** respectively.

The Appeal Proposal

- 3.11. A planning application was submitted on 27 July 2021 on the basis that there was agreement with the LPA on design and the acceptability of the proposal in heritage terms with further revisions to the scheme made prior to submission in order to address the supplemental comments on the design of the dormers and choice of materials.
- 3.12. The scheme proposed a mansard roof extension with projecting dormers to create 7 no. additional residential dwellings with the following mix:

Flat No.	Size	Area (sq m)
1	2 bed, 4 person	75
2	2 bed, 4 person	77
3	2 bed, 3 person	69
4	1 bed, 2 person	57
5	3 bed, 4 person	78
6	2 bed, 3 person	71
7	2 bed, 4 person	70

- 3.13. The planning application was supported by a number of documents as listed below:
- i. Planning Statement
 - ii. Design and Access Statement
 - iii. Heritage Statement
 - iv. Construction Management Plan

- v. Energy and Sustainability report
- vi. CIL Liability Form
- vii. Existing Building Plans
- viii. D-005 – Existing Front Elevations
- ix. D-006 – Existing Rear Elevations
- x. B-012 Rev C – Proposed Site Plan
- xi. D-013 Rev C – Proposed Third Floor Plan
- xii. D-014 Rev A – Proposed Roof Plan
- xiii. D-015 Rev B – Proposed Front Elevations
- xiv. D-016 – Proposed Rear Elevations
- xv. D-017 – Proposed Section AA

- 3.14. All of the above documents were included with the appeal submission and are referenced by PAD no. on the schedule at **Appendix 1**.
- 3.15. Specifically Pages 19-30 of the Design and Access Statement (**PAD no. 11**) sets out how the LPA's final comments from the formal response to Pre Application Submission No. 2 (**Appendix 5**) and the supplemental response (**Appendix 7**) were addressed by way of revisions ahead of the submission of the application.
- 3.16. During the course of the determination of that application (Reference: 2021/3839/P), the LPA raised concerns about the design of the proposal which had been submitted. This initial change in position, from that expressed in the 7 December 2020 pre application response (see paragraph 3.8 above), was first communicated in the LPA's email dated 8 December 2021 (attached at **Appendix 8**) which states "*the Conservation Officer feels it would be very difficult to extend the building upwards in such a way that would not impact on the conservation area but would achieve sufficient space to create additional living accommodation*". Critically that email notes that the proposal is acceptable in all other respects.
- 3.17. The Conservation Officer's formal comments followed (wrongly dated 2 January 2021 instead of 2022) and are attached at **Appendix 9**.
- 3.18. The Heritage Technical Note and Freeths LLP's response dated 14 February 2022 (**PAD no. 18** and **PAD no. 19** respectively) provide a

detailed response to the change in position and the LPA’s further response dated 25 February 2022 (attached at **Appendix 10**) acknowledges and apologises for the change in position noting the level of objection including from the Twentieth Century Society and concluding:

“I appreciate it feels as though you have been steered down a route only to be told it’s the wrong one and I apologise for that.

... To be absolutely clear, we are not suggesting that an extension is unfeasible in principle, but we don’t feel that the right solution has been found to allow for acceptable upward extension. “

3.19. Specifically the LPA’s response on 25 February 2022 concludes:

“The application in its current form could not be supported by us, but we are happy to work with you in a constructive way to see if we can find a solution. If you feel strongly about the current scheme then you may wish for us to determine the application and to pursue at appeal. If you are open to considering alternatives then Kate would be happy to arrange a meeting so that we can explore how the design could be developed so that a roof extension works more successfully with the building.”

3.20. Against the background of the above the decision was taken to allow the scheme to be determined so that an appeal could be pursued whilst continuing to work with the LPA on a revised scheme.

The Revised Planning Application

3.21. The revised planning application (Reference: 2022/3635/P) proposes a new attic storey to create 7 additional residential dwellings with the following mix of units.

Flat No.	Size	Area
1	2 bed, 3 person	66
2	2 bed, 4 person	72
3	2 bed, 3 person	64
4	1 bed, 2 person	51

5	2 bed, 4 person	70
6	2 bed, 3 person	62
7	2 bed, 4 person	72

3.22. The difference between the revised scheme and the appeal scheme is the design approach to the extension with the former being a mansard roof and the latter an attic storey.

3.23. The application was again accompanied by a suite of supporting documents as follows:

- i. Planning Statement
- ii. Design and Access Statement Addendum
- iii. Heritage Statement Addendum
- iv. Heritage Technical Note
- v. Design and Access Statement
- vi. Heritage Statement
- vii. Construction Management Plan (including Air Quality Management Plan)
- viii. Energy and Sustainability report
- ix. CIL Additional Information form
- x. Plans, Elevations and Sections
 - D-003 – Existing Site Plan
 - D-004 - Existing Roof Plan
 - D-005 – Existing Front Elevations
 - D-006 – Existing Rear Elevations
 - D-012 Rev D – Proposed Site Plan
 - D-013 Rev F – Proposed Third Floor Plan
 - D-014 Rev C – Proposed Roof Plan
 - D-015 Rev D – Proposed Front Elevations
 - D-016 Rev A – Proposed Rear Elevations
 - D-017 Rev C– Proposed Section AA and BB

3.24. The Design and Access Statement Addendum and Heritage Statement Addendum are attached at **Appendix 11** and **Appendix 12** respectively.

- 3.25. An email from the LPA dated 13 July 2022 is attached at **Appendix 13** and that confirms Officer's pre application support for the revised scheme.
- 3.26. This support is reconfirmed through the Officer's Report presented to the Members Briefing on 9 January 2023 which is attached at **Appendix 14**. That concludes that planning permission should be granted subject to the imposition of planning conditions and planning obligations secured by legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). A draft planning permission is also provided. It was called for determination at Committee by 1 of the 3 Members attending the Briefing.
- 3.27. The application was subsequently proposed for determination at Committee on 19 January 2023 but was removed from the agenda due to an administrative error by Officers who published the wrong report online.
- 3.28. Again the support is reconfirmed in the Officer's Report to Committee on 30 January 2023 which is attached at **Appendix 15**. That concludes at paragraph 7.1 that.

"The principle of development is considered to be acceptable, particularly given that housing is regarded as the priority land use of the Local Plan. The impact on the character and appearance of the Belsize Conservation Area and the host building are considered to be acceptable. Officers consider that the proposed works would preserve the contribution made to the conservation area by the existing building. If, however, members take the view that the proposed works would cause harm to the character and appearance of the Belsize Conservation Area, officers are of the view that the public benefits of the proposal, namely the provision of 7 permanent, self-contained dwellings and the financial contribution towards affordable housing elsewhere in the borough, would outweigh the harm. The new flats would provide a good standard of living for future occupiers. The application is also considered to be acceptable in terms of the impact on neighbouring

properties, trees and landscaping, biodiversity, transport considerations, and energy and sustainability.”

3.29. The Officers Report reflects the conclusions of the suite of planning application documents referenced at paragraph 3.23 above. Moreover, the Report also provides a comprehensive assessment of the material planning considerations relevant to the proposal – including comments from various consultees and members of the public – ultimately concluding that planning permission should be granted.

3.30. The application was not determined by Councillors at Committee on 30 January 2023 because the application was removed from the agenda for a second time following notification that Historic England had received an application from the Belsize Society (supported by the Heath & Hampstead Society) for the building to be statutory listed.

3.31. Historic England confirmed on 3 April 2023 in their Initial Assessment Report (copy attached at **Appendix 16**) that the application for statutory listing had been rejected. The report concludes that:

“Howitt Close is an attractive and well surviving development, typical of the inter-war period, which its status within the conservation area recognises. However, its moderate architectural interest means it does not meet the criteria for listing at a national level.”

3.32. The volte face of the LPA on design and heritage issues from a proposed scheme that was broadly agreed save for final details of design of the dormers and choice of materials to refusal of planning permission and support for a revised proposal with an alternative design approach has resulted in considerable delay and necessitated determination at appeal.

4. PLANNING POLICY AND GUIDANCE

- 4.1. This Section sets out the relevant planning policies and guidance for reference in the detailed response to the reasons for refusal at Section 5.

London Plan 2021

- 4.2. **Policy GG2 ‘Making the best use of land’** – to enable the development of brownfield land, prioritise sites which are well connected by existing or planned public transport and proactively explore the potential to intensify the use of land to support additional homes and workspaces, promoting higher density development in locations that are well-connected.
- 4.3. **Policy GG4 ‘Delivering the homes Londoners need’** – to create a housing market that works better for all Londoners, planning and development must ensure that more homes are delivered, support the delivery of the strategic target of 50% of all new homes being genuinely affordable, create mixed and inclusive communities, with good quality homes that meet high standards of design.
- 4.4. **Policy D3 ‘Optimising site capacity through the design-led approach’** – seeks to make the best use of land by following a design-led approach that optimises the capacity of sites. Development proposals should enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions. They should also respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards local character.
- 4.5. **Policy D6 ‘Housing quality and standards’** – sets out standards for the design of buildings, including private internal and outside space. It

identifies that developments should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings. A single aspect dwelling should only be provided where it is considered a more appropriate design solution to meet the requirements in optimising site capacity. The design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space.

- 4.6. **Policy D7 ‘Accessible housing’** – to provide suitable housing and genuine choice for London’s diverse population, including disabled people, older people and families with young children, residential development must ensure that at least 10 per cent of dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(3) ‘wheelchair user dwellings’ and all other dwellings meet Building Regulation requirement M4(2) ‘accessible and adaptable dwellings’.
- 4.7. **Policy H1 ‘Increasing housing supply’** – sets out that borough councils should optimise the potential for housing delivery on all suitable and available brownfield sites through Development Plans and planning decisions especially sites within PTAL levels 3-6 and housing intensification on low density sites in commercial, leisure and infrastructure uses.
- 4.8. **Policy H2 ‘Small sites’** – Boroughs should pro-actively support well-designed new homes on small sites (below 0.25 hectares in size) through both planning decisions and plan-making in order to significantly increase the contribution of small sites to meeting London’s housing needs, diversify the sources, locations, type and mix of housing supply and support small and medium-sized housebuilders. Boroughs should recognise in their Development Plan that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites.

- 4.9. **Policy H4 ‘Affordable housing’** – the strategic target is for 50% of all new homes delivered across London to be genuinely affordable, as such major development which trigger affordable housing requirements are to provide affordable housing through the threshold approach.
- 4.10. **Policy H5 ‘Threshold approach to applications’** – the threshold level of affordable housing on gross residential development is initially set at a minimum of 35%. To follow the fast track route the application must meet certain criteria, if those are not met then the application must follow the Viability Tested Route.
- 4.11. **Policy H10 ‘Housing size mix’** – schemes should generally consist of a range of units size, having regard to robust local evidence of need.
- 4.12. **Policy HC1 ‘Heritage conservation and growth’** – development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets’ significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed. Development proposals should avoid harm and identify enhancement opportunities by integrating heritage considerations early on in the design process
- 4.13. **Policy T5 ‘Cycle parking’** – developments should provide cycle parking at least in accordance with the minimum standards set out in the London Plan.
- 4.14. **Policy T6 ‘Car parking’** – car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport, with developments elsewhere designed to provide the minimum necessary parking (‘car-lite’). Car-free development has no general parking but should still provide disabled persons parking. All residential car parking spaces must provide infrastructure for electric or Ultra-Low Emission vehicles. At least 20 per cent of spaces should have active charging facilities, with passive provision for all remaining spaces.

Camden Local Plan 2017

- 4.15. **G1 ‘Delivery and location of growth’** – the council will create the conditions for growth to deliver the homes, jobs, infrastructure and facilities to meet Camden’s identified needs. To do this the Council will deliver growth by securing high quality development and promoting the most efficient use of land and buildings in Camden by supporting development that makes best use of its site, taking into account quality of design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site.
- 4.16. **H1 ‘Maximising housing supply’** – the Council will aim to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing and exceeding a target of 16,800 additional homes from 2016/17 – 2030/31. They will seek to exceed the target for additional homes, particularly self-contained homes by regarding self-contained housing as the priority land-use of the Local Plan.
- 4.17. **H4 ‘Maximising the supply of affordable housing’** – aims to maximise the supply of affordable housing and exceed a borough wide strategic target of 5.300 additional homes from 2016/17 – 2030/31. As such a contribution is required from all development that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more.
- 4.18. **H6 ‘Housing choice and mix’** – seeks to secure high quality accessible homes in all developments that include housing and expects all self-contained homes to meet the nationally described space standards, requires 90% of new build self-contained homes to be accessible and adaptable in accordance with Building Regulation M4(2) and 10% of to be suitable for occupation by a wheelchair user in accordance with Building Regulation M4(3). The policy also seeks to secure a variety of housing suitable for existing and future households.
- 4.19. **H7 ‘Large and small homes’** – identifies that the Council will seek to ensure that housing development contributes to meeting the priorities

set out in the Dwelling Size Priorities Table and includes a mix of large and small homes. The policy allows for a flexible approach in each development having regard to a number of factors set out in the policy. The dwelling size priority table (table 1 in the Local Plan) identifies a high need for 2 and 3 bedroom market dwellings and social-affordable rented.

- 4.20. **A1 ‘Managing the impact of development’** – identifies that the Council will seek to protect the quality of life of occupiers and neighbours. They will grant permission for development unless this causes unacceptable harm to amenity. The factors which will be considered include visual privacy and outlook, sunlight, daylight and overshadowing, transport impacts, impacts of the construction phase, noise and vibration levels and odour, fumes and dust.
- 4.21. **A4 ‘Noise and Vibration’** – identifies that the Council will seek to minimise the impact on local amenity from the demolition and construction phases of development.
- 4.22. **D1 ‘Design’** – seeks to secure high quality design in development. The Council will require development that:
- a) respects local context and character;
 - b) preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;
 - c) is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;
 - d) is of sustainable and durable construction and adaptable to different activities and land uses;
 - e) comprises details and materials that are of high quality and complement the local character;
 - f) integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;
 - g) is inclusive and accessible for all;
 - h) promotes health;

- i) is secure and designed to minimise crime and antisocial behaviour;
- j) responds to natural features and preserves gardens and other open space;
- k) incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,
- l) incorporates outdoor amenity space;
- m) preserves strategic and local views;
- n) for housing, provides a high standard of accommodation; and
- o) carefully integrates building services equipment.

The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 4.23. **D2 ‘Heritage’** – identifies that the Council will preserve and, where appropriate, enhance Camden’s heritage assets and their settings, including conservation areas and locally listed heritage assets. The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

Conservation areas are designated heritage assets. In order to maintain the character of Camden’s conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas. The Council will require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area, resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area, resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and preserve trees and garden spaces which contribute to the

character and appearance of a conservation area or which provide a setting for Camden’s architectural heritage

The Council will seek to protect other heritage assets including non-designated heritage assets (including those on and off the local list). The effect of a proposal on the significance of a non-designated heritage asset will be weighed against the public benefits of the proposal, balancing the scale of any harm or loss and the significance of the heritage asset.

- 4.24. **CC1 ‘Climate change mitigation’** – requires all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation. Specifically the policy promotes zero carbon development and requires all development to reduce carbon dioxide emissions through following the steps in the energy hierarchy.
- 4.25. **CC2 ‘Adapting to climate change’** – requires development to be resilient to climate change. All development involving 5 or more units should demonstrate they are meeting the requirements of this policy in a Sustainability Statement.
- 4.26. **T2 ‘Parking and car-free development’** – identifies that the Council will limit the availability of parking and require all new developments in the borough to be car-free. The Council will not issue on-street or on-site parking permits in connection with new developments and will use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits.

National Planning Policy Framework (NPPF)

- 4.27. Paragraph 2 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.

Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Achieving sustainable development

4.28. Paragraph 7 confirms that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 continues that achieving this means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. They are:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

4.29. Paragraph 10 confirms that at the heart of the Framework is a presumption in favour of sustainable development. Paragraph 11 confirms that for decision-taking this means approving development proposals that accord with an up-to-date development plan without delay.

Decision making

- 4.30. Paragraph 39 identifies that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.

Delivering a sufficient supply of homes

- 4.31. Paragraph 60 states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

Making effective use of land

- 4.32. Paragraph 119 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 4.33. Paragraph 120 states that planning policies and decisions should support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.

Achieving appropriate densities

- 4.34. Paragraph 124 recognises that planning policies and decisions should support development that makes efficient use of land, taking into account specifically under point (d) the desirability of maintaining an

area's prevailing character and setting (including residential gardens), or of promoting regeneration and change.

Achieving well-designed places

- 4.35. Paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
- 4.36. Paragraph 130 identifies that planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - 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 (such as increased densities);
 - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; 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; and where crime and disorder, and the

fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 4.37. Paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

Conserving and enhancing the historic environment

- 4.38. Paragraph 189 states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future residents.
- 4.39. Therefore paragraph 194 states that on determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.
- 4.40. Paragraph 197 identifies that in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness
- 4.41. Paragraph 199 identifies 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 (and the

more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

- 4.42. Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 4.43. Paragraph 203 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Belsize Conservation Area Statement (2003)

- 4.44. The aim of this statement is to provide a clear indication of the Council's approach to the preservation and enhancement of the Belsize Conservation Area.
- 4.45. The site falls within sub area four 'Glenloch Area' which is identified as a distinct area of Edwardian terraced housing development by the Glenloch Insurance Company close to Belsize Park Underground Station and Haverstock Hill.
- 4.46. The statement identifies that there is a clear change in character on entering this area from both Belsize Avenue and Belsize Park Gardens from the larger, grander, villa development to more modest family housing of a much smaller scale and tighter grain. The houses along Glenloch, Glenmore and Howitt Roads are two storey red brick terraces with a basement and an attic storey within a slate-faced mansard.
- 4.47. Howitt Close is identified as a building that makes a positive contribution to the conservation area. Such buildings are identified as being important in their own right and make a positive contribution to the

character and appearance of the Conservation Area. The general presumption therefore is in favour of retaining these buildings.

- 4.48. The Conservation Area Statement sets out guidelines to provide the framework for development proposals.
- 4.49. Guideline BE16 recognises that the choice of material in new work will be most important and will be the subject of control by the Council.
- 4.50. Guideline BE26 identifies that roof extensions and alterations, which change the shape and form of the roof, can have a harmful impact on the Conservation Area and are unlikely to be acceptable where:
- It would be detrimental to the form and character of the existing building;
 - The property forms part of a group or terrace which remains largely, but not completely unimpaired;
 - The property forms part of a symmetrical composition, the balance of which would be upset;
 - The roof is prominent, particularly in long views.
- 4.51. Guideline BE28 identifies that the retention or reinstatement of any architecturally interesting features and characteristic decorative elements such as gables, parapets, cornices and chimney stacks and pots will be encouraged.

5. RESPONSE TO REASONS FOR REFUSAL

- 5.1. The principle reason for refusal is in respect of the impact of the proposal on the host building, streetscene and Conservation Area (reason for refusal no. 1). A separate SoC has been prepared by The Heritage Practice to address these issues and the conclusions of that are referenced below in tandem with comments on the correct legal test to be applied to the assessment of such impacts and the overall conclusion in respect of planning balance.
- 5.2. During the determination of the appeal scheme discussions with the LPA had focussed on outstanding design issues and not necessarily those matters which, in the ordinary course of events, would be dealt with either by the imposition of a planning condition or via a planning obligation secured by Section 106 of the Town and Country Planning 1990 (as amended).
- 5.3. Moreover, it is clear from the LPA's email dated 8 December 2021 (**Appendix 8**) that a single reason for refusal was expected:
- “As such, if the application is refused there would only be one reason for refusal (impact on the character and appearance of the host building and conservation area).”*
- 5.4. Accordingly, the inclusion of reasons for refusal 2, 3, 4 and 5 on the decision notice relate to matters which had not been discussed in detail but were, potentially acceptable in principle. This acceptability is reflected in the Officer's Report for the revised planning application (**Appendix 15**) which recommends that planning permission should be granted.
- 5.5. In any event reasons for refusal 2, 3, 4 and 5 are addressed below and the suggested approach is reflected in the updated SoCG.

Reason for Refusal No. 1 Impact on host building, streetscene and Conservation Area.

- 5.6. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that *“In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*
- 5.7. The application of the test of preserving or enhancing has been further defined through caselaw. *South Lakeland DC v Secretary of State for the Environment*, [1992] 2 WLR 204) confirmed that there is no requirement in the legislation that Conservation Areas should be protected from all development which does not enhance or positively preserve. Whilst the character and appearance of Conservation Areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves character and appearance unharmed.
- 5.8. Contrary to the above Paragraph 5.12 of the Officer's Report (delegated) (**PAD no. 20**) states that:
- “there is a statutory obligation to demonstrate that the proposed works would preserve or enhance the character or appearance of the conservation area. The works would not preserve the character and appearance of the area because there is a perceptible change. As such, this assessment must consider whether the proposals would enhance the character and appearance of the conservation area.”*
- 5.9. The LPA's interpretation of the requirements of Section 72 (which is reiterated at Paragraphs 5.13-5.14) is incorrect and, as a consequence, the assessment of the proposal and the decision are fundamentally flawed.
- 5.10. To be clear the Section 72 test can be met by development which preserves (i.e. changes without harming) the character and appearance of a Conservation Area and there is no statutory requirement for enhancement.
- 5.11. In any event the SoC prepared by The Heritage Practice concludes that

“...the proposed mansard represents an appropriate design response to the character of this building. Whilst its flat roof is part of the original design, this does not preclude sensitive adaptation. There are numerous examples of interwar blocks in London, with Modernist or Art Deco styling that have prominent roofscapes, including mansards. There is nothing fundamentally incongruous about the addition of a mansard roof to this particular building. The proposals have been refined and revised over many months so that they are sympathetic in terms of bulk, massing and height. The materiality responds to the red and brown brickwork of the original facades and integrates it successfully with the surrounding Edwardian context. The proposed fenestration aligns with the windows beneath and the particular rhythm and articulation of the building’s facades is reflected within the new roof addition. Similarly to the surrounding Edwardian houses, the light toned dormer windows will provide an attractive tonal contrast with the cladding material to the new mansard. The proposals will be of a high quality, with attention to detail and the quality of the finishes ensuring that the proposed mansard will sit comfortably above the original facades of the building.” (Paragraph 7.4)

“The appellant considers that the proposed mansard is contextual and sensitive to prevailing roof forms within the wider area, where mansards can be found on almost every domestic building. The architectural language of Howitt Close was clearly designed to respond to the surrounding Edwardian context and the erection of an additional floor, with its angled profile and clay tile cladding, provides a ‘roof’ which will terminate the building. Not only will this improve the appearance of the building from some vantage points it will demonstrably relate to its surroundings, reflecting the predominant roof form within the area. Whilst the proposed mansard would add height to the building and change its profile, an analysis of townscape views has demonstrated that this will not be harmful to the character and appearance of the Belsize Conservation Area.” (Paragraph 7.5)

- 5.12. The Heritage Practice SoC concludes (at Paragraph 6.36 and Paragraph 7.7) that the proposal preserves and enhances the character and appearance of the Conservation Area. It identifies that from some

vantage points, particularly along Glenilla Road, the building has unusual proportions and an unresolved character, derived from its flat roof and the contrast between otherwise traditional elevations. The proposed mansard will, to some degree, resolve this and has been designed carefully to respond to the surrounding context. Consequently the proposal is in accordance with the duty in Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990 to preserve or enhance a Conservation Area.

- 5.13. In any event the appeal proposal also provides other public benefits, which weigh in favour of granting planning permission, namely the provision of housing, affordable housing and renewable energy generation. This is accepted by the LPA at Paragraphs 7.1 and 6.46 of the Officers Report in respect of the revised planning application (**Appendix 15**).
- 5.14. The appeal proposal therefore fully complies with policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017, and associated policies of the London Plan 2021 and the National Planning Policy Framework.

Reason for Refusal No. 2 – Failure to secure energy and sustainability measures

- 5.15. Paragraphs 10.1 to 10.5 of the Officer's Report (delegated) (**PAD no. 20**) acknowledge the positive conclusions of the Energy and Sustainability Statement that was submitted with the application (**PAD no. 15**) however the report concludes that in the absence of plans/elevations showing the proposed photovoltaic panels compliance with Policy CC1 – Climate Change Mitigation of the Local Plan is not adequately demonstrated.
- 5.16. This issue can be adequately addressed by the imposition of a planning condition and subsequent to the determination of the appeal proposal a revised planning application has been submitted and, is recommended for approval by the LPA albeit it is, as of yet, undetermined. That revised scheme includes photovoltaic panels on the roof and those are shown

on the plans and elevations. Accordingly, the associated Officer's Report for that scheme (**Appendix 15**) concludes at Paragraph 6.70 that:

“The energy and sustainability measures will be secured by section 106 legal agreement and a planning condition is suggested to require the submission of final details of the solar PV (condition 11).”

5.17. Against the background of the above a set of plans and elevations for the appeal proposal have been produced with photovoltaic panels included. These are attached at **Appendix 17** and should be sufficient to form the basis of a planning condition.

5.18. Paragraph 6.46 of the Officer's Report in respect of the revised planning application (**Appendix 15**) discusses the photovoltaic panels and states that:

“Solar PV panels would be sited on top of the new roof (28 in total). Due to the local topography, whereby the land slopes up Howitt Road, the solar PV would be visible as one approaches the building from the north; however, given their size and siting and the distance over which they would be viewed, it is not considered that the solar PV equipment would detract from the character and appearance of the host building, or the wider area. Any harm caused by the solar PV equipment would be outweighed by the benefits provided in terms of renewable energy generation”.

5.19. This issue is also addressed at Paragraph 6.17 of The Heritage Practice SoC which concurs with the LPA's conclusion that the photovoltaic panels are acceptable.

5.20. Again as per the conclusions of the Officer's Report for the revised planning application the energy and sustainability measures can be secured by Section 106 Agreement and that is agreed and reflected in the updated draft Statement of Common Ground (SoCG).

5.21. For the above reasons the appeal proposal accords with Policy CC1 – Climate change mitigation of the London Borough of Camden Local

Plan 2017 and the associated policies of the London Plan 2021 and the National Planning Policy Framework.

Reason for Refusal No. 3 – Securing payment in lieu of affordable housing

- 5.22. Paragraphs 4.1-4.5 of the Officer’s Report (delegated) (**PAD no. 20**) identifies that in order to comply with Policy H4 – Maximising the supply of affordable housing a payment in lieu of affordable housing of £369,600 would be required. Paragraph 4.5 concludes that:

“If the application were otherwise considered to be acceptable, the financial contribution would be secured by section 106 legal agreement. The lack of an agreement to secure the affordable housing contribution forms a reason for refusal.”

- 5.23. As is reflected above and now also at Paragraphs 6.10-6.14 of the Officer’s Report for the revised planning application (**Appendix 15**) the payment in lieu of affordable housing can be secured by Section 106 Agreement. Following a review of the financial viability of such provision this is agreed and reflected in the updated SoCG.

- 5.24. For the above reason the appeal proposal accords with Policy H4 – Maximising the supply of affordable housing of the London Borough of Camden Local Plan 2017 and associated policies of the London Plan 2021 and the National Planning Policy Framework.

Reason for Refusal No. 4 – Securing the Construction Management Plan, implementation support fee and Construction Impact Bond

- 5.25. Paragraphs 8.1-8.8 of the Officer’s Report (delegated) (**PAD no. 20**) identifies that in order to comply with Policy A1 – Managing the impact of development, Policy T4 – Sustainable movement of goods and materials and DM1 – Delivery and monitoring a final Construction Management Plan (including implementation support fee) and Construction Impact Bond would need to be secured by Section 106 agreement, to help mitigate the impact on local residents.

- 5.26. As is reflected above and now also at Paragraph 6.62 of the Officer's Report for the revised planning application (**Appendix 15**) these requirements can be secured by Section 106 Agreement and that is agreed and reflected in the updated SoCG.
- 5.27. Accordingly the appeal proposal will fully comply with the above referenced Local Plan policies and the associated policies of the London Plan 2021 and the National Planning Policy Framework.

Reason for Refusal No. 5 – Securing the development as car free

- 5.28. Paragraph 9.3 of the Officer's Report (delegated) (**PAD no. 20**) identifies that in order to comply with Policy T2 – Parking and car-free development and DM1 – Delivery and monitoring of the Local Plan a legal agreement would be required to secure the development as car free.
- 5.29. As is reflected above and now also at Paragraph 6.65 of the Officer's Report for the revised planning application (**Appendix 15**) these requirements can be secured by Section 106 Agreement and that is agreed and reflected in the updated SoCG.
- 5.30. Accordingly the appeal proposal will fully comply with the above referenced Local Plan policies and the associated policies of the London Plan 2021 and the National Planning Policy Framework.

6. CONCLUSIONS

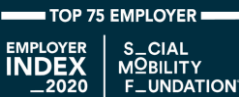
- 6.1. The appeal proposal has been the subject of lengthy pre application discussions with the LPA. Agreement in principle was established at the outset and outstanding design issues were significantly narrowed to the detail of the dormers and materiality over the course of 2 pre application submissions and a further exchange on alternative options.
- 6.2. Following the submission of the application the LPA performed a volte face on design and heritage issues resulting in the refusal of planning permission and support for a revised proposal with an alternative design approach. This has caused considerable delay and necessitated determination at appeal.
- 6.3. Critically a revised planning application for a roof extension with a different design approach is now recommended for approval by Officers (**Appendix 15**) albeit it is, as of yet, undetermined.
- 6.4. In the interim an application was made to Historic England by the Belsize Society (supported by the Heath & Hampstead Society) for Howitt Close to be statutory listed. This was rejected on 3 April 2023. The Initial Assessment Report prepared by Historic England (copy attached at **Appendix 16**) concludes that:

“Howitt Close is an attractive and well surviving development, typical of the inter-war period, which its status within the conservation area recognises. However, its moderate architectural interest means it does not meet the criteria for listing at a national level.”

- 6.5. Section 5 of this SoC identifies that the principle reason for refusal in light of Officer’s support for a revised application is reason for refusal no. 1 which relates to the impact of the proposal on the host building, streetscene and Conservation Area.
- 6.6. Contrary to the LPA’s refusal of planning permission on design and heritage grounds this SoC and the SoC prepared by The Heritage Practice concludes that the appeal proposal will preserve and enhance the character and appearance of the Belsize Conservation Area.

- 6.7. Accordingly the proposal fully complies with the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, the adopted London Borough of Camden Local Plan 2017, the London Plan 2021 and the provisions of the National Planning Policy Framework 2021.
- 6.8. Reasons for refusal 2, 3, 4 and 5 on the decision notice relate to matters which had not been discussed in detail during the determination of the appeal proposal but which were potentially acceptable in principle. This acceptability is reflected in the Officer's Report for the revised planning application (**Appendix 15**) which recommends that planning permission should be granted with the various issues dealt with by the imposition of a planning condition or a planning obligation secured by a Section 106 Agreement. This approach is reflected in the updated SoCG.
- 6.9. For the reasons set out above it is requested that this appeal is upheld and planning permission granted.

Awards and accreditations



FREETHS

freeths.co.uk