

**TOWN AND COUNTRY PLANNING ACT 1990  
(SECTION 78)**

**STATEMENT OF COMMON GROUND**

**APPEAL SITE: HOWITT CLOSE, HOWITT ROAD, LONDON, NW3 4LX**

**APPEAL BY: DAEJAN PROPERTIES LIMITED**

**PROPOSAL: ERECTION OF MANSARD ROOF EXTENSION TO CREATE  
7 SELF-CONTAINED FLATS (CLASS C3)**

**APPEAL TO BE DETERMINED BY WAY OF HEARING ON 04/07/2023**

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## 1. INTRODUCTION

- 1.1. This statement of common ground has been prepared by Freeths LLP on behalf of Daejan Properties Limited (DPL) and all of its content has been agreed with the London Borough of Camden (“the LPA”).
- 1.2. The appeal is against the decision to refuse planning permission on 3 August 2022 for the ‘Erection of Mansard Roof Extension to create 7 self-contained flats (Class C3)’ (Reference 2021/3839/P) (“the Appeal Scheme”) at Howitt Close, Howitt Road, London, NW3 4LX (“the Appeal Site”). 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.

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- 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. This statement of common ground covers the following topic areas: Section 2 – Appeal Site and Surrounding Area; Section 3 – Site History; Section 4 – The Appeal Proposal; Section 5 – Planning Policy and Legislation; Section 6 – Areas of Agreement and Section 7 – Areas of Disagreement.

## **2. APPEAL SITE AND SURROUNDING AREA**

- 2.1. Howitt Close is a 3 storey, L-shaped, purpose-built block of flats dating from the 1930's at the southern end of Howitt Road, adjacent to the junction with Glenilla Road. It is constructed with brown bricks with a white rendered third (top) floor and red brick detailing around the windows. It features stepped bays and a flat roof with overhanging eaves. The main entrance, at the centre of the L-shape, features paired columns and a decorative iron balcony above, with the name of the building above at third floor level.
- 2.2. The application site is within the Belsize Conservation Area and specifically sub area 4 (Glenloch). In this respect the Belsize Conservation Area Statement (BCAS) notes that the building makes a positive contribution to the Conservation Area in the audit section of the statement.
- 2.3. The surrounding area is residential in character. 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. At roof level the party walls are expressed as upstands with shared chimneys located at the ridge that step up the street. The terraces are of similar design but show variations. In the wider area there are larger paired Victorian villas (e.g. along Belsize Park Gardens) and a number of purpose-built flats (e.g. Manor Mansions on Belsize Park Gardens; Straffan Lodge on Belsize Grove and Sussex House on Glenilla Road, as well as Howitt Close). Howitt Road slopes down from Haverstock Hill.

### 3. RELEVANT PLANNING HISTORY

- 3.1. In 1937 permission was granted for the erection of a steel flue pipe at the rear of the premises known as Howitt Close, Howitt Road, Hampstead, and the retention of the structure for the period allowed under the London Building Act, 1930 (TP948/70566).
- 3.2. In 1961 an application for the construction of an additional floor at third floor level containing fourteen self-contained flats was refused (Reference TP948/12543). The reasons for refusal were:
- The proposal would not accord with the provisions of the Administrative County of London Development Plan as regards density or persons per acre, the density as proposed being considerably in excess of that provided for in this area.
  - The proposal would not comply with the Council's daylighting standards next the south-eastern and south-western boundaries of the site and would have the effect of preventing the access of adequate light across these boundaries to the detriment of adjoining land.
  - The proposal would result in overdevelopment of the site.
  - Owing to the lack of car parking facilities to the existing building, the proposed addition would further aggravate the parking position.
- 3.3. In March 2020 a proposal for a rooftop extension to provide 7 additional dwellings was submitted for pre-application advice (application reference 2020/1404/PRE). The proposal was for a mansard roof extension to the property. A virtual meeting was held with officer on 30 April 2020 to discuss the proposal and the LPA's first formal response letter was dated 12 May 2020.
- 3.4. Pre-application discussions continued, with a second submission made by the applicant on 26 October 2020 and a formal response letter issued by the LPA on the 7 December 2020. Further design options were then submitted on 4 January 2021 and the LPA provided a response on 9 January 2021.
- 3.5. Following refusal of the appeal scheme a revised application ("the revised planning application") (Reference: 2022/3635/P) was submitted to the LPA. The revised planning application proposes a new attic storey to create 7 additional residential dwellings. The difference between the appeal scheme and the revised scheme is the

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design approach to the extension with the former being a mansard roof and the latter an attic storey.

3.6. That application was recommended for approval and was due to go to Planning Committee on 30 January 2023. However, the application was not taken to Committee because the application was removed from the agenda following notification that Historic England had received an application from the Belsize Society (supported by the Heath & Hampstead Society) for the building to be statutorily listed.

3.7. Historic England confirmed on 3 April 2023 in their Initial Assessment Report 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”.*

3.8. The Council has taken the decision not to determine the revised application until the outcome of this appeal is known as the appeal decision will form a material consideration in the determination of that application.

#### 4. THE APPEAL SCHEME

4.1. The appeal scheme seeks planning permission for a mansard roof extension with projecting dormers to create 7 additional residential dwellings. The description of development was:

*“Erection of mansard roof extension to create 7 self-contained flats (Class C3)”.*

4.2. The mix of dwellings proposed was as follows:

- 1 no. 1 bed 2 person
- 3 no. 2 bed 3 person
- 2 no. 2 bed 4 person
- 1 no. 3 bed 4 person.

4.3. All flats meet the nationally described space standards.

4.4. A new bike and bin store (16 spaces) would be provided to the west of the building, accessed from Glenilla Road.

4.5. The planning application was accompanied with a range of supporting drawings and documents which comprised the following:

- Design and Access Statement (Bubble Architects)
- Existing Front Elevations
- Existing Rear Elevations
- Proposed Site and Location Plan
- Proposed Third Floor Plan (D-013 Rev A)
- Proposed Roof Plan (D-014 Rev A)
- Proposed Front Elevations (D-015 Rev B)
- Proposed Rear Elevations (D-016)
- Proposed Section AA (D-017)
- Planning Statement (Freeths LLP)
- Heritage Statement (Cotswold Archaeology)
- Construction Management Plan (Paul Mew Associates)
- Energy and Sustainability Report (Environmental Services Design)

4.6. With regards to affordable housing, a payment-in-lieu of affordable housing will be secured by Section 106 Agreement in accordance with Camden Local Plan Policy H4.



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- 4.7. The Energy and Sustainability Report proposed photovoltaic panels to generate renewable electricity on-site and meet the requirements of Camden Local Plan Policy CC1.

## 5. PLANNING POLICY

- 5.1. This section will outline the planning policy background and legislation which is relevant to the appeal site and the proposed development.
- 5.2. Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires all planning decisions to be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.3. The Development Plan comprises the London Plan (“LP”) adopted in 2021 and the Camden Local Plan (“CLP”) adopted in 2017.

### **Development Plan**

#### London Plan (LP) (2021)

- 5.4. The following policies in the London Plan are considered relevant to the consideration of this application:
- GG2 Making the best use of land
  - GG4 Delivering the homes Londoners need
  - D3 Optimising site capacity through the design-led approach
  - D4 Delivering good design
  - D6 Housing quality and standards
  - D14 Noise
  - H1 Increasing housing supply
  - H2 Small sites
  - H4 Delivering Affordable Housing
  - H5 Threshold approach to applications
  - H10 Housing size mix
  - HC1 Heritage conservation and growth
  - G4 Open space
  - G6 Biodiversity and access to nature
  - G7 Trees and woodlands
  - SI 2 Minimising greenhouse gas emissions
  - T4 Assessing and mitigating transport impacts
  - T5 Cycling
  - T6 Car Parking
  - T6.1 Residential parking

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- T7 Deliveries, servicing and construction

### Camden Local Plan (CLP) (2017)

5.5. The Local Plan was adopted by Council on 3 July 2017 and sets out the Council's planning policies. The following policies are considered relevant to this application:

- G1 Delivery and location of growth
- H1 Maximising housing supply
- H4 Maximising the supply of affordable housing
- H6 Housing choice and mix
- H7 Large and small homes
- C5 Safety and security
- C6 Access for all
- A1 Managing the impact of development
- A2 Open space
- A3 Biodiversity
- A4 Noise and vibration
- D1 Design
- D2 Heritage
- CC1 Climate change mitigation
- CC2 Adapting to climate change
- CC3 Water and flooding
- CC4 Air quality
- CC5 Waste
- T1 Prioritising walking, cycling and public transport
- T2 Parking and car-free development
- T3 Transport infrastructure
- T4 Sustainable movement of goods and materials
- DM1 Delivery and Monitoring

### **Other Material Considerations**

### National Planning Policy Framework (NPPF) (2021)

5.6. The NPPF sets out national planning policy in England and is an important material consideration in the determination of the appeal, to which significant weight should be attached.

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- 5.7. The Framework will be relevant to the determination of the appeal particularly the presumption in favour of sustainable development, which for decision making means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11), and chapters 1 (Introduction), 2 (Achieving sustainable development), 4 (Decision-making), 5 (Delivering a sufficient supply of homes), 9 (Promoting sustainable transport), 11 (Making effective use of land), 12 (Achieving well-designed places), 14 (Meeting the challenge of climate change, flooding and coastal change), 15 (Conserving and enhancing the natural environment) and 16 (Conserving and enhancing the historic environment) along with the related section in the National Planning Practice Guidance (NPPG).

### Belsize Conservation Area Statement (BCAS) (2003)

- 5.8. The BCAS sets out that its purpose is to provide a clear indication of the Council's approach to the preservation and enhancement of the Belsize Conservation Area.
- 5.9. The BCAS identifies that the character of Belsize is largely derived from mid-19<sup>th</sup> century Italianate villas, however that there are a number of distinct areas of varying character and appearance. Howitt Road falls within sub area 4 'Glenloch Area' of the BCAS.
- 5.10. Glenloch area is identified as '*a distinct area of Edwardian Terraced housing...close to Belsize Park Underground Station and Haverstock Hill*'. The BCAS states '*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*'.
- 5.11. In the audit section of the BCAS, Howitt Close is identified as a building that makes a positive contribution to the special character and appearance of the Conservation Area.

### Camden Planning Guidance (CPG)

- 5.12. Camden Planning Guidance (CPG) provides advice and information on how planning policies will be applied. The CPG documents which are considered relevant are:
- Access for All
  - Air Quality

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- Amenity
- Biodiversity
- Design
- Developer contributions
- Energy efficiency and adaptation
- Housing
- Public open space
- Transport
- Trees

5.13. The following heritage guidance documents will also be relevant here:

- Conservation Area Appraisal, Designation and Management: Historic England Advice Note 1 (Second Edition) (Historic England 2019a)
- Historic Environment Good Practice Advice in Planning Note 2 (Historic England 2015)
- The Setting of Heritage Assets: Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) (Historic England 2017a)
- Understanding Place: Historic Area Assessments (Historic England 2017b)
- Historic England Advice Note 12: Statements of Heritage Significance: Analysing Significance in Heritage Assets (Historic England 2019b)
- Conservation Principles (English Heritage 2008)

5.14. The Planning Act (Listed Buildings and Conservation Areas) Act 1990 will also be relevant and specifically Section 72 which sets out a duty for the LPA to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas when exercising its planning functions.

## 6. AREAS OF AGREEMENT

- 6.1. The following statements are areas in which both parties are in agreement.

### Principle of Development

- 6.2. Policy G1 of the Local Plan promotes the most efficient use of land in the borough and housing is regarded as the priority Land Use. As such the creation of 7 additional residential units is in accordance with Policy G1 and the principle of residential development is acceptable. This is set out in paragraph 3.1 of the Officers Report (OR).

### Dwelling Mix

- 6.3. Policy H7 of the Local Plan aims to secure a range of homes of different sizes that will contribute to the creation of mixed, inclusive and sustainable communities and reduce mismatches between housing needs and existing supply. The policy requires that all housing development, including conversion of existing homes and non-residential properties, contributes to meeting the priorities set out in the Dwelling Size Priorities Table (DSPT); and includes a mix of large and small homes.
- 6.4. The DSPT identifies a priority for 2 bed market units. The proposed development provides 5x 2-bed units, 1x 1-bed unit and 1x 3-bed unit and therefore meets the aims of the DSPT and the proposal provides a mix of large and small homes. The proposal is therefore in accordance with Policy H7. This is set out in paragraph 4.7 of the OR.

### Living Standards for occupiers

- 6.5. All of the units would exceed the nationally described space standards.
- 6.6. All of the proposed new units would be self-contained with their own secure private entrances. The new units would be accessed via the main entrance to the host building and via the existing communal staircases which would be extended upwards to the new fourth floor.

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- 6.7. LP Policy D6 seeks to maximise the provision of dual aspect dwellings. 5 of the 7 proposed flats are dual aspect and meet this requirement. Flat 3 and 4 are single aspect flats, however it is noted that single aspect flats are acceptable where the development is providing an appropriate design solution to meet the requirements of policy D3, which seeks to optimise site capacity. As the proposal is for an extension to an existing building, the provision of a small number of single aspect flats is unavoidable due to the existing footprint and layout of the building. Flats 3 and 4 will have adequate ventilation, daylight and privacy, and therefore still accord with LP policy D6.
- 6.8. None of the units would have access to private outdoor amenity space; however, this is the same as existing units in the host building and the application site is within walking distance of Hampstead Heath and Primrose Hill. There is also a small amount of communal open space surrounding the host building.
- 6.9. As such the amenity of proposed occupiers is considered acceptable. This is set out in paragraph 4.19 of the OR.

### Impact of Neighbours

- 6.10. The proposed development would not impact on the quality of life of occupiers and neighbours and is therefore in accordance with Policy A1 of the Local Plan.
- 6.11. The separation distance between the host building and the buildings to the south on Belsize Park Gardens is approximately 19 metres; the separation distance between the host building and Straffan Lodge (on Belsize Grove) is in excess of 30 metres; and although the properties on the opposite side of Howitt Rose (to the north / north-west) are only a minimum of 17 metres away, this is considered to be acceptable as a similar relationship exists between the front-facing elevations of other properties in the street.
- 6.12. In respect of overlooking the separation distance to properties in Belsize Grove means that over 18m separation between habitable windows, as set out in the Amenity SPG document, is achieved. In respect of the properties on Glenilla Road the proposal will not have any significantly detrimental impacts over and above that which already takes place with the existing building.

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- 6.13. Due to the separation distances set out above the proposal is not considered to give rise to unacceptable levels of overlooking to neighbouring properties, nor to harm the outlook from neighbouring properties.
- 6.14. Due to separation distances and the existing building the additional height of the proposed development will not create any issues with regards to sunlight/daylight of adjoining properties along Belsize Grove or Belsize Park Gardens. This is set out in paragraphs 8.1-8.5 of the OR.

### Climate Change Mitigation (reason for refusal no. 2)

- 6.15. Paragraphs 10.1 to 10.5 of the OR acknowledge the positive conclusions of the Energy and Sustainability Statement that was submitted with the application (PAD no. 15) however the report concluded 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.
- 6.16. A set of plans and elevations for the appeal proposal have been produced with photovoltaic panels included. These are included within Appendix 17 of the Appellants Statement of Case. The location and extent of the PV panels are considered to be acceptable by the Council. Provided the Inspector is willing to accept the revised plans, the Council does not wish to pursue this issue.

### Affordable Housing (reason for refusal no. 3)

- 6.17. Paragraphs 4.1-4.5 of the Officer's Report (delegated) 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.”*



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- 6.18. Following a review of the financial viability of such provision this is agreed and the payment in lieu of affordable housing can be secured by Section 106 Agreement, which will be submitted to the Inspector in due course.

### Construction Management Plan (reason for refusal no. 4)

- 6.19. The Appellant has submitted a draft Construction Management Plan. The LPA made no comment on that save for in the OR and the associated reason for refusal.

- 6.20. Paragraphs 8.1-8.8 of the OR 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.

- 6.21. The Implementation Support fee (£4,075.60) is agreed and will be secured by Section 106 Agreement, which will be submitted to the Inspector in due course.

- 6.22. The Construction Impact Bond (£7,874) is agreed and will be secured by Section 106 Agreement, which will be submitted to the Inspector in due course.

### Car Free Development (reason for refusal no. 5)

- 6.23. Policy T2 of the Local Plan seeks to limit the availability of parking and requires all new developments in the borough, including redevelopments (and changes of use) with new occupiers, and including where dwellings are created as part of an amalgamation or sub-division, to be car-free (i.e. future occupiers would not be able to apply for parking permits for the local area).

- 6.24. This requirement is agreed and can be secured by Section 106 Agreement, which will be submitted to the Inspector in due course.

## 7. AREAS OF DISAGREEMENT

7.1. The principle areas of disagreement relate to the reasons for refusal.

Harm to the Character and Appearance of the Building, Streetscene and Belsize Conservation Area.

7.2. The Appellant and LPA disagree on the interpretation of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that “*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*”.

7.3. The Appellant, with reference to relevant case law, considers that the Section 72 test can be met by development which preserves the character and appearance of a Conservation Area and identifies that there is no statutory requirement for enhancement. Preservation does not mean no change to the Conservation Area, but that there should be no harm from the associated change.

7.4. The Appellant and LPA disagree over the architectural details of the proposal in respect of height, mass, bulk and materials and therefore the associated impact on the host building. The Appellant and LPA also disagree on the significance of the building, and therefore its contribution to the character and appearance of the Conservation Area and associated streetscene. As such the identified level of impact resulting from the proposal is significantly different.

7.5. The Appellant considers that the proposed mansard improves the appearance of Howitt Close from some medium range vantage points, particularly on Glenilla Road, utilising a form of roofscape which is widely used on buildings of this age and typology. In many respects the proposed mansard will improve the overall balance and proportions of the existing building, where its flat roof currently contributes to its rather squat appearance.

7.6. The LPA consider that the flat roof of the building is characteristic of its inter-war development and therefore aids legibility of the application building. The existing building has also remained largely unaltered since its initial construction and therefore the flat roof forms part of the established character of the streetscene and local area.

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- 7.7. As such the Appellant considers that the proposal preserves, by virtue of the fact there is no harm from the development, and even to some extent enhances the character and appearance of the Conservation Area.
- 7.8. The LPA consider that the proposal would not preserve the character and appearance of the conservation area because the proposed changes would be perceptible. They go on to state that the scheme does not enhance the Conservation Area because the proposal neither repairs nor restores any previous historical condition nor does it help better reveal or enhance the existing historic or architectural character of the area. As such they conclude that the scheme causes 'less than substantial' harm to the character and appearance of the Conservation Area.

### Public Benefits of the Scheme

- 7.9. The Appellant contends that the benefits of the scheme are, although not exclusively, enhancement to the character and appearance of the Conservation Area, housing delivery, contribution towards affordable housing, sustainability and renewable energy use, employment creation and economic impact. This is in contrast to the LPA who, in paragraph 5.15 of the OR, have only considered benefits to be the provision of housing and a financial contribution to affordable housing.

### Planning Balance

- 7.10. The Appellant disagrees with the LPA on the merits of the planning balance. The Appellant considers that even if the proposal results in less than substantial harm in heritage terms, as the LPA allege, that harm would be demonstrably outweighed by public benefits, which are set out above in para 7.9.

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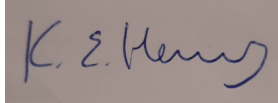
Signed on behalf of the Appellant:



Position: Partner and National Head of Planning and Environment

Date: 19-06-2023

Signed on behalf of the Council:



Position: Principal Planning Officer

Date: 22/06/2023