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Appeal Statement

109 Albert Street, London, NW1 7NB

Statement prepared by Chilcroft Heritage Planning
June 2023



Corporate members of:
The Society for the Protection of Ancient Buildings
Historic Houses Association
The Georgian Group



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1) INTRODUCTION

- 1.1) I am Haig Dalton, founder of Chilcroft Heritage Planning, an established independent heritage consultancy since 2006. I have previously served as a local planning authority Design and Conservation Officer, within development control departments. I have worked on a wide range of projects throughout the United Kingdom, predominantly (but not exclusively) for private sector clients.
- 1.2) I hold a masters degree in Historic Building Conservation (MSc); a postgraduate qualification in Architectural History from the University of Oxford (Oxon); I am an Affiliate member of the Royal Institute of British Architects (RIBA) and of the Institute of Historic Building Conservation (IHBC).
- 1.3) Over the last 18 years I have specialised in the historic environment, both in terms of understanding and analysing physical fabric, and in terms of policy application, specifically by assessing impacts, providing advice and supporting development proposals. My experience includes a diverse range of cases relating to the assessment of physical changes to, and development affecting all manner of heritage assets, and their settings.
- 1.4) I have undertaken numerous impact assessments where I have considered the impacts of new development on the historic environment (dealing with physical impacts, setting, townscape, views and inter-visibility), including dealing with the effects of development on heritage assets in urban settings.
- 1.5) I have provided expert evidence at appeals, including public inquiries, on behalf of both appellants and local planning authorities.
- 1.6) I understand my roles as part of this Appeal Statement; to give independent and objective evidence on matters within my expertise, based on my own independent opinion and uninfluenced by the instructing party; the appellant. I confirm that I have stated the facts and matters on which my opinion is based, and that I have not omitted to mention facts or matters that could detract from my conclusions.

- 1.7) I believe that the facts stated within this Appeal Statement are true and that the opinions expressed are correct. I have drawn attention to any matters where I consider I lack sufficient information to reach anything other than a provisional conclusion. I have adhered to the standards and duties of the professional bodies I am a member of, and will continue to adhere to so.
- 1.8) I was first approached in relation to the application proposal in September 2022, when I was asked to provide a heritage statement in relation to the proposal on behalf the appellant. My quote was based on several stages/elements, the first of which was an initial case review, including a site visit during October 2022. I confirm that I am able to act as the appellant's planning and heritage expert following this initial work and a site visit.
- 1.9) As an independent expert witness, I have formed my own opinions and conclusions about the effects of the appeal scheme on heritage assets.
- 1.10) I have included in my Appeal Statement photos taken on my original site visit. The photos were taken with a compact digital camera and they have not been digitally altered, aside from cropping superfluous areas of sky and/or foreground. This visual assessment is intended to be informative, but it is not intended to be exhaustive.
- 1.11) This Appeal Statement will describe the significance of any heritage assets affected, including any contribution made by the setting, as required by Para.194 of the *National Planning Policy Framework* (2021). It will assess the significance of the heritage assets by way of Historic England guidance *The Setting of Heritage Assets* (2017) in accordance with their preferred five-step procedure, identify, assess and explore the significance of their setting and consider the appellant's scheme in relation to them.

2) LEGISLATION AND POLICY

- 2.1) Legislation relating to listed buildings and conservation areas is contained in the Planning (Listed Buildings and Conservation Areas) Act 1990. Sections 16 and 66 of the Act place a duty on the decision maker to have special regard to the desirability of preserving listed buildings and their settings.
- 2.2) Section 72 of the Act places similar duty on the decision maker with respect to the desirability of preserving or enhancing the character or appearance of conservation areas, however this does not extend to the setting of conservation areas.
- 2.3) The **National Planning Policy Framework (NPPF)** constitutes the Government's current national guidance and policy regarding development in the historic environment. It is a material consideration and includes a succinct policy framework for local planning authorities and decision takers. It relates to planning law by stating that applications are to be determined in accordance with the local plans unless material considerations indicate otherwise.
- 2.4) Paragraphs 189 to 193 of the NPPF deal with conserving and enhancing the historic environment with emphasis on "significance", defined in Annex 2 as:

"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance"

- 2.5) Annex 2 of the NPPF defines the setting of a heritage asset as:

"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral"

- 2.6) Paragraph 194 of the NPPF places a duty on the Local Planning Authority (LPA) to require an applicant to describe the significance of any heritage assets affected by a proposal, providing a proportionate level of detail. The effects of any development on a heritage asset therefore need to be assessed against the four components of its heritage significance: its archaeological, architectural, artistic and historic interests.
- 2.7) Paragraph 195 of the NPPF notes that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 2.8) Paragraph 199 applies specifically to designated heritage assets. It states that great weight should be given to their conservation (requiring a proportionate approach) irrespective of whether any potential harm amounts to substantial or less than substantial harm.
- 2.9) Conservation (for heritage policy) is defined in Annex 2 of the NPPF as:
- “The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance”*
- 2.10) The importance and relevance of this definition is that it does not suggest conservation to be the same as preservation. Indeed, what sets conservation apart is the emphasis on proactively maintaining and managing change and not on a reactive approach to resisting change. In its simplest interpretation conservation could amount to a change that at least sustains the significance of a heritage asset.

- 2.11) Paragraphs 201 to 202 describe two levels of potential harm that can be caused to the significance of designated heritage assets, namely substantial harm and less than substantial harm. These effects are to be weighed in the planning balance according to the guidance set out within the paragraphs, bearing in mind the statutory provisions above. Substantial harm to or loss of a grade II listed building should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, including grade I and II* listed buildings should be wholly exceptional.
- 2.12) Paragraph 202 deals with cases of less than substantial harm and notes that any such harm should be weighed against the public benefits of the proposal. Heritage protection and the conservation of heritage assets are recognised as of benefit to the public.
- 2.13) Harm is defined by Historic England as a change which erodes the significance of a heritage asset.
- 2.14) Paragraph 206 of the NPPF notes that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 2.15) **The National Planning Practice Guidance** provides advice on enhancing and conserving the historic environment in accordance with the NPPF. The PPG currently relates to the 2019 version of the NPPF but will be updated in due course to reflect NPPF 2021.
- 2.16) In regards to the setting of heritage assets the PPG notes:

“The setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage.”

2.17) The guidance notes that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.

2.18) In relation to harm the guidance states:

“Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset’s significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.”

2.19) Paragraph 020 of the document notes that public benefits can be heritage based and can include:

- Sustaining or enhancing the significance and the contribution of its setting;
- Reducing or removing risks to a heritage asset; and
- Securing the optimum viable use of a heritage asset for the long term.

2.20) The **Historic Environment Good Practice Advice in Planning** Note 3: The Setting of Heritage Assets (Historic England, 2017) is a document published by Historic England as a second edition in December 2017, replacing the earlier 2015 setting guidance. The document provides for a thorough understanding of the setting of a heritage asset and the relationship of the setting to curtilage, character and context.

2.21) The guidance document notes, in paragraph 18, that the protection of the setting of heritage assets need not prevent change. The document recognises that not all heritage assets are of equal importance and states that the contribution made by their setting to their significance will also vary. Not all settings have the same capacity to accommodate change without causing harm to the significance of the asset.

2.22) As per earlier Historic England guidance, the document advocates a stepped approach to assessing the impact of change within setting on the significance of heritage assets. This stepped approach is:

Step 1: identify which heritage assets and their settings are affected;

Step 2: assess whether, how and to what degree these settings make a contribution to the significance of the heritage asset(s);

Step 3: assess the effects of the proposed development, whether beneficial or harmful, on that significance;

Step 4: explore the way to maximise enhancement and avoid or minimise harm; and

Step 5: make and document the decision and monitor outcomes.

2.23) Guidance under Step 2 notes that the asset's physical surroundings and how the asset is experienced (such as views, noise, tranquillity, sense of enclosure etc.) should be taken in to consideration.

2.24) Step 3 is also important in making it clear that a proposed development should not be assessed in terms of its impact on setting; instead it should be assessed in terms of the impacts on significance. That is to say, what matters is not the extent of visibility of the development or change to the setting of an asset, but the extent of change to its archaeological, architectural, artistic or historic interest. In some circumstances, this evaluation may need to extend to cumulative and complex impacts which may have as great an effect on heritage

assets as large-scale development and which may not only be visual. At the very least the assessment should address the key attributes of the development in terms of its location and siting, form and appearance, additional effects and permanence.

- 2.25) Paragraph 39 notes that options for reducing the harm arising from development may include the relocation of elements of a development or changes to its design. It notes that good design may reduce or remove the harm.
- 2.26) **Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990** requires great weight to be given to preserving the setting of a heritage asset. In *Jones v Mordue [2015] EWCA Civ 1243* the court confirmed that if the decision-maker has worked through the relevant heritage paragraphs in the NPPF, they will have complied with the s66 duty.
- 2.27) In *Barnwell Manor [2014] EWCA Civ 137* the court confirmed that great weight should be attached to the desirability of preserving the setting of a heritage asset.
- 2.28) **Statutory time limits** for planning applications are set out in Article 34 of the Town and Country Planning Development Management Procedure (England) Order 2015 (as amended). They are 13 weeks for major developments, 10 weeks for technical detail consents and 8 weeks for all other types of development.
- 2.29) Where a planning application takes longer than the statutory period to decide, and an extension period has not been agreed with the applicant, the government's policy is that the decision should be made within 26 weeks at most in order to comply with the 'planning guarantee'.

3) ASSESSMENT OF SIGNIFICANCE

- 3.1) 109 Albert Street is a Grade II listed building (**List No. 1378641**) and shares its designation with the row of twenty two terraced dwellings. The attached terraced building dates from c.1845, during the mid 19th Century of the Victorian period. The terrace comprises dwellings set out over three storeys with basements, with attic dormers and mansard roofs finished in slate (**see Fig 3**). The building comprises yellow stock brickwork with rusticated stucco ground floors, raised ground floor doorways with stucco pilasters and steps over basements, with cast iron railings along their frontage and sash windows. The rear of the building in contrast is much plainer and devoid of detailing, with an outrigger projecting into the curtilage, which has been crudely in-filled at ground floor level in the late 20th Century, to provide a ground floor toilet (**see Fig 6**).
- 3.2) 109 Albert Street is located within the Camden Town Conservation Area, which includes the Grade II terraced buildings that front both sides of Albert Street and also incorporates Delancey Street to the south. The terraced listed buildings make an important contribution to the character and appearance of the Conservation Area. The appreciation of the streetscene, which includes the frontage of 109 Albert Street, involving its architectural form, aesthetics in materials and colours, cultural history and awareness, all play an important role in how it is perceived and enjoyed as part of the public realm. From this aspect, there is limited opportunity to get glimpses into the dwelling via the ground floor windows, due to the raised ground floor nature of the building. The architectural design of the terraces is such that when standing at street level, the front living room and its fabric is not part of this appreciation.
- 3.3) The principal elevation faces east overlooking Albert Street and the frontage of 109 Albert Street is set back behind the curtilage boundary railings, with access leading down to the basement. To the rear of the building to the west, there is a rectangular garden space that is enclosed on all sides by adjoining curtilages that back onto it. The historic mid 19th Century core of the building remains best appreciated from its principal elevation and the view from Albert Street to the eastern side.

- 3.4) A map regression exercise (see **Fig 1 and 2**) shows that the listed building was historically constructed with outriggers at the rear of the dwellings, a common feature among Georgian and Victorian style dwellings. Today however, many of these outriggers have been lost and only some of the terraced dwellings now contain their original outriggers or in a condensed, altered form. The historic maps show that 109 Albert Street had a stepped outrigger to the south-west corner of the dwelling. Part of this outrigger structure still survives, spread across the ground and basement levels however, the smaller return wall at the furthest rear part of the building has subsequently been lost in the 20th Century and the rear wall reconfigured at ground floor level to accommodate a larger opening. Consequently the wall closest to the lost part of the outrigger has been in-filled to create the nib of the existing doorway opening. The outrigger has therefore has seen considerable change and lost parts of its historic fabric.
- 3.5) Although some of the interior finishes, architraves, doors and fixtures have been lost, the overall feel and presentation of the interior of the building still allows for a clear understanding and appreciation of the building and how the interior space was used. Residual historic fabric contributes to this significance however, not all is believed to be original to the c.1845 building. Whilst the chimney stack in the ground floor living room is undoubtedly in its historic location, the fireplace is not original as proved by **Fig 8** which shows the much plainer fireplace that once stood here. The heavy dark marble surround is of a style associated with the late 19th Century and is at odds with the plainer fire surrounds favoured in the early 19th Century, a design found scattered throughout the other dwellings within the listed terraced building. Overall, the building, which is Grade II listed, has both historic and architectural interest, which encompasses its age, its intactness and fabric, including its architectural design. Going forward, any changes should look to respect the historic fabric of the building and seek to enhance its appreciation.
- 3.6) Historically 109 Albert Street has always been a residentially used building and Historic England guidance would in principal, support the updating and modernisation of the building to continue its sustainable use, subject to appropriate design. A well thought out proposal is likely to preserve and/or enhance the significance of the Grade II listed building.

Map Regression Exercise

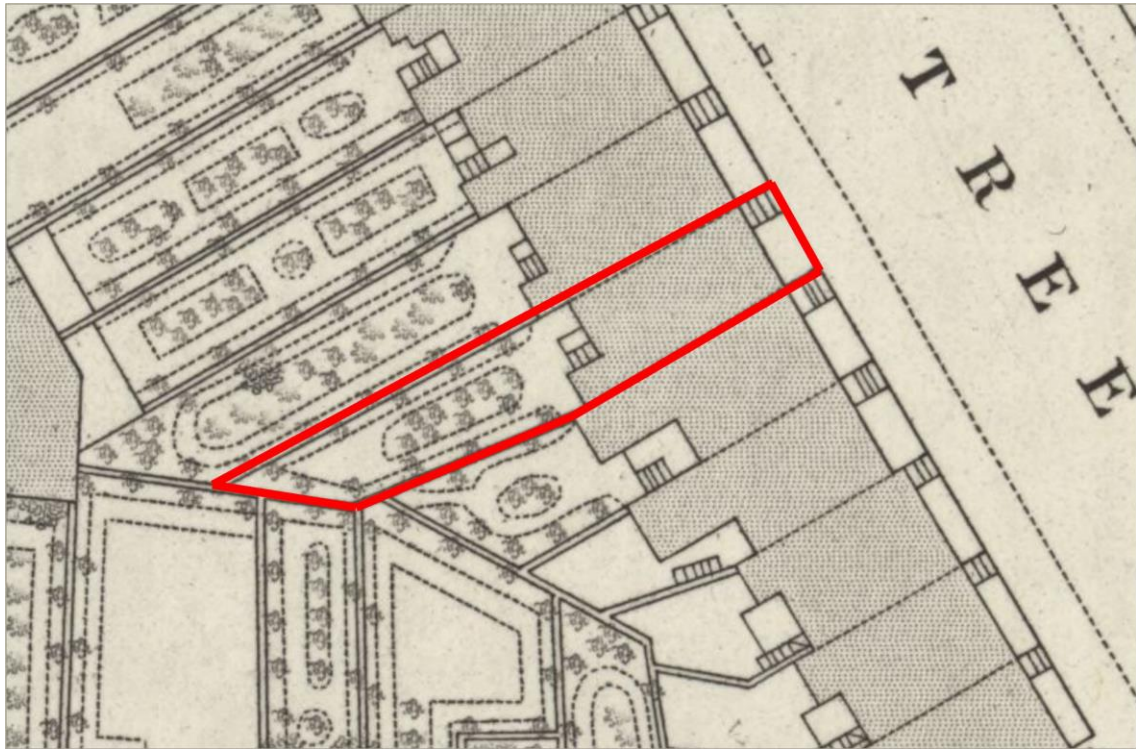


Fig 1: 1873 – An early map shows the original outrigger at the rear of the building in its historic form, with steps leading down into the basement. Then Gloucester Street, it was renamed following WW2 in 1945.

© Ordnance Survey 1873

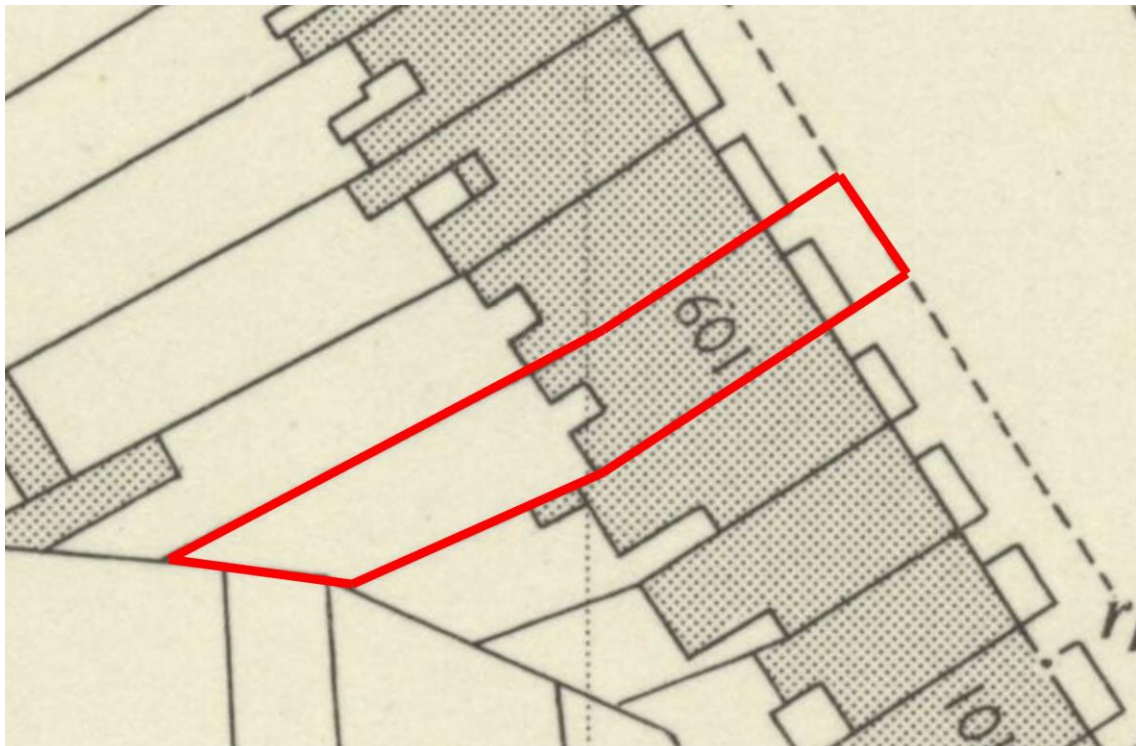


Fig 2: By 1953, the rear of the dwelling had two parallel outriggers at the rear of the building. The northernmost outrigger adjoining 111 Albert Street has subsequently been lost.

© Ordnance Survey 1953



Fig 3: 109 Albert Street dates from c.1845 and was built as part of a terrace of twenty two dwellings. The three storey building is Grade II listed and is situated within the Camden Town Conservation Area.

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Fig 4: The rear elevation of 109 Albert Street showing what remains of the historic outrigger to the right and a smaller in-fill at ground floor level to the side of it. The appeal scheme would enhance its appreciation.

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Fig 5: Some of the dwellings within the listed terrace still contain their original historic outriggers. The outrigger at 109 Albert Street by contrast is considerably smaller and the appeal scheme would maintain this.

© Chilcroft 2022

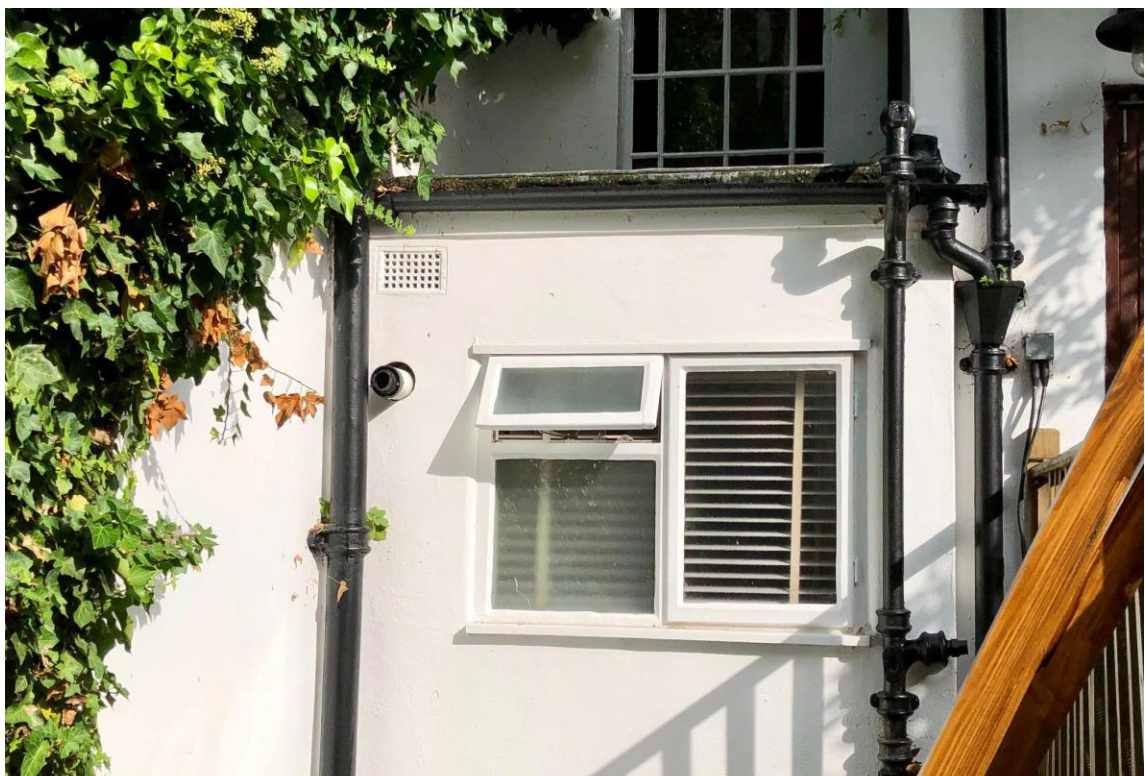


Fig 6: A modern casement window had been added to the side that is not in keeping with the historic building. The appeal scheme's design would improve upon this to enhance the overall significance of the listed building.

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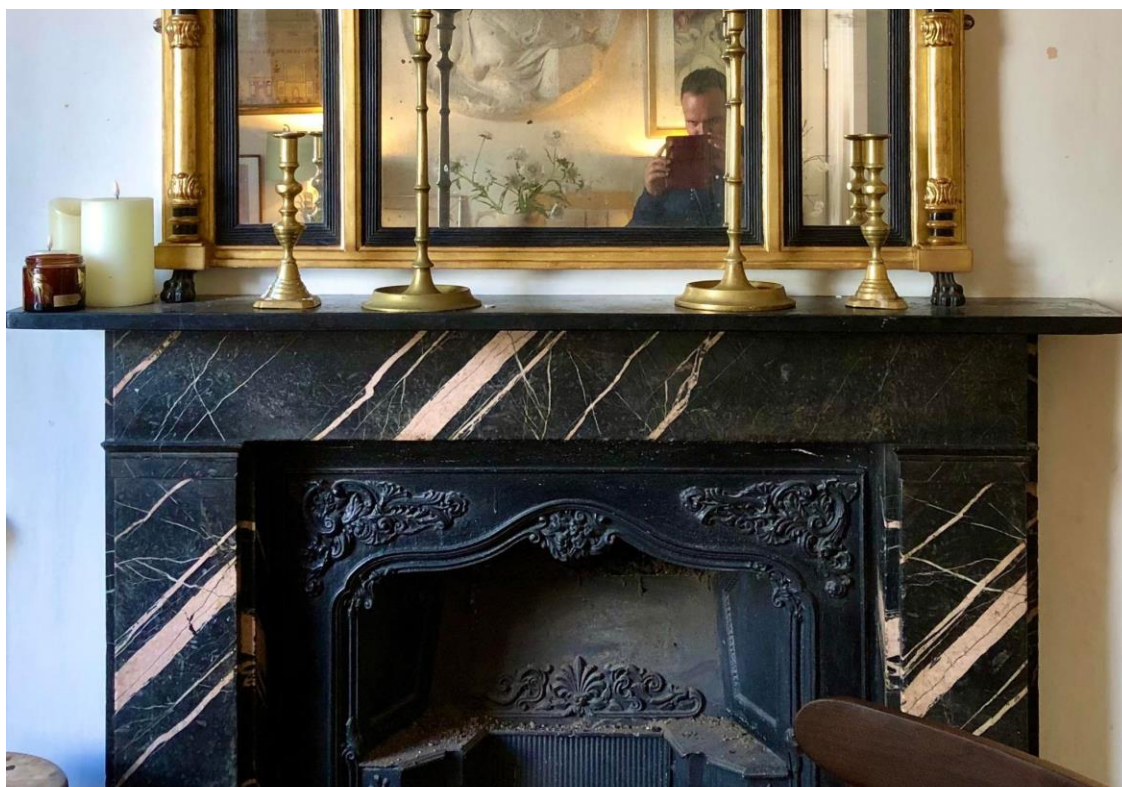


Fig 7: The interior of 109 Albert Street has already been subject to much change, including this fireplace which is not original to the building and was replaced with a more modern style in the late 20th Century.

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Fig 8: A survey conducted in 1946 shows a photograph of the fireplace at that time, with a timber surround. This proves beyond doubt that the existing marble fireplace is not original to the listed building.

© Ministry of Defence 1946

4) IMPACT ASSESSMENT

- 4.1) Whilst the living arrangements of an owner cannot be a primary consideration in the case of a listed building, they will undoubtedly feature in any residential improvements and done sympathetically, can also preserve or enhance the significance of a heritage asset. Chilcroft Heritage Planning has worked closely with the appellant to facilitate this and ensure that 109 Albert Street and its historic fabric, remains the primary consideration.
- 4.2) The appeal scheme seeks to create an enlarged rear door opening and reconfigure the existing ground floor living space by flipping the dining room and kitchen. Chilcroft Heritage Planning has assessed the proposed floorplan and design, following a site visit to the building, to ensure that this design can uphold the significance of the listed building and its fabric.
- 4.3) The appeal scheme's floorplan has worked on the basis of the need to maintain historic fabric and will not involve the separation or division of the principal rooms, to which the greatest significance may be attributed to. The existing accesses to the ground and first floors would be utilised for their original purpose and the layout of the building maintained. The most significant reception rooms of the building would remain as large open plan spaces, without the need to subdivide sensitive rooms which have always historically been the largest rooms in the building. Where changes to the existing floorplan are sought, these would be confined to the fireplace in the proposed kitchen, which is considered to be a later addition to the building and not considered original historic fabric. The chimney stack would be maintained allowing for the appreciation of the fireplace in its historic location within the living space. The cooker would be inserted into the existing fireplace, turning the chimney stack into the focal point of the room, which is an established design approach also seen in other dwellings throughout the listed building. These include 47 Albert Street, 105 Albert Street and 113 Albert Street, which have all adopted a similar design approach, utilising existing chimney stacks within the kitchen space.

- 4.4) At the rear of the building, the existing outrigger would be maintained with no extensions to the building proposed. The appeal scheme, which largely amounts to cosmetic changes, would increase the rear opening with French Doors, providing enhanced daylight into the rear living space of the dwelling. These would replace existing timber framed doors which are from the late 20th Century of no historic fabric value and considered to be of poor quality design, which fail to maintain the appreciation of the listed building. The proposed replacements are considered to be of an improved quality, capable of enhancing the appreciation and therefore the significance of the heritage asset.
- 4.5) To the side of the this sits a somewhat incongruous addition that houses the downstairs toilet and whilst it is not proposed to replace this, the poor quality of this structure can largely be attributed to the single modern casement window, which is totally out of context with the fabric of a Georgian style terraced building. The appeal scheme would in contrast be more in keeping, replacing the casement with a pair of timber windows with glazing bars. This small and yet significant change would greatly enhance the appreciation of this part of the rear elevation of the listed building, thereby enhancing the significance of the heritage asset.
- 4.6) The appeal scheme would have no adverse impact upon the Camden Town Conservation Area, being solely focused at the rear and inside the building. The appreciation of the listed building, which can be best attributed to the principal elevation, will remain unchanged from the public aspect of Albert Street and due to the elevated nature of the ground floor, the use of the front living space as a kitchen will not alter the filtered views which carry on into the interior. From the rear of the building to the western side, the scheme will serve to enhance the overall design and quality of the rear elevation of the building, replacing existing late 20th Century fabric that is of poor quality.
- 4.7) In conclusion, the appeal scheme is considered to be capable of enhancing the overall appreciation and therefore the significance of the listed building, through the use of high quality design and materials. The proposals would on balance respect the historic fabric of the listed building and work with the historic floorplan to preserve its significance.

5) APPEAL STATEMENT

- 5.1) This appeal is made against Camden Borough Council on the grounds of non-determination. Planning application 2022/0230/P was validated on the 15/06/2022 and no extension of time has been agreed. A failure to decide the application now stands at more than 52 weeks, over double the government's 26 week 'planning guarantee'. In the absence of any decision, the appellant therefore respectfully has no alternative but to appeal.
- 5.2) On the 01/07/2022 the Camden Town Conservation Area Advisory Committee stated that "the CTCAAC considers that the proposed external changes to the fenestration are considered acceptable." In view of this, the proposed external changes to the listed building are therefore supported.
- 5.3) The members of the advisory committee raised concerns that an original fireplace might be lost, despite the Heritage Statement saying otherwise. As part of the appeal, we have therefore researched the history of the building in more detail and can now provide new evidence in support of this.
- 5.4) 109 Albert Street was requisitioned by the Ministry of Defence in 1940, most likely for intelligence purposes, although its exact use during the Second World War remains unclear. It was eventually returned to civilian use in 1946. Like all requisitioned buildings being returned to civilian use, the Ministry of Defence carried out a survey of the building using a member of the Royal Institution of Chartered Surveyors, prior to disposal and handover in 1946. We have now obtained a transcript of this survey, including a photograph.
- 5.5) The Ministry of Defence document dated 03/05/2023 states that at the time of the survey in 1946, the front ground floor room was used as a dining room with a sitting room at the rear, just as the appeal scheme design proposes. It further states that "*the fireplace in the dining room has a frieze and surround made of timber*" seen clearly in the accompanying photograph (see **Fig 8**). As this predates the existing marble fireplace, this fireplace is clearly not original to the listed building and has been added after this photo was taken. The existing marble fireplace would be donated for architectural salvage and reuse.

6) SUMMARY AND CONCLUSIONS

Legislation, Policy and Guidance

- 6.1) The Planning (Listed Buildings and Conservation Areas) Act 1990 contains a statutory duty to give considerable importance and great weight to the desirability of preserving the setting of a listed building in the planning balance. Preserving means to do no harm.
- 6.2) The NPPF lays down an approach that corresponds with the statutory duty of the 1990 Act. In cases where harm occurs, the NPPF requires balancing the benefits of a proposal against harm resulting from it.
- 6.3) The Camden London Borough Council's adopted Development Plan policies require development proposals to conserve heritage assets (such as listed buildings), and their settings.
- 6.4) The guidance in Historic England's GPA3 provides a framework for considering and assessing effects on the setting of heritage assets.

Conclusions

- 6.5) The appeal scheme has considered the significance of the heritage asset and will respect its historic fabric, by focusing changes on modern fabric.
- 6.6) The scheme would improve upon the existing late 20th Century modern fabric in the rear elevation of the building, by inserting French Doors and windows with glazing bars which will enhance the significance of the listed building.
- 6.7) The 1946 survey of the building proves that the existing marble fireplace in the proposed kitchen is not original to the building and is therefore of no historic fabric value to the listed building and its significance.
- 6.8) The appeal scheme would preserve the setting of the Grade II listed building and maintain the character and appearance of the Conservation Area.

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