

# Heritage Statement

## 251 Goldhurst Terrace, London NW6 3EP

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**Written by:** Ignus Froneman B Arch Stud ACIfA IHBC      **Date:** 27 November 2023  
**On behalf of:** Mrs Victoria Jakisic      **Ref:** 0880

### 1.0 INTRODUCTION

1.1 This Heritage Statement has been prepared by Ignus Froneman, Director at Cogent Heritage, in consultation with the Applicant, and GML Architects. The Heritage Statement supports a retrospective planning application for replacement of the front hardstanding to 251 Goldhurst Terrace. The application is necessary because the property is covered by an Article 4(1) Direction. The subject property is unlisted, but falls within the South Hampstead Conservation Area (formerly known as the Swiss Cottage Conservation Area) in Camden.

1.2 The author of this report is a qualified heritage consultant with over 20 years of experience in the historic environment. This includes regular appearances as an expert witness at public inquiries, on behalf of both appellants, public bodies and local planning authorities.

1.3 Because the application is retrospective, it has not been possible to physically inspect the replaced hardstanding, though a photo of this, taken before the commencement of the works, has been provided by the applicant and this provided sufficient information about the pre-existing surfacing.

1.4 It is noted that the installation of the front railings, gates and brick piers to the front garden of the subject property has been subject to a separate application that was approved on 13 December 2019 under application ref. 2019/4236/P.

### Legislation and policy summary

1.5 The section below summarises the key provisions of s.66 & s.72 of the Planning Listed Buildings and Conservation Areas Act 1990, the National Planning Policy Framework and the Development Plan policies.

1.6 **Legislation:** Legislation relating to listed buildings and conservation areas is contained in the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Section

66(1) of the Act sets out the statutory duty in relation to development affecting the setting of listed buildings: and section 72(1) sets out the statutory duty in relation to any buildings or other land in a conservation area.

- 1.7 It is a well-established concept in case law that 'preserving' means doing no harm for the purposes of the 1990 Act. The Court of Appeal's decision in *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council* [2014] (EWCA Civ 137) established that, having 'special regard' to the desirability of preserving the setting of a listed building under s.66, involves more than merely giving weight to those matters in the planning balance. There is a strong statutory presumption against granting planning permission for any development which would fail to preserve a listed building or its setting (and the same for conservation areas). In cases where a proposed development would harm a listed building or its setting (or a conservation area), the Barnwell decision has established that the duty in s.66 of the Act requires these must be given "*considerable importance and weight*".
- 1.8 The key legal principles established in caselaw are:
- i. 'Preserving' for the purposes of the s.66 and s.72 duties means 'to do no harm'.
  - ii. The desirability of preserving the setting of a listed building, or the character or appearance of a conservation area must be given 'considerable importance and weight'.
  - iii. The effect of NPPF paragraphs 199-202 is to impose, by policy, a duty regarding the setting of a conservation area that is materially identical to the statutory duty pursuant to s.66(1) regarding the setting of a listed building (and s.72 in relation to the character and appearance of a conservation area).
  - iv. NPPF paragraph 202 appears as part of a 'fasciculus' of paragraphs, which lay down an approach corresponding with the s.66(1) duty (and similarly the s.72 duty).
  - v. If harm would be caused, then the case must be made for permitting the development in question, and the sequential test in paragraphs 200-202 of the NPPF sets out how that is to be done. If that is done with clarity, then approval following paragraph 202 is justified. No further step or process of justification is necessary.
  - vi. In cases where there may be both harm and benefits, in heritage terms, great weight has to be given to the conservation and enhancement of a listed building, and its setting, and the preservation and enhancement of a conservation area. It is possible to find that the benefits may be far more significant than the harm.

- 1.9 **The National Planning Policy Framework:** Section 16 of the revised (September 2023) National Planning Policy Framework (the NPPF) deals with conserving and enhancing the historic environment, in paragraphs 189 to 208. Paragraph 189 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance.
- 1.10 According to paragraph 194 applicants should 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.
- 1.11 According to paragraph 199, which applies specifically to designated heritage assets, great weight should be given to a heritage asset's conservation (the more important the asset, the greater the weight should be). This reflects the provisions of the 1990 Act in that it applies irrespective of whether it involves total loss, substantial harm, or less than substantial harm to significance.
- 1.12 Paragraph 200 states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. It then deals with substantial harm to, or total loss of significance of, different types of designated heritage assets. Paragraph 201 continues on the subject of substantial harm (this level of harm is not relevant to the present proposals).
- 1.13 Paragraph 202, on the other hand, deals with less than substantial harm. Harm in this category should be weighed against the public benefits of the proposal. The National Planning Practice Guidance (NPPG) describes public benefits as "*anything that delivers economic, social or environmental progress*".
- 1.14 **The Development Plan** is the London Plan (2021) and Camden's Local Plan (2017).
- 1.15 **The London Plan:** The London Plan 2021 deals with Design at Chapter 3. Policy D4 deals with delivering good design and states that the design of development proposals should be thoroughly scrutinised by borough planning, urban design, and conservation officers, utilising appropriate analytical tools. The design quality of development should be retained through to completion by, amongst others, ensuring maximum detail appropriate for the design stage is provided.
- 1.16 Policy HC1, entitled "*Heritage conservation and growth*" is the most relevant of the policies in Chapter 7. Parts A and B of the policy deals with strategic

considerations/requirements and these are not relevant to determining planning applications.

- 1.17 Part C deals with development proposals affecting heritage assets, and their settings. This part of Policy HC1 requires development proposals to conserve the significance of heritage assets, by being sympathetic to the assets' significance and appreciation within their surroundings. The policy also requires the cumulative impacts of incremental change from development on heritage assets and their settings to be actively managed. Development proposals should avoid harm and identify enhancement opportunities by integrating heritage considerations early in the design process.
- 1.18 **Camden's Local Plan (2017):** Policy D2 deals with heritage and requires development to preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings. According to the policy, the Council will not permit development that results in less than substantial harm to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

## **2.0 ASSESSMENT OF SIGNIFICANCE AND CONTRIBUTION**

- 2.1 This next section first considers the adopted *Character Appraisal and Management Strategy* for the South Hampstead Conservation Area (February 2011) (the 'Appraisal' hereafter), including what the Appraisal says about front gardens, and about the introduction of an Article 4(1) Direction in the area. There is also a separate *Swiss Cottage Conservation Area Design Guide*, which provides advice on alterations and repair following the introduction of an Article 4(1) Direction in the conservation area, and this document is also referred to.
- 2.2 Following the consideration of these two documents, the pre-existing surfacing to the front garden of the subject property is briefly considered.

### **The South Hampstead Conservation Area Character Appraisal and Management Strategy (February 2011)**

- 2.3 Section 3.0 of the Appraisal is headed 'Assessment of Special Interest' and, under sub-heading "*Summary Definition of Special Interest*" the first three paragraphs set out the significance of the conservation area, as in the quote below:

3.1 *South Hampstead is a well preserved example of a leafy Victorian suburb, almost exclusively residential in nature, and largely homogenous in scale and character.*

*The area is characterised by large, semi-detached and terraced late-Victorian properties, in red or gault (white / cream) brick, with a particularly distinctive and attractive roofscape including turrets, gables, and tall chimneys. Houses are made special by a variety of decorative treatments including terracotta panels and brickwork ornamentation, tiled and patterned footpaths, delicate ironwork, and elaborate timber doors and windows, including some original stained and leaded glass.*

3.2 *One of the most prominent features of the area is vegetation – both to the front and rear of properties. Green front gardens demarcated by low or ornate garden walls topped with hedges contribute strongly to the area’s character. Building lines of the residential streets are generally set-back from the pavement which, with the boundary landscape treatment and many mature specimen trees, are essential in giving the streetscape its attractive and serene quality.*

3.3 *The open green spaces of the private rear gardens and the communal gardens between terraces of houses remain undeveloped and are a very important amenity for local residents – both for those who look onto the spaces and those who have access to them. In some cases they are managed as natural wildlife spaces, in others as more formal parkland. These copses and gardens are a haven for wildlife with areas set aside as natural habitats, as well as picturesque herbaceous borders, flowering shrubs, fruit trees, communal vegetable plots and a number of mature trees. These private spaces, along with the green front gardens, are vital in providing wildlife corridors, enhancing biodiversity and reducing flood risk as well as in preserving the attractive, tranquil character of the conservation area [emphasis added].*

2.4 Under the heading ‘Plan Form, General Character and Setting’ paragraph 3.6 states:

*“The conservation area is planned on a gently curving grid-iron pattern with houses arranged predominantly in grand terraces or as large semi-detached dwellings. The fairly rigid street plan is enlivened by elaborate architectural detail, variety in roofscapes, recession and projection in elevations, attractive boundary walls and lush green front gardens. Mature street trees and the large, private open spaces planned for the use of residents contribute significantly to the attractive and leafy air of the suburb [emphasis added].”*

2.5 Under the heading ‘Landscape and Public Realm’ paragraph 3.8 states:

*“Mature street trees are a key characteristic of the conservation area and contribute strongly to its landscape and special significance. Vistas/views down tree lined streets*

*are an important landscape feature of the conservation area providing continuity within the streetscape with varying colours and textures."*

- 2.6 Paragraph 3.9 goes on to note that historic street furniture (e.g. tiled street signs, granite curbs and cobbles) all contribute to the quality of the public realm.
- 2.7 It can be seen from the above that there is a theme in the Appraisal in terms of the value and contribution of front gardens: it is the attractive planted green front gardens, with boundary walls and lush vegetation, that is highlighted in the Appraisal.
- 2.8 Section 4.0 of the Appraisal sets out the historic development of the area and that section is largely inconsequential in relation to the specifics of this case, although paragraph 4.1 describes the relevance of understanding the historic development of the area:
- "Understanding how our environment was shaped serves not only to enhance the experience of residents and visitors, but plays an important part in planning and development decisions – ensuring we preserve what is special and - where appropriate - restore historic associations that have been lost [emphasis added]."*
- 2.9 This has some relevance in terms of the need to first understand any lost historic features.
- 2.10 Section 5.0 is entitled 'Character Analysis' and paragraphs 5.1 onwards give again a good indication of the significance of the area, as quoted below:
- 5.1 *The spatial character of South Hampstead is derived from the interplay of wide streets lined with mature trees and large and rhythmically spaced brick buildings. These substantial residential properties could easily dominate views to either side, however their bulk is moderated both by their placement within the plot - set back from the street in verdant front gardens - and because their elevations are carefully modelled, using recession and projection and decorative details to great effect. The whole ensemble is further enlivened by variety at roofscape level – again carefully designed to balance the height and mass of the properties and yet retain an attractive, homely character.*
- 5.2 *The character of South Hampstead Conservation Area relies significantly on the attractive, wide variety of prominent roof forms [...]*
- 5.3 *[...] Ornate boundary walls in brickwork with mature hedges and in some cases with surviving railings were designed to increase the green, leafy environment of these quiet residential streets.*
- 5.4 *The serene character of the conservation area is further enhanced by lush green front gardens, mature trees, and the private open spaces behind houses which*

*make a positive contribution and provide visual and practical amenity for many residents [emphasis added].*

- 2.11 Under the heading 'Building Typology and Form' paragraph 5.7 describes semi-detached properties, of which the subject building is an example, noting:

*"The [...] large semi-detached properties [...] are elaborately composed to include a range of fashionable late 19th century forms and details. The variety of porches is particularly interesting – they include elaborate ironwork porch canopies, render and striped brick arches, grand Baroque-style pediments with date stones and carved brick faces, and Gothic revival arches and arcading."*

- 2.12 Under the heading 'Characteristic Local Details and Prevalent Building Materials' paragraph 5.20 notes:

*"Ironwork features extensively all over the CA. Although many ornate boundary railings have disappeared, ironmongery does survive in porch canopies [...] Boundary walls are a highly characteristic feature of the area and incorporate red and yellow stock brick as well as black 'lava' bricks, usually organised randomly to provide a pleasing contrast to the regularity of its brick frame. Coloured geometric tiled pathways are an increasingly rare and valuable feature of the CA - in a small number of cases these have recently been restored [emphasis added]."*

- 2.13 Notably, this is the only place in the Appraisal where the paving materials of front gardens is mentioned, and it notes only geometric tiled pathways.

- 2.14 Under the heading 'Private Open Spaces' from paragraph 5.26, the Appraisal mentions only rear communal spaces.

- 2.15 Under the heading 'Streetscape Features' paragraph 6.6 states:

*"The character and the appearance of the conservation area are not solely a function of its buildings, use and activity. Elements within the public realm, such as original paving materials, traditional bollards and street furniture of historic interest (e.g. lamp posts, post boxes and bollards) contribute greatly to the area's quality, character and appearance."*

- 2.16 The Appraisal discusses Article 4 Directions from paragraph 7.4. It is here that we find the reason for the introduction of the Article 4 Directions in the conservation area:

*7.4 In recognition of the issues outside planning control detailed survey work was undertaken in 2008/9 to assess the loss of features and make recommendations*

*to halt erosion in the conservation area. The survey showed that 23% of boundary walls had been lost, and 43% of front gardens had been paved over for parking [...]*

7.5 *To stop this erosion, and give the opportunity for reinstatement of historic features an Article 4(1) Direction was made on the majority of properties within the conservation area in July 2010 [emphasis added].*

2.17 As noted at paragraph 7.6, the Article 4 Directions cover “*Making, enlarging, improving or altering a hard surface at the front of a house*”.

2.18 Paragraph 7.7 again states clearly what it is that the Article 4 Directions seek to protect: “*Because the measures are to protect historic features, residents can still carry out works of repair and replacement without making a planning application, if the replacement materials and design closely match the existing materials and design.*”

2.19 It is unequivocally stated that the Article 4 Directions are in place *to protect historic features*. They are not in place to stop all change, but instead to protect what is historic.

2.20 The same is, again, reinforced under the heading ‘Benefits of Article 4 Directions’ at paragraph 7.9: “*The introduction of Article 4(1) Directions is to ensure that original features are preserved and, where possible, repaired rather than replaced.*”

2.21 The stated purpose of the Article 4 Directions is to protect original features.

2.22 Section 13.0 is headed ‘Management of Change’. Under the sub-heading ‘Front Garden Spaces’ paragraph 13.45 states: “*Loss of front garden spaces can significantly detract from the appearance of the area and further harm is caused by the paving over of green spaces, loss of boundary walls and hedges, the erection of inappropriate walls, railings and gates and the visual intrusion of the cars themselves parked within the former garden. Unfortunately a significant number of gardens and boundary walls have been removed in the area, making the retention of those surviving, and the reinstatement of those lost, a high priority [emphasis added].*”

2.23 Paragraph 13.50 goes on to state: “*Planning permission is required for changing a hard surface at the front of a house or flat in the conservation area. This includes paving over a front garden (or garden at the*

*side of the property where this faces a road) where it is not already paved ,or changing the size or a material or size of an existing paved areas."*

- 2.24 In terms of the present case, it can simply be noted that the proposal is for the replacement of pre-existing hardstanding. The application does not entail the paving over of a previous green space, or the introduction of parking that did not previously exist. It is simply a matter of whether the proposed materials are in keeping with the character with the conservation area.

### **The Swiss Cottage Conservation Area Design Guide**

- 2.25 Page 3 of the Design Guide poses the question "*Why is Swiss Cottage special?*" and the answer states:

*"One of the most prominent features of the area is lush green front gardens, with ornate garden walls topped with hedges or railings which give the area an attractive and serene quality. The gaps between properties and views into mature gardens contribute significantly to the area's particular character [emphasis added]."*

- 2.26 On page 10, section 7. Is headed 'Front Gardens' and states:

*"Green front gardens are vital not only in preserving the attractive, tranquil qualities of the conservation area, but also in providing wildlife corridors, enhancing biodiversity and reducing flood risk. Planting more soft landscaping – grass, flowers, shrubs and small trees – in front gardens, and reinstating it where lost, helps to ensure that Swiss Cottage remains a healthy, natural and beautiful place to live.*

*The creation of a hard surface at the front of a property, or the side of a property which faces the road, now needs planning permission and will be resisted. Vegetation in front gardens should be retained and replanted where lost. Original geometric tiled paths and landscaping materials such as York stone should be retained and repaired [emphasis added]"*

- 2.27 There are two implications to the present case:

- i. The creation of hardstanding needs planning permission, and will be restricted on the basis of the loss of the garden (the present proposal entails instead the replacement of pre-existing hardstanding, with no loss of a pre-existing garden).
- ii. Original geometric tiled paths and landscaping materials should be retained and repaired (as will be seen in the next section, the pre-existing hardstanding at the subject property was not original).

## The subject property

- 2.28 The pre-existing hardstanding at the subject property can be seen on **Photo 1** below, which was taken pre-works and provided by the Applicant. Unfortunately there are no good views of the subject property on Google Maps, but there is an image taken on 20 March 2021 on Bing maps (**Fig 1**).

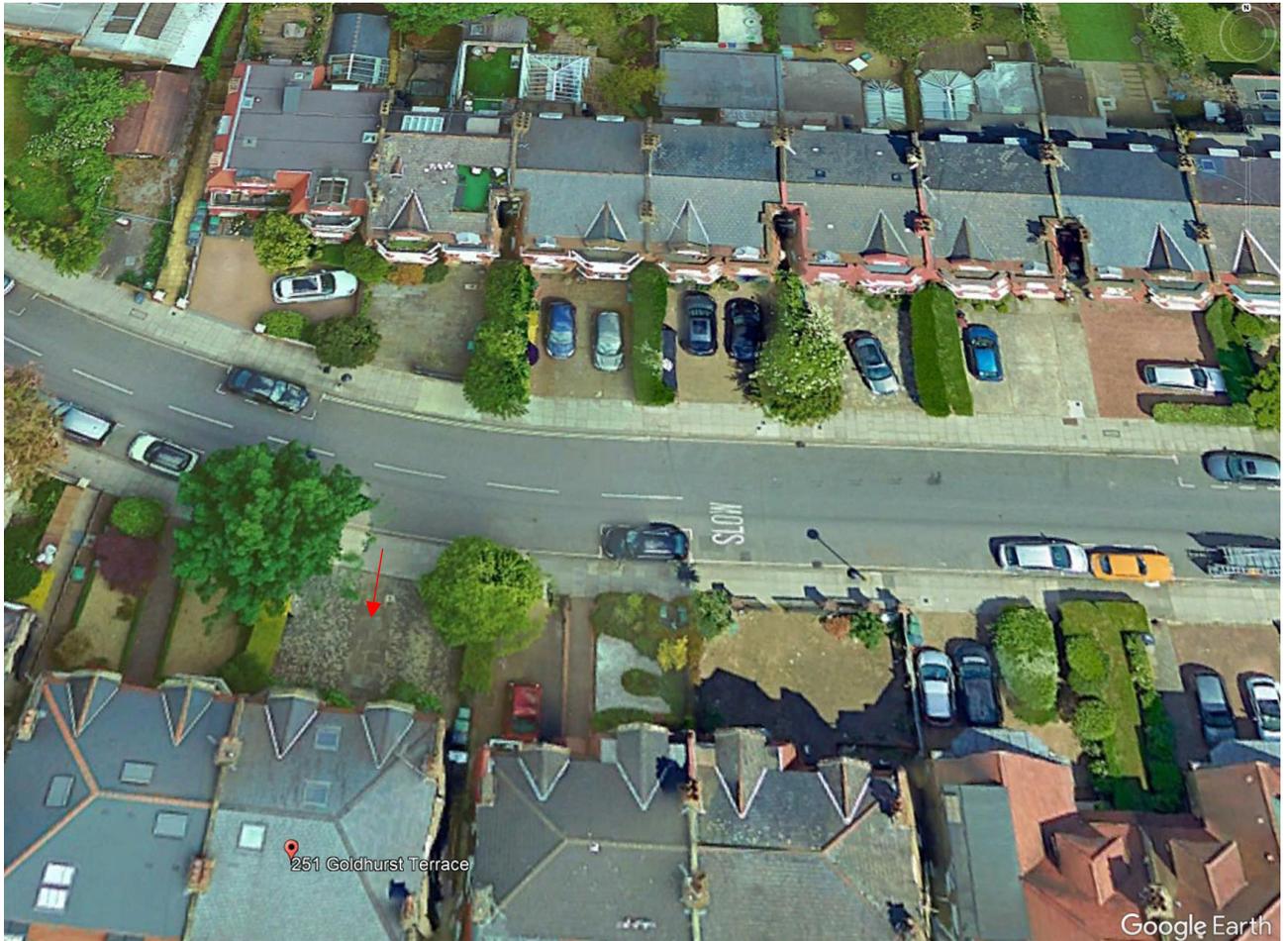


**Photo 1:** The pre-existing hardstanding at the subject property.



**Fig 1:** The pre-existing hardstanding at the subject property, 20 March 2021. © Bing maps

- 2.29 The pre-existing hardstanding at the subject property comprised two cobbled car parking bays, either side of a central stone path, and with a matching stone path seen on the left hand side, which lead to the side passage and bin storage.
- 2.30 This can also be seen on the satellite image of April 2020, from Google Earth, at **Fig 2** below. It can be noted how the local context of the application site is characterised by front hardstandings; suffice to say that these are in a mix of materials, but with many examples of brick pavements, as is being applied for at the subject building.



**Fig 2:** The pre-existing hardstanding at the subject property, April 2020. © Google Earth

2.31 That can be compared with a series of aerial photos, taken in 1946 and 1947.



**Fig 3:** An aerial photo of 1946, with the subject property highlighted with a red arrow. © Historic England RAF\_3G\_TUD\_UK\_197\_V\_5070



**Fig 4:** An aerial photo of 1947, with the subject property highlighted with a red arrow. © Historic England  
RAF\_CPE\_UK\_2040\_V\_5032



**Fig 5:** An aerial photo of 1947, with the subject property highlighted with a red arrow. © Historic England  
RAF\_CPE\_UK\_2235\_V\_5164

- 2.32 When comparing these with the photos of the pre-existing hardstanding at the subject property, the following can be noted:
- i. There were hedges to the front and sides of the front garden of the subject property.
  - ii. There was a central path, but no path to the side.
  - iii. It is likely that the dark areas either side of the central path were grass, or planting.
  - iv. The other properties all had similar paths.
  - v. There was obviously no car parking in front of the subject property.
- 2.33 The pre-existing hardstanding at the subject property was plainly not the same as was recorded on the 1940s aerial photos. This was post-war hard landscaping, probably introduced in recent decades, and it was designed to provide cobbled car parking spaces and level stone pathways to the front door and to the side passage/bins (there appears to have been an extra area of stone paving where the bins were kept). This was neither original, nor historic.

### **3.0 IMPACT ASSESSMENT**

- 3.1 The proposed brick paving can be seen on **Photo 2** below; the following can be noted:
- i. No verdant front garden was replaced (the planting close to the house was replaced by the light wells of a consented basement).
  - ii. Pre-existing hardstanding was replaced with new hardstanding.
  - iii. The pre-existing hardstanding was of no great age or historic interest.
  - iv. It was certainly not original, and it had no historic interest.
  - v. There was no pre-existing original, geometric tiled path.
  - vi. No original/historic landscaping material was removed or replaced.
  - vii. A great many properties along the road have front hardstanding.
  - viii. Many of those examples are of brick paving, which is widely seen and can be described as characteristic of the area.
  - ix. Nothing that is described in the Appraisal as important or characteristic of the conservation area would be lost or affected.
  - x. Nothing that was intended to be protected by the Article 4 Directions would be lost or compromised.

xi. The newly constructed front railings and gates would filter views of the paving from the street.

3.2 In light of the above, the proposed replacement paving would be in keeping with many front garden areas. This would have no effect on the significance of the conservation area. Nothing that the Article 4 Direction was intended to protect would be lost.



**Photo 2:** The paving subject to this application, seen in situ.

#### **4.0 CONCLUSIONS**

- 4.1 This report presents a proportionate assessment of the significance of the conservation area, and the contribution of the subject property.
- 4.2 The assessment in this report has demonstrated that the proposed front repaving in a material that is characteristic of the conservation area would preserve the significance of the conservation area.
- 4.3 Because no harm has been identified, there are no policy conflicts with the Development Plan. Neither does the proposal trigger paragraphs 200 or 202 of the National Planning Policy Framework. The proposed development also complies with the statutory duties in s.72 of the Planning Listed Buildings and Conservation Areas Act, 1990.