

**PLANNING APPEAL  
STATEMENT OF CASE**

**9D THE GROVE, LONDON BOROUGH OF CAMDEN**

**ON BEHALF OF  
MR N COHEN**

**PREPARED BY  
ASSERSON**

**JANUARY 2024**

### **List of Appendices:**

1. Delegated report for the Application
2. Design Report
3. Heritage Report
4. Embodied Carbon Report

## 1 INTRODUCTION

- 1.1 This Statement of Case relates to an appeal (the “**Appeal**”) made by Mr N Cohen (the “**Appellant**”) against the refusal of an application (the “**Application**”) for planning permission by Camden Council (the “**Council**”) for the “*Demolition of the existing dwelling and construction of a replacement dwelling with associated landscaping*” at 9D The Grove, London N6 6JU (the “**Property**”).
- 1.2 This Statement sets out the Appellant’s case, with reference to the Property, context and the relevant planning history, along with consideration of the relevant legislation.

## 2 RELEVANT SITE AND PLANNING HISTORY

- 2.1 The Property is a two-storey rectangular flat roofed building constructed in 1956. The surrounding area is predominantly residential consisting of large detached and semi-detached dwellings within long plots of various size and design.
- 2.2 The Property lies within the Council’s Highgate Conservation Area, and is mentioned in the appraisal as “*a modern post-war building deliberately introverted on The Grove frontage, but a positive contributor to its surroundings by way of its rear first-floor balcony with a copper-clad canopy, looking down Fitzroy Park. The house has a simple rectangular plan and is built from yellow stock bricks, with a garage built into the north-west corner*”.
- 2.3 The Property is unlisted, but a number of houses on the street are grade II listed including Park House (built c.1832) which is adjacent to the Property, and the associated stables that turn onto Fitzroy Park and sit directly in front of the Property.
- 2.4 The Property has no relevant planning history. However, there have been a number of recent consents granted by the Council in the vicinity of the Property.

### **7 The Grove**

- 2.5 7 The Grove is Grade II Listed, and the conservation area appraisal notes that “*Nos 7, 7a & 8 (listed grade II) are thought to have been built originally as one house, in London stock bricks with white-painted rusticated stucco at ground-floor level. Elegant wrought iron balconies adorn the pairs of windows at first-floor level*”.

- 2.6 On 12 April 2022, planning permission and listed building consent were granted for *“Conversion of 2x self-contained dwellings (No. 7 and 7B) to form a single dwelling (Class C3); erection of single storey side extension following demolition of single storey outbuilding; erection of replacement single storey outbuilding; alterations to fenestration including insertion of 2x rooflights in main roof and creation of door access to newly created bow terrace at 3rd floor level; raised masonry balustrade to bow terrace; removal of glazed cover above front area and installation of new metal balustrade; alterations to rear terraces; removal of balustrade on crown roof; replacement windows”* at 7 The Grove.
- 2.7 The heritage statement accompanying that application stated that *“There will be very little change to the exterior of the building. The reinstatement of the front area and railings will be an enhancement. The small single storey addition proposed for the south end elevation will be inconspicuous, will be in keeping with the character of the house and will considerably improve the amenity. Other external changes are very minor”*, and concluded that no harm would be caused to the significance of the listed building. No analysis was undertaken with regard to the impact on the Conservation Area.
- 2.8 On 3 August 2023, planning permission and listed building consent were granted for *“Hard and soft landscaping works to front and rear gardens; new metal railings to front; alterations to existing rear terrace, including enlargement and new steps; creation of new evening terrace within garden; new swimming pool, terrace and pool house, including raising height of boundary wall; new and replacement outbuilding”*.
- 2.9 The Council outlined in a preapplication response dated January 2023 that the proposed works would be acceptable in heritage terms, as they would have no negative impact on the listed building or conservation area.

### **5 The Grove**

- 2.10 5 The Grove is Grade II Listed and is described in the conservation area appraisal as *“a three storey semi-detached house (listed grade II) with an entrance door surmounted by a graceful radial fanlight”*.
- 2.11 Planning permission and listed building consent were granted on 2 September 2022 for *“Extension to existing outbuilding, including outdoor shower and roof terrace above; relocation of swimming pool; erection of pergola; associated landscaping; alterations to terrace and railings on main dwelling”*.
- 2.12 The Council’s report stated that *“Whilst the resultant building would be considerably larger, it would still appear as a secondary building and would be subservient to the main building and it is not*

*considered that the proposal would cause undue harm to the special architectural and historic interest of the main building or the wall, or their settings. More of the listed wall would be obscured by the extended outbuilding; however, not significantly enough to undermine the ability to appreciate the wall from the garden or cause harm such that a refusal of the application is warranted”, that “The roof terrace above the extended outbuilding is considered to be acceptable as it would replace an existing terrace in the same location” and that all other changes were acceptable in heritage terms.*

- 2.13 On 4 October 2022, planning permission and listed building consent were granted for *“Excavation of basement under front garden, including replacement railings around lightwell; replacement wall and railings and refurbishment of gate to front garden”*.
- 2.14 The Council’s report stated that *“the host building has already been significantly altered over time and it is not considered that extending the lower ground floor level to the front to provide additional ancillary rooms would cause undue harm to the special architectural and historic interest of the host building”*, and concluded that no harm would be caused to the heritage assets.

#### **4 The Grove**

- 2.15 4 The Grove is Grade II\* Listed, and is described in the conservation area as *“described by Pevsner as ‘the best preserved of the houses’. The house is two-storey, built in dark red brick. The original ironwork to the basement windows has survived. There is a fine panelled entrance door with two glazed panels. On the north-east side of the house a weather-boarded extension has been constructed between the projecting chimney-stacks; this, in turn abuts a small-scale two-storey extension. The front boundary is a low brick wall surmounted by plain railings”*.
- 2.16 Planning permission and listed building consent were granted on 14 March 2023 for *“Enlargement of lower ground floor window at rear to form door and creation of associated steps to rear terrace”*. The heritage statement accompanying that application stated that there would be no adverse impact on the relevant heritage assets.
- 2.17 Applications for *“Excavation of basement under front garden; landscaping works in front garden; associated works”* were submitted on 18 July 2023, with supporting heritage evidence which stated that *“only a very low level of harm, at the lowest limit of less than substantial harm, has been identified”*, though this is not reflected in the other application documents, which state that no harm is caused, and there is no assessment of benefits under paragraph 208 NPPF.

### **3 PLANNING POLICY CONTEXT**

National Planning Policy Framework 2023

The London Plan 2021

Camden Local Plan 2017

H1- Maximising Housing Supply

H6 -Housing Choice and Mix

H7 -Large and Small Homes

D1 - Design

D2 – Heritage

A1 – Amenity

A2 – Open Space

A3 – Biodiversity

A5 – Basements

CC1 – Climate Change mitigation

CC2 – Adapting to climate change

T1 – Prioritising walking, cycling and public transport

T2 – Parking and car-free development

DM1 – Delivery and Monitoring

Highgate Neighbourhood Plan (2017)

DH1 – Demolition in Highgate’s Conservation Areas

DH2 – Development Proposals in Highgate’s Conservation Area

DH6 – Front Boundaries

DH7 – Basements

DH8 – Refuse Storage

DH9 – The Environmental Health of Existing and Future Residents

SC1 – Highgate’s Housing Needs

TR1 – Promoting Sustainable Movement

TR2 – Movement of Heavy Goods Vehicles

TR3 –Minimising the Impact of Traffic arising from New Development

## Camden Planning Guidance

CPG Design (2021)

CPG Transport (2021)

CPG Housing (2021)

CPG Energy efficiency and adaptation (2021)

CPG Trees (2019) CPG Basements (2021)

Highgate Conservation Area Appraisal and Management Strategy (October 2007).

## 4 APPLICATION

*September 2020*

4.1 The Appellant requested formal preapplication advice from the Council in November 2019 for the “the demolition of the existing dwellinghouse and the erection of one three storey house with habitable rooms within the roof”. Formal preapplication advice was provided in March 2020 which stated that the principle of replacing the existing building was acceptable, but that significant further work needed to be done to justify its removal and replacement in heritage terms.

4.2 The Application was submitted in October 2020, and was accompanied by a full suite of accompanying reports. The Appellant’s heritage statement stated that:

4.2.1 *“The building is a relatively poorly designed building for the Site. Although designed by a recognised architect of the 1950s, the small plot and in-between location, coupled with the desire for a garage to be included, seems to have proved a struggle for Colin Penn to plan. All the principal rooms are on the first floor, and whilst a balcony is provided, there is no real engagement between outdoors and indoors, with the window openings small enough to make the rooms quite dimly lit.*

*The enclosure of the building onto Fitzroy Park also provides a substantially negative front, with the mostly blank facade and garage door giving the dwelling the appearance of a large storage block.*

*The side passageway, or pergola, is an interesting feature, but not functional for the prevailing weather conditions in London, or functional in relation to the relatively small footprint of the house due to its location sandwiched between the main mass of the house and its boundary wall, producing a dark and*

*enclosed entrance route. The Site also includes the former stables entrance, through the gates fronting onto The Grove, and across cobbles. This is currently a disused and unkempt space, apart from the storage of rubbish bins. The building has no entrance door located here, this elevation is the back of the building, with 9D and the Stables complex not just architecturally separated but almost as if 9D's design was to create a form that deliberately ignored this context".*

- 4.2.2 With regard to the building's positive contribution to the Conservation Area that *"this is found solely in the copper clad balcony of the first-floor. This itself is almost fully obscured in public realm views of the building and is the only real element of architectural embellishment on the structure. Why this discrete element has been identified to contribute is fairly unclear, given that the character and appearance of the immediate surroundings is of nineteenth century buildings, which sit in contrast to the 1950s structure and the lack of prominence of this feature.*

*Our assessment judges the feature to have no substantive contribution to the special interest of the conservation area, as such its identified positive contribution in the Appraisal is considered to be only a very low contribution".*

- 4.2.3 *"The proposals are judged to enhance the character and appearance of the Highgate Conservation Area compared to the existing position, notwithstanding the positive feature of the existing first-floor copper clad balcony. The proposals are therefore judged to meet the required policy and legislative tests".*

#### *Amendments*

- 4.3 Following objections and correspondence, further iterations of the Application were sent to the Council in April and September 2021, and in March 2022 the latter two sets were accompanied by Whole Life Carbon Assessments requested by the Council.
- 4.4 Unfortunately, the Council appears to have completely ignored the updated drawings (though the references in the decision notice are correct) and has refused the Application at least partially on outdated information and superseded drawings. In fact, the Council only uploaded the updated drawings to its website two days before issuing the decision notice, and it is not clear whether or when the Council undertook any form of further public consultation.

## *Refusal*

4.5 The Application was refused on 24 November 2023. The Council's delegated report accepted the principle of the proposals, but raised objections primarily in design, heritage and embodied carbon terms, and the refusal was made for the following reasons:

*1 The proposed demolition, by reason of the loss of the existing building which makes a positive contribution to the Highgate Village Conservation Area, would cause harm to the character and appearance of the conservation area, contrary to policy D2 of the Camden Local Plan 2017 and Policies DH1, DH2, DH7 of the Highgate Neighbourhood Plan 2017.*

*2 The proposed replacement dwelling, by virtue of its scale, design, materiality and siting, would cause harm to the character and appearance of the street scene and the wider area, and the setting of the neighbouring listed building and would fail to preserve or enhance the character and appearance of the Highgate Village Conservation Area contrary to policies D1 (design) and D2 (heritage) of the Camden Local Plan 2017 and policies DH1, DH2, DH6, DH7, DH8 of the Highgate Neighbourhood Plan 2017 and with the London Plan 2021 and the NPPF 2023.*

*3 The proposed development, by virtue of insufficient evidence to justify the need for demolition of the existing building nor the use of active cooling, would result in an unsustainable development contrary to policies CC1 (climate change mitigation) and CC2 (adapting to climate change) of the Camden Local Plan 2017 and policies DH7, DH9 of the Highgate Neighbourhood Plan 2017.*

*4 In the absence of an adequate Basement Impact Assessment, the proposal would likely have an adverse impact upon the land stability in the area, the local water environment surface run-off and hydrogeology, contrary to policies A1 (Managing the impact of development) and A5 (Basements) of the London Borough of Camden Local Plan 2017 and Policy DH7 of the Highgate Neighbourhood Plan 2017.*

*5 The proposed development, in the absence of a legal agreement securing an affordable housing contribution, would fail to maximise the supply of affordable housing to meet the needs of households unable to access market housing, contrary to policy H4 (Maximising the supply of affordable housing) of the Camden Local Plan 2017 and policy SC1 of the Highgate Neighbourhood Plan 2017.*

*6 The proposed development, in the absence of a legal agreement securing car-free housing, would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (parking and car-free development) and DM1 (delivery and monitoring) of the Camden Local Plan 2017 and Policy TR1 of the Highgate Neighbourhood Plan 2017.*

*7 The proposed development, in the absence of a legal agreement securing a construction management plan and construction impact bond, would be detrimental to the amenity of neighbouring occupiers contrary to policies A1 (managing the impact of development) and A5 (basements) of the Camden Local Plan 2017 and Policies DH7, TR1, TR2 and TR3 of the Highgate Neighbourhood Plan 2017.*

## **5 GROUNDS OF APPEAL**

- 5.1 It is submitted that the Council's reasons for refusal are entirely unsustainable.
- 5.2 By way of introduction, and as set out above, it should be noted that the Council's report incorrectly assesses the Application, as it has not taken account of any the changes made throughout the determination process, and assesses the Application solely on the basis of the superseded drawings issued in September 2020. It is therefore fundamentally flawed.
- 5.3 In view of the principles set out in PINS guidance, based on the High Court judgment in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another (1982) 43 P. & C.R.233* the Appellant, when sending the Appeal to the Council, has requested that it undertakes further consultation on the proposed changes, to ensure that there will not be prejudice arising as a result of the Appeal. It is considered imperative that the Council confirms the position at the earliest possible opportunity. If it refused the application based upon a specified set of drawings listed in the decision notice without consulting upon them, then it must now do so, in order to enable the original applicant to use its statutory remedy of appeal to the Secretary of State.

### *Design*

- 5.4 A number of key alterations to the design were made following correspondence with the Council, which in fact remove many of the objections made to the design.
- 5.5 Specifically:

- 5.5.1 The floor plan enclosed in the Delegated Officer's Report is the superseded original submission plan with canted bays to the rear. This design was superseded by the final application designs at the express request of officers;
- 5.5.2 The so-called 'pastiche design' was superseded by the final application design which is in a contemporary style;
- 5.5.3 The detailing of the north (Fitzroy Park) elevation has been revised to omit the 'large arch' feature. This elevation is significantly more modest than the previously proposed elevation that featured the double-height 'large arch' feature, with the elevation broken up by a simple slot window with flush fitted louvres and flush string courses within the brickwork;
- 5.5.4 Contrary to the comment that the design of the proposed rear elevation lacks design merit, the final application design features a metal canopy at the location of the existing canopy mentioned in the conservation area appraisal; and
- 5.5.5 To address concerns raised about the height of the proposed building, the proposal was revised to remove the mansard roof and lower the parapet to the same level as the existing building.
- 5.5.6 The remaining design issues therefore comprise comments on the proposed massing and style. The scheme architects have prepared a detailed response in design terms, but in summary the proposed building's massing relates well to the listed stables, is only partially visible from a number of views and maintains the hierarchy of the streetscene, and the scheme has been designed holistically as a high-quality yet modest contemporary house using materials sympathetic to the area and the surrounding buildings.

#### *Heritage*

- 5.5.7 The Inspector will note that the Council has (during the determination period) for the Application granted planning and listed building consent for developments at three listed properties on The Grove, including introducing elements of modernity without concerns being raised, and was willing (in the case of 5 The Grove) to allow an increase to the size of a subservient building, in contrast to the Application.
- 5.5.8 The surrounding statutorily listed properties have been subject to extensive alteration in ways which have had little impact on the public realm and no heritage objections have been raised. The appeal

proposals will have little impact on the public realm, save for the enhancement to the gates - and the Property (unlike its neighbours) is not statutorily listed.

5.6 A detailed heritage assessment has been prepared, which sets out that:

5.6.1 *[Officer] comments suggest that the contribution of the Fitzroy Park elevation is derived from its quietude, its set back position within foliage. They identify, somewhat conflictingly, the contribution the building makes to the established character of the area is through its recessive and subtle appearance. Logically, if the contribution is through its lack of physical presence and architectural personality, then the contribution must be very modest. It is also reflective of the architectural quality of the building that the sole identifiers of positive contribution are a rear balcony detail, and its set-back position.*

5.6.2 *In our view, the weight given by the officer to the “positive contribution” allegedly made by this building, has been significantly overstated. A visit to site in the winter months (see Figures 1-6) where visibility is at its highest, reveals that the balcony and copper canopy are barely apparent along Fitzroy Park (Figures 4-6), due to the density of mature trees along the boundary, the high boundary wall, and blank facades. Views of the balcony appear at height, only from a single location on Fitzroy Park, where the features are partially screened.*

5.6.3 *The building more broadly is clearly not one of quality, and, where it is visible, its presence is clearly not a positive one by virtue of its absence of quality detailing or materials. We therefore do not agree with the Council’s view that it is a positive contributor to which significant weight should be attached. Its loss, as explained above, needs to be viewed within the context of its replacement, and cannot be considered effectively in isolation. No significant architectural detailing or visual quality would be removed through its replacement. The Conservation Area would not be a poorer place for its removal., Its alleged contribution to the Conservation Area’s character and appearance is also clearly an extreme view, given its absence in views obtainable by visitors to Fitzroy Park and The Grove.*

5.6.4 *It is important to recognise the setting of the stable is not limited to the street frontage but would have historically included the area to the rear as access route and yard area to approach the stabling and would have served as an important component of its functional use. The dwelling pre-dates the listing and therefore the implication that the building has been designed to respond to the setting of the stables is somewhat complicated by this, as responding to as yet undesignated heritage assets is unlikely to have been a motivation in the original design intent.*

- 5.6.5 *The DR's approach to the minor increase in massing appears to suggest that the marginal difference between the existing and the proposed is the "tipping point" for harm to setting, the point at which 'over dominance' arises in relation to the stables. We fundamentally disagree with this assertion and would instead suggest the setting of the stable was poorly considered when 9D was constructed. The appearance of the corner of 9D behind the stable (figures 1-3) is testament to this and the proposed replacement would not amount to any material difference in impact. The proposed development presents an opportunity for the new building to create a more appropriate transition to the corner and the opportunity to sit genuinely recessively, with an appearance which is more suitable than the blank corner which currently rises above the stables in views down Fitzroy Park.*
- 5.6.6 *We learn little from 9D The Grove of Penn's architectural philosophy, his core interests and beliefs, and as a figure of history. It was constructed as a simple family dwelling, built within the constraints of period, at low cost, the available materials and restrained in its detail. It is accordingly clear that while, in this case, we have a named architect, the building cannot be said to take any significance from that fact. That we know the name of the architect in any particular case is not sufficient to imbue a building with interest. It is necessary for the architect to have some particular interest in and of themselves, and for the building to be an expression of this. Ultimately, we have an architect here of primarily social, rather than architectural interest, and a building which is detached from those elements of his career which are of interest. The building accordingly gains no significance from its relationship with Colin Penn.*
- 5.6.7 *We would contend that the changes in footprint, height and massing have been carefully considered within the context of the area, replicating a form which has an established precedent in the area, the design draws upon the most successful elements of the existing building's character and relationship to the streetscape and reinterprets them within the proposed design. Where the proposed building would appear, it would align with the Conservation Area's key characteristics, both materially through the use of a soft coloured brick to match the context, and more generally as a quiet and recessive building, partially screened by greenery and read as a high-quality enhancement to the streetscape and village character.*
- 5.6.8 *The officer notes the hierarchy of the nearby buildings, and that the dwelling should be subservient to the Stable Block in Paragraph 5.9. However, they have not highlighted the most important hierarchical relationship between the buildings is in relation to the principal House at No. 9A, which would not change as a result of the proposed new dwelling. The scheme would preserve the appearance of the Stable Block and 9D group as subservient to the main house, retaining a sense of primary and historically ancillary spaces within the historic plot.*

- 5.6.9 *The officer states that “The house ... should not be visible from The Grove or from the green area separating The Grove from Highgate West Hill.” The reasoning for this, the stark statement that visibility “should not” be possible is not explained, despite the existing building being apparent above the roof line of the stables and the ‘green area’ not being publicly accessible as it is the operative ‘top’ of an underground reservoir. Views towards the building from the Grove are restricted by the mature trees along The Grove, and at the frontage to the building, these trees are interesting and well established and offer a significant visual draw along the streetscape. The Stables, although single storey, also has a strong presence along The Grove, by virtue of its architectural appearance and positioning within the plot. It is set forward of the build line, at the corner, with a prominence and ‘visual draw’ further enforced by the pedimented main gate.*
- 5.6.10 *It is our opinion that the minor increase in height and massing to the rear of the stable proposed by the new dwelling, would appear diminutively and would not challenge the prominence of the Stable Block. This is due to the existing prominence of the Stable Block and the quality of the surrounding streetscape. The effects of the proposal on the appearance of The Grove would be negligible and would not amount to harm. The building would continue to be a quiet presence, secondary to all surrounding features, when seen from the Grove.*
- 5.6.11 *The DR is unclear when it describes how ‘The increased height, the depth and the building line, impact the stables and increases the building’s presence. We assume they are referring to the new dwelling, and the impact upon the setting of the stables (although not mentioned explicitly). We believe the level of harm identified from this ‘impact’ due to increased presence as a result of the minor increase in massing has been overstated. The building would be obscured behind the existing and new proposed planting, visible only in glimpsed and interrupted views from small number of close-range locations. The visible change would be negligible.*
- 5.6.12 *Fundamentally, the sense of space and enclosure which the proposed building would create is entirely appropriate to its context. With regard to the stables, the key component aspects of the building and the relationship to its setting, to The Grove (including 9A in particular) and Fitzroy Park, would be preserved.*
- 5.7 *The report therefore concludes that (a) the conservation area will be enhanced by the Application, and (b) no harm will be caused to the setting of the nearby listed buildings. Therefore, the proposal is fully compliant with the relevant heritage legislation and guidance.*

5.8 However, should the Inspector find that harm is caused to any of the designated heritage assets (the conservation area as a whole or the listed buildings) by the Application, it is submitted that any such harm can only be at the very lowest end of the “less than substantial” scale.

5.9 The Appellant disagrees with the Council that *“the loss of the building would cause harm to the Highgate Conservation Area for which there is virtually no public benefit which does not outweigh that harm. The replacement of a large house with a larger house adds virtually no public benefit; the house would still only serve a single family and would be more of a private benefit rather than a public benefit. Increasing the dwellings energy efficiency by creating a larger dwelling would not outweigh the harm to the Conservation Area from the loss of a positive contributor”* for a number of reasons:

5.9.1.1 Heritage benefits must be considered to be public benefits for the purposes of the NPPF. Therefore, if the Inspector accepts that any heritage enhancements will be made to the Property, these must be weighed against remaining harm caused, if any is found.

5.9.1.2 The Listing Particulars for 9B The Grove specify the *“Gated entrance with dentil pediment having enriched tympanum”*. The Application also proposes works to enhance these gates (these were included in the submitted drawings in 2022), which will remove the inappropriate and out-of-keeping steel panels and replace them with a sympathetic and suitable design. An application for listed building consent to allow these changes in the event that the Appeal is allowed will be submitted during the course of the Appeal.

5.9.1.3 The Application proposes bringing these gates back into regular use – it is submitted that this would bring the designated heritage asset into its optimum viable use, which must be for the gates to be used.

5.9.1.4 Climate change is an issue which impacts everyone. The improvements made to the Property as a result of the Application should therefore be considered to be a public benefit.

5.10 It is therefore submitted that (a) no harm is caused to the designated heritage assets, and (b) if any low level harm is considered to be caused, then it is outweighed by the public benefits set out above.

#### *Embodied carbon*

5.11 It should be noted that the third reason for refusal erroneously refers to active cooling. This does not form part of the development so the reason for refusal is flawed.

- 5.12 The Council's report raised three separate issues with regard to this reason for refusal: (a) that no analysis has been done with regard to water, (b) that there are a number of outstanding issues with regard to aspirational and whole-life targets and (c) that due to potential grid improvements there is no guarantee that the cumulative carbon position will be in favour of a new scheme after 23 years as suggested by the Applicant's submitted report.
- 5.13 A report has been prepared in response, which:
- 5.13.1 Includes water in an updated calculation and concludes that *"it made no material difference to the result submitted previously. The carbon payback time is still 23 years and Carbon Gap over life cycle is still 37 tonne CO2e"*; and
- 5.13.2 Sets out that: (a) GLA guidance does not require schemes to meet the aspirational benchmark, (b) due to carbon savings as a result of communal features in larger buildings such as shared boilers, no single-unit scheme (whether retrofitted or new) could achieve an "ultra-low" embodied carbon development, for both upfront and life cycle embodied carbon, (c) there would only be a negligible gap even assuming that all potential improvements come forward and (d) using the Council's logic (which doesn't take account of increasing energy prices) no development at all will be able to take place anywhere as all existing buildings will become 'zero carbon in operation' eventually.
- 5.14 It is therefore submitted that this reason for refusal is both flawed and unsustainable, and if upheld will set a worrying precedent which will allow local authorities to ignore expert reports in favour of potential improvements which may or may not come forward in the future.

#### *Basement Impact Assessment*

- 5.15 The Appellant intends to resolve this reason for refusal through correspondence with the Council's expert (Campbell Reith).

#### *S106 agreement*

- 5.16 It is submitted that there is no basis in policy for an affordable housing contribution to be payable for the renewal of an existing house, and this reason for refusal is therefore fundamentally misconceived.

- 5.17 Policy H4 of the Council's Local Plan (2017) states (emphasis added) that "We will expect a contribution to affordable housing from all developments that provide one or more additional homes **and** involve a total addition to residential floorspace of 100sqm GIA or more".
- 5.18 The Application simply re-provides an existing unit, and therefore does not provide any additional units. Therefore, there is no requirement to provide any affordable housing contribution and this reason for refusal should be immediately withdrawn.
- 5.19 Aside from affordable housing, the Appellant is happy to enter into a s106 agreement to cover car-free development for future occupiers and a construction management plan, and will make contact with the Council's legal team.

## **6 SUMMARY AND CONCLUSIONS**

- 6.1 There is no planning policy reason why the site should not be redeveloped as a matter of principle, and indeed this has been accepted by the Council. The proposals will renew a tired building with no impact on (and indeed an enhancement to) local heritage assets. They will also provide a highly sustainable and green building.
- 6.2 The Council's design response assesses earlier iterations of the scheme and is therefore fundamentally misconceived, as are its reasons for refusal concerning embodied carbon and a requirement to provide an affordable housing contribution.
- 6.3 This Statement has unequivocally demonstrated that the Application complies with all relevant planning policy and guidance. Therefore, the Appellant respectfully submits that the appeal should be allowed.

# Appendix 1

<b>Delegated Report</b>  <b>(Refusal)</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	<b>16/11/2020</b>
		N/A / attached		<b>Consultation Expiry Date:</b>	<b>07/11/2020</b>
<b>Officer</b>				<b>Application Number(s)</b>	
Jaspreet Chana				2020/4307/P	
<b>Application Address</b>				<b>Drawing Numbers</b>	
9 D The Grove London N6 6JU				<i>See draft decision notice</i>	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
Demolition of the existing dwelling and construction of a replacement dwelling with associated landscaping					
<b>Recommendation:</b>	Refuse planning permission				
<b>Application Type:</b>	Full Planning Permission				

<b>Conditions or Reasons for Refusal:</b>	<b><i>Refer to Draft Decision Notice</i></b>			
<b>Informatives:</b>				
<b>Consultations</b>				
<b>Summary of consultation:</b>	<p>Three site notice(s) were displayed near to the site on the 07/10/2020 (consultation end date 01/05/2021).</p> <p>The sites notices were put up again for the amended plans received.</p> <p>The application was also advertised in the local press on 14/10/2020 and end of consultation period was</p>			
<b>Adjoining Occupiers:</b>	No. of responses	<b>09</b>	No. of objections	<b>9</b>
<b>Summary of consultation responses:</b>	<p>Objections were received from neighbouring residents (9C The Grove, 6 Aubrey Road, 107 Swains Lane, 2 Fitzroy Park, 7 Fitzroy Park, 24 Southwark Bridge Road, 2 Fitzroy Park, 110 Highgate Hill, their objections are summarised below:</p> <ul style="list-style-type: none"> <li>• Demolition concerns</li> <li>• Heritage harm</li> <li>• Impact on amenity of the owner/occupier of Park House</li> <li>• Basement development</li> <li>• Developments Impact on trees</li> <li>• Construction related impacts</li> <li>• A Construction Management Plan should be secured. This should be agreed as part of the application not just as a condition for later agreement.</li> <li>• The property has been moved forward on the plot. Assuming the residents will be parking cars on the property frontage onto Fitzroy Park this will then severely restrict access (including to emergency vehicles) and prevent vehicles passing near the gate at the end of Fitzroy Park. This in turn will cause cars to back up onto the Grove.</li> <li>• Considerable harm considered to heritage assets, loss of amenity through construction and use of the development, impact on trees, and lack of detail in relation to certain matters.</li> <li>• The proposal to demolish means Fitzroy Park will lose a rare example of 50's architecture by a female architect.</li> <li>• The proposed scheme is too large and an overdevelopment of the site.</li> <li>• The proposed development is contrary to Camden's Basement policy.</li> <li>• There are no proposals concerning access to the site, traffic management, or pedestrian safety.</li> <li>• Old Application 2014/2563/T implies that these trees are subject to a TPO. If this is the case this application should be detailed and subject to greater scrutiny than is the case for trees in a Conservation Area.</li> <li>• Trees T1, 2, 3 and 4 make a significant contribution to the visual amenity of the area. This can clearly be seen from the photographs the applicant has supplied. Although Fitzroy Park is a private road, it is well used by walkers and cyclists going to and from The Heath. These impressive mature trees mark the edge of the historic Highgate Village area. The arboriculturalist has assessed the trees as grade B and C, as is usual in such reports. We would ask one of Camden's Tree Officers to make an independent assessment.</li> <li>• The Tree Protection Plan is totally inadequate, merely reproducing the standard fencing drawing automatically attached to such Plans. There is no evidence that any thought or consideration has been given to these trees.</li> <li>• There is no analysis of a suitable Root Protection Area and no attempt to analyse what effect the basement and bringing the house forward to Fitzroy Park, will have on these trees. We are particularly concerned with T1 and</li> </ul>			

T2.

- The building is unique, worthy of saving and should be considered for listing. The interior is original with features such as lamp fittings & clocks designed by architect Colin Penn in 1956.
- The house has hardly changed since it was originally built. If the application gets accepted to be demolished its interior should be given to museum of London or V&A.

**Officer's response: Please refer to sections 5, 7, 8 and 9 below.**

A letter of objection was received on behalf of the Highgate Conservation Area Advisory Committee, the Fitzroy Park Residents Association and the Highgate Society. Their objection comments can be summarised as follows:

- Highgate Conservation Area Advisory Committee considers the existing house is one of an important group of Modernist houses in Highgate and we therefore must resist its demolition. We set out our reasons below and in the two attached Appendices.
- The existing house makes a bold and striking impact on both The Grove and Fitzroy Park with strong forms in good brickwork and the promise of a series of interesting external spaces, from shade to light.
- Whilst Colin Penn is probably best known for his published works on modern architecture and the modern house, and his collaborations with Erno Goldfinger, this house also takes a sculptural and contextual approach in its design approach to the form, external spaces and facades. It makes a strong impact on its surroundings especially given the small opportunities the site presented to make such statements. It is part of the local history of modern architecture in Highgate. For all these reasons it makes a significant contribution to the Conservation Area and its loss would cause harm.
- The Heritage Statement suggests the house is unsatisfactory because it has no direct link with the garden but, from the Villa Savoye onwards to the present day, houses with as good a view as this one do adopt plans with upper floor living spaces.
- Camden planning does not have a local list of buildings of merit but instead makes assessments as to whether the building makes a positive contribution. Camden's Character Assessment mentions several contributions the existing property brings to the Conservation Area which when read together indicate this house makes a positive contribution to the Conservation Area. Therefore we cannot agree with paras. 4.19 - 4.24 in the Heritage Statement. However we do agree with para. 4.18: "Its simplicity of design also signals that it is subordinate to Park House ...and the Stables".
- We believe that demolition of this house should not be granted lightly and it should meet all the policy tests. We trust this Application needs to meet the 'less than substantial harm' test in the NPPF. The Highgate Neighbourhood Plan requires that demolition should result in a building which achieves

**CAAC/Society:**

enhancement. We do not believe it does.

- We note that Charlton Brown designed the 'pastiche' semi-detached pair of houses in The Grove (not four flats as approved) fairly recently but this proposal is in a very different style, picking up on current trends but without, we will argue, any consistency.
- What we are presented with is a plain box of classical form with symmetry and pretended depth played with in uncomfortable ways but not in a masterly manner. Also we consider it detracts from the streetscape and setting thus on both counts it fails to achieve the tests of both 'cutting edge' and 'enhancement' when compared with the existing house.
- We also note that the proposal would have an adverse impact on The Stables.
- We are also concerned about the three trees mentioned in the Highgate Neighbourhood Forum's objection.
- Highgate Conservation Area Advisory Committee therefore objects to this application on the grounds that it does not meet the criteria for demolition in either the NPPF or the Highgate Neighbourhood Plan.
- SUSTAINABILITY - Demolition is less sustainable as an approach to addressing climate change but only if measures can be taken to improve the carbon footprint of the existing house. We do not believe a fair comparison is made between the two options in the Applicants' Sustainability Report. If it can be shown, as we believe it could be, that the performance of the existing house could be enhanced to a greater degree than that Report states, then the case for demolition is weakened.

#### Highgate Society

- On behalf of the Highgate Society: Whilst the proposal is only marginally higher than the existing house the enlargement of the footprint will have a devastatingly overbearing impact on the two adjoining properties. The first floor at least must be set back to the current building outline on both the front elevation and the side elevation where the increased height and proximity will adversely affect the amenity and daylighting of the neighbouring properties, both windows and gardens.
- The basement excavation is always a considerable concern, particularly in Highgate, where the combination of clays and underground water courses have in the past caused tens of thousands of pounds damage to adjoining properties. We would request that the BIA be reviewed by independent engineers to ensure that there will be no damage whatsoever to adjoining buildings or trees.
- If there is a basement excavation permitted then we would request that an archaeological condition be imposed as this site has not been excavated too

any depth previously and is well within the Highgate Archaeological Priority Area. This is a once in a lifetime opportunity to record any finds made in the heart of the village.

- We would strongly object to the loss of any trees, in particular T1 and T2, as they are the prevailing characteristic of this leafy part of the conservation area at the top of Fitzroy Park. We would request that your tree officer visit the site, if he/she has not already done so to ensure the long-term survival of these important trees.

Fitzroy Park Residents Association (FPRA)

- Fitzroy Park Residents Association have sent a letter of objection for the following reasons: A: Inadequate information within the basement Impact Assessment – The FPRA's position is based on a professional review of the applicants documents by Alan Baxter Associates. B: Inadequate information within an undated draft pro-forma CMP.

Officer's response:

*Please see sections, 6, 7, 8, 9, 10, 11, 12 and 13 below.*

## Site Description

9D is a two storey rectangular flat roofed building constructed in 1956. The surrounding area is predominantly residential consisting of large detached and semi-detached dwellings within long plots of various size and design. The Grove is an important street within the conservation area. There are two large grassed areas to the south that are listed in the London Squares Preservation Act 1931.

The majority of houses on the street are grade II listed including Park House built c.1832 which is adjacent to the Site, and the associated stables that turn onto Fitzroy Park and sit directly in front of the Site. Fitzroy Park was built within the framework of the boundaries of older estates. As larger houses were demolished, development occurred over the 19<sup>th</sup> and 20<sup>th</sup> centuries. Houses take on a mixture of architectural styles, however all are set well away from the street edge and the character is generally formed by the topography and semi-rural soft landscaping.

The house lies within Highgate Village Conservation Area and is mentioned in the conservation area appraisal as a positive contributor.

## Relevant History

None relevant to this application.

## Relevant policies

### National Planning Policy Framework 2023

### The London Plan 2021

### Camden Local Plan 2017

H1- Maximising Housing Supply

H6 -Housing Choice and Mix

H7 -Large and Small Homes

D1 - Design

D2 – Heritage

A1 – Amenity

A2 – Open Space

A3 – Biodiversity

A5 – Basements

CC1 – Climate Change mitigation

CC2 – Adapting to climate change

T1 – Prioritising walking, cycling and public transport

T2 – Parking and car-free development

DM1 – Delivery and Monitoring

### Highgate Neighbourhood Plan (2017)

DH1 – Demolition in Highgate's Conservation Areas

DH2 – Development Proposals in Highgate's Conservation Area

DH6 – Front Boundaries

DH7 – Basements

DH8 – Refuse Storage

DH9 – The Environmental Health of Existing and Future Residents

SC1 – Highgate's Housing Needs

TR1 – Promoting Sustainable Movement

TR2 – Movement of Heavy Goods Vehicles

TR3 – Minimising the Impact of Traffic arising from New Development

### Camden Planning Guidance

CPG Design (2021)

CPG Transport (2021)

CPG Housing (2021)  
CPG Energy efficiency and adaptation (2021)  
CPG Trees (2019)  
CPG Basements (2021)

## Highgate Conservation Area Appraisal and Management Strategy (October 2007).

### Assessment

#### 1. The proposal

1.1. Planning permission is sought for:

- Demolition of existing dwelling and construction of one new detached family dwelling
- Associated landscaping works

#### 2. Assessment

2.1. The principal considerations material to the determination of this application are as follows:

- Land use
- Principle of demolition
- Design and conservation
- Occupier amenity
- Residential amenity
- Basement Considerations
- Transport impact
- Trees and landscaping
- Sustainability
- Planning balance

#### 3. Land Use

3.1. Self-contained housing is the priority land-use of the Local Plan. As the proposed development concerns the erection of a larger dwelling house following demolition of an existing dwelling house it would still provide residential use, it is considered that the proposed development in land use terms is acceptable.

##### *Affordable Housing*

3.2. Policy H4 of the Local Plan expects a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to the residential floor space of 100sqm or more. This is based on the assessment where 100sqm of floor space is considered to provide capacity for one home. In developments that provide less than 10 units, affordable housing contributions can take the form of a payment in lieu (PIL). The scheme relates to a replacement dwelling with an uplift (Existing floorspace: 142sqm – Proposed floor space: 372sqm – Net change: + 230.2sqm)

3.3. Targets are based on an assessment of development capacity whereby 100sqm GIA of housing floor space is generally considered to create capacity for one home and a sliding scale target applies to developments that provide one or more additional homes and have capacity for fewer than 25 additional homes, starting at 2% for one home and increasing by 2% for each home added to capacity. Where a contribution to affordable housing is sought, the Housing CPG requires a payment of £5000 per square metre multiplied by the on-site target for affordable housing (in this case 4%).

3.4. Based on the 230sqm of housing GIA given in the planning statement cover letter, the housing contribution is calculated as follows: 4% x 230 sqm x £5000 per sqm = £46,000. This amount will be secured via a S106 legal agreement if the proposal was considered acceptable in all other respects.

## 4. Principle of demolition

4.1. Policy CC1 Climate change mitigation requires all proposals that involve substantial demolition to demonstrate that it is not possible to retain and improve the existing building. The construction process and new materials employed in developing buildings are major consumers of resources and can produce large quantities of waste and carbon emissions. The possibility of sensitively altering or retrofitting buildings should always be strongly considered before demolition is proposed.

4.2. Policy CC1 Climate mitigation sub-section e) requires all proposals that involve substantial demolition to demonstrate that it is not possible to retain and improve the existing building. The supporting text provides background as to the carbon impact and waste involved in constructing new buildings. This also reiterates that proposals for demolition should be fully justified in terms of optimising resources and energy use, in comparison with the existing building.

- *If there is a feasible option to retain and improve, or officers consider that the case for demolition has not been demonstrated to the Council's satisfaction, this would result in a refusal.*
- *Whole life carbon (WLC) assessments should not be used to justify a replacement building, if it is considered possible to retain and improve the existing building.*
- *Applicants are required to submit WLC to justify the sustainability credentials of their proposal compared to retention, WLC should be used to compare development options when its considered that the option of retain and improve is not a possible option and these options should be sought to minimise whole life carbon emissions.*
- *The framework provided in CPG seeks to firstly determine whether it is not possible to retain and improve the existing building*

4.3. A condition and feasibility study of the existing building was requested by officers but this was not provided by the applicant. This study would have detailed the condition of the existing structure and compares two development options: renovation and extension; and new framed construction. Without a feasibility study it has been difficult to ascertain whether the existing condition of the building would allow it to be retained and improved or retained and extended or with replacement being the only end result. The information provided in support of the application does not clearly demonstrate or justify why it is not possible to retrofit the existing building through a whole house holistic approach. There is no reason why this building cannot be retained and improved like other homes of its age. Given this, officers consider a case for demolition has not been demonstrated to the Council's satisfaction and therefore would not support demolition of the existing dwelling.

4.4. Furthermore, the applicants have gone on to provide a whole life carbon assessment (WLC) to justify a replacement building.

Module	WLC Benchmark for residential (kgCO <sub>2</sub> e/m <sup>2</sup> GIA)	Aspirational Benchmark for residential (kgCO <sub>2</sub> e/m <sup>2</sup> GIA)	9D The Grove – Option 1 Retrofit	9D The Grove – Option 2 Replacement	9D The Grove – Option 3 Extend and retrofit
A1-A5	<850	<500	317	590	544
B-C (excluding B6 and B7)	<350	<300	244	330	346
Total A-C (ex B6&B7)	<1200	<800	561	920	890

Fig.1. Table 2 in the WLC report by Cundall 15/12/22

4.5. It is noted that the operational carbon is not considered in the GLA WLC benchmarks as this is considered separately. The replacement option would meet the GLA benchmark of 1200 kgCO<sub>2</sub>e/m<sup>2</sup> GIA but would not meet the GLA aspirational benchmark of <800 kgCO<sub>2</sub>e/m<sup>2</sup> GIA.

4.6. It is interesting to note that the applicant concludes that the replacement building performs best for whole life carbon. For like-to like comparison in terms of area, the comparison between the replacement dwelling, the extension and the retrofit of the existing dwelling demonstrates that the carbon gap between them shifts after 23 years, whereby the new replacement dwelling continues to outperform the retrofitted and extended dwelling over the lifecycle. However, against the GLA guidance benchmarks the lowest carbon

option would be retrofit (561kgCO<sub>2</sub>e/m<sup>2</sup> GIA) and the second lowest would be to extend and retrofit (890 kgCO<sub>2</sub>e/m<sup>2</sup> GIA). The replacement option would be the highest WLC option (920 kgCO<sub>2</sub>e/m<sup>2</sup> GIA).

- 4.7. It should also be noted that the WLC hasn't assessed B7 (operational water) – the carbon emissions related to water supply and wastewater treatment. It should also be noted that operational carbon is calculated based on the current carbon factor of the electricity grid however over the 60 year lifespan of the building this is expected to reduce significantly.
- 4.8. As such the expected savings from a more efficient building may not materialise and the impact of embodied carbon from the building will become more significant. Therefore, a replacement dwelling would not be supported and this would form a reason for refusal.
- 4.9. The Greater London Archaeology Advisory Service (GLAAS) were consulted during the course of the application as the site is identified as being within an area of archaeology interest (Archaeology Priority Area). The Archaeology advisor concluded that *'the proposal is unlikely to have a significant effect on heritage assets of archaeological interest'*. The proposal would therefore not have any impact on the archaeological priority area.

## 5. Design and conservation

- 5.1. The Council's design policies are aimed at achieving the highest standard of design in all developments. Policy D1 (Design) requires that development respects local context and character, comprises details and materials that are of high quality and complement the local character, and that housing provides a high standard of accommodation. Policy D2 (Heritage) states that the Council will preserve and where appropriate enhance Camden's heritage assets and their settings.
- 5.2. The Grove is an important street within the Highgate Village Conservation Area. Detached and semi-detached houses are set back from the street behind large front gardens and an expansive gravelled area lined with trees. There are two large grassed areas to the south that are listed in the London Squares Preservation Act 1931. The majority of houses on the street are grade II listed including Park House built c.1832 which is adjacent to the Site, and the associated stables that turn onto Fitzroy Park and sit directly in front of the Site.
- 5.3. Fitzroy Park was built within the framework of the boundaries of older estates. As larger houses were demolished, development occurred over the 19th and 20th Centuries. Houses take on a mixture of architectural styles, however all are set well away from the street edge and the character is generally formed by the topography and semi-rural soft landscaping.
- 5.4. The site is a two storey rectangular building constructed in 1956. The elevations are constructed using yellow London stock bricks, windows are timber framed and the roof is flat, the materiality of the roof is unclear. The north elevation faces onto Fitzroy Park and has a large wooden garage door at ground floor level and a blank brick wall above. To the rear at first floor level is a decorative metal balcony. Access to the property can be gained from the large gate facing The Grove or a smaller gate from Fitzroy Park.
- 5.5. The building sits gently in its setting and responds well to context. The building is relatively low ensuring that it does not dominate the setting or views of the grade II single storey stables block. The Fitzroy Park elevation also sits back from the edge of the street within foliage, responding to the established character of this part of the conservation area.
- 5.6. The conservation area appraisal identifies the building as a positive contributor as a result of the metal balcony that can be seen from Fitzroy Park and the general relationship with other parts of the conservation area.



*F.g.2 Floor plan of proposed dwelling*

- 5.7. The footprint of the proposed dwelling is similar to that of the existing (height of the proposed is 6.3m same as existing height, 14.2m wide on east elevation, 11.8m wide on the north elevation and 1.8m wide on the south elevation, 14.2m wide on the west elevation) and would maintain its existing relationship between Park House and the Stables to the rear. The proposed development would be located behind the listed stables and the main access from The Grove to the front of the proposed new dwelling would utilise a currently unused access that separates the house from its former stables.
- 5.8. The proposed building is two storeys with a flat (sedum green) roof similar to the existing with an additional basement. The footprint is increased slightly towards Fitzroy Park (1.4m) bringing the building line closer to the street but still set back by 1.6m. The building has a generally pastiche design to be in keeping with the listed Georgian villas that line The Grove.
- 5.9. The proposed house is the same height as the existing however where the existing footprint of the house was set in it has been squared off so the building come 2m closer to the stables at 6.3m in height. This together with the increase in footprint towards Fitzroy Park would result in additional harmful bulk. The house should be clearly subservient to the stables and should not be visible from The Grove or from the green area separating The Grove from Highgate West Hill. The increased bulk of the house is visible from Fitzroy Park. The increased height, the depth and the building line, impact the stables and increases the buildings presence. In terms of the detailed design, the large arch breaks up the elevation, but gives the building a status that compromises the hierarchy between the building and stables. Any building within this site should be discreet and mostly hidden by informal planting.
- 5.10. The rear elevation has little design merit, especially at first floor level, which is the section of the elevation seen from Fitzroy Park and the aspect of the current building that is mentioned in the CA appraisal. There's no aspect of this elevation that is remarkable and it would not contribute to the CA. The above comments lead to the conclusion that the existing building is the most appropriate for this site. The massing of the existing building allows the listed building to remain dominant and the simple brick work and fenestration ensures it is a subtle but well-designed element of the street scape. The proposed building does not conserve or enhance the conservation area; it negatively impacts the setting of the listed stables and has an unwelcome presence on Fitzroy Park.
- 5.11. In addition to the above, s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of (conservation areas)" when exercising planning functions in relation to land in such areas. Policy D2 (Heritage) of Camden's Local Plan states the Council will resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area. The NPPF states that development that harms heritage assets should only be allowed where the public benefits of development outweigh any harm.
- 5.12. In this case the loss of the building would cause harm to the Highgate Conservation Area for which

there is virtually no public benefit which does not outweigh that harm. The replacement of a large house with a larger house adds virtually no public benefit; the house would still only serve a single family and would be more of a private benefit rather than a public benefit. Increasing the dwellings energy efficiency by creating a larger dwelling would not outweigh the harm to the Conservation Area from the loss of a positive contributor and would therefore be contrary to Policy D2; and would be a reason for refusal.

5.13. Given the above comments, the proposals are not considered sympathetic to the setting of the adjacent listed building or the sensitive historic location of the Highgate Conservation Area. Furthermore, the proposals do not adequately justify the demolition of a positive contributor within the conservation area, contrary to policy D2 and therefore would not be considered acceptable.

## **6. Occupier amenity**

6.1. The proposed new dwelling would have reasonable layouts with decent sized rooms with high ceilings and good access to daylight and natural ventilation. The unit would have a living room, mud room, kitchen/dining/pantry on the ground floor with access to the gym, cinema room, study and laundry rooms within the basement floor, three spacious bedrooms with on-suites and walk in closets on the first floor. All rooms would have natural light via large windows and lightwells and would meet the London Plan space standards for bedrooms and overall floor space. The proposed dwelling would have sufficient external amenity space in the form of (west elevation) private garden.

6.2. The dwelling would have separate refuse and cycle stores within the side of the property (facing onto Fitzroy Park) with easy access from the street. It would continue the same arrangement for waste as the existing dwelling and would provide easy access for waste collection crews.

## **7. Residential amenity**

7.1. Policy A1 of the Camden Local Plan seeks to ensure that development does not cause adverse amenity impacts upon neighbours. This is in regards to sunlight, daylight, privacy and overlooking.

7.2. The application site is within a constrained plot set to the rear of the listed stables and next to Nos.9B The Grove (right side) and No.10/10B (left side). The proposed drawings show that the positioning and footprint of the building would be similar to that of the existing. However, the property would be extending closer to the boundary with Park House (9B The Grove). 9B The Grove is set 1m away from the boundary with No.9D and it is placed on higher ground level with its bay windows facing away from the side elevation of the 9D. Given the separation distance and ground level change, it is not considered the replacement dwelling would have an adverse impact on Park House in regards to loss of light, overshadowing or privacy impacts. Given the orientation of the proposed dwelling it is not considered to raise any significant concerns in relation to detrimental impacts on neighbouring amenity in regards to loss of light, overshadowing or privacy impacts would be had on surrounding neighbours.

## **8. Basement considerations**

8.1. Policy A5 (Basements) states that the Council will only permit basements where it is demonstrated to its satisfaction that the proposal would not cause harm to neighbouring properties; the structural, ground or water conditions of the area; the character and amenity of the area; the architectural character of the building; and the significance of heritage assets.

8.2. Policy A5 stipulates that the siting, location, scale and design of the basements must have minimal impact on, and be subordinate to, the host building and property. In accordance with Policy A5, any proposed basement development at the site should comply with the following criteria:

f. not comprise of more than one storey;

Yes

h. not be built under an existing basement;

Yes

i. not exceed 50% of each garden within the property;

Yes

j. be less than 1.5 times the footprint of the host building in area;

Yes

extend into the garden no further than 50% of the depth of the host building measured from the principal rear elevation;

Yes

k. not extend into or underneath the garden further than 50% of the depth of the garden;

Yes

l. be set back from neighbouring property boundaries where it extends beyond the footprint of the host building; and

Yes

m. avoid the loss of garden space or trees of townscape or amenity value.

Yes

8.3. The current proposal submitted appears to comply with all of the above criteria. A basement impact assessment has been carried out and this has been reviewed by Camden's independent consultants Campbell Reith. Their comments will be summarised below:

- The BIA has been carried out by suitably qualified officers however they do not have a qualification in hydrogeology. A hydrogeologist with CGeol qualification should approve the BIA as per Camden's CPG.
- Further evidence is needed for assumption of groundwater baseline conditions.
- Further clarification is requested regarding the construction methodology of the retaining wall, following which the proposed construction sequence may require revision.
- Although it is accepted the basement will not impede groundwater flow, it cannot be confirmed that the proposal will not impact the hydrogeology of the area until adequate evidence/calculation assessing the change in permeable surface area, and any resultant impact is presented.
- Until further information is provided regarding changes to surface water and sewer inflows as a result of the development, along with any potential mitigation measures, it cannot be confirmed that the development will not impact the hydrology of the area.
- Potential stability impacts are limited to those due to excavation induced ground movement. Due to lack in clarity of the proposed construction methodology for the retaining wall and the lack of information regarding the potential impact on adjacent Fitzroy Park, it is currently not accepted that the proposal will not impact the land stability of the area.
- It cannot be confirmed that the BIA complies with the requirements of the CPG until all these issues here and in appendix 2 are addressed within the audit report.

8.4. Given the above audit report findings, officers cannot accept the excavation would cause no harm to neighbouring properties or the surrounding area. The above matters would need to be resolved through an amended basement impact assessment addressing and overcoming all the above issues. Therefore, this would form a reason for refusal.

8.5. It is proposed to demolish the main site building, based on the age of the building it is possible that asbestos-containing materials (ACMs) may have been used in construction and/or maintenance. It is recommended that an asbestos survey is undertaken so that any ACMs present can be managed accordingly to protect neighbours/occupiers/construction workers. A condition has been recommended to add to any planning permission if the proposal was considered acceptable in all other respects.

## 9. Transport

9.1. Policy T2 seeks to ensure car-free development across the borough. It is understood the redeveloped property would be for a returning occupier and therefore there would be no car-free obligation but the Council will seek the inclusion of a mechanism that prohibits future occupiers from obtaining parking permits. This would be secured by s106 legal agreement. In the absence of a legal agreement this forms a reason for refusal.

### Cycle parking and bin store

9.2. For a dwelling of this size, policy requires two long stay cycle parking spaces. The submitted floor plans show an external area near the refuse store on the site facing Fitzroy Park which shows space for adequate cycle parking, details of which would be secured by condition.

9.3. 1 Electric Vehicle Charging Point (EVCP) would need to be provided in accordance with Policy T6.1 (Residential Parking) of the London Plan. This will be secured by condition, if the proposal was considered

acceptable in all other respects.

### *Construction Management Plan (CMP) and Construction Impact Bond*

9.4. The site is located in an area with multiple schools, and is within the Froggnal/Fitzjohns Neighbourhoods of the Future Healthy School Street Zone. Due to the sensitive location of the site and the amount of excavation, demolition and construction works, a construction management plan (CMP) would need to be secured to minimize the impact on the highway infrastructure and neighbouring community. The Council would seek to secure a CMP implementation support contribution of £3,136 and a Construction Impact Bond of £7,500 as section 106 planning obligations in accordance with Policy A1. This would be secured by legal agreement. In the absence of a legal agreement this forms a reason for refusal.

## **10. Trees and landscaping**

10.1. No trees are proposed for removal in order to facilitate development. The scheme can be implemented with an acceptable level of impact provided suitable foundation types are used close to trees and an appropriate arboriculture method statement is followed. The Council's Tree officer has reviewed the information. Although tree protection details have been submitted they are not considered to be comprehensive or contain sufficient detail. If the scheme had been considered acceptable in all other respects, details of foundation type, service runs and tree protection detail and hard and soft landscaping detail conditions would be recommended.

## **11. Sustainability**

11.1. Policy CC1 of the Camden Local Plan promotes zero carbon development and requires the steps in the energy hierarchy to be followed. It also requires all proposals involving substantial demolition to demonstrate that it is not possible to retain or improve the existing building and expects all development to optimise resource efficiency. Policy CC2 ensures development will be resilient to climate change, including measures to reduce the impact of urban and dwelling overheating, including the application of the cooling hierarchy, and encourages the incorporation of green roofs. Active cooling will only be permitted where dynamic thermal modelling demonstrates there is a clear need for it after all the measures in the cooling hierarchy have been followed.

11.2. The approach to energy usage would follow the principles of the energy hierarchy, focussing on the objective to 'Be Lean' the aim is to use energy saving techniques as much as possible throughout the project. It will allow for a low carbon project, using renewable energy via air source heat pumps in each house.

11.3. The construction and materials of the new build would result in an efficient thermal envelope for the reduction in outward heat transmittance. The new dwelling achieves a carbon dioxide emissions saving of 79.4% through energy efficiency measures and renewable technologies. This exceeds the 19% target to meet the requirements of Camden and would meet the requirements of the Greater London Authority.

11.4. The sustainability statement incorporates sustainable and energy saving standards which would be secured by a S106 within an energy and sustainability plan. In the absence of a legal agreement this forms a reason for refusal. Further details would be required of the photovoltaic panels; these would be secured by planning condition.

### *Cooling/overheating*

11.5. Overheating analysis of the new dwelling was carried out. The proposed new dwelling would implement passive design measures and the modelling results indicate that the scheme is compliant with the overheating requirements. The proposal maximises passive design measures by responding to the local context such as: sustainable material use, PV Solar Panels, green sedum roofs, low energy LED lighting, openable windows, ASHP, high ceilings, minimise water consumption, retain screening of trees long Fitzroy Park, maintain surface water run-off and minimise energy demand.

11.6. Mechanical and active cooling may be proposed as part of the new dwelling via a MVHR system (air tempering). It is not expected that active cooling should be required for any residential developments, as the building should be designed to not overheat and use passive design measures for ventilation.

11.7. Although steps have been taken to promote sustainability, such as the inclusion of green roofs, the use of sustainable materials and PV solar tiles, these measures would not outweigh the carbon-intensive process of demolition nor the use of active cooling which contributes to urban overheating and is energy intensive.

## **12. Planning Balance**

12.1. The proposal is identified as causing less than substantial harm to the designated heritage asset, in this case, the Highgate Village Conservation Area. Paragraph 202 of the NPPF 2023 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefit of the proposal. The Council is unable to identify any significant public benefits, other than additional accommodation for a private single family dwelling and a small number of construction jobs that would outweigh the less than substantial harm caused to the designated heritage asset – the Highgate Village Conservation Area.

## **13. Recommendation**

### **13.1. Refuse Planning Permission**

Reasons for refusal:

1. The proposed demolition, by reason of the loss of the existing building which makes a positive contribution to the Highgate Village Conservation Area, would cause harm to the character and appearance of the conservation area, contrary to policy D2 of the Camden Local Plan 2017 and Policies DH1, DH2, DH7 of the Highgate Neighbourhood Plan 2017.
2. The proposed replacement dwelling, by virtue of its scale, design, materiality and siting, would cause harm to the character and appearance of the street scene and the wider area, and the setting of the neighbouring listed building and would fail to preserve or enhance the character and appearance of the Highgate Village Conservation Area contrary to policies D1 (design) and D2 (heritage) of the Camden Local Plan 2017 and policies DH1, DH2, DH6, DH7, DH8 of the Highgate Neighbourhood Plan 2017 and with the London Plan 2021 and the NPPF 2023.
3. The proposed development, by virtue of insufficient evidence to justify the need for demolition of the existing building nor the use of active cooling, would result in an unsustainable development contrary to policies CC1 (climate change mitigation) and CC2 (adapting to climate change) of the Camden Local Plan 2017 and policies DH7, DH9 of the Highgate Neighbourhood Plan 2017.
4. In the absence of an adequate Basement Impact Assessment, the proposal would likely have an adverse impact upon the land stability in the area, the local water environment surface run-off and hydrogeology, contrary to policies A1 (Managing the impact of development) and A5 (Basements) of the London Borough of Camden Local Plan 2017 and Policy DH7 of the Highgate Neighbourhood Plan 2017.
5. The proposed development, in the absence of a legal agreement securing an affordable housing contribution, would fail to maximise the supply of affordable housing to meet the needs of households unable to access market housing, contrary to policy H4 (Maximising the supply of affordable housing) of the Camden Local Plan 2017 and policy SC1 of the Highgate Neighbourhood Plan 2017.
6. The proposed development, in the absence of a legal agreement securing car-free housing, would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (parking and car-free development) and DM1 (delivery and monitoring) of the Camden Local Plan 2017 and Policy TR1 of the Highgate Neighbourhood Plan 2017.
7. The proposed development, in the absence of a legal agreement securing a construction management plan and construction impact bond, would be detrimental to the amenity of neighbouring occupiers contrary to policies A1 (managing the impact of development) and A5 (basements) of the Camden Local Plan 2017 and Policies DH7, TR1, TR2 and TR3 of the Highgate Neighbourhood Plan 2017.



Charlton Brown  
Architecture & Interiors

23rd January 2024

JK/1912/FF

RE: Architect's statement following the refusal of LB Camden application 2020/4307/P

Following the refusal of application 2020/4307/P we have prepared some comments on the refusal Delegated Officer's Report, as well as on the design of the proposal itself.

To provide some context we have first set out a brief timeline of the design evolution and consultation process that was undertaken through the pre-application and subsequent full application at 9d The Grove which we hope will be helpful. Key documents mentioned in this statement are enclosed in the appendices.

## **Executive summary of the design evolution**

The design rationale for 9d The Grove at pre-application was to blend in with the Georgian houses of The Grove, using articulation and features that mimicked those on neighbouring buildings including a pitched mansard roof with dormers and cornice mouldings. This is an approach that had been successful for the firm at the nearby plot 12-13 The Grove, completed in 2017.

Officer's comments on design were that the key design consideration is that the proposal must not dominate the listed stables and to this end:

- The mansard roof should be removed - without the mansard roof issues of massing overdominance could be resolved.
- The style should be pared back to not compete with listed stables. A 'modest modern design' was suggested.

Officers' comments were taken on-board for the full application submitted in September 2020. The mansard roof was removed and detailing was pared back. A Soanian style was proposed with simplified articulation including recessed arches and flush string courses. This is a style that the firm has found to be successful at conveying high

quality design while resolving contemporary massing - like that of the proposal at 9d The Grove.

May 2021 LB Camden gave additional comments to further steer the design towards a modern style. We redesigned the elevations.

In July 2021 LB Camden's conservation officer issued positive feedback on the modern design including positive feedback on the key design considerations that had been raised at pre-application

On the need to sensitively respond to context, but avoid competing with the listed stables:

*'The modern design 'has a clearer identity and whilst taking cues from the context, does not compete with the surrounding historic architecture'*

On the massing, and the need for the massing to remain subservient to the listed stables:

*'The massing of the building is much improved. The drawing on page 2 of the document shows that the height of the proposed building is the same as the existing, maintain [sic] the relationship with the stables as a subservient element.'*

Minor issues were noted as suggestions to modify the design, rather than change it wholesale. These were limited to a concern about the brick colour and the need to provide a feature for visual interest on the rear elevation at first floor level.

The final issued design makes these changes.

As these comments from the conservation officer directly responded - positively - to the key design considerations that had been raised by officers from the beginning of our consultation with LB Camden, we were confident that the proposal would be seen as appropriate, notwithstanding the successful demonstration of compliance with other factors including Basement Impact, Sustainability etc.

Following this constructive consultation with LB Camden on the design factors of the application it was a surprise when the application was determined as a refusal, especially as the refusal notice cited design reasons among the reasons for refusal.

However following review the Delegated Officer's Report can be clearly seen as written with regard to the superseded September 2020 design featuring Soanian arches. All reasons for refusal on grounds of design cite design features that have been removed in the 2021 modern design or have been addressed in depth in revisions to the Design and Access Statement.

Despite the significant delay caused, officers' comments regarding design in the refusal Delegated Officer Report are encouraging for the project, as they have wholly been addressed by revisions to the design, and no new issues have been raised.

It is clear to us that an error has been made in the determination of the application. The superseded initial application design has been determined instead of the final issued design.

We believe that the final issued design is high quality and appropriate for the site. Through the rigorous consultation process with LB Camden the scheme has been resolved to a high standard that responds to context and respects the setting of the listed stables. Comments from Camden's conservation officer confirm that this view was shared.

## **Architect's comments on the Delegated officer report**

### *Fg. 2 Floor plan of proposed Dwelling*

The floor plan enclosed in the Delegated officer's report is the superseded original submission plan with canted bays to the rear. This design was superseded by the final application design shown on the drawing 1912-PL-00-100-Proposed Ground Floor Plan dated 01/08/2022. The design evolution during the application was at the request of officers.

#### 5.8

*The proposed building is two storeys with a flat (sedum green) roof similar to the existing with an additional basement. The footprint is increased slightly towards Fitzroy Park (1.4m) bringing the building line closer to the street but still set back by 1.6m. The building has a generally pastiche design to be in keeping with the listed Georgian villas that line The Grove.*

The 'pastiche design' was superseded by the final application design which is in a contemporary style. This statement suggests that officers' comments in the Delegated Officer Report refer to a design that is different from the final application scheme.

#### 5.9

*The proposed house is the same height as the existing however where the existing footprint of the house was set in it has been squared off so the building come 2m closer to the stables at 6.3m in height. This together with the increase in footprint towards Fitzroy Park would result in additional harmful bulk. The house should be clearly subservient to the stables and should not be visible from The Grove or from the green area separating The Grove from Highgate West Hill. The increased bulk of the house is visible from Fitzroy Park. The increased height, the depth and the building line, impact the stables and increases the buildings presence. In terms of the detailed design, the large arch breaks up the elevation, but gives the building a status that compromises the hierarchy between the building and stables. Any building within this site should be discreet and mostly hidden by informal planting.*

3D model views on pages 40-46 of the Design and Access Statement show how the proposed building's massing relates to the listed stables from various viewpoints taken on the surrounding streets. Viewpoints 3, 4 & 5 show worst case views where the additional massing referred to in officers' comments in paragraph 5.9 appears largest relative to the listed stables:

- View 3 from The Grove looking north west: The proposed building is visible only partially above the listed stable. Less than half of the first storey is visible and only the right hand side corner is visible. This view is screened by dense street tree foliage. The proposed building is clearly set well back and does not appear to be associated with the listed stables. This is the worst case view from this angle - the visible area of the proposed building diminishes as the viewpoint moves to the north as the distance from the viewpoint to the listed stable decreases which in turn causes a higher degree of screening to the proposed building behind.
- View 4 from Fitzroy Park looking south east: The proposed building is clearly set back from the building line of the listed stable from this viewpoint which signifies its dissociation from the listed stables. The modest detailing and calm material palette of the proposed building in relation to the listed stables' ornamentation (pilasters, dentil cornice etc.) further reinforces this hierarchy. This view is screened by dense street tree foliage.
- View 5 from The Grove looking south west: The proposed building is visible only partially above the listed stable. Less than half of the first storey of the first floor is visible, and this is mainly seen to the right and well set back in relation to the listed stables so as not to appear to be associated with the listed stables. This view is screened by dense street tree foliage. This is the worst case view from this angle - the visible area of the proposed building diminishes as the viewpoint moves to the south as the distance from the viewpoint to the listed stable decreases which in turn causes a higher degree of screening to the proposed building behind.

The detailing of the north (Fitzroy Park) elevation has been revised to omit the 'large arch' feature. This statement suggests that officers' comments in the Delegated Officer Report refer to a design that is different from the final application scheme.

The final application scheme's north (Fitzroy Park) elevation is significantly more modest than the previously proposed elevation that featured the double-height 'large arch' feature, with the elevation broken up by a simple slot window with flush fitted louvres and flush string courses within the brickwork.

## 5.10

*The rear elevation has little design merit, especially at first floor level, which is the section of the elevation seen from Fitzroy Park and the aspect of the current building that is mentioned in the CA appraisal. There's no aspect of this elevation that is remarkable and it would not contribute to the CA. The above comments lead to the conclusion that the existing building is the most appropriate for this site. The massing*

*of the existing building allows the listed building to remain dominant and the simple brick work and fenestration ensures it is a subtle but well-designed element of the street scape. The proposed building does not conserve or enhance the conservation area; it negatively impacts the setting of the listed stables and has an unwelcome presence on Fitzroy Park.*

Contrary to this statement, the final application design features a metal canopy at the location of the existing canopy mentioned in the conservation area appraisal. This statement suggests that officers' comments in the Delegated Officer Report refer to a design that is different from the final application scheme. The design rationale for the rear elevation is discussed in the following section.

#### 5.11

*In addition to the above, s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of (conservation areas)" when exercising planning functions in relation to land in such areas. Policy D2 (Heritage) of Camden's Local Plan states the Council will resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area. The NPPF states that development that harms heritage assets should only be allowed where the public benefits of development outweigh any harm.*

The proposal includes a design for new gates to the prominent entrance through the listed stables on The Grove. These gates are currently inappropriate flat panel steel security gates. Replacing these with appropriate gates would significantly improve the streetscene.

## The Proposal

### Massing

With regard to the East elevation (The Grove) building line, officers did not comment on the proposed changes, except to note that it is the *'overall height of the building [that] impacts the setting of the listed stables' rather than the proximity to the front of the site.*

With regard to the North elevation (Fitzroy Park) building line, officers commented at the pre-application that *'The alterations to the building line could be acceptable as long as a foliage [sic] and a sense of greenery is maintained, inline with the established characteristic [sic] of Fitzroy Park.'*

The proposal retains the same building line that officers' advised could be acceptable, and all three mature trees that provide screening cited by officers are proposed to be retained in-situ.

With regard to the West elevation building line, officers commented that the proposal would *'maintain its existing relationship between Park House and the Stables to the rear.'*

With regard to the building height, officers commented at the pre-application that the existing building's height is *'relatively low ensuring that it does not dominate the setting or views of the grade II single storey stables [sic] block.'*

The proposal was revised to remove the mansard roof and lower the parapet to the same level as the existing building.

In response to the 2021 modern scheme officers commented that:

*'The massing of the building is much improved. The drawing on page 2 of the document shows that the height of the proposed building is the same as the existing, maintain [sic] the relationship with the stables as a subservient element.'*

The proposal's massing relative to the listed stables block is a function of its height and the East elevation building line (proximity on plan to the stables building). Officers did not raise any concerns about the left hand side element of the proposal coming approximately 500mm forward and it is true that the omission of the mansard roof renders the slight change to the building line insignificant in causing any overdominance to the stables building.

That being said, we recognised the importance of avoiding damage to the setting of the listed stables through overdominance of the proposal's massing. To further illustrate this point a series of 3D views were prepared showing the site from various viewpoints which can be seen in pages 40-45 of the January 2023 revision to the Design and Access Statement. Worst-case viewpoints were selected at the most distant accessible

vantage points where the maximum area of the proposal would be visible behind the stables building.

In reality the abundant street trees and tall boundary treatments obscure the proposal almost entirely from these worst-case viewpoints.

#### Style, articulation, detailing, materiality

In addition to addressing officers' concerns on building line, height, style and articulation / detailing of individual elevations, the final submission proposal is holistically designed as a high-quality yet modest contemporary house.

The design is represented in proposed plans dated 01/08/2021 and elevations dated 18/01/2022, as well as rendered elevations on page 35 of the Design and Access statement, and rendered 3D views on page 38 of the Design and Access statement.

N.B. rendered 3D views on page 38 of the Design and Access statement are taken from artificially elevated viewpoints to show the design and do not represent views that are possible from the street.

A restrained material palette of brick and bronze metalwork are proposed. The proposed brick, Petersen D137 is a combination of red, beige and brown tones. This is in response to officers' comments regarding the previously proposed yellow stock brick:

*'The proposed materials are okay, although I'm not overly keen on this type of yellow stock brick – in a simple building like this, the quality of the brick is very important and should be chosen carefully.'*

Petersen D137 is a high quality brick that has attractive tonal variance as well as attractive surface texture as a result of its waterstruck manufacturing process. Bronze is a high quality material for architectural metalwork that is durable and its appearance improves with age. Subject to agreement over materials, the reuse of the existing yellow stock bricks would also be an appropriate and sympathetic design approach.

D137 was selected as it appears to relate sympathetically to neighbouring buildings without attempting to match exactly. The brick and bronze metalwork relate to one another in tone, resulting in a calm overall palette.

Additionally, these two materials were proposed as they are high-quality materials that stand up well to close-range inspection. This is important especially at the Fitzroy Park (North) elevation where it is possible for the public to approach the building facade.

The articulation of the front (East) elevation has been designed to create a coherent hierarchy between the main entrance and secondary North wing. To the Fitzroy Park (North) elevation, a vertical slot breaks up the massing, and a step down in height

eases the transition as the North wing turns the corner to face The Grove (East elevation).

Oversized recessed brick panels to the front (East) elevation North wing have been added around the windows to rationalise the facade without increasing the size of windows to an inappropriate degree.

The rear massing has been designed to be clearly organised into thirds, with a further subdivision established through subtle alignment of structural openings and glazing mullions. The roof line appears to step down towards the boundary with Park House to the South.

On all elevations the first floor massing is separated visually from the ground floor through a band of bricks laid vertically but otherwise flush with those above and below. The intention of this detail is to:

- Break up the brickwork through a change in the bond, rewarding close inspection of the building;
- Signify the arrangement of structural elements (lintels) within the contemporary design language, underlining the crafted nature of the building.

Other details include fenestration designed to provide meaningful light and outlook to internal spaces, while mitigating overlooking from inside to outside, and vice-versa. Windows to the Fitzroy Park (North) elevation where this is most acute are either clerestory and above eye level, or fitted with deep louvres.

Metalwork to the rear (West) elevation provides glances of contrasting material from Fitzroy Park, similar to the metal canopy of the existing building cited in the conservation area appraisal.

## Appendices

Appendix 1: November 2019 Charlton Brown Pre-application presentation document

Appendix 2: March 2020 LB Camden Pre-application report

Appendix 3: September 2020 DAS in support of the initial full application design

Appendix 4: Planning consultant's email quoting LB Camden's conservation officer's comments on the modern design

Appendix 5: January 2023 DAS in support of the final issued design



## 9D The Grove

### Heritage Statement of Case

Iceni Projects Limited on behalf of  
Niri Cohen

December 2023

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# 1. INTRODUCTION

1. This Statement of Case has been prepared to support an appeal against the decision to refuse planning permission (Ref 2020/4307/P) for the demolition of the existing building and the construction of a replacement dwelling and landscaping works at 9D The Grove, Highgate. The site is described, and the location identified, in the overall Statement of Case produced by Asserson Law.
2. Ref 2020/4307/ was refused for 7 reasons, as outlined in the decision notice dated 24 November 2023. Among them, are two that reference heritage matters and cite concerns related to the harm to the character of the Highgate Village Conservation Area and the setting of the neighbouring listed building. This listed building is 9B The Grove (Grade II, List UID: 1378987), the former stabling block to Park House. (No.9, The Grove Grade II, List UID: 1378990 not identified in either the Delegated Report or Heritage Statement as having any effect upon its setting)
3. The two Reasons for Refusal related to Heritage are as follows:
  - 1) *The proposed demolition, by reason of the loss of the existing building which makes a positive contribution to the Highgate Village Conservation Area, would cause harm to the character and appearance of the conservation area, contrary to policy D2 of the Camden Local Plan 2017 and Policies DH1, DH2, DH7 of the Highgate Neighbourhood Plan 2017.*
  - 2) *The proposed replacement dwelling, by virtue of its scale, design, materiality and siting, would cause harm to the character and appearance of the street scene and the wider area, and the setting of the neighbouring listed building and would fail to preserve or enhance the character and appearance of the Highgate Village Conservation Area contrary to policies D1 (design) and D2 (heritage) of the Camden Local Plan 2017 and policies DH1, DH2, DH6, DH7, DH8 of the Highgate Neighbourhood Plan 2017 and with the London Plan 2021 and the NPPF 2023.*
4. Accordingly, the Council's primary concerns arising from the application appear to relate to the loss of the existing building (and its contribution to the character and appearance of the Conservation Area), and the quality of the replacement. As will be set out below, there are issues with addressing the questions of 'loss of existing building' and 'quality of replacement building' as wholly separate stages in the assessment process. For clarity, we will consider the two reasons for refusal together, insofar as we will assess whether, were the Appeal Scheme to be consented and built, the Character and Appearance of the Conservation Area would be harmed, compared against a baseline position whereby the existing building is in place.
5. This Heritage Statement of Case will:
  - Set out the relevant legislative and policy framework within which to understand the Appeal against the refusal of application ref. 2020/4307/P;
  - Describe the Site and relevant heritage assets, and the relationship between them;
  - Provide a proportionate and robust analysis of the Site and relevant heritage assets, as identified by the Officer's Report;
6. The scheme as submitted, sought to replace a building which responds poorly to its context, (beyond its recessive appearance) and introduce a new high-quality design, of a highly contextual nature (in terms of massing, footprint and materiality), which more successfully responds to its location and the prevailing character of the area. Our Heritage Statement,

associated with the refused application concluded the change to the built form within the plot would result in a direct benefit to the Grade II listed Stables through restoration of the entrance gates onto The Grove. The setting of the stables would be enhanced through the introduction of a more complimentary backdrop, which has carefully considered the context and would therefore result in a beneficial impact to an appreciation of its architectural interest. For these reasons there would be an adjunctive enhancement to the character and appearance of the Highgate Conservation Area.

7. This Hearing Statement is produced by Icen Projects. Specifically, it is authored by Edward Wollaston, BA Hons, PGdip Senior Heritage Consultant– Built Heritage & Townscape and Laurie Handcock MA (Cantab), MSc, IHBC, MCIfA, Director – Built Heritage & Townscape.

## 2. RELEVANT LEGISLATION, POLICY AND GUIDANCE

8. The following summarises the relevant heritage policy considerations for the site. These are cited in the Reasons for Refusal but additionally include further heritage guidance which has informed the assessment and conclusions within this Statement of Case.

<p><b>NPPF (Dec 2023)</b></p>	<p><i>The paragraphs within the section 16 (Conserving and enhancing the historic environment) of the NPPF (Dec 2023) that are of relevance include:</i></p> <p><i>Paragraph 200, in so far as it relates to “local planning authorities ... 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.”;</i></p> <p><i>Paragraph 201, in so far as “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)...”; and</i></p> <p><i>Paragraph 203, 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.</i></p> <p><i>Paragraph 208, in so far as “Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”</i></p> <p><i>Paragraph 211, in so far as “Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.”</i></p> <p><i>Paragraph 212, 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.</i></p> <p><i>Paragraph 213, in so far as “Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance.”</i></p>
<p><b>Camden Local Plan (2017)</b></p>	<p><b>D1 – Design</b></p> <p><i>The Council will seek to secure high quality design in development. Requiring development that:</i></p> <p><i>a. respects local context and character;</i></p> <p><i>b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;</i></p> <p><i>[...] e. comprises details and materials that are of high quality and complement the local character;</i></p> <p><i>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.</i></p> <p><i>The Council expects excellence in architecture and design and will seek to ensure that the significant growth planned for under Policy G1 Delivery and location of growth will be provided through high quality contextual design.</i></p> <p><b>D2 – Heritage</b></p> <p><i>The Council will preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas, listed buildings... and locally listed heritage assets.</i></p>

	<p><b>Conservation areas</b></p> <p><i>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:</i></p> <p><i>e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;</i></p> <p><i>[...] g. resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and</i></p> <p><b>Listed Buildings</b></p> <p><i>To preserve or enhance the borough’s listed buildings, The Council will:</i></p> <p><i>[...] j. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and</i></p> <p><i>k. resist development that would cause harm to significance of a listed building through an effect on its setting.</i></p>
<p><b>Highgate Neighbourhood Plan (2017)</b></p>	<p><b>DH1: Demolition in Highgate’s Conservation Areas</b></p> <p><i>Proposals to demolish buildings and structures that are non-designated heritage assets will be subject to a balance judgement with regard to the scale of the loss and the significance of the asset. Any proposed replacement should make a positive contribution to the conservation area.</i></p> <p><i>Note: The building is not identified as locally listed or non-designated heritage asset. However, the policy identifies that; New development should not make less of a contribution to the conservation area than that which it replaces.</i></p> <p><b>DH2: Development Proposals in Highgate’s Conservation Areas</b></p> <p><i>Development proposals, including alterations or extensions to existing buildings, should preserve or enhance the character or appearance of Highgate’s conservation areas, and respect the setting of its listed buildings and other heritage assets. Development should preserve or enhance the open, semi-rural or village character where this is a feature of the area.</i></p> <p><b>DH6: Front Boundaries</b></p> <p><i>Original boundary walls, gate piers or railings should be retained unless their removal is necessary due to the condition of a structure, or replacement provision is proposed which would enhance the character of the area. In areas where matching and similar boundary walls form a recognizable part of the streetscape, ..., replacements should be reinstated to match the originals.</i></p>
<p><b>London Plan (2021)</b></p>	<p><b>Policy HC1 Heritage Conservation and Growth</b></p> <p><i>Policy HC1 requires boroughs to develop evidence that demonstrates a clear understanding of London’s historic environment. It further requires Boroughs to use this knowledge to inform the effective integration of London’s heritage in regenerative change by:</i></p> <ol style="list-style-type: none"> <li><i>1. setting out a clear vision that recognises and embeds the role of heritage in place-making;</i></li> <li><i>2. utilising the heritage significance of a site or area in the planning and design process;</i></li> <li><i>3. integrating the conservation and enhancement of heritage assets and their settings with innovative and creative contextual architectural responses that contribute to their significance and sense of place; and,</i></li> <li><i>4. delivering positive benefits that conserve and enhance the historic environment, as well as contributing to the economic viability, accessibility and environmental quality of a place, and to social wellbeing.</i></li> </ol> <p><i>Part C of Policy HC 1 states that: “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”.</i></p>

<b>Historic England Advice Note GPA2</b>	<i>Managing Significance in Decision-Taking in the Historic Environment – this Historic England</i>  <i>Good Practice Advice notes provides information to assist in planning decisions concerning the historic environment with regards to the policy set out in the National Planning Policy Framework (NPPF) and the related guidance given in the Planning Practice Guidance (PPG). Including; assessing the significance of heritage assets and the potential effects of proposals.</i>
<b>Historic England Advice Note GPA3</b>	<i>The Setting of Heritage Assets (2nd Edition, December 2017) - gives general advice on understanding setting and how it may contribute to the significance of heritage assets. The advice outlines a staged approach for assessment of the contribution setting makes to significance and the approach for the assessment of effects of any development.</i>

9. To meet the outlined tests, development proposals should adhere to the specified local design and heritage policies cited above. This entails demonstrating respect for the local context, integrating high-quality design elements, and actively preserving or enhancing heritage assets and conservation areas. Proposals must avoid poor design, resist any adverse impact on listed buildings, and ensure that the development contributes positively to the character and appearance of the conservation area. With regard to the NPPF, three categories of harm are recognised; substantial harm, less than substantial harm and no harm. If a balancing exercise is necessary (if there is any harm identified to the asset), considerable weight should be applied to the statutory duty where it arises. It is emphasised that where harm will arise as a result of a proposed development, this harm should be weighed against the public benefits of a proposal.

### 3. DISCUSSION

#### Assessment Context

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##### Relevant Case Law, and Approach to the Case

10. As outlined above, there are issues with addressing the Reasons for Refusal in two parts, as Reasons for Refusals 1 and 2 seek to do. The judgement in *Dorothy Bohm v SSCLG* [2017] EWHC 3217 established that when considering schemes for demolition and replacement within a Conservation Area, it is not sufficient to automatically conclude harm based solely on the loss of the building (Paragraphs 33-34). Instead, the judgment suggests an approach which emphasises the need to evaluate the overall impact of the entire proposal, including the design of the replacement building. "...when considering the impact of the proposal on the CA under s.72 it is the impact of the entire proposal which is in issue. In other words the decision maker must consider not merely the removal of the building which made a positive contribution, but also the impact on the CA of the building which replaced it. She must then make a judgement on the overall impact on the CA of the entire proposal before her.

*Secondly, the Inspector also had to apply the policy test in para 135 (now Paragraph 209) of the NPPF. Unsurprisingly, given that an NDHA does not itself have statutory protection, the test in para 135 is different from that in paras 132-4 (Now Paragraphs 206-208), which concern designated heritage assets. Paragraph 135 calls for weighing "applications" that affect an NDHA, in other words the consideration under that paragraph must be of the application as a whole, not merely the demolition but also the construction of the new building. It then requires a balanced judgement to be made by the decision maker. The NPPF does not seek to prescribe how that balance should be undertaken, or what weight should be given to any particular matter.*

11. The Judgment clarifies, although something may be regarded as a 'positive contributor', this does not itself constitute a heritage designation, and the Local Planning Authority should not conclude that redevelopment and demolition is unacceptable until the baseline has been assessed comparatively with the potential enhancements of the proposed development.
12. It is simply illogical, within the wider planning balance, to consider questions of demolition and new development separately. Accordingly, we suggest that a single reason for refusal, rather than two, would be more appropriate, which is further supported by the policy set out in the NPPF particularly Paragraph 140, which anticipates a holistic assessment of the scheme, considering public benefits and applying the tests outlined in NPPF 137-139. We respond to the two issues, demolition and replacement, below, but the overall judgement that is made will, in accordance with the High Court judgment referenced above, be a holistic one.

##### The Proposed Development

13. Unfortunately, the Delegated Report provides commentary against an earlier set of plans which have long been superseded. The plans submitted for consideration in November 2023 are acknowledged within the reasons for refusal. The inconsistencies with the Delegated Report are cited below;
- Paragraph 5.3 refers to "a pastiche Design". However, this is no longer the defining character of the proposals
  - Paragraph 5.9 Discusses the large arch which has been removed from the proposals.
  - Paragraph 5.10 Provides commentary on the suitability of the Fitzroy Park Elevation which has changed in appearance.

14. Given that the scheme, pursuant to Reason for Refusal 2, was refused *inter alia* on design grounds, the confusion on the part of the Local Authority around *what the proposed scheme is* has plainly had a significant impact on their decision-making. Our assessment below is based on the revised, 2022(as confirmed prior to determination also in November 2023) scheme upon which determination was sought.

## **The Case of the Council and Third Parties**

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### **Camden Council – Delegated Report, Design and Conservation Concerns**

#### ***Design and conservation***

15. The DR takes the view that *the existing building is the “most suitable” for the site*, based upon their own assessment of the positive contribution, before going onto outline the alleged unsuitability of the proposed building, concluding that it does not conserve or enhance the conservation area. Their reasoning further includes how they believe the proposals would negatively impact the setting of the listed stables and would have an unwelcome presence on Fitzroy Park. This is predominantly alleged to be through an increase in massing perceived as ‘additional harmful bulk’ and the design merit of the rear elevation.
16. They go on to conclude (but appear to mistakenly phrase with a double negative); *‘there is virtually no public benefit which does not outweigh that harm. The replacement of a large house with a larger house adds virtually no public benefit; the house would still only serve a single family and would be more of a private benefit rather than a public benefit. Increasing the dwellings energy efficiency by creating a larger dwelling would not outweigh the harm to the Conservation Area from the loss of a positive contributor and would therefore be contrary to Policy D2; and would be a reason for refusal.’ Given the above comments, the proposals are not considered sympathetic to the setting of the adjacent listed building or the sensitive historic location of the Highgate Conservation Area. Furthermore, the proposals do not adequately justify the demolition of a positive contributor within the conservation area, contrary to policy D2 and therefore would not be considered acceptable.*

#### **CAAC**

17. The Highgate Conservation Area Advisory Committee considers the existing house is one of an important group of Modernist houses in Highgate. They state a *‘bold and striking impact on both The Grove and Fitzroy Park with strong forms in good brickwork and the promise of a series of interesting external spaces, from shade to light.’ ‘a sculptural and contextual approach in its design approach to the form, external spaces and facades. It makes a strong impact on its surroundings especially given the small opportunities the site presented to make such statements’*. As will be seen below, their assessment that the building is ‘bold and striking’ is at direct odds with the approach of the both the Conservation Area Appraisal and DR. Much is made by officers of the relative quietude and secondary appearance of the building, and the notion that the building makes a ‘strong impact’ is accordingly directly contrary to the approach of officers. Additionally, the claims made regarding the quality of the building’s design are not supported by a proper assessment of the building’s architectural merits, as will be shown.
18. They conclude that proposal detracts from the streetscape and setting and that building fails to achieve the tests of both ‘cutting edge’ and ‘enhancement’ when compared with the existing house. They suggest that the proposal would have an adverse impact on The Stables and cite concerns regarding the three trees mentioned in the Highgate Neighbourhood Forum’s objection. In summary the object on the grounds that they do not believe the development meets the criteria for demolition in either the NPPF or the Highgate Neighbourhood Plan.

### Highgate Society

19. The Highgate Society consider the enlargement of the footprint will have a 'devastatingly overbearing' impact on the two adjoining properties and offer design advice based on the potential effects upon the '*amenity and daylighting of the neighbouring properties, both windows and gardens.*'
20. They comment upon concern for the basement and the need for an archaeological condition to be imposed as this site has not been excavated previously and is within the Highgate Archaeological Priority Area.

### Fitzroy Park Residents Association (FPRA)

21. The concerns are limited to inadequate information within the basement Impact Assessment.

### Demolition of Existing Building:

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22. The existing building has been identified as a 'positive contributor' to the Highgate Village Conservation Area. However, it is crucial to consider how this positive contribution is characterised and articulated. The Conservation Area Appraisal notes how the buildings prominence is limited and the positive contribution is limited to *rear first-floor balcony with a copper-clad canopy, looking down Fitzroy Park.*

*As the road turns into Fitzroy Park on the south side is the imposing brick panelled enclosure to No 9d, a modern post-war building deliberately introverted on The Grove frontage, but a positive contributor to its surroundings by way of its rear first-floor balcony with a copper-clad canopy, looking down Fitzroy Park. The house has a simple rectangular plan and is built from yellow stock bricks, with a garage built into the north-west corner.*

23. An interpretation of the positive aspects of the building's contribution to the Conservation Area is suggested in the Delegated Report (DR) (paragraphs 5.5-5.6). The officer expands on the above to say '*The building sits gently in its setting and responds well to context. The building is relatively low ensuring that it does not dominate the setting or views of the grade II single storey stables block. The Fitzroy Park elevation also sits back from the edge of the street within foliage, responding to the established character of this part of the conservation area.*'
24. These comments suggest that the contribution of the Fitzroy Park elevation is derived from its quietude, its set back position within foliage. They identify, somewhat conflictingly, the contribution the building makes to the established character of the area is through its recessive and subtle appearance. Logically, if the contribution is through its lack of physical presence and architectural personality, then the contribution must be very modest. It is also reflective of the architectural quality of the building that the sole identifiers of positive contribution are a rear balcony detail, and its set-back position.
25. In our view, the weight given by the officer to the "positive contribution" allegedly made by this building, has been significantly overstated. A visit to site in the winter months (see Figures 1-6) where visibility is at its highest, reveals that the balcony and copper canopy are barely apparent along Fitzroy Park (Figures 4-6), due to the density of mature trees along the boundary, the high boundary wall, and blank facades. Views of the balcony appear at height, only from a single location on Fitzroy Park, where the features are partially screened. The building more broadly is clearly not one of quality, and, where it is visible, its presence is clearly not a positive one by virtue of its absence of quality detailing or materials. We therefore do not agree with the Council's view that it is a positive contributor to which significant weight should be attached. Its loss, as explained above, needs to be viewed within the context of its replacement, and cannot be considered effectively in isolation. No significant architectural detailing or visual quality would be removed through its replacement. The Conservation Area would not be a poorer place for its

removal., Its alleged contribution to the Conservation Area's character and appearance is also clearly an extreme view, given its absence in views obtainable by visitors to Fitzroy Park and The Grove.

26. The DR includes the officer's speculation on the original design intent of the existing building within paragraphs 5.5-5.6: namely, that the design of the building has consciously responded to the character of the conservation area, and that it was specifically designed not to 'dominate' the setting of the stables. It is important to recognise the setting of the stable is not limited to the street frontage but would have historically included the area to the rear as access route and yard area to approach the stabling and would have served as an important component of its functional use. The dwelling pre-dates the listing and therefore the implication that the building has been designed to respond to the setting of the stables is somewhat complicated by this, as responding to as yet undesignated heritage assets is unlikely to have been a motivation in the original design intent.
27. Indeed, the building appears to be a close reflection of the standardised approach to housing design outlined by the architect Colin Penn, in his book *'Houses of To-day: A Practical Guide'* (1954). The book, which focuses on how buildings can be provided functionally and affordably, shows no particular interest in contextual external expression, looking instead at the nature of the internal spaces, and seeking to integrate standardisation wherever possible. Being constructed shortly after the book's publication and exhibiting just the sort of approach to housebuilding advocated within it, demonstrates that context was clearly not a significant consideration for the architect. This is played out in the built form, stripped back as it is to such an extent that it does not read as a contextual response to its surroundings. It is, instead, typical of its time, without being a good example of 1950s housing design.
28. The DR's approach to the minor increase in massing appears to suggest that the marginal difference between the existing and the proposed is the "tipping point" for harm to setting, the point at which 'over dominance' arises in relation to the stables. We fundamentally disagree with this assertion and would instead suggest the setting of the stable was poorly considered when 9D was constructed. The appearance of the corner of 9D behind the stable (figures 1-3) is testament to this and the proposed replacement would not amount to any material difference in impact. The proposed development presents an opportunity for the new building to create a more appropriate transition to the corner and the opportunity to sit genuinely recessively, with an appearance which is more suitable than the blank corner which currently rises above the stables in views down Fitzroy Park.
29. In response to the comments on the architectural quality of the existing building, it is useful to contextualise the building within the career of the architect Colin Penn, whose work is never architecturally distinguished, and is better known for his teaching and writing, and his politics, rather than his actual design ability. His commission here appears to have occurred shortly after leaving the AA teaching staff. He is not very well known generally, with very few recognised buildings, none of which are statutorily listed or even recognised as non-designated heritage assets; none of his buildings can be shown to be held in particular regard. Despite early associations with architects who would later emerge as more definitive figures in the mid-century modern movement in Britain, he appears to have directed his career away from the design of buildings and more towards teaching, academic theory, as an author, as an active member communist party, and as chairman of the Communist Party affiliated trade union The Association of Building Technicians (ABT),
30. As noted above, 9D The Grove appears entirely as a standardised design. The building is also disconnected from whatever historic interest Penn's career might have for his commitment to Communism, as a privately commissioned house, for a presumably well-off client. Most buildings designed by Penn were produced cooperatively, with Penn focusing on interiors and plan. Many appear to be related to his political affiliations, including his scheme for the *Daily Worker* building at 75 Farringdon Road, London (substantially altered and refaced in 2008 and 2018, original plans available in the RIBA Archive), and the Communist Party Headquarters in Covent Garden (No.16 King Street) working largely on its interiors and plan.

31. This is interesting in considering the existing building at 9D The Grove, the original design included a consulting room for the commissioning client – a doctor. As a private client home, the building appears somewhat at odds with Penn's philosophy and that which ultimately might give his work any historic interest in these circumstances. Penn was noted to view modernism reluctantly, and was to an extent, unhappily complicit in an architectural movement which he considered 'unworthy of the workers', a style defined and constrained by capitalism and the economic circumstances of the post war period. This appears to have been a quite functional commission for Penn, one to 'pay the bills', possibly one taken on following his departure from the AA in the mid-1950s. This is perhaps best articulated by Penn in the introduction to *'Houses of To-day: A Practical Guide' (1954)* 'I would advise prospective house builder to think more of the plan than of the external appearance, which is subject to the whims of fashion, which can be the subject of endless debate, and on which he may well spend money which, later he will wish he spent on the interior'.
32. This clearly does little to imbue the building with any merit, instead it highlights how it has been poorly considered contextually and externally, and the inherent constraints of the commission. We learn little from 9D The Grove of Penn's architectural philosophy, his core interests and beliefs, nor is it illustrative of any minor influence he may have held as a one of the many architects in post war Britain. It was constructed as a simple dwelling, built within the constraints of the period, at low cost, using the available materials and restrained in its detail. It is accordingly clear that while, in this case, we have a named architect, the building cannot be said to take any significance from that fact. That we know the name of the architect in any particular case is not sufficient to imbue a building with interest. It is necessary for the architect to have some particular interest in and of themselves, and for the building to be an expression and good example of this interest. Ultimately, we have an architect here of primarily social, rather than architectural interest, and a building which is detached from those elements of his career which are of interest. The building accordingly gains no significance from its relationship with the architect.

#### **Proposed Replacement Dwelling:**

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33. The DR determined that; *The proposed replacement dwelling, by virtue of its scale, design, materiality and siting, would cause harm to the character and appearance of the street scene and the wider area, and the setting of the neighbouring listed building and would fail to preserve or enhance the character and appearance of the Highgate Village Conservation Area.* The reasoning for this is set out in (5.7 -5.13). The plans commented on within the officer report were superseded in 2023 by Drawing Nos: 1912\_EX-00-010, 1912\_EX-00-100, 1912\_EX-00-101, 1912\_EX-00-102, 1912\_EX-00-200, 1912\_EX-00-201, 1912\_EX-00-300, 1912\_EX-00-301, 1912\_EX-00-302, 1912\_EX-00-303, 1912\_EX-00-304, 1912\_EX-00-305, 1912\_EX-00-305, 1912-PL-000, 1912-PL-010, 1912-PL-099, 1912-PL-100, 1912-PL-101, 1912-PL-102, 1912-PL-200, 1912-PL-201, 1912-PL-202, 1912-PL-300, 1912-PL-301, 1912-PL-302, 1912-PL-303, 1912-PL-304, 1912-PL-00-305.
34. The reasoning set out in the DR (Nov 2020) which has informed the refusal, does not therefore correspond to the most recent set of design drawings, which has addressed many of the issues that were previously raised in 2020. The Reason for Refusal is inherently flawed as a result.

#### **Building Bulk and Height:**

35. The officer expresses concern about the appearance of 'additional harmful bulk.' (para 5.9), which is alleged to arise from the massing and the increase in footprint towards Fitzroy Park. We would contend that the changes in footprint, height and massing have been carefully considered within the context of the area, replicating a form which has an established precedent in the area, the design draws upon the most successful elements of the existing building's character and relationship to the streetscape and reinterprets them within the proposed design. Where the proposed building would appear, it would align with the Conservation Area's key characteristics, both materially through the use of a soft coloured brick to match the context, and more generally as a quiet and recessive building, partially screened by greenery and read as a high-quality enhancement to the streetscape and village character.

36. The officer notes the hierarchy of the nearby buildings, and that the dwelling should be subservient to the Stable Block in Paragraph 5.9. However, the officer has not highlighted the most important hierarchical relationship between the buildings is in relation to the principal House at No. 9A, which would not change as a result of the proposed new dwelling. The scheme would preserve the appearance of the Stable Block and 9D group as subservient to the main house, retaining a sense of primary and historically ancillary spaces within the historic plot.
37. The officer states that "*The house ... should not be visible from The Grove or from the green area separating The Grove from Highgate West Hill.*" The reasoning for this, the stark statement that visibility "*should not*" be possible is not explained, despite the existing building being apparent above the roof line of the stables and the 'green area' not being publicly accessible as it is the operative 'top' of an underground reservoir. Views towards the building from the Grove are restricted by the mature trees along The Grove, and at the frontage to the building, these trees are interesting and well established and offer a significant visual draw along the streetscape. The Stables, although single storey, also has a strong presence along The Grove, by virtue of its architectural appearance and positioning within the plot. It is set forward of the build line, at the corner, with a prominence and 'visual draw' further enforced by the pedimented main gate. It is our opinion that the minor increase in height and massing to the rear of the stable proposed by the new dwelling, would appear diminutively and would not challenge the prominence of the Stable Block. This is due to the existing prominence of the Stable Block and the quality of the surrounding streetscape. The effects of the proposal on the appearance of The Grove would be negligible and would not amount to harm. The building would continue to be a quiet presence, secondary to all surrounding features, when seen from the Grove.
38. Paragraph 5.9 then turns to the effect on Fitzroy Park and the appearance of massing, which appears inconsistent to what was stated earlier in Paragraph 5.7 that the proposed development would '*maintain its existing relationship between Park House and the Stables to the rear.*'
39. Paragraph 5.9 also addresses the 'impact' upon the stables. It is important to consider that the setting of the Stables only constitutes one component of its interest, and that its current setting incorporates a relationship with an existing house, in the same plot, immediately to its rear. Its interest is predominantly architectural and for its group value with the adjacent No.9A (as a high-quality group of buildings which are illustrative of their period and the historic development of the area). This is largely derived through the main elevation, the legibility of its historic function and design relationship with 9A, and its clear presence as part of the streetscape. We are in agreement with the officer's concluding sentence that *Any building within this site should be discreet and mostly hidden by informal planting.*
40. The DR is unclear when it describes how '*The increased height, the depth and the building line, impact the stables and increases the building's presence.* We assume they are referring to the new dwelling, and the impact upon the setting of the stables (although not mentioned explicitly). We believe the level of harm identified from this 'impact' due to increased presence as a result of the minor increase in massing has been overstated. The building would be obscured behind the existing and new proposed planting, visible only in glimpsed and interrupted views from small number of close-range locations. The visible change would be negligible. Importantly, the form of the building works sympathetically with the notes of classical design that characterise the vicinity, and the Design and Access Statement and drawings illustrate the stock-brick led, 'stripped back' approach is in harmony with the austerity and clarity of design that characterises the Georgian and Regency architecture of the surrounding streets. The building accordingly offers a contextual design response using high quality materials.
41. Fundamentally, the sense of space and enclosure which the proposed building would create is entirely appropriate to its context. With regard to the stables, the key component aspects of the building and the relationship to its setting, to The Grove (including 9A in particular) and Fitzroy Park, would be preserved. The building would still hold a prominent position at the corner, and the rhythm of the façade would continue to gently turn the corner, with the forward, off centre pediment and detailed stonework remaining the most prominent aspect of the corner. Key views in which the listed building is appreciated would be largely unaffected as would its relationship to the streetscape and 9A The Grove. The visibility of the building would be further diffused through

the materiality, tonality of the brickwork and how this works cooperatively with the landscaping scheme and boundary planting.

#### **Design Merit of Rear Elevation:**

42. The Planning Authority is critical of the proposed building's rear elevation, particularly at first-floor level, stating it lacks design merit and would not contribute positively to the Conservation Area. The existing elevation of the building has not been identified as a feature which makes a positive contribution to the character and appearance of the conservation area. It is a blank façade with a poor material appearance. This elevation was amended in the 2023 drawings. We have received no specific design comments on the suitability of this design following submission to Camden Officers. The updated designs have focused on this elevation and provide a design which is both contextually appropriate and remains quiet and recessive. The design is restrained and would continue to appear within a small recess from the roadway. The building will be set back by 1.6 metres along Fitzroy Park occupying a similar position in regard to the existing visual relationship. The boundary wall and mature trees would be retained and provide a clear line set forward of the building. These will also continue to provide the same level of screening of the rear in the majority of views along Fitzroy Park.

#### **The Overall Impact on the Conservation Area and Listed Buildings**

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43. When considering the overall impact on the Conservation Area the DR states that the public benefits of the proposed development are limited, with the larger house adding only minimal public benefit and the loss of a positive contributor harming the Conservation Area. We would signpost to the PPG (para 020). on the historic environment as *“anything that delivers economic, social or environmental objectives”* these are further explained in the NPPF Paragraph 8 The planning benefits associated with the proposals were noted in the planning statement and included:

- Provision of a new high-quality family dwelling designed to maximise light, space, outlook and amenity for the applicants;
- A replacement building that responds to its setting, the setting of nearby listed buildings and the character and appearance of the Highgate Conservation Area;
- Improved energy performance and efficiency resulting in improved sustainability and reduced carbon emissions; and
- Improved landscaping and removal of hardstanding and concrete structures within the root protection area of the lime tree in the rear garden.
- Additionally, the proposed development would make efficient use of land and employ a range of sustainability measures, provide a more energy efficient building than the existing building, and increase planting to enhance biodiversity. Furthermore, jobs would be created during the construction phase and there would be general townscape improvements to the frontage of the site, and the retention of mature trees as part of the landscaping. The proposed development would also provide a future-proofed home suitable for long-term use.

44. There remain a number of specific heritage benefits related to the scheme;

- Main Gates - The proposals will sensitively alter and refurbish both sets of the main entrance gates. The finished appearance will be a closer resemblance to their original appearance. The gates will be reinstated as access to the listed building, allowing a better appreciation of the stable's role, patterns of circulation and historic use. A Listed Building Consent application has been submitted to support this process.
- Enhancement to the Conservation Area's character and appearance – The proposed new building is more conscious in its relationship to the streetscape. It would continue to remain recessive but will appear more consistently with the surrounding urban context,

through its materiality, form and detail in the elevational treatment. The building would read as a high-quality architectural expression and would result in an improvement to the aesthetic appearance of the area.

- Enhancement to the setting of the Grade II listed Stables, - through the introduction of a more complimentary building, resulting in a beneficial impact to the appreciation of its architectural interest.
45. We believe the proposals represent an enhancement of the conservation area and to the setting of nearby listed buildings, considered as heritage benefits, and therefore a public benefit.
  46. The judgement in *Safe Rottingdean Ltd v Brighton and Hove City Council* [2019] EWHC 2632 (Admin) (08 October 2019) makes clear that the "considerable importance and weight" given to heritage harm should also be applied to heritage benefit (meeting the Statutory Duty receives the same weight as failing to discharge it). Therefore, enhancement overall to the CA weighs strongly in favour of a grant of consent.
  47. It is important to consider that on the basis that the existing building is identified as a Positive Contributor (through its subtle appearance and the glimpsed views of the balcony), the proposed replacement, by adopting complementary and referential design elements, should be viewed similarly in any future CA Appraisal.
  48. Overall, the proposals would replace a building which responds poorly to its context, (beyond its recessive appearance) and introduce a new high-quality design, of a highly contextual nature (in terms of massing, footprint and materiality), which more successfully responds to its location and the prevailing character of the area. The change to the built form within the plot would result in a direct benefit to the Grade II listed Stables through restoration of the entrance gates onto The Grove. The setting of the stables would be enhanced through the introduction of a more complimentary backdrop, which has carefully considered the context with regards to external architectural design detail and subtlety in appearance and would therefore result in a beneficial impact to an appreciation of its architectural interest. For these reasons there would be an enhancement to the character and appearance of the Highgate Conservation Area.
  49. It is also of note that Camden Council have consented a number of changes to heritage assets in the immediate vicinity without any heritage concerns having been raised. In particular, there is a lengthy planning history related to Nos. 4, 5 and 7 The Grove, where elements of modernity have been introduced without concern being raised. It is clear that this is a location that has been subject to change, and that this change can take place without harm to significance.
  50. For completeness, the effect upon nearby listed buildings beyond the stables, including Park House No.9, The Grove (Grade II, List UID: 1378990) is not referred to within the DR. No harm has been suggested to these assets by Camden Council. Our conclusions remain that there would be no harm to the significance of these assets through minor changes to their setting. The changes are slight and would not affect the setting to the extent that they could be considered harmful. There would be resultant beneficial impacts arising from the scheme, particularly in regard to an improved appearance and the relationship to the plot. Importantly the sense of hierarchy between the buildings would be maintained. There would be no harmful effects on the settings of listed buildings located at further distances. The change to setting, by virtue of the nature of the plot, the surrounding street pattern and density of surrounding mature trees, would be minimal. Where the building does appear, it would read in much the same way as the existing, but with a clear improvement over the existing architectural quality and relationship to the streetscape.

## 4. CONCLUSION

51. This Statement of Case responds to the analysis undertaken by Camden Council in refusing the scheme, insofar as it relates to Reasons for Refusal 1 and 2. We have identified that this was a flawed approach, not only predicated on a long-superseded set of drawings, with a different approach, but based on a judgement that, in our view, overplays the value of the existing building. The design team have sought to understand the architectural and historical merit of the building, in order to establish its heritage status and the most practical options for its future. Although the building is highlighted as a 'positive building' in the Conservation Area Appraisal, in theory contributing to the Conservation Area's character and appearance, its contribution is in reality very modest and reflective of its recessive siting and design. The balcony and canopy are identified in the Conservation Area Appraisal as the elements that make the positive contribution, but their visibility and design quality have been greatly overstated. Any positive contribution that the building makes to the character and appearance of the Area can only be judged to be very minor on this basis, and indeed, the approach of the DR focuses on the quietness, the secondary nature of the building, as its primary positive contribution. Any positive contribution appears to arise through a deliberate avoidance of contribution to character on this basis. In terms of the design quality of the building in its own right, this Statement of Case, and the Heritage Statement associated with the application, have demonstrated that it does not possess the features of quality or finish that would distinguish the structure as a Modern Movement building of note. The form and proportionality of the building are generally poor and limited by the constraints of the plot. It has also been demonstrated that once analysed, the association of the building with a named architect, Colin Penn, is something of a red herring, adding nothing to the building's significance or interest.
52. We remain concerned that a number of design issues cited in the Officers Delegated Report, dated November 2023, and reflected in the Decision Notice, were addressed in the updated Drawing Pack produced in 2022, and issued well in advance of the decision being made. The Council's concerns regarding the design of the replacement dwelling were almost wholly addressed within this updated drawing pack, and accordingly, any issues related to Reason for Refusal 2 should fall away. This, in turn, has a significant impact on the validity of Reason for Refusal 1.
53. The proposed building responds to its immediate and localised setting, adopting a quiet, restrained, but high-quality form which references the established urban context. This decisive nod to the overall character and appearance of the Highgate Conservation Area is executed far more successfully than the existing structure. The most successful aspects of the existing building, largely its subtle backdropping to the Stable Block and how it appears recessively, would be carried through into the new building. The design reinterprets the key components of the existing building's 'positive contribution' and in our professional opinion offers better quality materials design quality above the existing. The proposed building uses a more tonally subtle brickwork, which would be lighter than the existing, appearing less glossy and contrasting (additionally the reuse of the existing bricks was discouraged by the council due to its poor material quality). The quality of this brickwork can, of course, be secured through a condition included with any consent, such that the potential appearance of the brickwork can be tested on site against the site's listed neighbours. The building remains clearly contemporary and is more successful in transitioning between the prevailing character of The Grove and Fitzroy Park than the current structure. Through appearing as a subservient building to 9A and the Stables, the replacement building is considered to respond to its setting, the setting of nearby listed buildings, and the character and appearance of the Highgate Conservation Area, more successfully than the current building on the Site. The above comments lead to the conclusion that the proposed building is the more appropriate than the existing building, particularly in material and design terms.
54. Taking into account the entire scheme, whereby a building (of which only a small part is considered to make a low positive contribution to the conservation area) is replaced by a

structure which has carefully considered the context and responded sensitively in design, material and scale, it is our view that the overall effect would be an enhancement to the character and appearance of the Highgate Village Conservation Area. The proportions of the replacement dwelling are very close to the existing, the features and materiality the overall design would provide an overall enhancement and improvement to the aesthetic quality of the plot and the conservation area. The *change* overall would be slight, but it would clearly not harm one's appreciation of the vicinity and would be a wholly appropriate form of development for the site. We consider that the setting of the listed Stables and 9A The Grove would be preserved and that, due to the enhancement to the appearance of this part of the conservation area, the overall balance is therefore positive. In our view, the scheme presented has an attractive form. While different in appearance to the existing, it would not be amorphous, the size, scale and bulk is disciplined and controlled. Importantly it would not appear as a building that is too big for its location, and the design will appear recessively, where apparent it will read as subservient but of high quality. Overall, therefore, the scheme would be compliant with local policies within the Camden Local Plan (2017) D1 and D2 it would respect local context and character; and enhance the historic environment, conservation area and the setting of nearby listed buildings.

55. The proposals would be compliant with the Highgate Neighbourhood Plan (2017) specifically relevant policies DH1, DH2 and DH6. With regards to national policy set out in the NPPF (Dec 2023) the proposals would not give rise to any harmful effects. The proposals, taken as a whole, would provide an enhancement to the Conservation Area.

## 5. PHOTOGRAPHS



*Figure 1 - The Grove (Dec 2023)*



*Figure 2 - The Grove junction with Fitzroy Park (Dec 2023)*



*Figure 3 - Fitzroy Park (Dec 2023)*



Figure 4 - 9d Main Entrance (Dec 2023)



Figure 5 - 9d from Fitzroy Park 1 (Dec 2023)



Figure 6 - 9d from Fitzroy Park 2 (Dec 2023)



*Figure 7 - 9d from Fitzroy Park 3 (Dec 2023)*

## Appendix 4

### Response to whole life carbon comment received for the application No. 2020/4307/P

We have provided response and update based on the comments received:

*4.5. It is noted that the operational carbon is not considered in the GLA WLC benchmarks as this is considered separately. The replacement option would meet the GLA benchmark of 1200 kgCO<sub>2</sub>e/m<sup>2</sup> GIA but would not meet the GLA aspirational benchmark of <800 kgCO<sub>2</sub>e/m<sup>2</sup> GIA.*

*4.6. It is interesting to note that the applicant concludes that the replacement building performs best for whole life carbon. For like-to like comparison in terms of area, the comparison between the replacement dwelling, the extension and the retrofit of the existing dwelling demonstrates that the carbon gap between them shifts after 23 years, whereby the new replacement dwelling continues to outperform the retrofitted and extended dwelling over the lifecycle. However against the GLA guidance benchmarks the lowest carbon option would be retrofit (561kgCO<sub>2</sub>e/m<sup>2</sup> GIA) and the second lowest would be to extend and retrofit (890 kgCO<sub>2</sub>e/m<sup>2</sup> GIA). The replacement option would be the highest WLC option (920 kgCO<sub>2</sub>e/m<sup>2</sup> GIA).*

Applicant's response:

Those benchmarks and aspirational benchmarks values are designed for referable schemes, the criteria includes:

- development of more than 150 residential units
- development over 30 metres in height (outside the City of London)
- development on Green Belt or Metropolitan Open Land

The aspirational benchmarks are provided in the GLA guidance to challenge the applicants to aim for the best possible outcome. It is designed deliberately to be very challenging. Therefore, the guidance has not asked for any schemes to meet the aspirational benchmark.

This application is of a much smaller scale, and the construction footprint (GIA) is much smaller than referable schemes. Therefore any site constraint that will require specialist treatment will easily increase the 'carbon intensity'. Secondly, the application is a detached family house. When comparing to a block of apartments, it will have a greater building envelope (proportionately to the accommodation), more finishing materials, higher specifications and more localised building services (i.e. no shared communal boilers etc.). All those factors have made it difficult to achieve a ultra low embodied carbon development, for both upfront and life cycle embodied carbon.

The GLA WLC benchmarks do not include operational carbon, as the operational carbon values have been dealt with by the building regulation/BRUKL assessment. However, the GLA Whole Life-Cycle Carbon Assessments policy clearly state that the building's operational energy should be reported together with the embodied carbon (Item 2.4, page 11, London Plan Guidance Whole Life-Cycle Carbon Assessments). The Whole Lifecycle Carbon Optioneering guidance published by the City of London also asks for the buildings embodied carbon and operational carbon to be considered simultaneously. ([https://democracy.cityoflondon.gov.uk/documents/s170400/220525\\_WLCA%20optioneering\\_Final\\_06.pdf](https://democracy.cityoflondon.gov.uk/documents/s170400/220525_WLCA%20optioneering_Final_06.pdf))

To fully utilise the site plot, the proposed design will require additional new fabrics, this will undoubtedly have an impact on upfront embodied carbon, however, this will also

result in a low energy building that would have much lower energy demand from the grid and make the client less vulnerable to the fluctuation of energy prices. Based upon the energy statement, the new dwelling achieves a (operational) carbon dioxide emissions saving of 79.4% through energy efficiency measures and renewable technologies. This exceeds by a significant margin the 19% target requirements of Camden.

Another initiative the scheme could consider will be to reuse the existing yellow stock bricks for the replacement option. If about 50% of the existing bricks could be reused (subject to the quality), this would mean that there would be about 10 tonnes CO2e less of an initial impact in carbon terms so would further enhance the scheme's carbon credentials

*4.7. It should also be noted that the WLC hasn't assessed B7 (operational water) – the carbon emissions related to water supply and wastewater treatment. It should also be noted that operational carbon is calculated based on the current carbon factor of the electricity grid however over the 60 year lifespan of the building this is expected to reduce significantly.*

*4.8. As such the expected savings from a more efficient building may not materialise and the impact of embodied carbon from the building will become more significant. Therefore, a replacement dwelling would not be supported and this would form a reason for refusal.*

Applicant's response:

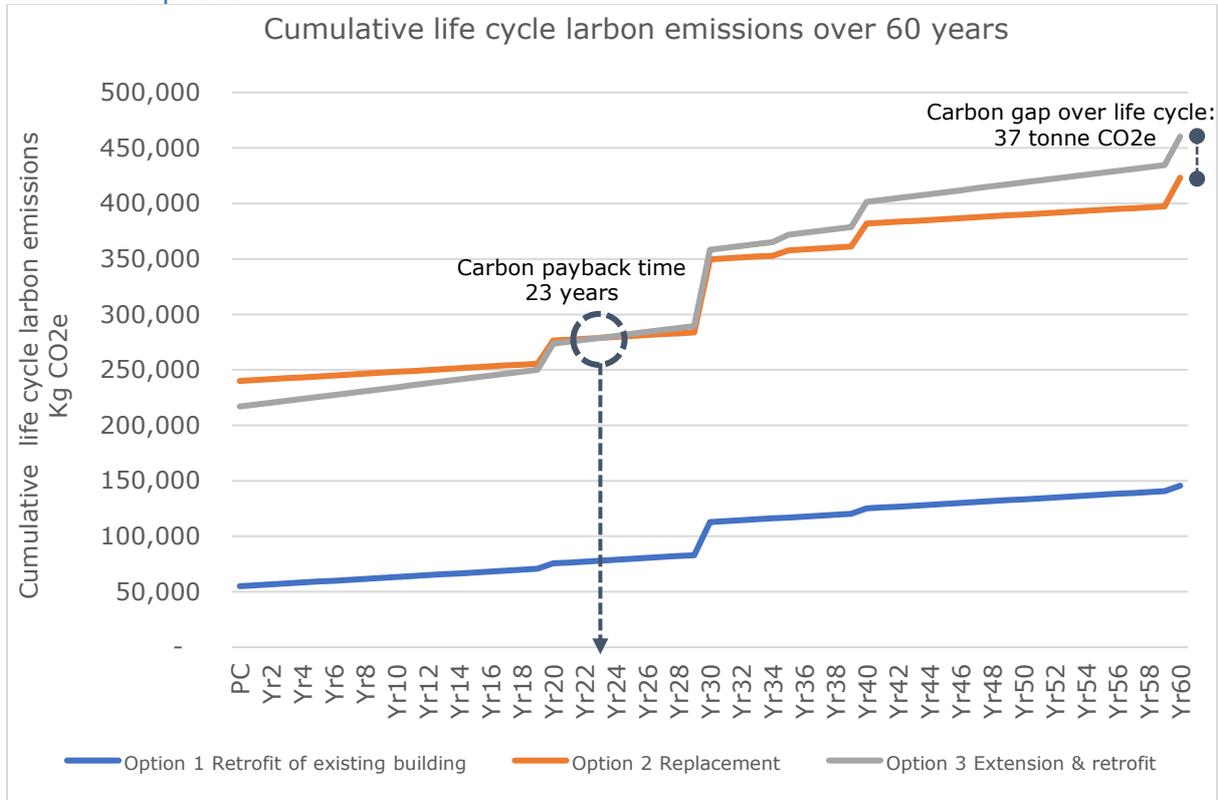
We have updated the calculation including operational water embodied carbon emissions using the values below, emission rates from tap water and wastewater treatment are from Oneclick emission factors. The emission from water accounted for 5.4% for the retrofit option and less than 1.5% for replacement and extension options.

Design options	Water demand
Option 1 Retrofit for the existing dwelling:	125 litre/person/day (Building Regulations England and Wales)
Option 2 Replacement dwelling:	105 l/p/day (DAS appendix 2)
Option 3 Extension and retrofit of the existing dwelling	105 l/p/day (DAS appendix 2)

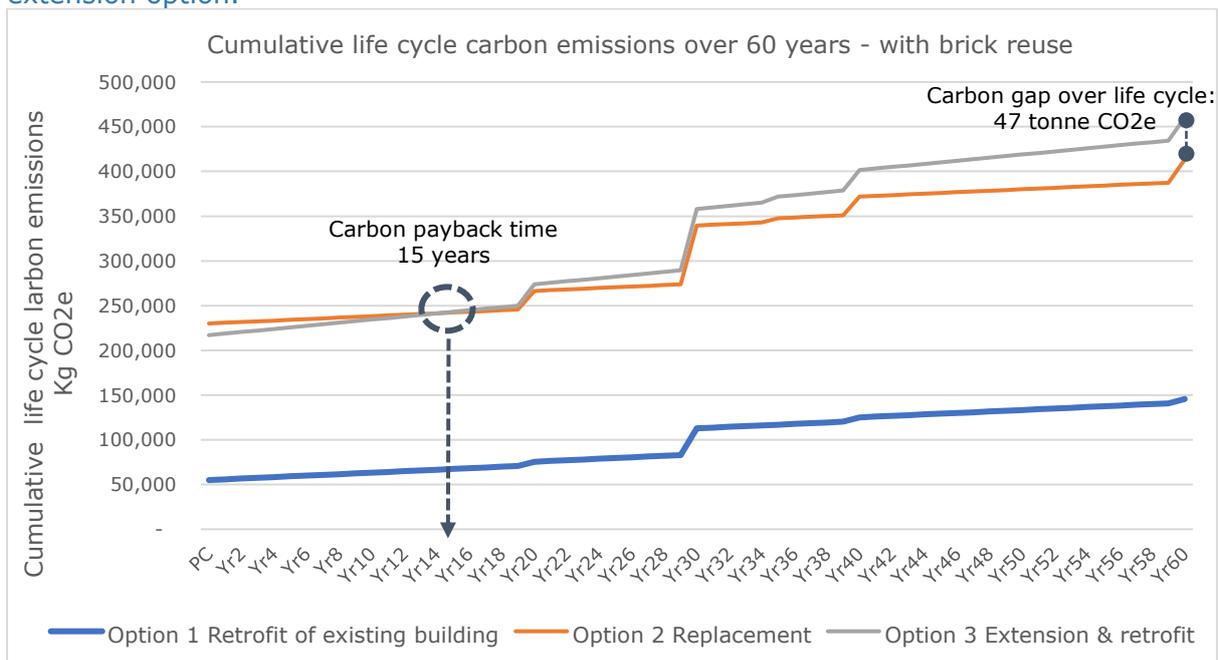
Design options	Life cycle (60 years) operational embodied carbon
Option 1 Retrofit for the existing dwelling:	7.6 Tonne CO2e (5.4% of total WLC)
Option 2 Replacement dwelling:	6.3 Tonne CO2e (1.5% of total WLC)
Option 3 Extension and retrofit of the existing dwelling	6.3 Tonne CO2e (1.4% of total WLC)

The cumulative carbon emissions graph has been updated to include emission from water, although it made no material difference to the result submitted previously. The carbon payback time is still 23 years and Carbon Gap over life cycle is still 37 tonne CO<sub>2</sub>e.

The life cycle carbon emission of the replacement building will be 8% lower than the extension option.



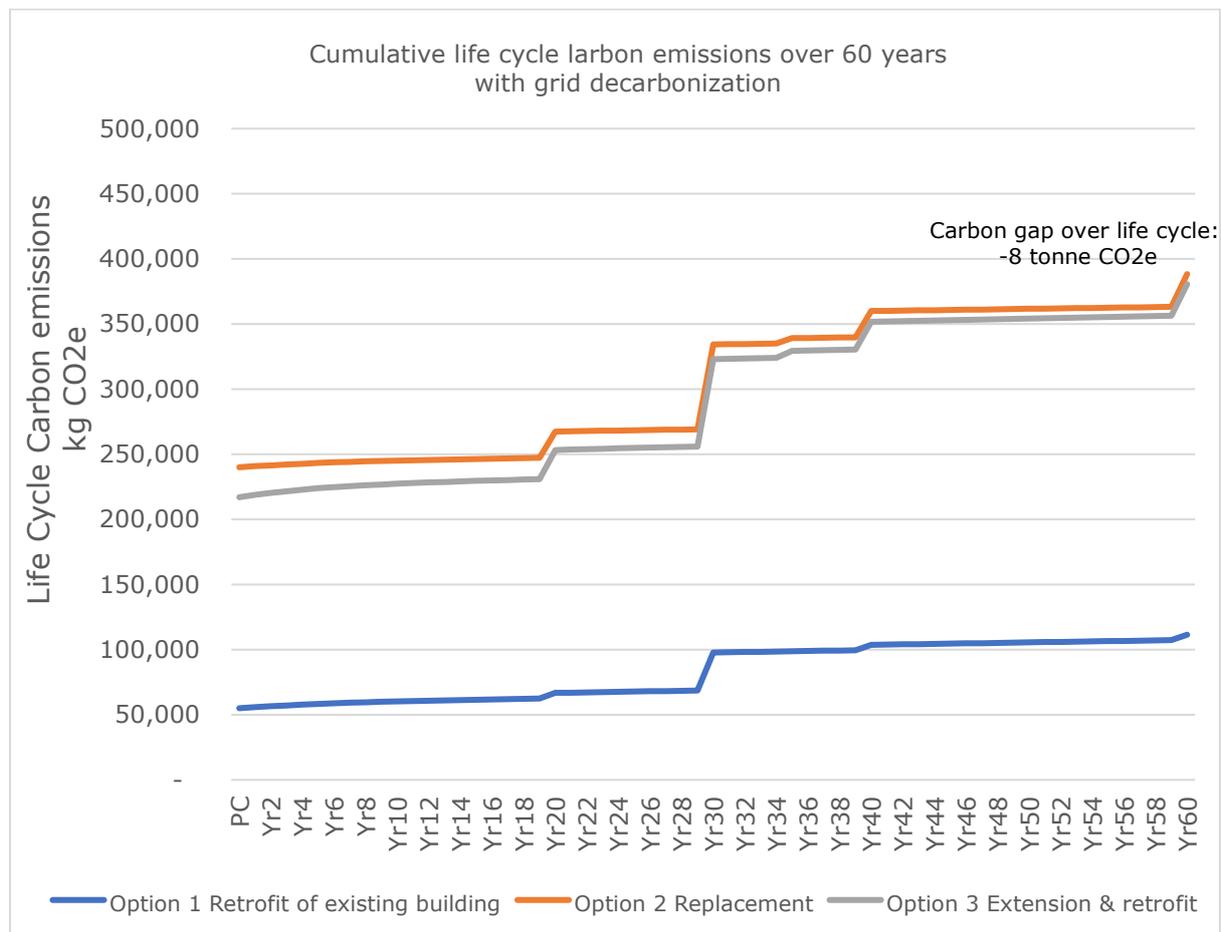
If the façade brick reuse is included, the carbon payback time for the replacement option will be shortened to 15 years and Carbon Gap over life cycle will be 47 tonne CO<sub>2</sub>e. The life cycle carbon emission of the replacement building will be 10% lower than the extension option.



Another cumulative carbon emissions graph has been developed to address the comment about the potential reduction of the electricity grid over the 60 year lifespan of the building. The predicted grid decarbonization rate was based on Green Book supplementary guidance (<https://www.gov.uk/government/publications/valuation-of-energy-use-and-greenhouse-gas-emissions-for-appraisal>).

Under this scenario, as the operational emissions will diminish gradually with the decarbonization of the electric grid, so was the operational emissions difference between replacement and extension options. As a result, the life cycle carbon of the two options are very close. The life cycle carbon emission of the replacement building will be 2% (8 tonne CO<sub>2</sub>e) higher than the extension option, approximately 130 kg CO<sub>2</sub>e per year for 60 years.

The increase will result in the proposed option having a marginally higher life cycle emission, albeit negligible. We would see no reason to refuse the proposals on this basis. Under such approach, no development would be able to take place at all, as all existing buildings will become 'zero carbon in operation' eventually. Additionally, although in the future, electricity might be low or zero carbon, that does not mean we can spend it in an unrestricted way. The costs of energy are also likely to be more and more expensive in the future.



If the façade brick reuse is included, the life cycle carbon results of the two options are very close. The life cycle carbon emission of the replacement building will be 2 tonnes (0.6%) lower than the extension option, approximately 38 kg CO<sub>2</sub>e per year for 60 years.

