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N1C 4AG**Planning Portal Ref. PP-13016044**

17 May 2024

Dear Christopher,

**HAMPSTEAD FIGURE SCULPTURE – LAND TO THE NORTH OF SWISS COTTAGE LIBRARY, AVENUE ROAD AND LAND TO THE SOUTH OF SWISS COTTAGE LESIURE CENTRE, ADELAIDE ROAD, NW3 3NF TOWN & COUNTRY PLANNING (LISTED BUILDING AND CONSERVATION AREAS) ACT 1990 APPLICATION FOR LISTED BUILDING CONSENT FOR TEMPORARY RELOCATION OF SCULPTURE**

On behalf of Regal Avenue Road Limited ('the Applicant'), please find enclosed an application for Listed Building Consent ('LBC' or 'the Application'), pursuant to the temporary relocation of the Grade II Listed Hampstead Figure Sculpture for the duration of the construction period associated with the redevelopment 100 Avenue Road under the Main Planning Permission 2014/1617/P (as amended), in respect of Land to the North of Swiss Cottage Library, Avenue Road and Land to the South of Swiss Cottage Leisure Centre, Adelaide Road, NW3 3NF ("the Site").

The description of development for the ("Proposed Development") is as follows:

*"Removal and temporary re-siting of the Hampstead Figure Sculpture for the duration of the construction associated with 100 Avenue Road under 2014/1617/P dated 18/02/2016 (as amended)"*

The Application follows pre-application discussions and dialogue with the London Borough of Camden ('the Council').

**Background**

Listed Building Consent 2018/2347/L was granted on 27 June 2018 for the following works:

*"Removal and temporary re-siting of the Hampstead Figure Sculpture for the duration of the construction associated with 100 Avenue Road under 2014/1617/P dated 18/02/2016."*

Condition 1 of the LBC states:

*"The relocation of the sculpture is permitted on a temporary basis for the duration of the construction period associated with 100 Avenue Road under 2014/1617/P dated 18/02/2016. The sculpture shall be relocated to its current position by 25/06/2022 and the temporary location shall be reinstated to its former condition."*

*Reason: The relocation of the sculpture is required due to the construction of the development under 2014/1617/P and following its practical completion, it could be moved back into its current position or a more suitable location may be justified. The permanent retention of the sculpture in its approved location is not considered acceptable without further investigation of potential locations to better enhance the setting of the listed feature. The Local*

*Planning Authority would wish to review the permission at the end of the period to ensure compliance with the requirements of policy D2 of the London Borough of Camden Local Plan 2017.”*

Condition 2 requires the work to be carried out in accordance with the approved plans. Condition 3 requires a schedule of works and method statement to be approved in writing (condition discharged under application reference 2019/3634/L). Condition 4 requires all new work and work of making good to be carried out to match the existing adjacent work as closely as possible in materials and detailed execution.

It was accompanied by the Statue Planning Permission 2018/2340/P, also granted on 27 June 2018.

Listed Building Consent 2018/2347/L and the Statue Planning Permission 2018/2340/P facilitated the relocation of the Hampstead Figure Sculpture for a temporary period, whilst construction works in respect of the redevelopment of 100 Avenue Road under Planning Permission 2014/1617/P take place, to mitigate any potential damage to the Hampstead Figure Sculpture. After this time a review of the most appropriate permanent location for the listed sculpture would be undertaken, through engagement with the Local Planning Authority, relevant statutory stakeholders and other interested parties.

The Main Planning Permission 2014/1617/P has been lawfully implemented, and this was confirmed by the LBC through the approval of Certificate of Lawfulness 2017/6884/P. Whilst demolition works and basement construction works have taken place by the previous owner (Essential Living), above ground construction works in respect of the Main Planning Permission 2014/1617/P have stalled, and the timescale for the relocation of the statue has passed.

Regal Avenue Road Limited acquired 100 Avenue Road in 2024 and intend to bring forward the proposals at 100 Avenue Road as soon as practicable, subject to securing of some amendments to the Main Planning Permission 2014/1617/P to seek to ensure its deliverability and compliance with the latest Building Regulations. Amendments to the Main Planning Permission 2014/1617/P will be submitted to LBC later this year, following a series of pre-application discussions with the Council and wider community / stakeholder engagement sessions which will be held over the coming months.

Considering that the timescales for the relocation of the Hampstead Figure Statue listed in Condition 1 have now passed (the date specified is 25/06/2022), amendments to the condition wording are required to extend the period of temporary relocation to reflect the new anticipated construction dates.

On this basis, and as agreed with the Council in pre-application discussions, this Application is for a new Listed Building Consent (which is a duplicate of the original LBC) which seeks to secure the continued re-location of the Hampstead Figure Sculpture until 31/12/2028, in order to align with Regal Avenue Road Limited's expected timescales for the construction of the Main Planning Permission 2014/1617/P (as amended).

### **Planning Legislation and Policy Framework**

Planning (Listed Buildings and Conservation Areas) Act 1990 provides legislation that is used to assess the impact of proposals on listed buildings and conservation areas, with the following section setting out the duties on the decision maker when determining whether to grant Listed Building Consent:

- Section 16(2) - In considering whether to grant Listed Building Consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

In addition, Section 70(2) of the Town and Country Planning Act 1990 (as amended) and Section 38(6) of the Planning and Compulsory Purchase Act 2004 outlines that planning applications must be determined in accordance with the Statutory Development Plan unless material considerations indicate otherwise.

In this instance, the Statutory Development Plan comprises the following:

- The London Plan (2021); and

- The Camden Local Plan (2017)

The National Planning Policy Framework ('NPPF') (2023) and Planning Practice Guidance ('PPG') set out the Government's national policy and guidance, and is a material consideration. Other material considerations relevant to this Application include supporting planning guidance produced by the Mayor and the LBC.

## **Heritage Assessment**

### Introduction & Background

#### *Original locations of the Hampstead Figure Sculpture*

The Hampstead Figure Sculpture is a Grade II listed sculpture completed by F E McWilliam in 1964, and was commissioned by Sir Basil Spence to compliment a group of civic buildings designed with Bonnington and Collins between 1959 and 1964. The Hampstead Figure Sculpture was moved in 1982 from its original central position between three civic buildings in order to accommodate new squash courts and a sports club.

The sculpture had been moved by the time of listing in 1999 and was again likely to have been relocated since 1982, during the 2002 redevelopment of the swimming pool. Prior to its location resulting from the approval of the Statue Planning Permission, the Hampstead Figure Sculpture was situated to the north of the listed Swiss Cottage Library, to the south of 100 Avenue Road, on an area of open space set back from the public footpath.

#### *Current location of the Hampstead Figure Sculpture*

Following approval of the Statue Planning Permission, the sculpture was relocated to the south of the Swiss Cottage Leisure Centre, to the north of Adelaide Road. It is now located in a prominent position on a grass verge, in close proximity to the Swiss Cottage Library and Leisure Centre.

#### *Previous considerations by the Planning Inspectorate and the LBC*

In support of the above, we note that Paragraph 87 of the Inspector's Report issued in respect of Main Planning Permission 2014/1617/P outlines that:

*"The Hampstead Figure Sculpture has been repositioned in the past nearer to the existing building on the appeal site and is not easily viewed from all around because it is close to the building. The proposal would enable the statue to be relocated more in keeping with the original location and allow all around viewing and so the proposed enhancements would be an improvement to the listed building, enhancing its special architectural and historic interest."*

And Paragraph 286 of the Inspector's Report issued in respect of Main Planning Permission 2014/1617/P also states that:

*"The opportunity to reposition the sculpture to provide all around viewing would be a major benefit, as would re-establishing a more positive relationship with the library. Even if the sculpture is repositioned in the same location, the impact on its significance would be neutral. Overall I consider there is likely to be a significant enhancement to the setting of the statue and consequently the special architectural and historic interest of the listed building would be likely to be enhanced."*

The decision from the Secretary of State agreed with the Planning Inspectorate regarding enhancements to the setting of the sculpture and indicated that the best final position may not be known until after the development is implemented:

*"As to the Hampstead Figure Sculpture, the Secretary of State notes it would be necessary to remove the listed sculpture and reposition it after the works are complete (IR283). He agrees with the Inspector that there is likely to be a significant enhancement to the setting of the sculpture and therefore the special architectural and historic interest would be likely to be enhanced (IR286)."*

In this regard, we also draw attention to previous comments also made by the LBC in their consideration of Statue Planning Permission 2018/2340/P in that they concluded at Paragraph 36 of their Delegated Report, that:

*“The principle of the relocation of the sculpture has been accepted by the Planning Inspectorate and Secretary of State. This principle is further supported by Historic England. The sculpture has been moved from its original location multiple times as a result of developments over the years. Therefore, the principle of it being moved again is supported. Furthermore, it is acknowledged that there is little rational for the sculpture’s current position, that it would need to be moved during the construction of 100 Avenue Road and that there are opportunities for its enhancement.”*

From the above, it is clear that principle of the relocation of the Hampstead Figure Sculpture has been accepted by the Secretary of State, the Planning Inspectorate, and the LBC. This previous assessment and the conclusions reached are material considerations in the determination of this subsequent application.

#### Heritage Assessment

The statutory provision principally relevant to the determination of these applications is set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), in that in considering whether to grant Listed Building Consent for works which affect a listed building (or sculpture in this instance), the Local Planning Authority shall have special regard to the desirability of preserving the listed building, its setting and its features of special architectural or historic interest.

Paragraph 200 of the NPPF states that the Local Planning Authority, during the determination process, would need to identify and assess the significance of any heritage assets in relation to the development proposals, and Paragraph 201 of the NPPF requires a description of the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 205 of the NPPF advises that considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be).

The NPPF also cites at Paragraph 208 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 benefits of the proposal, including securing its optimum viable use”*.

The Hampstead Figure Sculpture is a Grade II listed sculpture however it was previously considered that its temporary relocation whilst construction works in respect of the 100 Avenue Road redevelopment took place, were acceptable, given the grant of Listed Building Consent 2018/2347/L, and we would also draw attention to the comments issued in relation to this previous grant of Listed Building Consent by the Secretary of State, the Planning Inspectorate, and the LBC above.

In addition to this, Historic England advised in respect of Listed Building Consent 2018/2347/L that:

*“Historic England supports the principle of The Hampstead Figure’s relocation; however we are concerned by the preferred location as set out in the submitted documents, which in our view severs the important relationship between the sculpture and the library. We consider that the proposed location is acceptable on a temporary basis for the duration of the construction works, and welcome further investigation into an appropriate permanent setting.”*  
*(own emphasis added)*

In light of this previous support from Historic England, and whilst it is proposed that Listed Building Consent is granted until 31/12/2028 we would also note that the reason for the relocation, to allow for construction works in relation to the redevelopment of 100 Avenue Road, remains the same. Indeed, we would note that the LBC have previously advised in decision-making terms at Paragraph 3.7 of their Delegated report that the *“temporary relocation to the proposed position is considered acceptable in heritage terms and no harm to the designated asset would result, subject to a review of the optimum location for the sculpture once the development at 100 Avenue Road is completed”*.

The continued temporary location would therefore allow Regal Avenue Road Limited to bring forwards proposals for the redevelopment of 100 Avenue Road to allow this stalled project to commence and the planning and public benefits to be realised. For the reasons set out above, the Application can be considered acceptable in terms of according with the

relevant policies on heritage, resulting in no harm to the significance of the listed Hampstead Figure Sculpture, and therefore Listed Building Consent should be approved without delay, on the basis that the revised Listed Building Consent continues to meet the requisite provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Proposed Conditions**

Having reviewed the conditions attached to Listed Building Consent 2018/2347/L the Applicant would suggest the imposition of the following change to the original condition wording upon the grant of new Listed Building Consent:

*“The relocation of the sculpture is permitted on a temporary basis for the duration of the construction period associated with 100 Avenue Road under 2014/1617/P dated 18/02/2016 **(as amended)**. The sculpture shall be relocated to its current position **or an appropriate alternative location by 31/12/2028** and the temporary location shall be reinstated to its former condition”*

Condition 2 would need to be updated to reflect the revised dates of the revised Cover Letter submitted for approval under this Application:

*“The development hereby permitted shall be carried out in accordance with the following approved plans: PL\_500 Rev P1; PL\_501 Rev P1; Design and Access Statement Rev 1 dated 15/05/2018; Heritage Statement and Cover Letter dated **XX/05/2024**.”*

We would suggest that Condition 3 could be removed, given details have been in approved in accordance with the wording of this condition through the approval of 2019/3634/L and are not proposed to the amended.

Condition 4 is capable of remaining as originally approved, and no amendments are required.

### **Summary**

This Application seeks a revised Listed Building Consent for the continued relocation of the Hampstead Figure Sculpture to ensure the construction at 100 Avenue Road is able to be completed. It is a duplicate of the previously approved LBC (2018/2347/L), with minor amendments to the description of development and wording of Conditions 1 and 2. It is submitted alongside a submission made under Section 73 of the Town & Country Planning Act 1990 (as amended), which seeks to amend the relevant conditions attached to Planning Permission 2018/2340/P, and the two should be read in tandem.

As explained in earlier parts of this letter, it is considered that the retention of the Hampstead Figure Sculpture in its current location, for an extended time period, meets the requirements of the Statutory Development Plan, and the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990.

This is on the basis the overall strategy regarding the temporary relocation of the Hampstead Figure Sculpture remains the same as previously approved, the temporary relocation has already taken place, it is still intended that the Hampstead Figure Sculpture could be reinstated back in its previous location adjacent to 100 Avenue Road, or in an alternative suitable location, post construction, if desired.

### **Concurrent amendments to Hampstead Figure Sculpture permissions**

This revised Listed Building Consent has been submitted in conjunction with two other applications relating to the Hampstead Figure Sculpture:

- S.96a amendment to Planning Permission 2018/2340/P relating to the description of development to refer to any future amendments which might be approved to the Main Planning Permission.
- S.73 amendment to the Statue Planning Permission 2018/2340/P relating to the wording of Conditions 1 and 2. These amendments seek to address the timescales associated with the temporary relocation of the statue.

**Administrative Matters**

The following have been submitted as part of this Application, in addition to the requisite application forms:

1. Covering Letter (i.e. this letter), prepared by Montagu Evans;
2. Copy of Decision Notice 2018/2340/P;
3. Copy of Decision Notice 2018/2347/L;
4. Site Location Plan (as approved by 2018/2347/L);
5. Statue Location Plan (as approved by 2018/2347/L);
6. Design & Access Statement (as approved by 2018/2347/L);
7. Heritage Statement (as approved by 2018/2347/L); and
8. Copy of Members Briefing Document from 2018/2347/L.

We would be grateful if the Council could confirm that the application is complete, and we look forward to receiving confirmation of validation shortly. However, if you have any outstanding queries, please contact Rachel Crick ([rachel.crick@montagu-evans.co.uk](mailto:rachel.crick@montagu-evans.co.uk)) or James Leuenberger ([james.leuenberger@montagu-evans.co.uk](mailto:james.leuenberger@montagu-evans.co.uk)) of this office.

Yours sincerely,



**MONTAGU EVANS LLP**