

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol, BS1 6PN

RT1@planninginspectorate.gov.uk

**Advice and Consultation
Planning and public protection**
Culture & Environment Directorate
London Borough of Camden
5 Pancras Square
London
N1C 4AG

Tel: 020 7974 5613

Fax: 020 7974 1680

planning@camden.gov.uk

www.camden.gov.uk/planning

APPEAL SITE

103 King's Cross Road, LONDON, WC1X 9LP

APPELLANT

HOL Properties (UK) Limited

LB CAMDEN PLANNING APPLICATION

2022/2623/P

PROPOSAL

Construction of 4th floor mansard roof extension to provide a 1-bed self-contained dwelling with roof terrace

APPEAL REF

APP/X5210/W/24/3341090

Council Statement of Case

1. SUMMARY

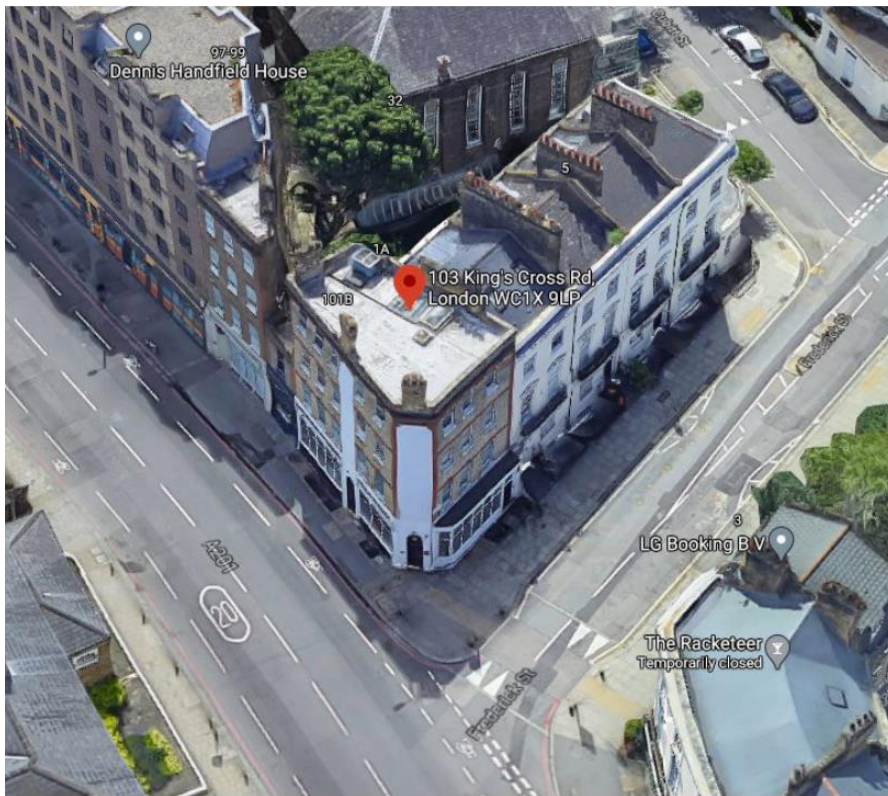
1.1 This Appeal Statement comprises the Council's case regarding planning refusal for the 'Construction of 4th floor mansard roof extension to provide a 1-bed self-contained dwelling with roof terrace' at 103 King's Cross Road, WC1X 9LP (Ref: 2022/2623/. The application was refused 10/11/2023 for the following reasons:

1. *The proposed mansard roof extension with terrace, by reason of its siting, design, scale and prominence, would cause harm to the character and appearance of the host building and the wider street scenes to which it forms a part, and would thus cause harm to the character and appearance of the Bloomsbury Conservation Area and the settings of nearby listed buildings, contrary to Policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*
2. *The proposed development, in the absence of a legal agreement to secure the new dwellings as "car-free", would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.*
3. *The proposed development, in the absence of a legal agreement securing a Construction Management Plan, implementation support fee and Construction Impact Bond, would be likely to give rise to conflicts with other road users and be detrimental to the amenity of the area generally, contrary to policies A1 (Managing the impact of development), T4 (Sustainable movement of goods and materials) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.*

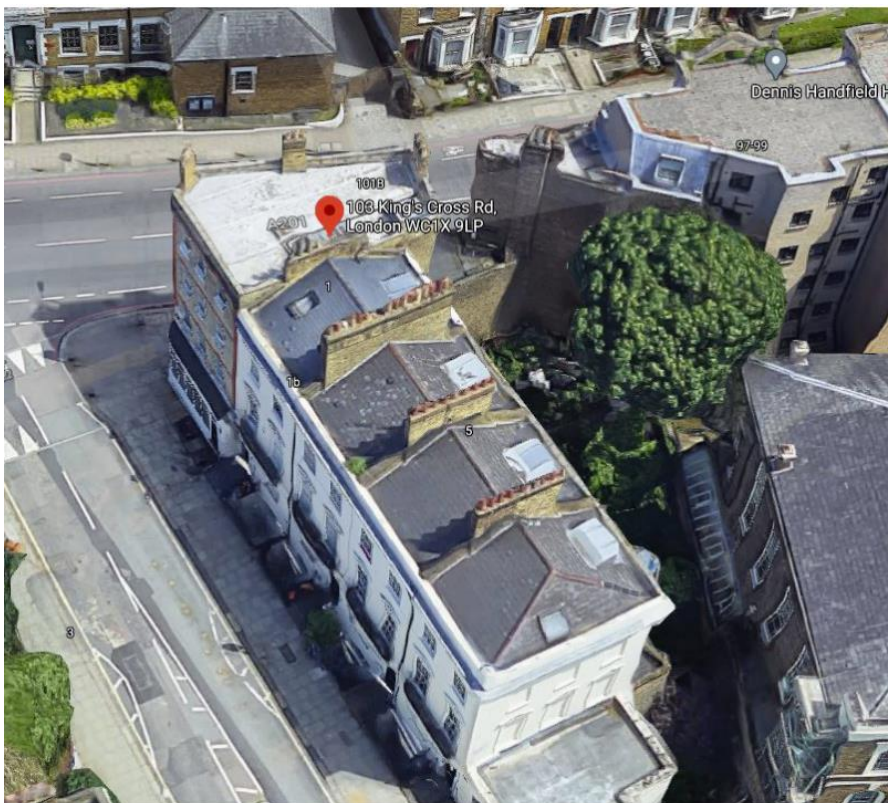
1.2 The Officer Report summarising the consultation responses and detailing the site description, planning history, relevant planning policies, proposals, planning assessment and justifying the reasons for refusal was sent with the Questionnaire. The Officer Report addresses all the planning issues. The Statement below expands upon the council's case/reasons for refusal, suggests conditions and sets out the requirement for a S106 agreement should the inspector be minded to allow the appeal. Where no further comments are necessary (e.g. site description, planning history, relevant planning policies, proposals) the Inspector is asked to refer to the Officer report.

2. SITE DESCRIPTION – See Officer Report

The following photographs are taken from the Design & Access Statement:



Ī Aerial view of site



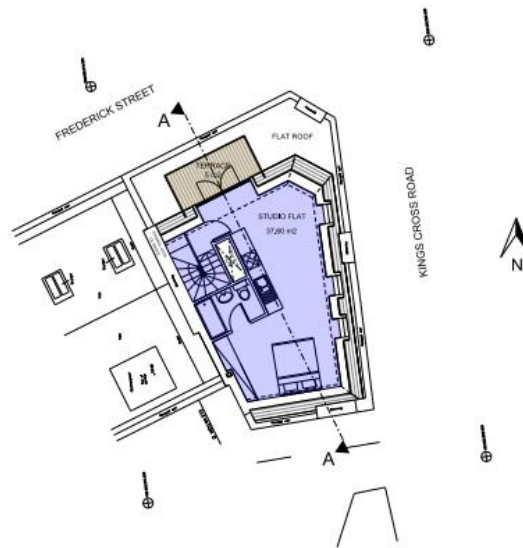
Ī Aerial view of site

3. PLANNING POLICY FRAMEWORK – See Officer Report

4. RELEVANT PLANNING HISTORY – See Officer Report

5. PROPOSAL – See Officer Report

Copied below are the proposed third floor plan, the proposed roof plan (and Section AA), the proposed King's Cross Road elevation and the proposed Frederick Street elevations:



Willingale Associates
ARCHITECTS & DEVELOPMENT CONSULTANTS

CONTACT DETAILS:
58 GERRARD ROAD, LONDON, EC1M 9PX
www.willingale.com
info@willingale.com
T: 0207 7942898

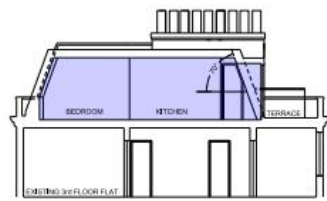
PROJECT:
103 KINGS CROSS ROAD, LONDON, WC1X

TITLE:
PROPOSED FOURTH FLOOR PLAN

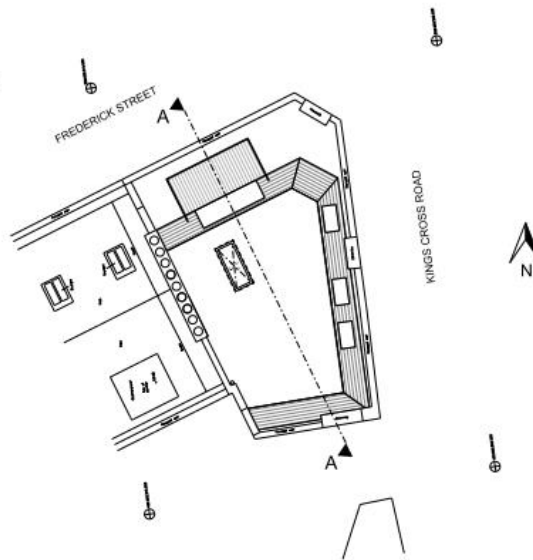
DRAWING NUMBER:
WC1X_103KCR_PR04B

DATE:
18/12/2022

SCALE:
1:100 @ A3
1:250 @ A1



PROPOSED SECTION 'A A'



Willingale Associates
ARCHITECTS & DEVELOPMENT CONSULTANTS

CONTACT DETAILS:
58 GERRARD ROAD, LONDON, EC1M 9PX
www.willingale.com
info@willingale.com
T: 0207 7942898

PROJECT:
103 KINGS CROSS ROAD, LONDON, WC1X

TITLE:
PROPOSED ROOF PLAN

DRAWING NUMBER:
WC1X_103KCR_PR05B

DATE:
18/12/2022

SCALE:
1:100 @ A3
1:250 @ A1



Willingale Associates ARCHITECTS & DEVELOPMENT CONSULTANTS	CONTRACT DETAILS: 58 Clerkenwell Road, London, EC1M 6PX www.willingale.co.uk info@willingale.com T: 020-7493-6595	PROJECT: 103 KINGS CROSS ROAD, LONDON, W1CK	TITLE: PROPOSED ELEVATIONS	DRAWING NUMBER: W1CK_193KRP_PP108	DATE: 18/12/2022	SCALE: 1:100 @ A3 1:50 @ A1



Willingale Associates ARCHITECTS & DEVELOPMENT CONSULTANTS	CONTRACT DETAILS: 58 Clerkenwell Road, London, EC1M 6PX www.willingale.co.uk info@willingale.com T: 020-7493-6595	PROJECT: 103 KINGS CROSS ROAD, LONDON, W1CK	TITLE: PROPOSED ELEVATION	DRAWING NUMBER: W1CK_193KRP_PP119	DATE: 18/12/2022	SCALE: 1:100 @ A3 1:50 @ A1

6. COUNCIL STATEMENT OF CASE

6.1 The relevant considerations in this case are:

- i. the effects on the character and appearance of the host building and the wider street scenes to which it forms a part and thus the character

and appearance of the Bloomsbury Conservation Area and the settings of nearby listed buildings.

- ii. the highways and transport impacts due to a lack of a legal agreement to secure a car-free development
- iii. potential conflicts with other road users and harm to the amenity of the area due to the lack of a legal agreement securing a Construction Management Plan, implementation support fee and Construction Impact Bond

Reason for refusal no. 1: the effects on the character and appearance of the host building and the wider street scenes to which it forms a part and thus the character and appearance of the Bloomsbury Conservation Area and the settings of nearby listed buildings

6.2 The relevant planning legislation, national planning (NPPF) and LB Camden policies on conserving the historic environment, the existing heritage assets, the significance of the host building and the heritage assets are comprehensively set out in paras. 6.1 – 6.6 of the Officer report.

6.3 It should be reiterated that the existing building is already noticeably taller than its immediate neighbours, both on King's Cross Road and Frederick Street, and also the terrace on the opposite corner of the junction which includes The Racketeer PH. The majority of buildings on Frederick Street are grade II listed, including the site's immediate terrace to the west.

6.4 The existing building is also prominent in a number of medium-to-long views in the street network including from the north and south along King's Cross Road and from Frederick Street as it runs towards Gray's Inn Road in the west.

6.5 The host building already has a vertical emphasis marking its corner location, largely deriving from the proportions of its facades which are characterised by tall sash windows and also by the central corner chimney and eastern chimney which rise noticeably above the main parapet. This gives the building an appropriate status within the townscape which does not need to be further extended or emphasised, and which strikes a balance with adjacent building heights, including the front parapets and roof forms of the grade II listed townhouses.

6.6 Occupying a prominent corner location, where the visibility in the public domain is heightened by views from up and down King's Cross Road and Frederick Street, the proposed mansard roof would be an incongruous feature which would harm the architectural and historic character of the building, the Conservation Area and the setting of the Listed buildings. The addition of the mansard roof would heighten the building to such an extent that the building would appear excessive in height in the streetscene, to the detriment of the heritage value of the streetscene, the Conservation Area and the setting and significance of the neighbouring Listed buildings.

6.7 The addition of a flat-topped mansard storey with dormer window will be an over-dominant feature in the townscape, in terms of its impact on the views identified above, in terms of the impact on the existing dimensions and proportions of the host building and the resultant changes to its architectural

hierarchy including to its chimneys, and in terms of the overbearing nature of the additional height on the adjacent terrace of listed buildings.

6.8 The proposed alterations would be harmful to the character and appearance of the conservation area and setting of nearby listed buildings contrary to policies D1 and D2 of the Local Plan. The level of harm is considered to be “less than substantial” in line with NPPF guidance. In accordance with paragraph 202 of the NPPF, the harm to the Bloomsbury Conservation Area should be weighed against the public benefits of the proposed development. The proposal would provide 1 x additional self-contained dwelling in the borough, which is a benefit in terms of housing targets; new residents financial spend would benefit the viability of local services and the economy; and, environmentally, the proposal would make more effective use of land. However, the Council does not consider that the public benefits of the scheme would outweigh the less than substantial harm identified. The application is recommended for refusal on this basis.

Comments on the appellant’s grounds of appeal against Reason 1

6.9 With respect to the first reason for refusal, the appellant’s statement of case refers to historic situations evidenced by 20th century images. The argument is made that the application site was historically much more prominent due to neighbouring buildings (i.e. nos. 71-91 and nos.93-99) being lower. The argument is made that the proposal is less harmful to the character and appearance of the Conservation Area and the setting of the neighbouring Listed buildings when compared with the previous situation in which neighbouring buildings were lower.

6.10 The Council is of the view that the proposal should be assessed in the context of the existing situation. As documented in the Officer report, the Council, in considering any applications for development involving heritage assets, is under a duty to ‘preserve and/or enhance heritage assets and their settings, including conservation areas and listed buildings’.

6.11 The legislative and policy framework relates to existing heritage assets. Under the NPPF, Councils (and applicants) should assess the significance of existing assets. The policies are aimed at preserving and enhancing the character and appearance of existing heritage assets. Historic images tell the story of heritage assets but they should not be instrumental to the implementation of current planning policies.

6.12 The Bloomsbury Conservation Area Appraisal and Management Strategy defines the special interest of the Conservation Area in order that its key attributes are understood and can be protected, and that measures are put in place to ensure appropriate enhancement. The site is in Sub Area 14 (Calthorpe Street/Frederick Street) and the Appraisal notes that ‘The buildings are generally of three or four storeys with basements and attics’. The Conservation Area Appraisal provides a summary of the existing character and appearance of the Conservation Area. It does so for the purpose of providing a sound basis for guiding development within the area. As such, the assessment of the impacts of the proposal should be undertaken with reference to the existing situation and not on the basis of historic events.

Reason for refusal no. 2 (Need for car-free legal agreement)

6.13 The Council's adopted policies T1 and T2 seek to limit the opportunities for parking within the borough as well as prioritise the needs of pedestrians and cyclists to ensure that sustainable transport will be the primary means of travel, reduce air pollution and local congestion. Therefore, the development should be secured as car-free via a covenant under s.16 of the Greater London Council (General Powers) Act 1974 and other local authority powers if the appeal were allowed.

6.14 A planning obligation is considered the most appropriate mechanism for securing the development as car-free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car-free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, a legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free". The Council's control over parking does not allow it to unilaterally withhold on-street parking permits from businesses or residents simply because they occupy a particular property. The Council's control is derived from Traffic Management Orders ("TMO"), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where an additional dwelling/use needed to be designated as car-free. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming businesses and residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a "Car-Free" legal obligation. The TMO sets out that it is the Council's policy not to give parking permits to occupiers of premises designated as "Car-Free", and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free".

6.15 The use of a legal agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.

Comments on the appellant's grounds of appeal against Reason 2

6.16 The appellant, at para 1.8 of the Appeal Statement, indicates a willingness to enter into a legal agreement in respect of a car-free development. However, in the absence of a completed legal agreement to secure a car-free development the proposal would be contrary to policies T1 and T2 of the Camden Local Plan and should be refused.

Reason for refusal no. 3

6.17 Local Plan Policy A1 states that Construction Management Plans (CMPs) should be secured to demonstrate how developments would minimise impacts from the movement of goods and materials during the construction process (including any demolition works). The proposal would involve works which would have off-site impacts due to the nature of the works and the constraints of the site. A CMP would be required in order to address the issues around how the demolition and construction work would be carried out and how this work would be serviced (e.g. delivery of materials, set down and collection of skips), with the objective of minimising traffic disruption and avoiding dangerous situations for pedestrians and other road users. The requirement to submit a CMP for the Council's approval and to carry out the construction of the development in accordance with the approved CMP has been secured by the S106 Agreement. Failure to secure a CMP as a planning obligation would give rise to conflicts with other road users and would be detrimental to the amenities of the area generally.

6.18 Construction vehicles would more than likely park on the adjacent highway and building operations would entail the use of the highway. There is potential for harm to the amenity of the area and impacts upon the safety and efficiency of the highway. There could be traffic disruption and dangerous situations for pedestrians and road users. Potential impacts for the proposed works should be controlled by a CMP including the management of traffic generation from the removal and delivery of materials to the site.

6.19 The CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site but also around the site and it may include land outside of the developer's control (i.e. public highway) in order to minimise as far as reasonably practicable the detrimental effects of construction works on local residential amenity and/or highway safety on the nearby roads. Planning Practice Guidance (PPG) on Use of Planning Conditions provides that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. As such it is considered that the requirement to submit a CMP for the Council's approval and comply with the approved document should be secured through a S106 Agreement and it has been secured in this manner.

6.20 A CMP Implementation Support Contribution is also required within a legal agreement. This contribution must be paid prior to commencement of works. This contribution covers the ongoing review and monitoring elements of the CMP (which is a living document which can be updated as necessary) and site inspections, meetings with the developer and local stakeholders to ensure compliance. The CMP Implementation Support Contribution rates are set out on the Council's website with £4,194 being indicated as the current rate for low impact sites.

6.21 Construction activity can cause disruption to daily activities. However, a well-run site that responds to the concerns of residents can greatly improve the situation. Whilst most sites deal quickly and robustly with complaints from residents and reinforce the requirements of the CMP with site operatives, there can be situations where this does not occur and officers in the Council are required to take action. CPG Developer Contributions states that: "In respect

of developments raising particularly complex construction or management issues where the Council will have to allocate resources to monitor and support delivery of obligations the Council may require payment of an upfront financial bond which the Council can draw upon if needs be". The securing of a bond has received significant support, it fosters a confidence with residents that there is a clear incentive for contractors to abide by the CMP. The bond will be fully refundable on completion of works, with a charge only being taken where contractors fail take reasonable actions to remediate issues upon notice by the Council. In this case a bond of £8,000 is sought, which is the standard amount for "low impact / small developments" (e.g. below 10 dwellings).

6.22 A Section 106 Agreement (rather than a condition) is considered to be the most appropriate mechanism to secure the CMP. The PPG on the Use of Planning Conditions clarifies that it is not appropriate to use conditions to secure financial amounts. As such, it would not be appropriate to secure the CMP Implementation Support Contribution or the CMP Bond as conditions.

6.23 It is concluded that a S.106 agreement securing CMP, CMP Implementation Support Contribution and CMP Bond meets the tests for planning obligations contained in regulation 122 of the CIL Regulations; as the obligations are considered to be necessary to make the development acceptable in planning terms. They are directly related to the development and are fairly and reasonably related in scale and kind to the development.

Comments on the appellant's grounds of appeal against Reason 3

6.24 The appellant, at para 1.8 of the Appeal Statement, indicates a willingness to enter into a legal agreement in respect of the Construction Management Plan matters. However, in the absence of a legal agreement securing a Construction Management Plan, implementation support fee and Construction Impact Bond, would be likely to give rise to conflicts with other road users and be detrimental to the amenity of the area generally, contrary to policies A1 (Managing the impact of development), T4 (Sustainable movement of goods and materials) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017, and should be refused.

7. CONCLUSION

7.1 The substantive reason for refusal (reason for refusal 1) relates to the proposal to add a mansard roof on the distinctive, landmark building in the Conservation Area and the harm to the heritage value of the streetscenes, Conservation Area and setting and appearance of neighbouring Listed buildings. The reasons for refusal on heritage grounds are set out in paras. 6.4 – 6.11 and the grounds are expanded upon in paras. 6.3 – 6.8 above.

7.2 The proposal, in the absence of a completed legal agreement to prevent future occupiers from obtaining on-street car parking permits, and to secure a Construction Management Plan, implementation support fee and Construction Impact Bond is contrary to the Council's policies for sustainable transport and transport infrastructure.

7.3 IMPORTANT NOTE: The Council is aware that the Inspectorate cannot allow an appeal subject to the completion of a legal agreement. The Inspector is therefore requested to dismiss the appeal outright, for all three reasons.

7.4 Nevertheless, in the hypothetical event that the Inspector should deem that the proposal is substantively acceptable then the following conditions would be necessary:

8. CONDITIONS

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved drawings/document:

Site Location Plan WC1X_103KKR_LP01, SF01, EX00, EX01, EX02, EX03, EX05, EX11, EX10, PP04C, PP05C, PP06C, PP10C, PP11C, 3DmodelRevC. Full Planning Design Statement RevC (Willingale Associates October 2023)

Reason: For the avoidance of doubt and in the interest of proper planning.

3. All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017