



# Grounds of Appeal Statement

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Flat 1<sup>st</sup> / 2<sup>nd</sup> Floor, 34 Compayne Gardens, London, NW6 3DP

Conversion of 5 bed upper maisonette to create four  
2 bed flats with roof extension

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# 1 Introduction, Purpose and Proposed Development

## 1.1 Introduction

1.1.1 This statement represents a Grounds of Appeal Statement submitted against the refusal of the planning application by Camden Council (the 'Council') for the 'conversion of 5 bed upper maisonette to create four 2 bed flats with roof extension' (the 'proposed development') at Flat 1<sup>st</sup> and 2<sup>nd</sup> Floor, 34 Compayne Gardens, London, NW6 3DP (the 'site').

1.1.2 The application (Ref: 2022/4765/P) was submitted on 14<sup>th</sup> October 2022 and was refused by delegated decision with the notice dated 10<sup>th</sup> May 2024.

1.1.3 The three reasons for refusal are given as:

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- 1. The proposed roof extension by virtue of its siting, scale, bulk and design would appear as an incongruous addition to the host building, disrupting the harmony of the group of buildings of which it would form a part to the detriment of the character and appearance of the street scene and wider South Hampstead Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017*
  - 2. The proposed development, in the absence of a legal agreement for affordable housing would fail to reasonably contribute to maximising the supply of affordable housing in the borough contrary to policy H4 (Maximising the supply of affordable housing) of the Camden Local Plan 2017*
  - 3. The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area contrary to policy T2 (Parking and car free development) of the Camden Local Plan 2017*
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1.1.4 This is discussed in detail below.

## 1.2 Purpose

1.2.1 Planning law<sup>1</sup> requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

1.2.2 The Courts<sup>2</sup> have determined that it is enough that a proposal accords with the development plan when considered as a whole. It is not necessary to accord with each and every policy contained within the development plan. Indeed, it is not at all unusual for development plan policies to pull in different directions.

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<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

<sup>2</sup> See for example *BDW Trading Ltd. v Secretary of State for Communities and Local Government* [2016] EWCA Civ 493; [2017] P.T.S.R. 1337, at paragraphs 18 to 23; *Gladman Developments Ltd. v Canterbury City Council* [2019] EWCA Civ 669; [2019] P.T.S.R. 1714, at paragraphs 21

- 1.2.3 The position was also clarified by Patterson J in *Tiviot Way Investments Ltd v Secretary of State for Communities and Local Government and Stockton-on-Tees BC* [2015] EWHC 2489 Admin) at paragraph 31:

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*I do not accept, lest it be thought to establish the proposition, that the case of Hampton Bishop (supra) establishes that a breach of one key policy was sufficient to find conflict with the development plan as a whole.*

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- 1.2.4 The Planning & Compulsory Purchase Act 2004 defines the Development Plan for the purposes of this assessment process as the strategy for the region in which the site is located and development plan documents, taken as a whole, which have been approved or adopted for the area.
- 1.2.5 The purpose of this statement is therefore to identify Development Plan policies that are relevant in the assessment of the development proposals. Then to determine if the proposals conflict with their provisions and if they do, to determine whether there are material considerations which outweigh such conflict.

### **1.3 Development Proposals**

- 1.3.1 The proposed development is for a vertical extension and conversion of No 34A which is a five-bedroom maisonette to provide four two-bedroom flats.
- 1.3.2 The proposals provide an uplift of three homes by providing a two-bedroom flat per level (3no. four-person two-bedroom flats and 1no. three-person two-bedroom flat).
- 1.3.3 There are some minor changes to the first and second-floor plan form to create self-contained flats on each floor. The existing plan form would be continued upwards to create a new fourth floor.
- 1.3.4 The extension would replicate the design and materiality of the existing top storey with the red brick and pitched roof and a turret continued upwards to match the style of the existing front elevation.
- 1.3.5 The rear would replicate the dormer and rooflights approved in 2015 albeit one storey higher.
- 1.3.6 The proposed flat would be as follows:
- 1<sup>st</sup> Floor – Flat 1: 2-Bedroom @ 92.8sqm
  - 2<sup>nd</sup> Floor – Flat 2: 2-Bedroom @ 92.8sqm
  - 3<sup>rd</sup> Floor – Flat 3: 2-Bedroom @ 92.8sqm

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and 22; and Chichester District Council v Secretary of State for Housing, Communities and Local Government [2019] EWCA Civ 1640; [2020] 1 P. & C.R. 9, at paragraphs 31 and 32).

- 4<sup>th</sup> Floor – Flat 4: 2-bedroom @ 83.4sqm + 4.8sqm of amenity space

1.3.7 Cycle parking and refuse stores are provided at ground floor level on the frontage.

## 2 Site Location, Description and History

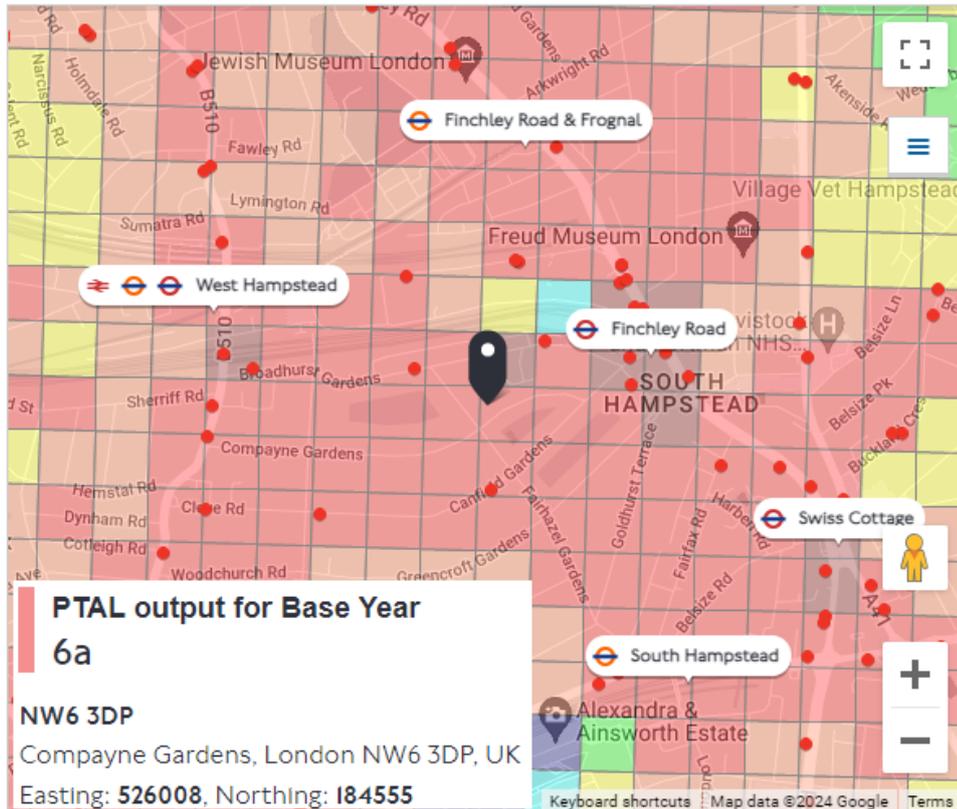
### 2.1 Site Location and Description

- 2.1.1 The appeal site lies on the north side of the Compayne Gardens close to the junction with Fairhazel Gardens.
- 2.1.2 The property comprises a three-storey and a lower ground floor terraced building. It is currently divided into two flats; number 34 occupies the ground and lower ground floors and No 34A on the first and second floors. However, the building was originally two 5 bed maisonettes.
- 2.1.3 The application relates to No 34A, a five-bedroom maisonette over the first and second floors.
- 2.1.4 The area is characterised by residential properties within similar blocks. The adjacent building to the west is a full storey higher.



Site in street scene

- 2.1.5 The site is located in the South Hampstead Conservation Area and, while not listed, the building is identified in the Conservation Area Statement as making a positive contribution to the character and appearance of the Conservation Area.
- 2.1.6 The site is located 300m from Finchley Road Underground station. In addition, West Hampstead Overground, Underground and Railway stations are within 850m of the site.
- 2.1.7 Several bus services also pass along Finchley Road.
- 2.1.8 As a result, the Public Transport Accessibility Level (PTAL) is 6a (Excellent), as shown below:



## 2.2 Relevant Planning History

2.2.1 A summary of the relevant planning history relating to the property is set out below in chronological order:

- 06/06/2014 – 2 x permissions granted for the erection of rear dormer roof extension, inset rear roof terrace and installation of 2 front roof lights and 2 rear roof lights. (Refs: 2014/2118/P and 2014/2119/P).
- 21/07/2015 - Permission granted for the conversion of 5 bed maisonette into 1 x 2 bed flat and 1 x 3 bed maisonette, erection of rear dormer roof extension, inset roof terrace and installation of 2 front roof lights and 2 rear roof lights (Ref: 2014/5359/P).
- 09/06/2020 - Certificate of Lawfulness (Existing) refused for conversion of 5 bed maisonette into one 2 bed flat and one 3 bed maisonette, erection of rear dormer roof extension with inset roof terrace and installation of 2 front roof lights and 2 rear roof lights (Ref: 2020/1733/P)

2.2.2 This was refused for the following reason:

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*The applicant has provided insufficient evidence to demonstrate that, on the balance of probability, the development approved by planning permission ref 2014/5359/P commenced within 3 years of its decision date of 21/07/2015 and prior to the final implementation date of 21/07/2018.*

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### 3 Development Plan Context, Designations and Assessment

#### 3.1 Development Plan Context and Designations

- 3.1.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. This represents the starting point for assessing the development prospects for a particular site or property.
- 3.1.2 For the purposes of this assessment the Development Plan for the site comprises the **London Plan (2021)** along with the **Camden Local Plan (2017)**.
- 3.1.3 The **Policies Map** confirms that the site is located within the South Hampstead Conservation Area.

#### 3.2 Relevant Development Plan Policies

- 3.2.1 The following policies of the Development Plan have been identified as of most relevance within the Planning Officer's Delegated Report.

##### Camden Local Plan

- G1 Delivery and location of growth
  - A1 Managing the impact of development
  - A2 Open space
  - H1 Maximising housing supply
  - **H4 Maximising the supply of affordable housing**
  - H6 Housing choice and mix
  - H7 Large and small homes
  - **D1 Design**
  - **D2 Heritage**
  - CC5 Waste
  - T1 Prioritising walking, cycling and public transport
  - **T2 Parking and car free development**
  - DM1 Delivery and monitoring
- 3.2.2 These are discussed in more detail below, where relevant. However, it is clear from the Refusal Notice that the Council have only cited conflict with policies H4, D1, D2 and T2 (highlighted above). Therefore, it is clear there are no conflicts with the other policies.
- 3.2.3 The Council have not cited any policies within the London Plan.

### 3.3 Material Consideration – National Planning Policy Framework

3.3.1 The Government’s National Planning Policy Framework (2023) (the ‘Framework’) is a material consideration in the assessment of development proposals. The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.

3.3.2 The Framework confirms that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways:

- *an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- *a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and*
- *an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

3.3.3 The Framework emphasises that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged.

3.3.4 The Framework confirms that at its heart is a presumption in favour of sustainable development and that for decision taking this means approving development proposals that accord with an up-to-date development plan without delay.

3.3.5 The Framework also provides policy guidance on promoting sustainable transport and in paragraph 111 confirms that ‘Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’.

- 3.3.6 The Framework also provides policy guidance on ‘Making effective use of land’ (Section 11). In paragraph 120 c) the Framework advises that planning decisions should give **substantial weight**<sup>3</sup> to the value of using suitable brownfield land within settlements for homes and other identified needs and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. Paragraph 120 d) advises that planning decisions should promote and support the development of under-utilised land and buildings especially if this would help meet the identified needs for housing where land supply is constrained, and available sites could be used more effectively.
- 3.3.7 An assessment of the Framework confirms that the proposed development is consistent with national planning policies, and this provides further support for the proposed development. This is discussed in more detail below with particular regard to design, heritage and residential development considerations. However, it is noted that the Council have not cited any conflict with the NPPF within the refusal notice.

### 3.4 Material Consideration –Supplementary Planning Guidance

- 3.4.1 The Mayor’s SPG ‘**Housing**’ (2016) contains the residential design, density and space standards that will apply to new residential developments. These reflect the space and density standards set out in the London Plan, but also provide more detailed guidance on individual room sizes and internal layouts.
- 3.4.2 The **Nationally Described Space Standards** deal with internal space within new dwellings and is suitable for application across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.
- 3.4.3 Relevant supplementary planning guidance cited by the Council includes the Camden Planning Guidance in relation to **Amenity** (2021), **Housing** (2021) and **Design** (2021), **Home Improvements** (2021) and **Transport** (2021).
- 3.4.4 However, no conflicts with the above are cited within the Refusal Notice in relation to any of the above documents.
- 3.4.5 The Council also refer to the **South Hampstead Conservation Area Character Appraisal and Management Strategy** (2011).

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<sup>3</sup> Emphasis added

## 4 Grounds of Appeal

### 4.1 Introduction

4.1.1 The following assessment considers the relevant Development Plan policies and material considerations identified in the preceding section and the degree to which the proposed development complies with their provisions or not as the case may be.

4.1.2 The principal considerations in the assessment of the appeal are:

- Impact on the character of the building and the wider Conservation Area
- Affordable Housing
- Parking

4.1.3 These issues are discussed below along with any other relevant matters including any matters not disputed by the Council.

### 4.2 Common Ground

#### Principle of Development

4.2.1 The Planning Officer's Report confirms that housing represents the priority land use of the Local Plan and in order to meet (and exceed) the objectively assessed needs of the Borough the Council seeks to maximise the delivery of new housing. This is supported by policies H1 (Maximising housing supply) and G1 (Delivery and location of growth).

4.2.2 In the context of this site being within a location of mixed uses including residential uses, the Council consider that the principle of new housing is generally supported at this site.

#### Standard of Accommodation

4.2.3 The Planning Officer's Report confirms that the proposed flats would comply with the nationally described space standards.

4.2.4 The Council confirm that there are no objection to the proposed amenity space, noting that there is a communal terrace to the rear as well as a large shared outdoor space beyond that, and further to the rear.

4.2.5 The Council have not raised any objections to the proposed mix of the units.

4.2.6 As such, the Planning Officer's Delegated Report considers that the quality of the accommodation would be acceptable.

#### Amenity

4.2.7 The Planning Officer's Report confirms that despite the additional height proposed the balcony proposed at roof level would not lead to increased overlooking compared to those existing rear balconies.

- 4.2.8 The Council confirm that the siting of the additional storeys above those of the existing house means that nearby properties would not be significantly affected in terms of a loss of outlook or day/sunlight.
- 4.2.9 The Council conclude that the proposals would therefore not give rise to concerns regarding impacts on neighbouring amenity in terms of a loss of light, privacy or outlook. Noise and light-spill from the development is expected to be consistent with other existing residential properties in the local neighbourhood. As such, the development would be acceptable in terms of its amenity impacts on neighbouring properties.

#### Waste and Servicing

- 4.2.10 The Planning Officer's Delegated Report confirms that cycles and bins would be stored in the front hardstanding area which is a similar arrangement to other properties in the area and throughout the borough.
- 4.2.11 The Council confirm that in the event of an approval the detailed design and siting of these stores, and appropriate screening through measures such as planting, would have been secured by condition. The Appellant has no objections to such conditions.

### **4.3 Impact on the character of the building and the wider Conservation Area**

- 4.3.1 The Council's first reason for refusal states that that the proposed roof extension by virtue of its siting, scale, bulk and design would appear as an incongruous addition to the host building, disrupting the harmony of the group of buildings of which it would form a part to the detriment of the character and appearance of the street scene and wider South Hampstead Conservation Area.
- 4.3.2 The Council consider the proposal to be contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.
- 4.3.3 Local Plan Policy D1 states that:

*The Council will seek to secure high quality design in development. The Council will require that development:*

- a. respects local context and character;*

As discussed below the proposed development will complement the context and character of the area.

- b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;*

As discussed below, the proposed development will have no impact on any heritage assets.

- c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*

The proposed development will seek to enhance the sustainability of the building. The Council haven't objected on this basis.

- d. is of sustainable and durable construction and adaptable to different activities and land uses;*

The proposed development will be sustainable and durable. As a residential development adaption to different uses is not appropriate. The Council haven't objected on this basis.

- e. comprises details and materials that are of high quality and complement the local character;*

The Council have not objected in relation to the proposed materials.

- f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*

As discussed below the proposed development will complement the context and character of the area and the street frontage. There is no impact on any open spaces or routes.

- g. is inclusive and accessible for all;*

The proposed flats are within an existing building which is not fully accessible. The Council have not objected on this basis.

- h. promotes health;*

This is not relevant to a residential scheme.

- i. is secure and designed to minimise crime and antisocial behaviour;*

The proposed development will be designed to reduce the crime.

- j. responds to natural features and preserves gardens and other open space;*

There is no impact on any open space.

- k. incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*

There is no impact on any landscaping.

- l. incorporates outdoor amenity space;*

The Council have confirmed that there is no objection in relation amenity space.

- m. preserves strategic and local views;*

There is no impact on any important views.

*n. for housing, provides a high standard of accommodation; and*

The Council have confirmed that the standard of accommodation is acceptable.

*o. carefully integrates building services equipment.*

No service equipment is proposed as part of the proposed development.

*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.*

4.3.4 The Policy also states that:

*The Council expects excellence in architecture and design. We 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.*

4.3.5 As discussed in detail below the proposed development is a high quality design which complements the host building and the character of the area.

4.3.6 Other parts of the policy relate to tall buildings and public art and are therefore not relevant.

4.3.7 Local Plan Policy D2 states that:

*The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.*

*Designated heritage assets*

*Designed heritage assets include conservation areas and listed buildings. The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- a. the nature of the heritage asset prevents all reasonable uses of the site;*
- b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;*
- c. conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- d. the harm or loss is outweighed by the benefit of bringing the site back into use.*

The Planning Officer's Delegated Report considers that the proposed development would cause less than substantial harm to the heritage asset and therefore this part of the policy is not relevant to the appeal.

*The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.*

Although the Planning Officer's Delegated Report considers that the proposed development would cause less than substantial harm to the heritage asset it is shown below that the proposed development will not cause any harm to the significance of the Conservation Area.

#### *Conservation areas*

*Conservation areas are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. 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:*

- e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;*

As discussed below, the proposed development will preserve the character and appearance of the area.

- f. resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;*

No substantial demolition is proposed.

- g. resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and*

This is not relevant to the proposal which is within the Conservation Area.

- h. preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage.*

There is no impact on any trees or open spaces.

4.3.8 The remainder of the policy relates to listed buildings, archaeology and non-designated assets and is therefore not relevant.

4.3.9 The Planning Officer's Delegated Report states that the host property is a positive contributor to the South Hampstead Conservation Area.

4.3.10 However, as shown in Map 9 of the South Hampstead Conservation Area Appraisal this designation applies to almost every building within the Conservation Area with the exception of one listed building (St James Church) and a handful of buildings which are considered to be neutral.

4.3.11 As discussed in more detail below, this ‘Positive Building’ designation also includes others which have been altered at roof level.

4.3.12 The Planning Officer’s Delegated Report states that:

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*The houses on Compayne Gardens were originally between 1886 and 1894 by local builders, James Tomblin and E. Michael. The houses are generally of three main storeys and mansions blocks form the corner of the street grid and as such are of greater height. Although it is semi-detached to a mansion block neighbour the host property was built as a house rather than a mansion block and as such is of a similar design to the other houses on the street.*

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4.3.13 Although it may be the case that the building was originally a house and not a mansion block it is noted that it is adjoined to the adjacent mansion block and not part of the terrace of similar properties 26-32 Compayne Gardens.

4.3.14 The Council note that the corner mansion blocks are generally of greater height, but it is a feature of the area that the higher block generally extends around the corner to include the building in the same position as the appeal property. This is illustrated below:



Corner of Canfield Gardens & Fairhazel Gardens



Corner of Canfield Gardens & Fairhazel Gardens



Corner of Greencroft Gardens & Fairhazel Gardens



Corner of Canfield Gardens and Compayne Gardens

4.3.15 It is clear from the above that many of the 'houses' adjacent to the mansion blocks are a storey higher than the other houses and act as a step between the terraces and the mansion blocks.

4.3.16 In addition, as shown below, the roofline is also varied within the terraces with some buildings being higher than the neighbouring properties by at least one storey.





- 4.3.17 In this context, the height of the proposed development would not be out of the context in the surrounding area.
- 4.3.18 The Council, in the Planning Officer's Delegated Report refer to paragraphs 7.15-7.16 of the Conservation Area Appraisal which state that:

*It is notable that in April 1988, guidelines for roof alterations in the area were formally adopted by the Council, prior to the area's adoption in November of that year as a conservation area. The wide variety of roofs – from simple decorated gables, to elaborate Dutch gables and pediments, to steep French style hipped and mansard roofs, turrets and ogee-shaped domes, are noted to play a very important role in maintaining the character of the conservation area.*

*In recent years, largely due to the increased intensity of residential use and resulting trend for residential conversion, there have been a number of planning applications to alter roofscapes and insert new dormer windows to the front and rear of buildings in the conservation area. These can be damaging to the character of the area if what is proposed does not take into account the careful design of the original building, including its front elevation and traditional roof form and the pattern of neighbouring buildings as a whole. The variety of roof forms in the area means that each proposal must be carefully judged on its design merits; alterations should not result in increased visual bulk to the roof, nor should they draw more attention than existing to the roof slope. Where a building forms one of a harmoniously composed terrace or group, or indeed is a prominent corner building with a carefully designed hipped roof, insensitive alterations can be particularly damaging to the design of the host building and the street as a whole. Rooflights inserted insensitively in the front or visible side roof slope, even when they are flush fitting, also erode character and upset the careful balance of solid to void on the principal elevation.*

4.3.19 In this respect, it is noted that the Conservation Area Appraisal does not state that such extensions are not appropriate but that each proposal must be carefully judged on its design merits.

4.3.20 In this regard it is noted that no front dormers are proposed, and similar roof lights exist on the other adjacent properties, as shown below:



4.3.21 In addition, the adjoining properties also have rear dormers, of varying sizes and styles, as shown below:



4.3.22 Such varied roof forms are replicated across the Conservation Area, as shown below:





4.3.23 The Conservation Area Appraisal notes that these can be ‘damaging to the character of the area’ but it must be the case that these dormers form part of the character and appearance of the area.

4.3.24 The proposed development which includes similar dormers would therefore not be out of character with the appearance of the area, which according to the Council’s claim now has reduced heritage significance due to the number of similar developments.

4.3.25 However, the Council also claim that the wide variety of roofs – from simple decorated gables, to elaborate Dutch gables and pediments, to steep French style hipped and mansard roofs, turrets and ogee-shaped domes - play a very important role in maintaining the character of the conservation area.

4.3.26 In this respect, the proposed development which replicates the existing appearance of the roof would maintain this character, which as established above, includes varying roof heights, especially with higher heights close to corners and adjacent to mansion blocks.

4.3.27 The Council also refer to paragraph 13.36 of the Conservation Area Appraisal which states that:

*Proposals which alter existing roof profiles will generally be resisted unless to replace unsightly later additions with less visually disruptive alternatives. Uncharacteristic roof forms will be unacceptable.*

4.3.28 However, the proposed development is not an uncharacteristic roof form and although a storey higher the existing roof profile is maintained.

4.3.29 The Planning Officer’s Delegated Report states that:

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*The host building is part of a relatively uniform group of houses. The proposal seeks to increase the height of the building to a level closer to that of the mansion block to which it is attached. However, the existing discrepancy in the two rooflines is the historic condition of the sites, i.e. it is the established character of the area and holds historic townscape value and evidential significance.*

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- 4.3.30 The Council claim that the existing heights are the established character of the area, but it is clear from the above that the character of the area includes varying roof styles, designs and heights with properties adjacent to mansion blocks being generally taller.
- 4.3.31 In this respect, the appeal property is actually less characteristic in that it is one of the few buildings adjacent to a mansion block close to a corner which is not higher than the adjoining houses.
- 4.3.32 Although similar to the adjoining houses the appeal site is clearly a different design, has a different roof line (slightly higher) and different fenestration.
- 4.3.33 Therefore, it doesn't relate to either the mansion block or the adjacent terrace. The proposed development will therefore make the building more in keeping with the adjoining mansion block and the character of the area where higher buildings are expected in such locations adjoining mansion blocks.
- 4.3.34 The Planning Officer's Delegated Report states that:

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*The typology and scale of the mansion blocks is different to that of the houses in Compayne Gardens and alteration of the latter to in order to 'match' the former would not preserve or enhance the character and appearance of the conservation area. None of the other houses/former houses in this section of Compayne Gardens has been extended by an additional storey, whether adjoined to a mansion block or not. The prevailing scale and roofline of the street, with the exception of a mid-C20th block, is essentially exactly the same as it was in the late C19th and it is partly that character which the Council is obliged to seek to preserve or enhance here.*

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- 4.3.35 The Council claim that none of the other houses have been extended by an additional storey in this part of Compayne Gardens. However, as established above, the appeal property is the only one in which such an extension is unlikely to have a detrimental impact on the character of the area as it sits adjacent to the mansion block where in general adjoining buildings are one storey higher (as demonstrated above).
- 4.3.36 The Planning Officer's Delegated Report states that:

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*As such, it is considered that the proposal fails to preserve the character and appearance of the conservation area through its alteration of the historic scale-relationships within the same section of street and the resultant disruption to the historic roofline which is in itself*

*a positive aspect of the local townscape character. The provision of two additional storeys, and the additional features within it including the new windows and roof lights, front bay, and rear dormer are also unacceptable in their proposed locations in design and heritage terms.*

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4.3.37 However, as discussed above, the proposed development would not be uncharacteristic or disrupt the roofline.

4.3.38 The legislative requirement is to preserve or enhance the character or appearance of the Conservation Area and in this regard the proposed development is considered to preserve its appearance whilst having no impact on its character.

4.3.39 In this regard, no harm to the significance of the heritage asset is identified.

#### **4.4 Affordable Housing**

4.4.1 The second reason for refusal states that the proposed development, in the absence of a legal agreement for affordable housing would fail to reasonably contribute to maximising the supply of affordable housing in the borough.

4.4.2 The Council consider that the proposal is contrary to policy H4 (Maximising the supply of affordable housing) of the Camden Local Plan 2017.

4.4.3 In this regard, Local Plan Policy H4 states that:

*The Council will aim to maximise the supply of affordable housing and exceed a borough wide strategic target of 5,300 additional affordable homes from 2016/17 - 2030/31, and aim for an appropriate mix of affordable housing types to meet the needs of households unable to access market housing.*

*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. The Council will seek to negotiate the maximum reasonable amount of affordable housing on the following basis:*

- a. the guideline mix of affordable housing types is 60% social-affordable rented housing and 40% intermediate housing;*
- b. targets are based on an assessment of development capacity whereby 100sqm (GIA) of housing floorspace is generally considered to create capacity for one home;*
- c. targets are applied to additional housing floorspace proposed, not to existing housing floorspace or replacement floorspace;*
- d. 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% of for each home added to capacity;*

- e. an affordable housing target of 50% applies to developments with capacity for 25 or more additional dwellings;*
- f. for developments with capacity for 25 or more additional homes, the Council may seek affordable housing for older people or vulnerable people as part or all of the affordable housing contribution;*
- g. where developments have capacity for fewer than 10 additional dwellings, the Council will accept a payment-in-lieu of affordable housing;*
- h. for developments with capacity for 10 or more additional dwellings, the affordable housing should be provided on site; and*
- i. where affordable housing cannot practically be provided on site, or offsite provision would create a better contribution (in terms quantity and/ or quality), the Council may accept provision of affordable housing offsite in the same area, or exceptionally a payment-in-lieu.*

*We will seek to ensure that where development sites are split or separate proposals are brought forward for closely related sites, the appropriate affordable housing contribution is comprehensively assessed for all the sites together. The Council will seek to use planning obligations to ensure that all parts or phases of split or related sites make an appropriate affordable housing contribution.*

*In considering whether affordable housing provision should be sought, whether provision should be made on site, and the scale and nature of the provision that would be appropriate, the Council will also take into account:*

- j. the character of the development, the site and the area;*
- k. site size and any constraints on developing the site for a mix of housing including market and affordable housing, and the particular types of affordable provision sought;*
- l. access to public transport, workplaces, shops, services and community facilities;*
- m. the impact on creation of mixed, inclusive and sustainable communities;*
- n. the impact of the mix of housing types sought on the efficiency and overall quantum of development;*
- o. the economics and financial viability of the development including any particular costs associated with it, having regard to any distinctive viability characteristics of particular sectors such as build-to-let housing; and*
- p. whether an alternative approach could better meet the objectives of this policy and the Local Plan.*

*Where the development's contribution to affordable housing falls significantly short of the Council's targets due to financial viability, and there is a prospect of viability improving prior to completion, the Council will seek a deferred contingent contribution, based on the initial shortfall and an updated assessment of viability when costs and receipts are known as far as possible.*

4.4.4 The Planning Officer's Delegated Report confirms that the proposed development would lead to a residential floorspace uplift of 357sqm, thereby triggering the requirement for an affordable housing contribution from the scheme.

4.4.5 Paragraph 3.117 of the Local Plan states that:

*Payments-in-lieu are derived by calculating the affordable housing floorspace required as set out in paragraphs 3.107 to 3.110, and converting this to a payment using a 'cost' per sqm. More detailed information regarding the calculation of off-site provision and payments in lieu, including a formula for the 'cost' per sqm, is provided in our supplementary planning documents Camden Planning Guidance on housing and Camden Planning Guidance on planning obligations.*

4.4.6 The Housing CPG states that:

*In order to calculate the payment, it is necessary to calculate the on-site affordable housing floorspace target in accordance with paragraphs 4.32 to 4.45 of this guidance – in summary, we will assess:*

- *the capacity of the development (based on GIA rounded to the nearest 100 sq m, where each 100 sq m GIA added to residential floorspace represents capacity for one additional home);*
- *the affordable housing percentage target (based on capacity, starting at 2% where development provides one or more additional homes and involves a total addition to residential floorspace of 100 sq m GIA or more, and adding 2% for each home added to the capacity); and*
- *the affordable housing floorspace target (determined by applying the affordable housing percentage target to all additional housing floorspace – rather than a rounded floorspace).*

4.4.7 In this regard the Housing CPG outlines the calculation as follows:

**Figure 9. Calculating payments in lieu of affordable housing**

<b>Additional residential floorspace (GIA)</b>	<b>Capacity (rounded floorspace addition/ 100 sq m)</b>	<b>Affordable housing %ge target (capacity x 2%)</b>	<b>Affordable housing floorspace target (%ge target x GIA)</b>	<b>Payment in lieu required (floorspace target x £5,000)</b>
105 sq m GIA	1 additional home	2%	2% x 105 = 2.1	2.1 x £5,000 = £10,500
259 sq m GIA	3 additional homes	6%	6% x 259 = 15.54	15.54 x £5,000 = £77,700
578 sq m GIA	6 additional homes	12%	12% x 578 = 69.36	69.36 x £5,000 = £346,800
941 sq m GIA	9 additional homes	18%	18% x 941 = 169.38	169.38 x £5,000 = £846,900

4.4.8 Therefore, for a development of 357sqm the affordable housing calculation would be based on a 6% target:

$$8\% \times 357 = 28.56$$

$$28.56 \times £5,000 = £142,800$$

4.4.9 The accompanying draft s106 seeks to secure this contribution and would overcome the Council’s second reason for refusal.

#### **4.5 Parking**

4.5.1 The third reason for refusal states that the proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area.

4.5.2 The Council consider the proposal to be contrary to policy T2 (Parking and car free development) of the Camden Local Plan 2017.

4.5.3 Local Plan Policy T2 states that:

*The Council will limit the availability of parking and require all new developments in the borough to be car-free.*

*We will:*

- a. *not issue on-street or on-site parking permits in connection with new developments and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits;*
- b. *limit on-site parking to:*
  - i. *spaces designated for disabled people where necessary, and/or*
  - ii. *essential operational or servicing needs;*
- c. *support the redevelopment of existing car parks for alternative uses; and*
- d. *resist the development of boundary treatments and gardens to provide vehicle crossovers and on-site parking*

4.5.4 In this regard, the Planning Officer's Delegated Report confirms that:

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*Were the scheme recommended for approval, any new residential dwelling would be secured as car free by means of a section 106 legal agreement, meaning future occupiers would not be able to apply for a parking permit.*

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4.5.5 As discussed above, the site is in a sustainable location with a Public Transport Accessibility Level (PTAL) of 6a (Excellent).

4.5.6 In this regard a car-free scheme would have no impact on the highway and as discussed above, cycle parking can be secured by conditions.

4.5.7 The accompanying draft s106 seeks to secure the car-free development as requested by the Council and would overcome the Council's third reason for refusal.

## 5 Third Party Representations

5.1.1 It is noted from the Planning Officer’s Delegated Report that five local residents and the Combined Residents Association of South Hampstead responded to the consultation and the responses are summarised as follows:

<b>Objection</b>	<b>Comments</b>
Loss of large homes	The Council have not objected on this basis.
Excessive increase in height	This is discussed in detail above
Negative impact on character and appearance of area	This is discussed in detail above
Negative impact on local heritage	This is discussed in detail above
Loss of day/sunlight	The Council have not objected on this basis.
Loss of outlook	The Council have not objected on this basis.
Loss of privacy and increased overlooking	The Council have not objected on this basis.
Negative health impacts	The Council have not objected on this basis.
Loss of parking	The Council have not objected on this basis.
Negative impact on local services	The Council have not objected on this basis.
Loss of a view	The Council have not objected on this basis.
Right to light impacts	The Council have not objected on this basis.
Inappropriate consultation	The Council have not objected on this basis.

## 6 Summary, Planning Balance and Conclusion

### 6.1 Summary and Planning Balance

- 6.1.1 This statement represents a Grounds of Appeal Statement submitted against the refusal of the planning application by Camden Council for the 'conversion of 5 bed upper maisonette to create four 2 bed flats with roof extension' at Flat 1<sup>st</sup> and 2<sup>nd</sup> Floor, 34 Compayne Gardens, London, NW6 3DP.
- 6.1.2 The purpose of this statement is to identify Development Plan policies that maybe relevant in the assessment of the development proposal; and to consider whether the proposal conflicts with their provisions and, if so, whether there are material considerations that outweigh any conflict with the Development Plan.
- 6.1.3 An assessment of the relevant planning policies in the adopted Development Plans confirms that there is no significant conflict with their provisions and that the statutory test imposed by Section 70(2) of the Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004 is met.
- 6.1.4 The National Planning Policy Framework is a material consideration in the assessment of the development proposal. An assessment of the Framework in terms of design, housing and heritage confirms that the proposed development is consistent with national planning policies and provides further support for the application.
- 6.1.5 Supplementary Planning Guidance has also been considered and the proposed development is compliant with this guidance.
- 6.1.6 The Council have not objected in relation to the following matters:
- Principle of Development
  - Standard of Accommodation
  - Amenity
  - Waste and Servicing
- 6.1.7 The proposed design is compatible with the local area and therefore the extension of the building does not result in any harm the character or appearance of the Conservation Area.
- 6.1.8 Issues in relation to car parking and affordable housing can be overcome with the accompanying s106 Planning Obligation.
- 6.1.9 The provision of new dwellings should be given significant weight.
- 6.1.10 Other benefits include the re-use of previously developed land in a highly sustainable location, a car free scheme and other associated economic and social benefits.
- 6.1.11 Therefore, on balance and as discussed above, there are no adverse impacts which would outweigh the benefits of additional housing in a sustainable urban location.

6.1.12 On balance, the proposed development can be compliant with all levels of planning policy and would achieve a sustainable development.

## **6.2 Conclusion**

6.2.1 In conclusion, the proposed development is considered compliant with the relevant provisions of the development plan. Planning law dictates that this justifies a grant of planning permission. Assessment against the policies contained within the Framework, which is a material consideration, further confirms that the development can be considered to be a form of sustainable development and therefore benefit from the presumption in favour of sustainable development which is a golden thread running through decision-taking.

6.2.2 The proposal is therefore promoted on this basis and that it can be supported and receive a grant of planning permission.

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**August 2023**



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