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Ref: MM/66724

**PLANNING APPEAL STATEMENT**

**APPEAL PROPOSAL**

**Erection of single storey extension at first floor level on top of existing roof terrace**

**SITE ADDRESS**

**FLAT 5**

**1 LYNDHURST GARDENS**

**LONDON NW3 5NS**

8<sup>th</sup> October 2024

**1. Introduction**

1.1. The proposal the subject of this appeal relates to the erection of a single storey extension at first floor level on the top of an existing roof terrace.

1.2. Planning permission (Council ref: 2024/2243/P) was refused on 7<sup>th</sup> August 2024 for the following reason:

1 The proposed extension, by virtue of its design, location and materials, would result in an incongruous and unsympathetic addition that would detract from the appearance of the host building and fail to preserve the character and appearance of the Fitzjohn's Netherhall Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

1.3. A copy of the decision notice and Council's delegated report are attached as Appendix 1 to this statement.

**2.0 Site Location & Description**

2.1 The appeal site comprises a self contained flat at first floor level identified as Flat 5. It is one of seven flats accommodated within the property No. 1 Lyndhurst Gardens.

2.2 No1 Lyndhurst Gardens is located on a corner site on the north side of Lyndhurst Gardens at its junction with Akenside Road. The area is predominantly residential and characterized by a range of large residential plots reflecting different periods of development and set within a suburban environment. These include blocks of flats, detached dwellinghouses and villa style terraced dwellinghouses.

- 2.3 Within this context building at No.1 Lyndhurst Gardens together with the neighbouring properties form a group of buildings derived from the Victorian era built around 1886 to 1896. No.1 Lyndhurst Gardens was originally a detached three storey building with accommodation within the main roof and upper roof space. Buildings of the same style and period are located adjacent to No.1 Lyndhurst Gardens on Akenside Road to the north-west (No.7) Wedderburn Road to the north and north-east (Nos. 7 to 15 (odd) and Lyndhurst Gardens to the east (No.3). The properties, Nos. 9, 11 & 13 Wedderburn Road are all Grade II Listed Buildings.
- 2.4 However, following the grant of a planning permission in 1939, the footprint of the original building was increased with a substantial extension on the Akenside Road frontage combined with internal alterations carried out in the original building to accommodate six new flats. Subsequent planning permissions over the years allowed for further extensions, external alterations and an increase in the number of flats to seven. Thus the building as it exists today shows an irregular shaped footprint and massing that is reflective of those incremental additions and alterations. The building elevations have also been the subject of a number of alterations over the years including the creation of new window openings, rooflights, the creation of various terraces with metal railings and the addition of a new conservatory at first floor level above an existing bay window located in the north-east elevation.
- 2.5 Figure 1 and Photos 1 to 5 below shows the appeal site and host property 1 Lyndhurst Gardens.

Figure 1 –Plan showing photograph view points [ → ]

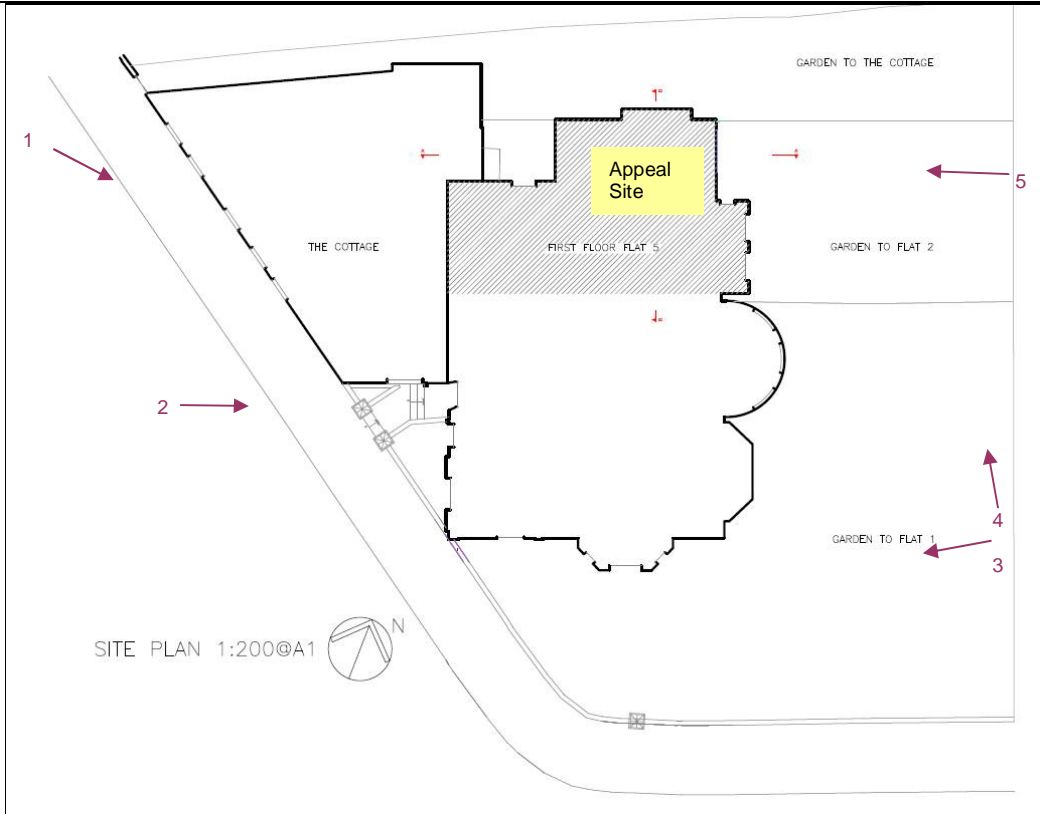


Photo 1



View of 1 Lyndhurst Gardens as seen from Akenside Road. In the foreground is the part one, part two storey extension to the original three storey Victorian building



**Photo 2**



A second view of 1 Lyndhurst Gardens as seen from Akenside Road showing the main entrance to the flats. The extended part can be seen in the foreground on the left of the photo and the original Victorian building set back on the right.

**Photo 3**



View of the south east corner 1 Lyndhurst Gardens formed by the south-east facing elevation fronting Lyndhurst Gardens on the left and the rear north-east facing elevation to the right. In the top right hand corner of the photo, the conservatory on the first floor on top of the ground floor bay window can be seen. This structure was granted planning permission in 1990.

**Photo 4**





View of the rear north-east facing elevation to No.1 Lyndhurst Road looking onto the rear gardens to the ground floor flats. The garden is split into two. In the foreground is the garden to Flat 1. Behind the extensive foliage in the background is the garden to Flat 2 separated by a wooden fence (hidden by the foliage). In the far distance the roofs to Nos. 11 & 13 Akenside Road can be seen. Flat 5, the appeal site (marked) is located on the far corner at first floor level.

**Photo 5**



View of part of the rear north east facing elevation as seen from the garden to the ground floor flat, Flat 2. The proposed location of the conservatory is on the terrace above the single storey side extension seen on the right. The terrace (as marked on the photo) to Flat 5 is located in the most concealed part of 1 Lyndhurst Gdns.

### **3.0 Relevant Planning History**

3.1 The relevant planning history is as follows:

14<sup>th</sup> July 1939 – Permission granted for '*Execution of alterations at and the conversion of the premises known as 1 Lyndhurst Gardens, Hampstead, into six self-contained flats.* [Council ref: TP 27816].

19<sup>th</sup> August 1955 – Permission granted for '*The erection of an extension at first floor level to No.1 Lyndhurst Gardens, Hampstead.*' [Council ref: AR/27016/C]

28<sup>th</sup> February 1957 – Permission granted for '*Erection of single storey extension at ground floor level to No.1 Lyndhurst Gardens, Hampstead.*' [Council ref: AR/27016/C]

1<sup>st</sup> March 1983 – Permission granted for '*Change of use of the house and garage into 7 self-contained flats involving works of conversion and alteration including new extension, roof terrace and the formation of a means of access with hardstanding*' [Council ref: F/12/9/34993(R2)]

18<sup>th</sup> January 1990 – Permission granted for '*The erection of a conservatory to the existing kitchen balcony above ground floor bay window and conversion of existing window into full height opening.*' [Council ref: PL/9005335/R1]

26<sup>th</sup> June 2024 – Formal pre application response received from L.B. Camden for exactly the same development the proposal the subject of this appeal. The same advice was given as that set out in the Council's delegated report (appendix 1) recommending a refusal for any such proposal [Council ref: 2024/0905/NEW].

[Note – The pre application was submitted on 5<sup>th</sup> March 2024. However, following its submission the Council advised that no officer would be

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allocated to deal with the enquiry within a reasonable time frame due to a shortage of resources. For this reason the appellant decided, as an alternative, to go ahead and submit a full application with a greater chance of it being formally considered in a timely manner under the statutory planning process. Consequently the aforementioned letter of 26<sup>th</sup> June 2024 set out the Council's formal response and this was mirrored later in the delegated report and decision notice the subject of this appeal. A copy of the pre application response is attached as Appendix 2 to this statement.]

7<sup>th</sup> August 2024 – Planning permission refused for the proposal the subject of this appeal [Council ref: 2024/2243/P].

#### **4.0 Planning Policy**

- 4.1 The policies and guidelines of specific reference to this appeal are the two policies and guidelines referred to in the decision notice the details of which are as follows:

##### **Policies - Camden Local Plan (2017)**

Policy D1 [Design] Seeks to secure high quality design in development and sets out criteria that includes; respecting local context and character and to preserve or enhance heritage assets.

Policy D2 [Heritage] Seeks to preserve and, where appropriate, enhance heritage assets including locally listed heritage assets.

##### **Guidelines**

Fitzjohns/Netherhall Conservation Area Character Appraisal & Management Plan (December 2022) Sets out the management strategy for the conservation area and includes advice on the design of new development including alterations and additions to existing



buildings.

HOME IMPROVEMENTS - Camden Planning Guidance (January 2021)

Borough wide guidance for extensions and general alterations to domestic properties.

**5.0 Planning Assessment**

- 5.1 The justification behind the single reason for refusal given by the Council is set out in Section 3 of the delegated report (Appendix 1) under the sub heading 'Design and Heritage'. In essence the Council argues that as a matter of principle the proposal to extend at first floor level is unacceptable. This is on the basis that that the massing of the host building and its apparent inability to accommodate such an extension without having visually a detrimental effect not only on the host building but also on the character of the Fitzjohns/Netherhall Conservation Area.
- 5.2 However it is considered that the Council's approach and judgment is completely misplaced. Overall the proposed conservatory, the subject of this appeal, reflects an entirely acceptable form of development that will not detract from or undermine the underlying objective to preserves or enhances the prevailing character and appearance of the Fitzjohns/Netherhall Conservation Area.

The principle of development

- 5.3 The starting point under Section 3 of the delegated report justifying the reason for refusal for the appeal proposal is that it fails to comply with the guidance for side extensions as set out in the Fitzjohns/Netherhall Conservation Area management strategy document and the Camden Home Improvement guidance document. However the manner in the way the quotes have been extracted and presented in the delegated report from these documents is misleading as these are taken out of context. By way of contrast

neither of the aforementioned documents seeks to resist as a matter of principle the development of a first floor extension.

5.4 The relevant extract taken from the Fitzjohns/Netherhall Conservation Area management strategy document is paragraph 6.4 [Alterations, Extensions and Infill] which sets out a number of development principles for extensions in the Fitzjohns/Netherhall Conservation Area. Table 1 below sets out these principles and their application on the appeal proposal.

**TABLE 1**

<b>Extract from Fitzjohns/Netherhall Conservation Area management strategy document. Para 6.4 - Alterations, Extensions and Infill</b>	<b>Assessment of the appeal proposal against the design principles</b>
<i>o) Every proposal for modifications to a dwelling in the Conservation Area will be reviewed on a case-by-case basis, with regard for the design of the building, the adjoining properties and streetscape.</i>	This principle underlines the point that any guidance should not prescribe inflexible standards or standard solutions and indeed allow each development proposal to be considered on its individual merits. Thus two storey side extensions are not to be dismissed out of hand.
<i>p) In all cases, existing/original architectural features and detailing characteristics of the Conservation Area should be retained and kept in good repair, and only be replaced when there is no alternative, or to enhance the appearance of the building through the restoration of missing features.</i>	The new conservatory would not affect or destroy the original architectural features and detailing of the host building.
<i>q) Extensions to existing buildings should be subservient in height, scale, massing and setback. Extensions should complement and be unobtrusive to the existing landscape and townscape character of the Area. In most cases extensions should be no more than one story in height.</i>	Taking into account the overall massing and height of the building that accommodates the 7 flats, the new conservatory will be subservient feature located in a position with very limited visibility. This would be one of the instances where an element of flexibility can be exercised to support a first floor extension which successfully integrates with the host building and have no impact on the prevailing character and appearance of the Fitzjohns/Netherhall Conservation Area.

<p><b>r)</b> Alterations and extensions will not be acceptable where they will spoil the uniform elevations of a terrace or group of buildings. Side extensions and infills will be resisted where a gap/view is compromised and the symmetry and composition of a building is impaired.</p>	<p>The new conservatory will not affect the uniform elevations of any terrace or group of buildings. Furthermore, no gap/view is compromised resulting in the symmetry and composition of the host building being impaired.</p>
<p><b>s)</b> Modifications should draw on materials and general characteristics of existing buildings, including roof forms.</p>	<p>The primary materials to be used for the new conservatory will reflect materials already present in relation to the host building.</p>
<p><b>t)</b> Alterations and extensions to buildings should minimise impacts on historic fabric and avoid destruction of features of interest, including roof forms. This includes retention of original windows, chimneys and decorative features. As far as possible, alterations should be reversible (this means contouring around existing fabric, rather than cutting into it).</p>	<p>The new conservatory will no impact at all on the historic fabric of the host building</p>
<p><b>u)</b> Natural materials, such as brick and stone, should not be painted, rendered or clad unless this was the original treatment, as it can have an undesirable effect on the relationship of the building within the setting of the Conservation Area. Repointing should match the original mix and mortar profile and may be difficult to reverse if done unsympathetically.</p>	<p>No painting, rendering or cladding work over natural materials is proposed in relation to any part of the host building.</p>
<p><b>v)</b> Extending into basement areas will only be acceptable where it will not involve harm to the character of the building or setting. Basement extensions should keep physical manifestations (such as light wells) to a minimum, so as to avoid adverse impacts on garden space and landscape character. Sufficient top soil should be maintained to support planting, including trees.</p>	<p>The proposal does not involve any basement work.</p>

5.5 The assessment above confirms the acceptability of installing a conservatory above the existing single storey side extension contrary to the Council's own assessment limited to just two of the eight development principles.

5.6 A similar conclusion can also be reached in relation to the Council's limited referral to the guidelines for side extension as set out in the Camden Home Improvement guidance document.

5.7 Paragraph 2.1.2 [Side & Front Extensions] of the document sets out the guidelines for side extensions and overall it would appear that these guidelines are aimed primarily at side extensions facing street frontage rather than, as in the case of the appeal proposal, side extensions not visible to public view. However notwithstanding the focus on street facing elevations, the design principles set out here are not dissimilar to those set out in the aforementioned Fitzjohns/Netherhall Conservation Area management strategy document for the promotion of good development. Thus contrary to the Council's selective extract as set out in the delegated report, stating that side extensions should be confined to a single storey and that the materials used should where possible be sympathetic to the existing building, the application of all of the design principles does not rule out taller two storey side extensions.

5.8 This is perhaps best confirmed by the diagram and explanatory sentence shown under the sub heading of Extensions (Side and front) as reproduced below (Figure 2) confirming the acceptability in principle of taller two storey side extensions.

**Figure 2 – Extract from 'Home Improvements Camden Planning Guidance Page 43.**



Side extensions should be confined to a single storey, but there may be instances where a taller side extension could be permitted.



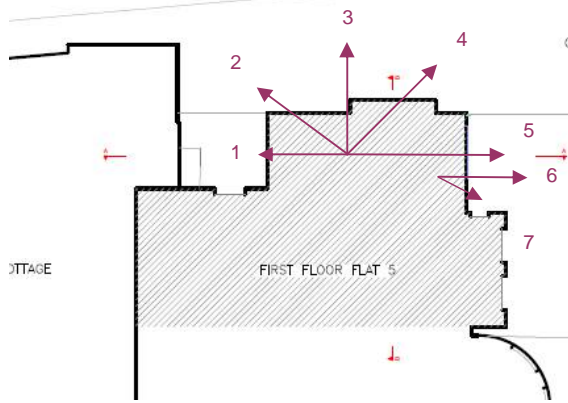
- 5.9 It would appear therefore that the Council has attempted to misinterpret the guidance set out in this document by quoting only the first part of the sentence and not the second half which states that 'there may be instances where a taller side extension could be permitted.'
- 5.10 The Council's attempt to demonstrate the unacceptability of a first floor extension in principle by its edited quotes from the Fitzjohns/Netherhall Conservation Area Plan and Home Improvement Guidance documents is therefore unjustified.

The issue of location and views of the new conservatory from neighbouring properties

- 5.11 Moving on from the starting point of the principle of development, the Council in its delegated report goes on to state the unacceptability of the new conservatory by virtue of its proposed location and its visibility from neighbouring properties. Again this statement is not justified.
- 5.12 The new conservatory is to be erected on top of the existing single storey extension which is located in a concealed position on the north-west side of the building. The Council acknowledges that no part of the conservatory would be visible from the public domain. Any view from the private gardens or habitable room windows of neighbouring properties would be limited by virtue of the distances between the appeal site and adjoining properties and also by the presence of mature trees and shrubs in those gardens. Wherever it might be visible from the neighbouring properties, the new conservatory would be seen as a very small structure set up against the side of a tall three storey building. Its visual impact would therefore be negligible in relation to any the neighbouring properties and the wider surrounding conservation area.
- 5.13 Figure 3 and Photographs 1 to 7 shown below shows a series of views which gives a sense of distance between the appeal site and neighbouring

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properties and also the effect that the mature trees and shrubs has on  
limiting further the views of the terrace at the appeal site.

**Figure 3** – Photograph view points from appeal terrace.



**Photo 1** – View towards the back of Flat 7 [The Cottage].



**Photo 2** – View towards rear of 11&13 Akenside Road.



**Photo 3** – View towards rear of 9&11 Akenside Road.



**Photo 4** – View towards properties beyond 9 Akenside Rd.



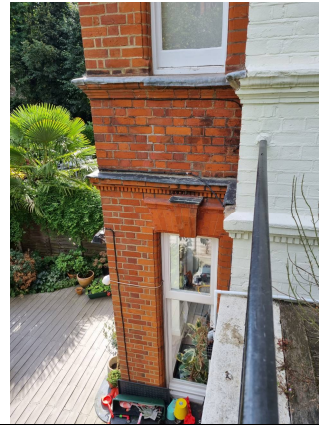
**Photo 5** – View of rear elevation to 3 Lyndhurst Gdns.



**Photo 6** – Similar view to Photo 5 closer to terrace edge.



**Photo 7** – View from terrace edge showing set back to two storey bay in north-east elevation.



### The issue of subserviency

- 5.14 In relation to the host building and the wider conservation area, the Council has argued that the new conservatory would not reflect a subservient structure and as a result would detract from the architectural integrity of the host building. However this simply would not be the case.
- 5.15 The addition of the new conservatory on the terrace would result in a modest form of extension to an existing single storey side extension. When seen in relation to the size and massing of the host building the new addition could not reasonably be seen as a dominant structure to the detriment of the visual composition of the host building.
- 5.16 Contrary to the Council's claim an addition at first floor level would not disrupt the roof line of the host building. Nor would it affect the composition of the rear north-east facing elevation of the host building also alleged by the Council. There are two reasons for this:-
- 5.17 Firstly, if it were possible, on site, to view the rear north-east facing elevation of the host building it would be evident that a new first floor extension would not cause any disruption to the prominent roof profile of the host building. That profile would still read as a single visual composition relating to the original building. No visual disruption would be caused by the addition of a first floor side extension on the north-western side that, in terms of height,

still finishes at a significantly lower level. Thus the composition of the north-east rear elevation of the host building, in terms of scale, design and form would remain intact.

- 5.18 Secondly, an actual site inspection would reveal that the combination of the width of the host building combined with the depth of the rear gardens to the ground floor flats (Flats 1 & 2 ) limits the extent of the view of the terrace which is to accommodate the new conservatory. On site the first floor terrace of the appeal site is only visible from the rear garden of No. 2 (See Figure 1/Photo 5 above). From this viewpoint the first floor terrace to the appeal site on top of the existing single storey extension is set back from the rear north-east elevation the principal elements of which include substantial projecting bays across the elevation. These are prominent to the extent that the rear main masonry wall to the north-east elevation becomes a secondary building element. Within this context there is a set back of 1.38m from the face of the two store bay projection and the face of the existing side single storey extension that has on top of it the appeal site terrace.
- 5.19 The new conservatory at first floor level will therefore retain the element of a visual set back thereby ensuring its subserviency in relation to the host building.

#### The issue of symmetry

- 5.20 The extent of the setback of the new conservatory located on top of the existing single storey extension from the prominent rear north-east facing frontage of the original host building will ensure that the symmetry of its outline building profile will not be altered or affected. Furthermore any limited visual impact of the new conservatory in relation to the rear north-east facing elevation will be reduced further when read in conjunction with the composition of the variety of differing window and door openings and associated external attachments that have been introduced over a period of time. They include a set of railings to enclose a terrace at second floor level to



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Flat ( on the right hand side) and a conservatory erected at first floor level on top of a ground floor circular bay window arrangement (on the left hand side)(See Figure 4 below). Against this backdrop there is no danger of the addition of the new conservatory, in a set back position, having a disruptive unbalancing effect on the visual composition of the main north east facing elevation to the original host building.

**Figure 4** - Extract from Drawing L(PL)1LG-21



NORTH EAST ELEVATION AS PROPOSED

Reference to the previously approved first floor conservatory in 1990

5.21 As part of the planning application submission to the local authority, reference was made to the grant of planning permission in 1990 for the erection of a conservatory at first floor level on top of the existing circular bay situated on the left hand side of the north-east elevation. It is assumed that planning permission was granted for its installation on the basis of the Council considering it to be an acceptable form of extension on a comparatively prominent part of the main rear elevation to the building. This would be in line with the objectives of the Fitzjohns/Netherhall conservation area regarding extensions to existing buildings.

- 5.22 In response to reference of the 1990 permission the Council states in its delegated report that;

*'This application was granted some time ago, prior to current policies and guidance and is in a different location to the extension being sought through this application. For these reasons this decision is not considered relevant precedent.'*

- 5.23 However the Council cannot reasonably argue that as the Local Plan and its associated policies and guidance has since moved on, this decision is not relevant. Whilst planning policy may have moved on since the decision was made, the general policy requirement to preserve heritage assets never changed and remains the same today as it did in 1990.
- 5.24 The 1990 decision was made against the background of the overall objective to ensure external alterations and new development carried out in the Fitzjohns/Netherhall Conservation Area would seek to preserve and enhance this designated heritage. On this basis the Council were clearly of the opinion that a new painted wooden framed clear glazed conservatory positioned on top of a substantial circular bay window structure, forming part of the north east elevation, would not detract either from the architectural integrity of the host building or from the prevailing character and appearance of this part of the Fitzjohns/Netherhall Conservation Area.
- 5.25 If so, then there can be no reason for the Council now to resist a proposal to erect a conservatory on what is considered to be the least visible elevation, facing the north west, and set back behind the visually dominant two storey high square bay window structure forming part of the north-east elevation. In this position, only very restricted views of the new conservatory would be possible. It will not seek to visually compete with or adversely impact in any way the broader setting of the north-east facing elevation that includes, in plain view, the 1990 conservatory.

## Materials

- 5.26 The detailed design and finish of the rear extension is considered appropriate. The use of stock brick to match the existing brickwork of the original host building and glazing be contemporary in design and would respect and preserve the character of the original host building while providing some contrast with its style. Overall the appearance of the original host building, with its inclusion of the first floor conservatory will remain unaltered and not be undermined with a small subservient extension set back from the north-east elevation.

## **6.0 Conclusion**

- 6.1 The appeal proposal is for to the erection of a single storey extension at first floor level on the top of an existing roof terrace.
- 6.2 The host building, of which the appeal site forms part, is a large detached villa style residential property, converted and extended from its original single family dwelling house use to its present day use to accommodate seven flats. As well as the enlargement of the building a number of external alterations have also been carried out over a period of time to its elevations. On the north-east elevation, which overlooks the rear garden to the host building, the alterations include new window and door openings, new metal railings to create roof terraces and the erection of a new white painted timber framed conservatory at first floor level (granted planning permission in 1990).
- 6.3 Within this context the proposal for a new conservatory to the side of the host building the subject of this appeal application will not look out of place. Instead it will appear as a subservient structure set back from the rear, north-east elevation. The north-east elevation is formed by the substantial single and two storey bay projections and inclusive of the existing first floor timber framed conservatory. The visual impact of the new conservatory will be even

further reduced by its positioning in the most concealed part of the host building on the north-west elevation where it will only be seen from the garden to Flat 2. No part of the new conservatory would be seen from any public view point. Any possible views of it from adjacent properties will be severely limited by virtue of distance combined with the presence of the mature trees and shrubs in the rear gardens of adjacent properties.

- 6.4 Overall the new conservatory will not affect the visual balance or symmetry of the original host building. In fact, an on-site inspection would reveal that it would just not be possible to read the new conservatory with the whole of the rear north-east facing elevation. Its presence would certainly have a much reduced impact on the host building in comparison to the first floor conservatory on the north-east elevation that was granted planning permission in 1990. This is on the basis that the addition would not harm the underlying objectives of the Fitzjohns/Netherhall Conservation Area. Whilst it is accepted that detailed planning policies may have changed, since 1990, it is contended that the overarching objective to preserve and enhance the Fitzjohns/Netherhall Conservation Area has never changed. The Council's argument on this point to dismiss previous approvals out of hand cannot therefore be justified.
- 6.5 The materials proposed for the new conservatory have been chosen to be sympathetic to the original materials found on the host building and on this basis would be considered entirely appropriate for a new extension located in the least visible part of the host building.
- 6.6 For all these reasons the proposal for the new conservatory are considered to comply with the objectives of Policies D1 (Design) and D2 (Heritage) of the Camden Local Plan (2017), and the guidelines set out in the Fitzjohns/Netherhall Conservation Area Character Appraisal & Management Plan (December 2022) and HOME IMPROVEMENTS - Camden Planning Guidance (January 2021).



6.7 The inspector is therefore respectfully requested to uphold this appeal.