

**8 GLOUCESTER GATE**

**LONDON NW1 4HG**

**MR AND MRS GABBAY**

**STATEMENT OF CASE**

**APPEAL AGAINST REFUSAL OF  
PLANNING PERMISSION AND LISTED  
BUILDING CONSENT**

**LPA REF: 2024/3349/P & 2024/3387/L**

**07 APRIL 2025**

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# 1.0 INTRODUCTION

- 1.1 This Statement of Case (“**SoC**”) has been prepared by Montagu Evans (“**the Agent**”) on behalf of Mr Dory and Mrs Tamara Gabbay (“**the Appellant**”).
- 1.2 It is submitted as part of an appeal pursuant to Section 78 of the Town and Country Planning Act 1990 (as amended) and Section 20 of the Town and Country Planning (Conservation Areas and Listed Buildings) Act 1990 in relation to No. 8 Gloucester Gate, NW1 4HG (“**the Appeal Site**”, “**the Site**” or “**the Building**”).
- 1.3 The Appeal has been submitted in response to the decision by the London Borough of Camden (“**LBC**” / “**the Council**”) as Local Planning Authority (the “**LPA**”) to refuse to grant full planning permission and listed building consent to undertake alterations at the Site, pursuant to an application for planning permission under application reference 2024/3349/P for the following description of development:

*“Various alterations to dwelling house and mews including replacement of the rear, closet wing extension, rebuilding of mews roof, internal refurbishment consisting of demolition and reposition of some partition walls and other associated works.”*
- 1.4 A corresponding application for listed building consent was made under application reference 2024/3387/L with the same description of works.
- 1.5 This SoC provides the Appellant’s case for the Appeal being allowed and full planning permission being granted for the Proposed Development. The SoC is written in accordance with Annex J of the Planning Inspectorate’s Procedural Guidance for Planning Appeals in England (lasted updated August 2024) (the “**Procedural Guide**”).
- 1.6 This SoC should be read in conjunction with the relevant Appeal documents, including the draft Statement of Common Ground (“**SOCG**”) submitted as part of this Appeal. The draft SOGC contains factual information regarding the Site and the application, to be agreed with the Council.
- 1.7 The Appellant considers that an Informal Hearing would be the most appropriate appeal procedure in this case. The reasoning for this is set out on the application form submitted with the appeal.

## **Background and Context**

- 1.8 Montagu Evans sought pre-application advice on behalf of the Appellants from the Council by way of a written submission on 27<sup>th</sup> February 2024. Further details were submitted to the Council in response to comments received from the Council on 14<sup>th</sup> March 2024. The Council issued their pre-application response on 9<sup>th</sup> May 2024 (**Appendix 1.0**).
- 1.9 Montagu Evans submitted the application for householder planning permission and listed building consent to LBC on 9<sup>th</sup> August 2024.
- 1.10 The applications were validated by LBC on 13<sup>th</sup> August 2024.
- 1.11 The Council issued comments on the application to Montagu Evans on 17<sup>th</sup> September 2024. Montagu Evans responded to their comments by letter on 25<sup>th</sup> September 2024 (see Appendix 3.0 of the Expert Heritage Report).
- 1.12 LBTH refused the application via delegated powers on 14<sup>th</sup> January 2025.

## **Format of this Statement**

1.13 This remainder of this Statement of Case is structured as follows:

- Section 2 describes the Appeal Site and its surroundings;
- Section 3 describes the Proposed Development;
- Section 4 sets out the planning policy framework;
- Section 5 sets out the Appellants response to the reasons for refusal; and
- Section 6 sets out the planning balance.

1.14 The Appellant reserves the right to amend this SoC in order to respond to any additional points by LBC in its SoC in Reply, or any representations from third parties.

### **Background and Expertise**

1.15 This Hearing Statement has been prepared by Tim Miles MRTPI.

1.16 Mr Miles is a Partner of Montagu Evans LLP, property and development consultants based in central London (registered office being situated at 70 St Mary Axe, London EC3A 8BE).

1.17 Mr Miles is a Partner in the Planning and Development team and specialises in development projects that affect the historic environment. This encompasses development that affects statutorily listed buildings, conservation areas and locally listed buildings among other historic assets such as Scheduled Ancient Monuments.

1.18 Mr Miles provides specialist town planning advice in connection with projects of these types. The sizable majority of this work is in central London Boroughs, including Camden, with over twenty years of experience.

1.19 Mr Miles a considerable portfolio of planning instructions of the kind under consideration over that twenty year period. These types of projects have included changes of use in listed and non-listed buildings, external and internal alterations, works of extension and alteration to buildings in conservation areas and the demolition and re-provision of dwellings in conservation areas.

1.20 Mr Miles has a Postgraduate Diploma in Planning Studies and a MA in Planning Research from the University of Sheffield. He graduated from his Masters degree in 2003 and entered private practice at RPS in 2005. In 2007 he joined Montagu Evans where he became a Partner in 2015. In 2022 he was awarded a MSc in Building Conservation (Technology and Management) from Heriot Watt University.

# 2.0 THE APPEAL SITE AND SURROUNDING AREA

## The Site

- 2.1 The Site comprises No. 8 Gloucester Gate and associated mews building, which forms part of a Grade I-listed terrace (Nos. 2-11) designed by John Nash (1762-1836) and built in c.1827 on the north-eastern side of Regents Park. The Site is in use as a single dwelling house of four storeys over a lower ground floor/basement.
- 2.2 The list description is appended to the Expert Heritage Report.
- 2.3 The Site is also located in the Regents Park Conservation Area (the 'CA').
- 2.4 An extract from the Site Location Plan is below:



Figure 1 Extract from Site Location Plan.

## Historic Development of the Site

- 2.5 The development of the Site is described in detail in Section 3.0 of the Planning and Heritage Statement that accompanied the applications, can be summarised as follows:
  - 2.5.1 The Appeal Site was designed by John Nash as part of his masterplan for the development of Regent's Park in the early 19<sup>th</sup> century;
  - 2.5.2 It forms part of Gloucester Gate terrace, which was built in c.1827 and comprised a row of 11 'First Rate' Regency townhouses with a symmetrical, palatial frontage;

- 2.5.3 The mews building to the rear of the property is likely to have been constructed between c.1827 and 1835;
- 2.5.4 Cartographic evidence indicates that a substantial extension was built to the rear of the building in the second half of the 19<sup>th</sup> century, extending the full length of the plot to abut the mews building;
- 2.5.5 The earliest available plans for 8 Gloucester Gate date from the 1930s and 1950s. These plans indicate that there had been minor changes to the internal planform, but the property remained as a single family dwelling;
- 2.5.6 During the mid-20<sup>th</sup> century, the majority of the houses on Gloucester Terrace were subdivided to create flats and maisonettes, resulting in substantial internal alterations. There is evidence of No.8 having been subdivided into a basement flat, mews flat, and two maisonettes by 1966;
- 2.5.7 In 1987 permission was granted for external and internal alterations to Nos. 5, 7, 8 and 9, designed by Carden & Godfrey Architects, which included an extension to the rear wing of No.8 and various internal alterations (LPA reference: 88770103);
- 2.5.8 On site investigations have revealed there are discrepancies between the consented plans from 1987 and what was eventually built;
- 2.5.9 Despite these deviations, the present condition of 8 Gloucester Gate is predominantly the result of the 1987 refurbishment and there have been no further recorded alterations to the building.

### **The Special Interest of the Listed Building**

- 2.6 A full Statement of Significance of the building is contained within Section 4.0 of the Planning and Heritage Statement, and is summarised below.
- 2.7 No. 8 Gloucester Gate and the rear mews forms part of the wider terrace design by Nash in a monumental palace-style. Its grade I designation reflects the importance of Nash's design, itself the most important example of Picturesque urban planning in London.
- 2.8 The grandeur, composition and detailing of the principal frontage render it of primary interest; the rear elevation, although of stock brick and plainer, also survives largely in its original form. It is this façade that was considered by the Crown Estate in the 1960s to be of particular interest and worth preserving when there were contemplations of demolishing all the Nash terraces around Regent's Park.
- 2.9 The interior of the Application Site was not the work of Nash. Those internal spaces - consequently of lesser interest than the Nash façade - are now largely 20<sup>th</sup> century replica work, having been subject to extensive alterations through successive phases of renewal and alteration during the second half of the 20<sup>th</sup> century.
- 2.10 No. 8 experienced the extensive reconstruction of the interior in the 1960s, when the entire terrace was restored and rebuilt for the Crown Estate by architect Louis de Soissons. No. 8 was converted to flats, and its conversion back to a single townhouse dates from the 1980s. The 20<sup>th</sup> century reconstruction comprised the replacement of a high degree of internal fabric but retaining the general planform, principal staircase (albeit this has been altered too) and the secondary stair to the lower ground floor.
- 2.11 As a consequence of the 20<sup>th</sup> century rebuilding and subsequent alterations, the interiors retain only modest fabric that is original to the first phase of development and while the planform on ground, and first floors remain legible, the spatial proportion of many of the rooms is not original. In its extant condition, therefore, the interior is almost wholly 20<sup>th</sup> century replica work (including the secondary staircase at the upper floors), with areas of low-quality detailing.

- 2.12 The mews to the rear is contemporary with the principal dwelling and retains part of its original external form, including elements of its original structure such as the as the roof joists. It too has been substantially remodelled internally as a result of the 1980s phase of works.
- 2.13 In summary, therefore, it is the property's frontage to Regent's Park that is of exceptional value; the interior is proportionately of less interest due to the extent of change, though certain features and planform do survive which contribute to the special interest.

#### **THE SURROUNDING AREA**

- 2.14 The surrounding area is characterised by open expanse of Regents Park to the west and the other contemporaneous Nash terraces and associated landscaping lining the Outer Circle, the major road enclosing the park, to the north and south.
- 2.15 Gloucester Gate terrace itself is set back from the Outer Circle behind a semi-private access road screened by mature trees and vegetation. This reinforces the private, domestic character of the Site and neighbouring properties.
- 2.16 To the rear, the Site backs onto Gloucester Gate Mews which is enclosed on both sides and has a more varied, utilitarian character and appearance in comparison to Gloucester Gate. East of Gloucester Gate Mews, beyond Albany Street, the scale and pattern of development departs from Nash's 19<sup>th</sup> century set piece and becomes more varied.

# 3.0 PROPOSED DEVELOPMENT

- 3.1 The Proposed Development is set out in the application drawings and the Design and Access Statement that accompanied the application.
- 3.2 The proposals have been developed in response to this detailed understanding of the Application Site and can be summarised in three main areas, to enhance the function of the building as a single-family house:
- 3.2.1 Refurbishment of the main house;
- 3.2.2 Rebuilding of the closet wing; and
- 3.2.3 Refurbishment and alteration of the mews house.

## **Refurbishment of Main House**

- 3.3 The works to the main house can be summarised as follows:
- 3.3.1 The restoration of historic features based on specialist surveys of plasterwork, joinery, and architectural elements, to reinstate the historic character of the main house, including:
- Replacement of modern floor surfaces with appropriate flooring
  - Scholarly repairs and reinstatement of original plasterwork throughout the building
  - Removal of 1980s cupboards beneath the secondary stair
  - Reinstating the openings within the blind arcade to rear of mews
  - The reversal of the layout of the secondary stair case to improve circulation between the second and third floors, consistent with the likely modern layout of this part of the building.
- 3.3.2 The installation of modern services;
- 3.3.3 Modern services integrated to ensure long-term conservation while minimizing impact on historic fabric.
- 3.3.4 Improvements designed to enhance the existing condition and meet 21st-century living standards.
- 3.3.5 Interior design approach detailed in the Interior Details brochure by Goddard & Studio, emphasizing formality and authenticity.
- 3.4 The works are intended to reinstate original proportions and hierarchy in the Building's principal spaces to enhance the legibility of the building and improve the quality of its fabric. The reinstatement works are based on the analysis of suitable precedents to ensure that any new fabric is a scholarly addition that is historically appropriate.

## **Rebuilding of the Closet Wing**

- 3.5 The annex will be positioned similarly to the previous structure, in alignment with an approved but unimplemented 1980s plan
- 3.6 A similar form of development was recently completed at 10 Gloucester Gate, where the planning process considered a similar set of circumstances to what we find at No. 8; the form and pattern of development on the



terrace is almost facsimile echoes a pattern of development that is already present in Gloucester Gate and forms part of the character and appearance of both the listed terrace and the conservation area. and there are few ways to address the issues we find today with the buildings: hemmed-in and poor quality rear courtyards that are limited by the two floor levels; narrow galley kitchens; and inefficient use of internal space that has been subject to extensive change.

- 3.7 Inspired by Neo-Classical architecture, particularly the bow form seen in adjacent properties, the scheme provides a high quality contemporary addition to the building.

#### **Refurbishment and Alteration of the Mews House**

- 3.8 The final aspect of the design is to sensitively refurbish the mews building while providing new access across the Site.
- 3.9 The interior fabric, which is of 1980s construction, will be removed to retain the garage at lower ground level, and a new space at ground floor that will extend to the roof structure.

# 4.0 PLANNING POLICY FRAMEWORK

- 4.1 Although the Government's National Planning Policy Framework ("**NPPF**") and National Planning Practice Guidance ("**NPPG**") are important material considerations to be taken into account in determining planning applications, the Planning Acts confirm that the 'Statutory Development Plan' should be the starting point for such decisions. In this respect, Section 38(6) of the 'Planning and Compulsory Purchase Act 2004' ("**the Act**") states:

*"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

- 4.2 The relevant Development Plan in this instance comprises:

4.2.1 The London Plan (adopted in 2021);

4.2.2 The Camden Local Plan (adopted in July 2017).

- 4.3 Other relevant documents and guidance as listed in the officers Delegated Report include the NPPF and Camden Planning Guidance (CPG) documents Home Improvements (2021); Amenity (2021) and Design 2021. While not limn the Relevant Policies section of the Delegated Report, the body text also refers to CPG Energy Efficiency (2021).

- 4.4 There is no dispute between the parties as to the relevant statutory provisions and the national, regional, and local plan policies which apply in this case.

- 4.5 To assist the Inspector, we list below the Development Plan policies the Appellant considers are relevant to the Proposed Development:

## **London Plan**

Policy HC1 heritage Conservation and Growth

## **Camden Local Plan**

Policy A1 Managing the Impact of Development

Policy D1 Design

Policy D2 Heritage

Policy CC1 Climate Change Mitigation

Policy CC2 Adapting to Climate Change

# 5.0 APPELLANTS RESPONSE TO REASONS FOR REFUSAL

5.1 LBC refused the applications via delegated powers on 14<sup>th</sup> January 2025.

5.2 The Reasons for Refusal ("RfR") on the householder planning application are:

*1 The proposed demolition of the existing closet wing, by reason of the loss of historic fabric and associated evidential value, would be harmful to the special architectural and historic interest of the Grade I listed host building and its setting, the setting of its curtilage building and the setting of adjacent Grade I listed buildings. As such the proposal would be harmful to the character and appearance of the Conservation Area contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*

*2 The proposed rear extension, by reason of its height, bulk, mass, form, modelling and detailed design would be harmful to the special architectural and historic interest of the Grade I listed host building and its setting, the setting of its curtilage building and the setting of adjacent Grade I listed buildings. As such the proposal would be harmful to the character and appearance of the Conservation Area contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*

*3 The proposed alterations to the mews building, by reason of their detailed design, would be harmful to the special architectural and historic interest of the Grade I listed host building and its setting, the setting of its curtilage building and the setting of adjacent Grade I listed buildings. As such the proposal would be harmful to the character and appearance of the Conservation Area contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*

*4 The proposed alteration of the upper staircase flight, the proposed roof light, the replacement chimney pieces and the alterations to the basement planform, by reason of the loss of evidential value, and the introduction of less appropriate designs, would be harmful to the special architectural and historic interest of the Grade I listed host building. As such the proposal would be harmful to the character and appearance of the Conservation Area contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*

*5 In the absence of adequate dynamic thermal modelling to demonstrate the need for active cooling equipment, the Council cannot be satisfied that the proposed works are justified and that appropriate climate adaptation measures to reduce the impact of urban and dwelling overheating could not be achieved by other preferred measures as set out in the cooling hierarchy. The proposal is therefore contrary to policy CC2 (Adapting to climate change) of the London Borough of Camden Local Plan 2017.*

5.3 The Reasons for Refusal ("RfR") on the listed building consent are:

*1 The proposed demolition of the existing closet wing, by reason of the loss of historic fabric and associated evidential value would be harmful to the special architectural and historic interest of the Grade I listed host building and the character and appearance of the Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*

*2 The proposed rear extension, by reason of its height, bulk, mass, form, modelling and detailed design would be harmful to the special architectural and historic interest of the Grade I listed host building and the character and appearance of the Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*

*3 The proposed alterations to the mews building, by reason of their detailed design, would be harmful to the special architectural and historic interest of the Grade I listed host building and the character and appearance*

of the Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.

*4 The proposed alteration of the upper staircase flight, the proposed roof light, the replacement chimney pieces and the alterations to the basement planform, by reason of the loss of evidential value, and the introduction of less appropriate designs, would be harmful to the special architectural and historic interest of the Grade I listed host building and the character and appearance of the Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*

#### **Reasons for Refusal 1-4: Impact on Designated Heritage Assets**

- 5.4 Reasons 1-4 collectively assess the effect of the Development on the special architectural and historic interest of the Grade I listed host building and the character and appearance of the Conservation Area. These are considered in detail in an Expert Heritage Report prepared by Dr Timur Tatlioglu, contained at **Appendix 2.0**.
- 5.5 Reasons for Refusal 1-3 on the householder planning application make reference to the setting of other listed buildings. This is covered in the Expert Heritage Report, with no harmful effect identified. The Delegated Report provides no substantiation for why there would be harm to the setting of neighbouring Grade I-listed buildings. I can only infer from the Reasons for Refusal and the Delegated Report that the alleged harm derives from the proposed works to the closet wing (RfRs 1 and 2) and mews building (RfR3), which are the only external manifestations of the Appeal Scheme.
- 5.6 Reasons for refusal 1 and 2 on the planning permission and listed building consent together relate to the works to the closet wing. RfR1 relates to the proposed demolition of the existing closet wing and RfR2 relates to the design of the proposed rear extension/annex. As commented on by Dr Tatlioglu in the Expert Heritage Report (see paragraph 2.7), it is unusual for the demolition and replacement of the closet wing to be considered independently as they constitute two phases of the same proposals.
- 5.7 The impact of the proposals for the closet wing on the Grade I listed building is discussed in paragraphs 5.2-5.11 of the Expert Heritage Report.
- 5.8 It is acknowledged at paragraph 5.7 that the demolition of the existing closet wing would result in a degree of harm:
- The demolition of the of the closet wing would therefore lead to some harm to significance due to the loss of historic fabric and the evidential value associated with its ad hoc form and arrangement. This harm is at the low end of the less than substantial scale due to the limited intrinsic interest of the closet wing relative to the main terraced house and the extent of modern alteration.*
- 5.9 However, the consideration of acceptability does not stop at the demolition stage: the proposal must be considered as a whole and including the design quality of the replacement Annex.
- 5.10 The design rationale for the replacement closet wing/annex is summarized in the Design Statement of Case by Downen Farmer Architects (**Appendix 3.0**) and its design in relation to heritage impact is addressed in paragraph 5.10 of the Expert Heritage Report. This report does not find any harm deriving from this aspect of the proposals. The replacement building would be the same height as the existing closet wing, and the proposed form, materiality and layout would be deferential to the host building.
- 5.11 The Expert Heritage Report concludes that the high design quality of the replacement annex would offset the harm deriving from the loss of the closet wing, resulting in a net benefit to the listed building as a whole in terms of outlook and functionality.
- 5.12 There is a clear comparison between the design of the closet wing that forms part of the Appeal Scheme and that consented as part of the 2016 scheme at No.10 Gloucester Gate (Camden Planning References: 2016/4064/L and 2016/3706/P). With regard to the proposals for replacing the closet wing at 10 Gloucester

Gate, the Council did assess the proposals as a whole, finding the existing closet wing to be of low significance and its demolition acceptable subject to the design of its replacement. The replacement, which is of a similar scale, form and materiality as the Appeal Scheme, was found to be appropriate, well-conceived and an enhancement to the Grade I listed house.

- 5.13 The impact of the closet wing proposals on the setting of neighbouring Grade-I listed properties and the Regents Park Conservation Area is addressed at paragraphs 5.53-5.58 of the Expert Heritage Report. The existing closet wing is screened from street level by the building on Gloucester Gate Mews and is only experienced from the upper storeys of adjacent properties, which feature a range of closet wing configurations. As a result, the existing closet wing makes a neutral contribution to the setting of the adjacent listed properties and the Regents Park CA but nonetheless contributes to the character of the terrace. The proposed rear annex will match the height of the existing closet wing and so would continue to be visually contained by the mews. The change in form from orthogonal to bowed would be consistent with existing forms elsewhere within the terrace. As a result, the proposed rear annex would have no material effect on the setting of the neighbouring Grade I-listed buildings on Gloucester Gate terrace, and therefore their respective significance and settings would be preserved, nor would it effect the character and appearance of the CA, which would also be preserved.
- 5.14 Reason for refusal 3 relates to the mews. The impact of the proposals for the mews on the Grade I listed building is discussed in paragraphs 5.12-5.17 of the Expert Heritage Report. We note that the reason for refusal is articulated as an objection to the detailed design of the alterations rather than the Council taking issue with any points of principle.
- 5.15 For the most part, the Dr Tatlioglu concludes that the proposals would have a neutral effect on the mews, and its contribution to the significance of the Grade I listed building. The Expert Heritage Report does acknowledge a modest degree of harm deriving from the loss of fabric and change of character to the rear elevation of the mews house, but concludes that this harm would be justified by the resulting improvements to the visual relationship between the main house and the mews, and that the special interest of the listed building would be preserved.
- 5.16 The impact of the mews proposals on the setting of neighbouring Grade-I listed properties and Regents Park Conservation Area is addressed at paragraphs 5.50 and 5.57 of the Expert Heritage Report. The containment of the mews building means that any change to the character and appearance of the Regents Park CA or setting of neighbouring Grade I-listed buildings would be too limited to materially alter their significance.
- 5.17 Reason for refusal 4 relates to the upper secondary staircase, replacement of chimney pieces and other internal alterations.
- 5.18 The impact of the proposals for internal works to the Grade I listed building is discussed in turn in paragraphs 5.18-5.39 of the Expert Heritage Report.

#### Alteration of Upper Staircase Flight

- 5.19 The case for replacing the secondary staircase and the opening of a corresponding arch turns on the low significance of the existing fabric, which research and on-site investigations have found to date from the 20<sup>th</sup> century, and its limited interest relative to the hierarchy and planform of the listed building as a whole (see paragraphs 5.20-5.26 of the Expert Heritage Report).
- 5.20 The proposals would reverse the run of the secondary staircase, in a manner that would be consistent with the neighbouring properties at 9 and 10 Gloucester Gate, and would have no material impact on the legibility of the hierarchy of the space. As proposed, the proposals for reorientating the staircase and opening the arch would lead to an improved composition in terms of circulation and proportions at second and third floor levels, which would have a beneficial effect on the listed building. It is therefore considered that this aspect of the works would enhance the special interest of the listed building rather than harm it.

### Proposed Rooflight

- 5.21 Similarly, the case for the works to the top floor turns on the neutral contribution that the existing roof dormer makes to the special interest of the listed building and the design quality of the proposed replacement (see paragraphs 5.27-5.32 of the Expert Heritage Report). There would be no material impact on the special interest of the listed building deriving from the loss of the existing dormer. The replacement is of sufficient quality and has been designed to conform to the established ridgeline and profile of the roof and minimise visual impact. As a result, this aspect of the works would preserve the special interest of the listed building.

### Replacement Chimney pieces

- 5.22 The case for replacing chimney pieces is based on considerable research and analysis. The existing fireplaces to be replaced are later 20<sup>th</sup> century additions and do not reflect the character of the Regency house. The only original fireplace, in the rear room at third floor level, would be retained. In principle, the removal of modern replica chimneybreasts would not constitute harm to the listed building, subject to the appropriateness of the replacements. Replacement chimneypieces were proposed in the design material submitted as part of the Appeal Scheme, but the appropriateness of the replacements could be secured through a condition. Additional research and analysis has been undertaken post-determination and is presented in the Fireplace Addendum Goddard & Studio (**Appendix 4.0**).

### Alterations to basement plan form

- 5.23 RfR4 refers specifically to the alterations to the basement planform. The Delegated Report, at paragraph 3.14, identifies harm deriving from proposed alterations to the historic proportions of the front basement room. This is addressed in the Expert Heritage Report at paragraphs 6.28-6.30. Historically, the basement level has always had a granular planform and ancillary character in comparison with the upper floors, and has been subject to much alteration. It is therefore of low significance and the proposed new layout is concluded to have a neutral impact on the special interest of the listed building as a whole.

### Overall Impact

- 5.24 The works referenced in RfRs 1-4 are generally proposed in areas of previous alteration, and each alteration, as described, is proposed to enhance the function and character of the property in its original use as a family home. Furthermore, the harm has been minimised through design development. It is for these reasons that the Expert Heritage Report concludes that, overall, the harm to the special interest of the listed building is at the low end of less than substantial. Taking account of its Grade I status and the considerable importance and weight that should be given to the desirability of preserving the special interest of listed buildings, the overall weight to be given to this harm should be low to moderate.

### Heritage Benefits

- 5.25 It is material that a number of heritage benefits would be delivered through enhancements to the Grade I-listed building:
- 5.25.1 The comprehensive refurbishment and alteration of the property in a single phase, which will secure its long term future and its ability to function successfully in its original purpose for the 21st century;
  - 5.25.2 Replacement of the modern stone hallway with a more appropriate design and materiality (paragraph 5.103 of the Planning and Heritage Statement);
  - 5.25.3 Reinstating the original proportions of the opening between the first floor principal rooms (paragraph 5.92 of the Planning and Heritage Statement);
  - 5.25.4 Refurbishment of the principal staircase, and improvements to both the basement and secondary staircases (paragraph 5.107 of the Planning and Heritage Statement);

- 5.25.5 Scholarly repairs and reinstatement of appropriate decorative plasterwork and joinery throughout the building (paragraph 5.104 of the Planning and Heritage Statement);
- 5.25.6 The removal of existing fireplaces of varying quality and age, and installation of appropriately detailed fire-surrounds to each of the principal rooms (paragraphs 5.105-5.106 of the Planning and Heritage Statement);
- 5.25.7 Replacement of 1980s fabric with appropriately detailed fixtures, fittings and finishes executed to a high specification (paragraph 5.104 of the Planning and Heritage Statement);
- 5.25.8 Removal of low-quality 1980s fitted joinery (paragraph 5.104 of the Planning and Heritage Statement);
- 5.25.9 General improvements to the layout throughout the listed building, particularly in relation to the proposed new annex and the mews house (paragraphs 5.42-5.80 and paragraphs 5.122-5.136 of the Planning and Heritage Statement); and
- 5.25.10 Positive setting impacts to No.8 deriving from the associated landscape improvements to the courtyard (paragraphs 5.86-5.87 of the Planning and Heritage Statement).

#### Heritage Balance

- 5.26 When balanced against the heritage benefits of the scheme, the less than substantial harm identified would be outweighed, resulting in a net positive impact on the listed building. As a result, the terms of paragraph 215 of the NPPF are met and there is no need to rely on additional planning benefits to offset the harm.
- 5.27 While there would be a degree of less than substantial harm, this would be convincingly outweighed by the benefits of the scheme as discussed above, in line with Policy D2. These benefits include high quality, sustainable new design and a comprehensive programme of restoration and reinstatement using traditional methods and materials, in accordance with Policy D1.
- 5.28 The scheme will enhance the listed building, in accordance with Policy D2, through improving the legibility of the original historic planform of the building and a comprehensive scheme of restoration and reinstatement based on scholarly research and surviving examples of original details in neighbouring properties.
- 5.29 For the reasons outlined above and described in detail at paragraphs 5.43-5.58 of the Expert Heritage Report, there would be no harm to the Regents Park Conservation Area or the setting of neighbouring Grade I listed buildings.
- 5.30 As such, it is considered that the proposals comply with the objectives of Policies D1 and D2 of the Camden Local Plan. On that basis, the significance of the listed building would be preserved and/or enhanced in accordance with Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Amendments

- 5.31 Following the determination of the Appeal Scheme, the design team has continued to look for ways to minimise harm to the special interest of the Grade I listed building. This has resulted in the following amendments to the Appeal Scheme:
  - 5.31.1 A change to the layout of the proposed ensuite bathroom within the front room at basement level to reveal more of the historic proportions of the room and allow the full extent of the chimneybreast to be understood (see page 8 of the Design Statement of Case).
- 5.32 These proposed amendments are offered without prejudice to the case set out above. We invite the Inspector to consider if they would mitigate any of the identified harmful impacts to the listed building.

## **Reason for Refusal 5 – Absence of Dynamic Thermal Modelling and Application of the Cooling Hierarchy**

- 5.33 The applicant has undertaken dynamic thermal modelling and applied the cooling hierarchy as set out in the the Energy and Overheating Risk Assessment (July 2024) undertaken by XCO2 and submitted with the planning application.
- 5.34 The London Plan Cooling Hierarchy has been applied to the development to reduce the risk of dwelling overheating through an overheating risk assessment following CIBSE TM59 was conducted for the habitable spaces of the Main House, Closet Wing and Mews to assess thermal comfort. The approach is consistent with that set out in Camden Local Plan policies CC1 and CC2.
- 5.35 Policy SI4 (Managing Heat Risk) of the London Plan applies specifically to Major developments (and so does not apply here), but the policy informs the approach taken.
- 5.36 The report concluded that the Proposed Development incorporated key energy and overheating risk measures as follows:
- 5.36.1 Energy strategy comprising efficient fabric U-values exceeding Part L 2021 standards;
  - 5.36.2 Highly efficient LED lighting as well as appropriate controls are also proposed to further reduce the regulated energy demand and consumption of the development;
  - 5.36.3 The proposed extension achieves a betterment in space heating demand against a notional Part L compliant extension;
  - 5.36.4 Overheating risk will be mitigated using passive design principles, including natural ventilation and solar control glazing;
- 5.37 Since the Grade I listed status of the Main House limits opportunities to mitigate overheating risk, comfort cooling would be beneficial for some habitable spaces within the Property. To meet CIBSE TM59 criteria under the DSY1 weather scenario these are:
- Master Bedroom;
  - Bedrooms 2, 3, 4, 5;
  - Reception Room;
- 5.38 To meet CIBSE TM59 criteria for DSY2&3 future weather scenarios, comfort cooling would also be beneficial for the following habitable spaces:
- Activity Room (Mews);
  - Study & Kitchen (Closet Wing)
- 5.39 Thus active cooling is proposed only in those areas as assessed as necessary in accordance with the Overheating Risk Assessment.
- 5.40 The Council raised issue with the report as set out in the Delegated Report paras 5.1-5.4. These issues have been expressly addressed in the addendum Energy and Overheating Risk Assessment (7<sup>th</sup> April) prepared for this appeal by XCO2 and included at **Appendix 5.0**. The purpose of this analysis is to test potential mitigation measures following Camden Council's feedback regarding passive mitigation strategies and the application of the Cooling Hierarchy, with the aim of testing the feasibility of alternative strategies than the proposed comfort cooling.
- 5.41 The Council's comments and the summary of XCO2's response is set out in the table below (Table 5.1)



Council comment	Appellant Response
<p>The Overheating Assessment which has been undertaken has not fully considered all options on the cooling hierarchy including:</p>	<p>Table 12 of the July 2024 report summarised measures considered as part of the application of the cooling hierarchy, which we consider has been correctly followed.</p> <p>The Addendum Report considers other passive measures as set out, drawn from the Delegated Report and summarised in this table below.</p>
<p>Internal and external shading – particular the existing areas with historic windows which will not be replaced with low G value glazing and on the West façade</p> <p>Internal shading is usually acceptable and would likely to only be restricted for interiors of exceptional architectural quality (such as the finest state rooms of a great house) and therefore should be modelled in the existing areas unless restricted.</p>	<p>While internal blinds may assist in reducing overheating risk during the daytime, they are ineffective at nighttime. Furthermore they are not a permissible strategy under Part O, and therefore should not be modelled as a mitigation measure.</p> <p>While external shading may assist in reducing overheating risk during the daytime, they are ineffective at nighttime. Furthermore, they are not a permissible strategy under Part O, and therefore should not be modelled as a mitigation measure.</p> <p>External shading unlikely to be acceptable in heritage terms.</p>
<p>Fans / Ceiling fans</p>	<p>As set out in the Addendum Report, such measures are ineffective in reducing overheating risk.</p>
<p>MVHR</p>	<p>MVHR is not currently proposed since natural ventilation is provided within the house. The does not provide a significant colling benefit.</p> <p>MVHR also requires the installation of ductwork and grilles etc that would be likely to impact on the internal character of the listed building.</p>
<p>Larger secure window openings to allow night-time ventilation</p>	<p>The July 2024 report considers nighttime ventilation with windows open by 10%.</p> <p>While a wider opening of the windows is identified by the addendum report in achieving cooling, Security measures (such as grilles on windows) are not likely to be acceptable in heritage terms.</p> <p>It is also relevant that the average nighttime noise level at the front of the Property is 48dBA (see table 6.1 of the Acoustic Report prepared by EEC that accompanied the application).</p> <p>The master bedroom is at the front of the property, and bedrooms are located at the front and rear at third floor with a bedroom at lower ground floor level.</p> <p>Part O of the Building Regulations states that windows are likely to be closed during sleeping</p>

	<p>hours if noise within bedrooms exceeds 40dB average overnight.</p> <p>For good nighttime sleep quality and to prevent negative health effects, the WHO recommends that sound levels inside bedrooms should ideally not exceed 30 dB(A) for continuous noise,</p> <p>Whilst an open window does provide some reduction, it is not likely that a fully open window would achieve an 8dB reduction.</p> <p>This is confirmed in a supplementary letter by EEC contained at <b>Appendix 6.0</b>, which concludes that nighttime sleep would likely be disturbed due to ambient noise levels.</p>
Shading and lower G value glazing was dismissed due to 'heritage constraints' but no evidence of discussion with conservation officers regarding this matter was noted.	<p>The Appellant was advised verbally in the pre-application discussions that Double Glazing was unlikely to be acceptable in the west elevation (front) of the building.</p> <p>Nevertheless, the addendum demonstrates that while there may be a reduction in daytime overheating risk, this will not be achieved at nighttime.</p> <p>Double Glazing is proposed in the new part of the building and where it is not considered to harm the significance of any heritage asset.</p>

**Table 5.1**

5.42 The Addendum Report concludes:

*"The finding of the overheating assessment for the main house of the proposed development show that full compliance with CIBSE TM59 could not be achieved through the passive strategies explored. Various passive measures were tested, including ceiling fans, an MVHR system, internal and external blinds, security grilles and reducing the g-value of front façade windows. None of these measures resulted in full compliance.*

*Whilst some measures could be combined with each other to improve results and reduce overheating risk further, it was found that most of the measures were deemed unsuitable due to other project requirements, as described in the above table and discussed further in this addendum.*

*As a result, it should be considered that comfort cooling is the most suitable solution to optimise occupant comfort and future-proof the dwelling against rising ambient temperatures due to climate change."*

5.43 The analysis contained within the July 2024 Report and the Addendum Report demonstrates compliance with Policies CC1 and CC2.

5.44 XCO2 have also considered the enhancements of an alternative scheme, which is described in The Design Statement for Case prepared by DFA, and commented on by Dr Tatlioglu of the Expert Heritage Report. This is set out in the Energy Assessment (**Appendix 5.0**) and referred to as Scenario 3.

- 5.45 Such a scenario will result in a reduction of carbon emissions reduction of 3.3% compared to the existing building. The appeal scheme in comparison achieves carbon emission reductions of 16.3%. These findings highlight that while refurbishment provides some benefits, full reconstruction is the more effective strategy for energy efficiency and carbon emissions reduction.
- 5.46 Thus, the planning benefits that come from the new closet wing are significantly diluted under a notional alternative refurbishment scenario.

# 6.0 PLANNING BALANCE

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications and appeals to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.2 The proposal accords with London Policy HC1 and the Camden Local Plan Policies D1, D2, CC1 and CC2.
- 6.3 On balance, the Appellant considers the Proposed Development to comply with the Development Plan when read as a whole.
- 6.4 An assessment of the effect of the Proposals on heritage assets is contained within the expert report prepared by Dr Tatlioglu. That assessment identifies some instances of harm to the significance of the listed building. Those harmful interventions are identified as relating to areas of previous alteration, with those alterations proposed to enhance the function and character of the property in its original use as a family home and that, the harm has been minimised through design development. The overall level of harm is identified as being minor when considering the significance of the building as a whole.
- 6.5 The evidence of Dr Tatlioglu is clear that in coming to that judgement he has accorded special regard to the desirability of preserving the special interest of the listed building and the 'great weight' provision contained within Para 213 of the NPPF.
- 6.6 There are also a number of benefits arising to the building. These should also be considered in the context of the great weight provision, and accorded the appropriate weight. Dr Tatlioglu concludes that the benefits to the special interest of the listed building are sufficient to outweigh those identified instances of harm, in their own terms. Thus, the requirements of Paragraph 215 (and Chapter 16 of the NPPF as a whole) and Policy D2 are met.
- 6.7 In terms of other heritage assets, no harm is identified to the Conservation Area or the setting of any other heritage asset.
- 6.8 There is no reason for the appeal to fail on the basis of Reasons for Refusal 1-4. Indeed, if the Inspector identifies a net benefit to the building, this is a matter of great weight in the overall planning balance.
- 6.9 If the Inspector were to consider that, taking account of the beneficial works proposed, the proposal *does* result in a net level of harm to the building, it will be necessary to identify the nature and extent of that harm.<sup>1</sup> It will then be necessary to consider whether any non-heritage related benefits outweigh that harm.
- 6.10 Given the countervailing heritage benefits incorporated into the proposal and in coming to that judgement, any net harm to the building as a whole would necessarily be at a low level. As set out in the evidence, this relates to areas that area already altered and principal areas of significance are not affected. Thus, the balanced judgement would turn on whether planning benefits outweigh any low level of harm identified.
- 6.11 The principal planning benefit that arises from the Proposed Development relates to the environmental performance of the Site. As set out above the works facilitate a significant improvement in the carbon emissions performance of the building.
- 6.12 We draw the Inspector's Attention to the Energy Assessment Addendum at **Appendix 5.0**. This indicates that the appeal scheme will reduce carbon emission reductions from the Site as a whole by 16.3% Given that the opportunities for fabric upgrade within the existing listed building are limited this is largely achieved in the new elements, which of themselves achieve a very good standard of environmental sustainability.

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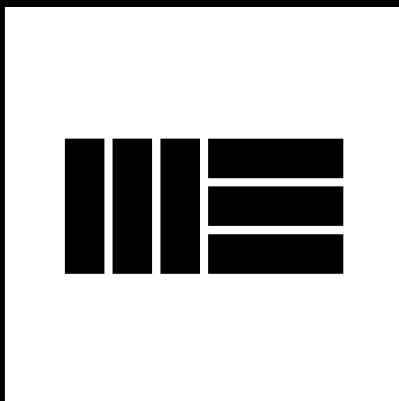
<sup>1</sup> NPPG, Paragraph: 018 Reference ID: 18a-018-20190723.

6.13 We draw the Inspectors attention to paragraph 167 of the NPPF which states (our emphasis):

*“Local planning authorities should also give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of this Framework.”*

- 6.14 Thus, those planning benefits arising from the environmental performance of the Site should be appropriately weighted when applying the terms of paragraph 215 of the NPPF and the guidance of Chapter 16 of the NPPF as a whole.
- 6.15 Providing the decision maker follows the guidance set out in Chapter 16 of the NPPF, improvements to the performance of existing buildings should be accorded significant weight under the terms of paragraph 167. The final sentence of paragraph 167 is no more than a reminder that paragraph 167 should not be applied in isolation without a proper and correct assessment of the effect of works on Designated Heritage Assets.
- 6.16 Guidance published by Historic England (Adapting Historic Buildings for Energy and Carbon Efficiency HEAN18) is clear that works which mitigate climate change and make a meaningful improvement to the building's performance in terms of energy and carbon efficiency can outweigh harm to a heritage asset (paragraph 70).
- 6.17 HEAN18 is also clear that Paragraph 167 of the NPPF is of 'particular relevance'.
- 6.18 In any terms, the reduction in carbon emissions by 16.3% can be described as meaningful. On this basis, we consider the planning benefits to be sufficient to outweigh any identified harm to the listed building or other Designated Heritage Asset.
- 6.19 In accordance with the assessment carried out by Dr Tatlioglu and this Statement of case, either, there is a net beneficial or neutral effect on potentially affected heritage assets and the appeal should succeed.
- 6.20 Alternatively, if the Inspector identifies that the balance is a negative one, they must establish the overall degree and nature of harm to the significance of the assets as a whole. As such a judgement would necessarily have required the balance of both positive and negative effects, any perceived harm must necessarily be small and capable of being outweighed by energy-related benefits which carry particular weight under the NPPF.
- 6.21 This Statement of case demonstrates that the Inspector can be satisfied that the necessary Dynamic Thermal Modelling and the cooling hierarchy has been applied and that the scheme complies with policies CC3 and CC2, along with significant gains in the energy performance of the building.
- 6.22 On this basis, we respectfully request that planning permission and listed building consent be granted.

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WE REQUEST THAT THESE BE TREATED AS CONFIDENTIAL.