

APPLICATION FOR PLANNING AND LISTED BUILDING CONSENT

DESIGN AND ACCESS STATEMENT

**93 JUDD STREET
LONDON
WC1H 9NE**

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1. INTRODUCTION

Description of existing building

All numbered photographs are location referenced on the as existing plans.

The building dates from 1816, is Grade II Listed and is in a Conservation area (Photograph 1). Currently the building has a self-contained Basement flat with its own entrance via the front lightwell (Photograph 2). Listed Building Consent for the internal refurbishment and rearrangement of this flat was granted in November 2009. These consented works have recently been completed.

In the front portion of the plan at ground floor level there is a small commercial space. An independent travel agent, who wishes to remain in the unit, currently occupies this space. The original shopfront remains. (Photograph 5) There is an interconnecting door between the shop and the ground floor entrance hall (Photograph 7). The remainder of the Ground Floor is a self contained flat, with an entrance door from the internal entrance hall. The First, Second and Third floors above have been converted into bed sitting rooms, each with their own internal open baths (Photographs 1 and 25) and kitchens (Photograph 23). No original internal doors remain with all doors being modern flush doors (Photograph 18). Each of the upper floors contains two small studios one to the front and one to the rear. There is also an additional studio in the existing rear addition, accessed from the landing between Ground and First floors (Photographs 14 and 15).

There are communal WCs, accessed from the stair enclosure (Photograph 30). The drainage runs serving the communal WCs are boxed out within the stair enclosure in a manner that is quite obstructive to the use of the stair. (Photographs 28, 29 and 38).

The front elevation is brickwork, with render bands. The original sash windows all remain in place on the front elevation (Photographs 39 40 41 and 42).

The rear elevation is rendered with a sand cement render. Areas of render are in a poor condition. It appears that these areas are related to the presence of ivy on the façade. The ivy to the rear façade was removed as part of a package of opening up works agreed with Camden Conservation as part of the pre-application process (Photographs 43 44 45 and 46). Some of the windows to the rear façade and within the rear addition are not original sashes. (Photographs 49 and 50)

The roof has been replaced relatively recently with a new covering of Eternit tiles, though the presence of large areas of bituminous paint suggest that this work is not of a good quality. (Photographs 52 53 54 55 56 57 58 and 60). There is a dormer type structure that forms an access hatch to the roof. The hatch is accessed from a pull down ladder on the top landing (Photographs 54 58 and 59).

It appears that the modifications to the plan form at first, second and third floor levels were granted consent in 1985. Listed building application no: 847033 refers to:

Internal alterations to provide kitchens and baths to existing bed sitting rooms on first, second and third floors rebuilding of existing ground floor rear extension rendering of rear elevation and provision of enlarged windows at rear of basement

The existing property is generally in a poor state of repair, as can be clearly seen in the photos, and the proposal is for the refurbishment of the property throughout.

The following guidance is considered relevant for the project.

Planning Policy Statement 5 (PPS 5): *Planning and the Historic Environment*
English Heritage: *London terrace Houses: 1660-1860*

Society for the Protection of Ancient Buildings (SPAB): *Various publications*

London borough of Camden - Unitary Development Plan (UDP) 2006

London borough of Camden – Camden Planning Guidance (CPG) 2006

London borough of Camden – Minimum HMO standards: for Bedsits, Studios, Shared Houses and Shared flats 2007

93 Judd Street is one of a number of listed properties within the vicinity that have been recently purchased by the applicant. All of these properties have previously undergone conversion into bedsitting and studio accommodation. These conversions were undertaken by the previous owner and were carried out in what may be described as an unsympathetic manner. Many of the issues associated with this are relevant to this application. The other properties are located at:

25 Mornington Crescent

28 Mornington Crescent

30 Mornington Crescent

The properties at 28 and 30 Mornington Crescent were the subject of a Listed Building enforcement notice issued against the previous owner. The Planning Inspector issued a decision in respect of this appeal on 12th December 2007 and it is considered that that decision is relevant to certain issues in connection with this particular application. The text of the appeal and a copy of selected relevant plans for the properties at Mornington Crescent are included in Appendix 1 of this document.

The access arrangements will not alter as a result of the proposal. New shower rooms, with access to a WC pan that is compliant with Part M of the Building Regulations, will be created as part of the proposal.

History of the application

An application for the refurbishment and rearrangement of the existing self-contained Basement flat was made on 19 August 2009. Listed Building Consent for the proposed works (2009/4687/L) was granted on 23 November 2009. The consented works have recently been completed.

This application is a resubmission of the previous Planning (2010/1469/P) and Listed Building Consent (2010/1464/L) applications that were made in respect of proposals for this property on 5 March 2010. Both of these previous applications were withdrawn on 21 May 2010, prior to a decision being made. The withdrawal of these applications was confirmed by Jonathan Markwell of Camden Planning, by email dated 21 May 2010.

A description of the existing building and the current layout is outlined in the text above. In outline the previous withdrawn application proposed to refurbish the existing units to bring them up to an acceptable standard for inhabitation. As part of this refurbishment it was proposed to provide self-contained facilities for each flat, as this was the only way of keeping the existing level of accommodation while bringing it up to an acceptable standard. Extensive pre-application enquiries were made with Caroline Carr in Camden Conservation into achieving an appropriate approach to the refurbishment of the Listed Building. Pre-application advice was also received from Elizabeth Beaumont in connection with the planning policy issues associated with the proposal. The timeline of these consultations is fully detailed in Appendix 2 of this document.

The application was withdrawn prior to a decision being made as Camden Planning indicated that permission for the proposal would be refused, considering that it represented the creation of self-contained units that were below the minimum sizes indicated in the Camden Planning

Guidance 2006 document (CPG). The reasons for refusal were solely issues of planning policy. The only concerns expressed by Camden Conservation in respect of the Listed Building application was in terms of the proposed treatment of the rendered façade. The proposed treatment in the revised resubmission has been amended to reflect this and is fully described in Section 7A of this document.

The design of the resubmission is described in more detail in the later sections of this document. In outline the revised proposal is for the creation of a larger Ground Floor Flat (Flat B) by incorporating the existing studio at Upper Ground Floor level within the demise of the Ground Floor Flat. The connection between the two units is made by means of a new internal staircase. In the main house, rather than retaining the existing arrangement of two studios per floor, the resubmission design proposes to create a single one-bedroom/one-person flat to each of the First, Second and Third Floors. Each of these flats would be above the minimum size for a one-person unit, which is a floor area of 32 sq.m. This approach was discussed with Jonathan Markwell at the time of the withdrawal of the previous applications.

2. HISTORY

The streets around Judd Street were part of The Skinners Company Estate. The was owned by Sir Andrew Judd, who vested it in the Skinners Company as Trustees for the benefit of Tonbridge School in 1572. Judd Street is a commemoration of Sir Andrew Judd and is a continuation of Hunter Street, North to the Euston Road. The first building leases date from 1808 when the company let sites to, among others, the builder James Burton. It was not until 1810 that Judd Street first appeared in the rate books, when six houses are mentioned. Two more were erected in 1811, a further twenty-four in 1813, and the remaining fifty-two in 1816. Number 93 was one of the properties built in 1816 by James Burton. Burton was a developer who built extensively in Bloomsbury and around Regent's Park. His name was commemorated in the name of Burton Crescent, just behind Judd Street to the West, now named Cartwright Gardens.

3. THE DESIGN PROPOSAL IN OUTLINE

The existing internal arrangement of accommodation is not suitable for habitation to current standards. Some examples of this would be the use of open baths within living rooms; raised beds accessed via ladders and communal WC compartments with no wash hand basins incorporated. In addition features such as these are not sympathetic to the character of the listed building. The fabric of the building also requires upgrading, particularly with regards to achieving a suitable level of fire and acoustic separation between adjacent flats and proper provision of mechanical extract ventilation to wet rooms. Remedying these defects will obviously be of benefit to the health and safety of future occupants, but will also help preserve the building fabric, particularly through the avoidance of moisture damage through inadequate ventilation. The necessity of this task is reflected in the fact that 93 Judd Street is on the buildings at risk register.

It is maintained that achieving a proposal that brings the property back into a viable economic use is the best and most likely way in which the building fabric can be repaired and then maintained. This view is supported in national planning guidance, in particular Planning Policy Statement 5 (PPS 5) *Planning and the Historic Environment*. Paragraph 88 makes clear that,

Proposals for the development of a heritage asset will ideally be for its optimum viable use.

In addition Paragraph 89 of PPS 5 states that,

It is important that any use is viable, not just for the owner but also for the future conservation of the asset. Viable uses will fund future maintenance.

The proposal is to alter the existing arrangement of accommodation and reduce the number of units, but upgrade it to an acceptable standard, particularly in terms of Health and Safety and Environmental Health requirements. Retaining the property as a House in Multiple Occupation (HMO) accommodation would require communal toilet and bathing facilities to be accommodated. To achieve this it would be required to access such communal facilities from the stair landing on each floor. The limited space available makes this impossible to achieve whilst maintaining access to the flats. This would also require significant alterations to the layout, alterations that are unlikely to be acceptable in terms of the building's Listed status.

Providing bathrooms that are accessed from within each flat enables proper sanitary facilities to be provided. Therefore the applicant has concluded that providing self-contained flat accommodation is the only means of achieving a scheme containing accommodation at a comfortable standard. Such a scheme would be of benefit in terms of facilities for future residents and contribute to Camden's housing stock. The proposed arrangement, with a reduction in the number of units, has been designed to provide self-contained accommodation that meets the space standards outlined in the Camden Planning Guidance 2006 document (CPG).

In terms of the building's listed status and its character, the proposal does involve some intervention within the historic fabric of the building. Within the context of this particular scheme, and the building's history and its current condition, it is maintained that the application proposal would also bring a net benefit as it would result in the removal of the open baths and associated partitions and boxed out drainage runs, reinstatement of certain sections of the spine wall, removal of partitions dividing the front rooms in half, and the raised timber beds and ladders.

The revised resubmission proposal is less intensive than the previous withdrawn scheme, in that each of the First, Second and Third floors now has only one flat rather than two. This obviously leads to less shower rooms and services, and also one less riser through the building. The previous withdrawn scheme was considered generally acceptable from a Listed Building point of view. In the revised submission scheme the occupancy level will be reduced.

It is maintained that this revised resubmission proposal is even more acceptable in terms of the building's Listed status, due to the reduced intensity of occupation.

4. PRE-APPLICATION ADVICE AND APPROVALS

The design of a scheme such requires a balancing act to be achieved between the requirements of the various statutory bodies from which approval is required. These requirements are often contradictory and some degree of compromise is usually required.

The Conservation and Urban Design team, Environmental Health, Planning of Camden have all been consulted as part of an extensive pre-application process that preceded and informed the previous application. The applicant intends to use Butler and Young Approved Inspectors for the Building Control approval process, and their consultants have been consulted throughout the pre-application process. Careful consideration has been given to all the advice received when preparing this application. Appendix 2 contains an outline timeline of the pre-application and application submissions and advice made and given through the course of 2009 and 2010.

The length of the pre-application process reflects the detailed consideration that the applicant has given to the development of the design and the commitment they have to the successful redevelopment of that building. Through the pre-application process a number of alternative solutions have been proposed, considered and rejected, particularly with regards to the accommodation of services and the upgrading of the thermal performance of the fabric of the building.

Therefore the applicant maintains that the solution proposed in the accompanying application is the optimum one. A solution which creates good quality residential accommodation at the lower cost end of the local market, protects a Listed building at risk and results in a net benefit to the character of that Listed building, within an economically viable redevelopment proposal.

LISTED BUILDING

Caroline Carr from the Camden Conservation and Urban Design team has dealt with all the pre-application consultations before the original application and the original application itself. These took the form of several on site meetings, and submission of three preliminary design schemes, prior to the original and now withdrawn application.

As part of the pre-application process a number of solutions were investigated including the accommodation of services within dropped ceilings, secondary glazing, internal and external wall insulation. Many of these proposals have been rejected during the pre-application process as part of arriving at the original application proposal. In terms of the building's listed status the works proposed as part of the original application were agreed in principle through the pre-application process. The reasons for withdrawal were connected to matters of planning policy and the unit sizes, rather than Listed Building issues.

The revised resubmission adopts a similar approach to the previous withdrawn application scheme, but at a less intensive level of accommodation/ occupancy which would be of benefit to the Listed building.

Camden Conservation did raise an issue in connection with the proposed treatment of the render to the rear façade was raised. A revised proposal for render is outlined in Section 7A of this document.

The impact of the resubmission application proposal in terms of Listed Building status is outlined in the text of this document. As outlined above the revised resubmission scheme represents a less intensive design than the withdrawn scheme. Therefore it is maintained that the resubmission proposal is acceptable from the point of view of its impact on a Listed building.

PLANNING

The chief reason for the withdrawal of the previous application was that Camden Planning indicated that, in providing self-contained facilities to the existing studios, to create an acceptable standard of accommodation, the proposal was creating self-contained flats that were under the minimum sizes permitted for a single person occupancy stipulated in Section 40 of the Camden Planning Guidance 2006 document (CPG).

By reducing the number of units on the First, Second and Third Floors, and incorporating the Upper Ground Floor studio into the Ground Floor flat, all the proposed flats meet the minimum area standards, both in terms of overall dwelling area and bedroom areas.

It is maintained that the proposal represents the only means by which the property can be bought back into successful economic use. In addition the building will then be able to make a contribution to the borough's housing stock, and preserve an at risk historic building.

ENVIRONMENTAL HEALTH

Mike Warren and Toby Deans of Camden Environmental Health dealt with all the pre-application consultations. It is believed that all Environmental Health issues in connection with the fabric of the building and the layout have been addressed as part of the pre-application process. It is proposed that the fabric of the building to be upgraded to achieve improved acoustic and fire separation. Full details of this are included in the drawings.

The revised resubmission proposal does not affect the Environmental Health considerations.

BUILDING CONTROL

In many areas the requirements of Building Control and Environmental Health overlap. The applicant has appointed Butler and Young to deal with all Building Control approvals in connection with the property. Butler and Young have provided initial advice on the resubmission proposals in terms of the requirements on Building Control.

The revised resubmission scheme represents a change in the number of units. Therefore, in terms of Building Control, the resubmission scheme now represents a Material change of use. This means that certain aspects of the Building Regulations will now apply in full, in particular Part B – 'Fire' and Part E – 'Resistance to the passage of sound'.

Many of these requirements of fire and acoustic separation were achieved in the previous withdrawn application. Full details are included in the detail design description below.

A larger rooflight has been introduced to the roof above the stair enclosure. This is required to act as a smoke vent for remote operation by the fire brigade. This rooflight is not visible from the ground.

5. THE DESIGN PROPOSAL IN DETAIL

ACCOMODATION AND LAYOUT

Ground Floor commercial space

As part of the works a new small WC will need to be incorporated into the rear of ground floor shop space. Much of this space is already raised up from the front floor level as it corresponds to the change in level that occurs between the front and rear areas of the ground floor plan. Currently the shop space does not have its own sanitary facilities, and this is not acceptable from the point of view of modern Environmental Health standards. The shopfront is part of the original building, and a component of the original use. The toilet is a modern requirement for the shop to continue to function. Therefore it seems reasonable to take a similar view to the introduction of a new toilet within the shop, to that of the introduction of modern sanitary facilities on the floors above, that such a development is part of the building's evolving pattern of use and developments that have occurred in wider society since the building was originally constructed.

The location of the commercial space WC is ideally placed to take advantage of the existing drainage provision within the bathroom of the Basement flat below. See services section below. The layout of the commercial space WC is shown on drawing 145.400.

Ground Floor Flat (Flat B)

It is proposed to extend the existing separate Ground Floor flat into the rear extension, which currently forms an external store that is accessed from the rear garden. It is proposed to insulate this space internally. A new floor would be installed to correspond to the finished floor level of the existing flat. In addition the existing studio at Upper Ground Floor level will be incorporated into the Ground Floor flat via means of a new internal stair. This would involve the modification and trimming of some of the joists that currently form the Upper Ground Floor. A stair would be incorporated within the void, separated from the Upper Ground Floor space by a fire rated partition. A new WC would be installed below the stairs. The layout of this WC meets the requirements of Part M of the Building Regulations in terms of the accessibility of the WC pan. The Upper Ground Floor space would become the bedroom, with an ensuite shower.

As part of these works the existing entrance door to the Upper Ground Floor studio would be closed by means of a fire rated partition. A traditional four-panelled timber door would be installed in the opening as a dummy door.

There is some cracking in the structure of the external store. The applicant appointed the structural engineers Michael Barclay Partnership to investigate this. Malcolm Brady of Michael Barclay Partnership has undertaken an initial analysis and assessment of the existing structural condition of the building. The resultant advice is outlined in the various Michael Barclay Partnership documents contained in Appendix 3.

Malcolm Brady is a principal of Michael Barclay Partnership. Michael Barclay Partnership has extensive experience working within listed buildings, including the Grade I Listed Royal Naval College, Greenwich and Theatre Royal, Bury St Edmunds and Listed residential properties in Belgrave Square and the Chesham Estate in Belgravia. Malcolm Brady was the project engineer for Royal Naval College.

On the basis of this initial inspection his conclusion was that the narrow width of the crack and the absence of any other signs of distress suggested that it is not a case of subsidence or root-influence.

First Floor Flat (Flat C) Second Floor Flat (Flat D) Third Floor Flat (Flat E)

Within the main building at First, Second and Third floor levels the existing arrangement of studios, two per floor, will be amended to one a single one-person flat per floor. The lettered designation of the existing Basement and Ground Floor flats has been extended to these flats. As part of the refurbishment the proposal involves some alterations to the layout and the building's fabric, mainly in connection with the provision of appropriate sanitary facilities and their associated services.

The same basic layout would be used on the First, Second and Third floors. The rear room would become the bedroom. The front room would become the Living room, with open kitchen. Also within the front room space is a new shower room. This is approximately square in proportion and would be accessed directly from the bedroom. The width of the shower room enclosure is designed to correspond to the width of the kitchen units. The kitchen design has been formulated to meet the minimum Environmental Health standards in terms of free worktop area and storage space. By these means the kitchen can be kept away from the entrance doors and the windows. It also creates a portion of space within the larger Living room that feels like it belongs to the kitchen, and integrates the kitchen and shower room visually. On a practical level the presence of the shower room partition means that the new kitchen units do not need to be fixed to original fabric. In addition the design means both the shower and kitchen can share the riser in an efficient manner, minimizing the impact of services.

The area of the rear bedroom space is just above 11 sq.m. in area. Each shower room has an area of 2.2 sq.m. The proposed accommodation is above the minimum limits set in Section 40 of the Camden Planning Guidance 2006 and Environmental Health standards.

The proposed layout design has been conceived so that the new shower rooms remain discreet, located between the Party Wall and the spine wall. In many locations these shower rooms replace the existing baths that are currently open within the Living spaces. It is maintained that the orientation and profile of the proposed shower rooms does not detrimentally affect the character of the listed building. Similar layouts were installed at 28 and 30 Mornington Crescent, though it is argued that the manner of the work undertaken at the properties in Mornington Crescent was not as well considered or sympathetic to the original building as that proposed as part of this application.

The appeal decision into 28 and 30 Mornington Crescent, dated 12th December 2007, provides support for the view that the introduction of partitions to form bathroom areas and the bathrooms themselves is to be expected in a building in residential use. In that appeal the Planning Inspector addressed this specific issue in Paragraph 31 of his report and his conclusion was that such partitions:

...represent part of the building's organic history, and its response to an evolving pattern of use and living. This clearly involves the provision of services, this clearly involves the provision of services. And other domestic improvements, which have occurred since the building was erected in the 1820s.

The shower rooms would be accessed from the bedroom. This is the most acceptable layout in terms of the function of the space as a residence. A second door would be required to connect the Living room and bedroom. Both these new doors would require new openings in the spine wall at First Floor. Drawing 145.401 illustrates the method proposed in creating these openings, which would result in the loss of only one stud for each opening. At Second and Third floor levels a new opening would be required for the shower room, but the existing openings in the spine wall would be partially infilled to create the door between the Bedroom and the Living room.

As stated above it is maintained that the proposed layouts are the only viable method of refurbishing the building and bringing it back into economic use, and that to do that some degree of adaption is inevitable.

It should also be mentioned that the proposal also involves the removal of certain features, which appear to have been granted permission as part of the 1985 consent, such as raised beds, open baths partitions dividing single front rooms, and boxing out of services within the stair enclosure. Such features are considered to be detrimental to the character of the building and their removal would be of benefit.

The proposal also involves the infilling of the larger openings that are already present in the spine wall at upper levels. In the proposed scheme, all openings in the spine wall would become to the proportions of a traditional door, with a door leaf, frame and architraves of traditional appearance fitted. In this manner the aesthetic would be domestic in character. This is in contrast to the current situation where the openings in the spine wall are open and wide to accommodate the open bath. The cumulative effect of the proposals of the proposed adaptations with the proposed removal of certain unsympathetic elements would, the applicant believes, result in a net benefit to the building as a whole, and the current scheme would be more sympathetic to the building's character than the existing installation.

SERVICES

The proposal involves the provision of new services to the proposed new shower rooms and kitchens. A major consideration as part of the design process has been the accommodation of new service runs.

As outlined above the provision of self-contained services to each studio is the only practical method of refurbishing the existing studio accommodation to an appropriate level.

Therefore the approach to the accommodation of services has been carefully considered through out the pre-application process. Proposals to use the space within the depth of the existing floor void were initially considered but rejected as the joists were too shallow to adequately contain soil pipes to a fall.

A proposal to use plasterboard ceilings, incorporating insulation, would have achieved a current standard of fire and sound resistance while also creating a void to run new services. Camden Conservation rejected this proposal as being inappropriate for the character of the Listed building.

The resubmission application solution is to locate a riser through the building, within the space of each shower room. In the proposed location it is ideally located to extend the existing soil pipe in the Basement up through the building to serve the bathrooms and kitchens above. This would also be in an appropriate position to serve the proposed new toilet within the commercial space. As outlined below this proposed solution has been carefully designed so that no joists will require notching for the accommodation of drainage and water supply services.

New water meters would be installed in the Basement front lightwell.

Within each studio the water supply and drainage pipe runs would run above structural floor level. Therefore the water supply and drainage services could run directly between the kitchen and the riser, with no visible service runs. The riser enclosure is within the shower rooms on each floor, within the profile of each shower enclosure. Therefore they do not appear as risers from within the flats, but are concealed within the shower room enclosure. The drainage and water supply services for each individual shower room would then run from the riser, above the level of the floorboards, contained within boxing out and the partitions.

The riser would have a soil vent pipe, running up through the building to terminate at roof level. The soil vent pipe would run down into the Basement behind the Bathroom in the Basement flat, where a new below slab connection to the drainage system has already been granted Listed Building consent as part of the Basement application. The riser also contains extract ventilation for the kitchens and shower rooms on the First and Second floors. Extract for the kitchens and shower rooms on the Third floor would be straight up through the roof void to a terminal slate in the slope of the roof. (See drawings 145.510)

As part of the design of the solution above the service runs have been carefully routed to avoid existing features such as cornices. Drawings 145.400 and 145.401 show the proposed service runs and layout of services as described above in detail. A series of zones are illustrated on the drawing which show the position of the various services in relation to existing cornice. These illustrate that it is proposed to run services well away from adjacent cornices. The drawings also illustrate that there be no need for the notching of joists as part of this proposal.

The proposed solution does allow the removal of all the drainage runs and associated boxing out that is currently within the staircase, as well as the communal WC enclosure on the top landing. The nature of this boxing out is very obstructive and does hinder the use of the stair. It also has a significant visual impact on the stair enclosure. The stair enclosure is considered to be one of the most significant spaces within the plan form of the listed building. A solution that permits the removal of such clutter would be of benefit to the character of the Listed building.

The revised resubmission design involves the provision of only one riser as opposed to the previous withdrawn scheme's two risers. This less intense use is of obvious benefit to the building within the context of its Listed status.

The existing electrical installation has undergone an examination from an electrical contractor. This has confirmed that the existing installation is adequate for the proposed scheme. There is a 3 phase 100amp per phase supply, meaning there is no requirement to upgrade the incoming supply. There is an existing 11 way Ryefield board with 9 meters. Given the reduction in the overall number of units there will be a reduction in the number of meters.

The existing electrical meters are located in the entrance hall (Photograph 8 and 9). The electrical supply is contained within metal trunking that rises up through the floor for distribution within the floor void (Photograph 8). It is proposed to reuse this riser. It is anticipated that there will be existing notches present in the joists for the existing electrical installation, which will be able to accommodate the new electrical installation.

The appeal verdict of 28 and 30 Mornington Crescent is also of some relevance in the context of services. The Inspector took a similar view to the introduction of the services associated with the bathrooms as he did with the partitions forming the bathroom themselves, referring to them as being:

...a domestic improvement which it is sensible to make, the building being used in a somewhat different way to that for which it was designed and built.

The building does not currently have any provision of extract ventilation in association with the kitchens and bathrooms. This is not acceptable from the point of view of Environmental Health. Beyond that it is also of benefit to the fabric of the building in that it removes potentially damaging moisture at source. Dampness is a potential major threat to the historic fabric of the building, and residential occupation will inevitably produce significant amounts of moisture. The proposal demonstrates that it is possible to accommodate new shower room ventilation provision discreetly in the risers, alongside the drainage provision. Ventilation from

the kitchen hob in Flats C and D would be via ducting within the floor void, out to the rear elevation. Ventilation from the kitchen hob in Flats E would be up through the roofspace.

6. CONSTRUCTION WORKS

FLOORS

The proposal seeks to upgrade the existing floors and separating partitions to achieve an appropriate standard of fire separation and protection. For the floors it is proposed to incorporate 100mm of Rockwool RWA 45 within the depth of the floor cavity, suspended on metal mesh. Such a solution can potentially achieve a standard of 60 minutes fire separation between floors, equivalent to modern building regulations. The presence of the Rockwool RWA 45 within the depth of the floor will also improve the acoustic separation between the flats. The proposed solution was judged to be the most acceptable by Camden Conservation as part of the pre-application process. The proposed solution is reversible and is fully described on the detail drawings 145.500 to 145.506.

The existing floor structures are severely bowed, particularly in the central areas. In the areas if the floor where the bowing is at its most extreme this would affect the use of the space as living space. In order to ascertain the reasons for the marked deflection in the existing structure, the applicant appointed Michael Barclay Partnership to undertake initial investigations. Michael Barclay Partnership has prepared a report based on those examinations, which is contained in Appendix 3, together with an explanatory cover letter.

It is proposed to undertake some strengthening works to the floors. The strengthening works also provide the opportunity to provide a limited degree of floor levelling, which would make the living space much more useable. Michael Barclay Partnership has prepared a design for the strengthening of the floor. This involves the insertion of additional timber joists, which are fixed to some of the existing joists. Michael Barclay Partnership drawing 4037/300 shows the details of the proposal, together with details to be used in cases where opening up reveals that one, or several, of the existing joists is decayed. As this drawing illustrates the new joists will not be set into the adjacent wall, therefore the solution is potentially reversible in the future.

This solution also permits a degree of levelling to occur. Pre-application consultations with Camden revealed that they were against altering the floor levels at the perimeter and altering the relationship between the floorboards and the skirting and door thresholds. Account was taken of this advice and the proposal has been revised so that only the central joists would receive additional joists. Furthermore the additional joists would be set in such a manner that they would protrude only in the central area of the plan, where the floor is bowed to the greatest extent. This would permit the perimeter relationship of floor and skirtings to remain as existing, while the floor could be stiffened, strengthened and levelled to a degree that makes the space more useable. Drawing 145.402 indicates which joists are proposed to receive this treatment, together with an indicative cross section showing the relationship of new joists to existing and how levelling can occur while retaining the existing relationship between floor boards and skirtings.

The stiffening of the floor will also act to support the existing lath and plaster ceilings. This will be of particular benefit when the property is reoccupied, as the footfall of residents could potentially affect the lath and plaster on a springy floor.

CEILINGS

The lath and plaster ceilings to the Ground, First and Second floors will be retained. The existing condition of the lath and plaster ceiling will need to be examined from above. The proposed method is outlined in Specification Section G.

From initial investigations it appears the existing ceiling on the top floor is of plasterboard. It is proposed to remove this and replace it with a new plasterboard ceiling. This work is required

in connection with the thermal upgrading of the roof and is outlined in more detail in the section of text below describing the proposed works to the roof.

EXISTING AND PROPOSED PARTITIONS

Separation between the flats and between the flats and the stair in the proposed design is formed by a variety of new and existing partitions. The as proposed plans include a key that classifies each new partition and each proposed treatment to existing partitions into numbered types. The specification of each partition or upgrade treatment of each numbered type is fully described on the drawing.

New separating partitions have been designed to achieve 60 minutes fire separation and the sound insulation standards of current Building Regulations. Where existing walls and partitions form separation between flats or between the walls and flats, intumescent paint has been used to upgrade the partition to achieve an acceptable standard of fire resistance. Intumescent paint has also been proposed to upgrade partitions forming elements of structure.

The proposed intumescent paint is manufactured by Envirograf and is fully described in specification section C. It is a product that has been used within Listed buildings previously and has been used at St Pancras chambers.

In timber panelling in the entrance hall (Photograph 7) will also be treated to achieve Class 0 rating for surface spread of flame. The proposed treatment is also by Envirograf and is fully described in specification section D. It is a product that has been used within Listed buildings previously.

Where present in any room, original skirtings will be retained. Incomplete areas of skirting or areas that are missing will be reinstated to match the original.

ROOF

It is proposed to replace the existing Eternit roof tiles and associated flashings. The evidence suggests that though it appears recent it is not of a good construction and a new roof is required. The existing gutters will be relined in lead. It is proposed to remove the existing access hatch construction and install a Velux rooflight. This is required to act as a smoke vent to the stair. The rooflight would have a 'Conservation' type outer fascia, though its position within the slope of the butterfly roof means it is not visible from ground level. The details of the new roof construction and Velux are shown in drawings 145.510 and 145.511.

From initial investigations it appears the existing ceiling beneath the main roof is of plasterboard. It is proposed to remove this and install insulation between the existing ceiling joists. A new plasterboard ceiling with a vapour barrier would be installed. The vapour barrier is required by building regulations and will help mitigate the potential for condensation in the roof void. In conjunction with the presence of a vapour barrier the roof void above would be ventilated to further reduce this. Ventilation can be discreetly achieved through special ventilator tiles within the line of the slope, as shown on drawing 145.510.

It is proposed to replace the existing roof membrane on the rear addition. As part of these works some thermal insulation will be incorporated in a warm deck roof construction. Drawing 145.506 shows a detail of the proposed construction.

Improving the thermal insulation of the existing roofs will have no impact on the appearance of the building. It will be of benefit to any future residents both in terms of their amenity, and any potential issues of fuel poverty. On a wider scale such works are obviously of benefit in terms of achieving wider sustainable development goals.

INTERNAL DOORS

All internal doors will be replaced with new timber fire doors. The new fire doors will be of a traditional panelled appearance and are manufactured by Jeld Wen. Product literature is included in Specification Section F.

EXTERNAL DOORS

It is proposed to replace the existing external doors to the front and rear of the basement flat with new glazed timber doors. The proposed new doors will be of traditional appearance and are shown on drawing 145.403. It is maintained that the proposed doors are of an appearance significantly more sympathetic to the character of the building than those they replace. The existing entrance door from the street will be made good and redecorated, painted black. A new intercom system will replace the old, with a stainless steel faceplate.

BALUSTRADE TO BASEMENT LIGHTWELL

Protection needs to be provided to the basement lightwell. It is proposed to achieve this through the use of a new steel balustrade, composed of square sections and steel rods, painted black. This is described on drawing 145.404.

WINDOWS

Wherever possible the existing sash windows will be retained. If it is not possible to retain existing sash windows they will be replaced with like for like copies. A preliminary visual inspection has been carried out with a contractor to establish the likely requirements of each window. The as proposed plans contain full details of the proposed treatment to each window.

7. SPECIFICATION

A. RENDER

The existing render was examined with Peter Barber, a specification manager for Weber render. The render was sand cement and was in reasonable condition in most areas. Locally areas were loose and blown. These locations appeared to be those that had previously had areas of ivy clinging to them.

Though they could not all be investigated up close there appeared to also be some damage at parapet level. It is assumed that this is connected to the poor quality of the roof installation and the blocked hopper.

Given that large areas of the render remain sound, and the difficulty of removing the existing render together with the likely damage that would cause to the underlying masonry, it is proposed to repair only those areas of unsound render. In outline the works would involve.

Breaking out the loose areas of render and treating with a biocide product. Broken out areas of render would then be made good to achieve an in plane surface. The repaired surface would then be repainted in white.

B. RAILINGS

Railings to front lightwell to be repainted.

Remove all loose rust, dirt, grease and salt with Hammerite Brush cleaner and thinners and rinse with clean water. Allow time to dry. Degrease surface if necessary. Wash down thoroughly with diluted detergent, rinse with clean water and allow to dry. For maximum adhesion lightly abrade with sandpaper. Note take precautions to avoid inhalation of dust during surface preparation of surfaces. Apply coat of Hammerite red oxide primer to railings, follow all instructions on of tin. Ideal application temperature is 8 to 25°C. Stir paint thoroughly before use. Apply 1-2 coats by brush allowing 6 hours between coats. Apply Hammerite direct to rust metal paint, following specific application instructions on back of pack.

C. ENVIROGRAF INTUMESCENT PAINT

Application of Envirograf EP/CP product 105 to the plaster/plasterboard of existing partitions that require an improvement in fire resistance. The application of Envirograf intumescent paint is the same to both plasterboard and lath & plaster; the preparation of the lath & plaster is, however, likely to be more involved. Some of the stair partitions at Second and Third level are faced on the flat side of the partition with plasterboard. See partition type schedule on as proposed plan drawings.

In preparation any lining paper and distemper must be removed first. Cracks must be filled. The effectiveness of any coating is dependent on the quality and fastness of the substrate that it is applied to. Apply one coat of Stabond sealer; 2 coats of EP/CP @ 8m² per litre per coat; apply one (or more) coats of AEC (acrylic emulsion coating) as a protective topcoat. The EP/CP is a flexible paint and the application of a standard emulsion over the top may cause crazing or cracking of the less flexible topcoat. Therefore a high acrylic topcoat must be used as Envirograf AEC or Dulux external Weathershield. The flexibility of the topcoat can reduce the opacity of the finish and, therefore, one topcoat is sometimes not sufficient for the depth of colour required.

D. ENVIROGRAF CLASS 0 TREATMENT

Areas of existing timber panelling will require treatment to achieve surface spread of flame rating of Class 1.

The application of Envirograf Q/VFR will achieve Class 0 spread of flame protection to the timber. 2 coats are required for BS 476 Parts 6 & 7 Class 0 and Class1 (1987) spread of flame. First coat coverage could vary according to wood type/ density. Where existing coating over existing gloss paint, ES/VFR primer should be used first. Apply the first coat and allow 1-2 hours to dry. Ensure each coat is dry before applying next coat. Apply second coat and allow 1-2 hours to dry. Coverage 12-15m² per litre. Top coat of emulsion paint must be applied.

E. REPOINTING

Visual inspection from ground level suggests that the existing pointing is of reasonable condition. If, on closer inspection, repointing is required the following specification will be used.

Only use sharp tools and wear eye protection when preparing joints for repointing. Loose material to be carefully raked out to a depth equivalent to at least twice the height of the joint, to give the new mortar an effective key. Use specially designed raking tool. In exceptional circumstances a club hammer and sharp chisels should be used to remove isolated sections of hard mortar. However deep, hard cement pointing can be very difficult to remove without damaging the softer surrounding bricks. In such circumstances a patching operation may be the best option. When raking-out is completed, all remaining loose material, including dust, should be vacuumed or brushed away and the joint should be gently washed out with a hand spray in a downward direction with a fine spray of clean water. The removal of debris helps provide a sound key for new mortar. Dampen down wall face before flushing out to reduce the risk of suction and consequent staining.

Mortars for repointing, as opposed to those for laying masonry, should be mixed only with the minimum amount of water. This will make them easier to place, minimise shrinkage and facilitate earlier finishing to profile. Ensure that lime is fully plasticized and intimately worked around the aggregate particles. Observation of existing mortar colour in the wall should suggest the colour of sand used locally and an attempt should be made to match this as closely as possible.

F. FIRE DOORS

All new doors to be of traditional appearance, as per Jeld Wen's manufacturer's literature.

G. LATH AND PLASTER CEILINGS

Floor boards to be lifted using non powered hand tools. The condition of lath and plaster ceiling is to be inspected from above. The dust/ dirt on the back of the ceiling is to be carefully cleaned away with a vacuum cleaner and the following will be examined:

How well are the laths adhered to the joists, has the key broken?

Have the nails rusted or pulled out under the weight of the plaster?

Have the laths rotted so they are no longer able to support the ceiling?

Areas of unsound plaster and or laths will be carefully taken out and replaced.

In areas where it is required to pull sound plaster back up to the lath (where the keys have broken) or to pull plaster and lath to the joists above, plaster washers will be used in conjunction with flat headed wood screws or drywall screws. Subsequently the screw head will be covered with jointing compound.

Similar techniques will also be employed around the edges of the openings that are being cut for services.

ENVIROGRAF® PRODUCT 92

FIRE RETARDANT COATING FOR TIMBER



DESCRIPTION

A water-based clear or white coating for internal/external application by brush, roller or spray. Achieved Class 0/Class 1 protection with two applications at 12-15m² per litre. Coverage on the first coat may vary according to the density and type of timber. UV protection is available.

USE

Can be used on bamboo, chipboard, decorative laminates, furniture, plywood, MDF, melamine, timber, etc. ES/VFR can be applied first and then be coated over with paints or varnishes such as Sikkens stains or existing coatings. A top coat must be applied over ES/VFR (either water-based or spirit-based). Where coating over existing gloss paint, use ES/VFR primer first.

PERFORMANCE

VFR coatings have had numerous tests on many surfaces and over coated surfaces to meet BS476 Part 6 (1989) Spread of Flame and BS476 Part 7 (1989) Spread of Flame, and **this coating system now complies with Classification B/S1/d0 of European Standard EN13501 Parts EN13823 (2002) single burn test (SBI) and EN11925-2 (2002) ignitability.**

ORDERING REFERENCES :

PATENTED

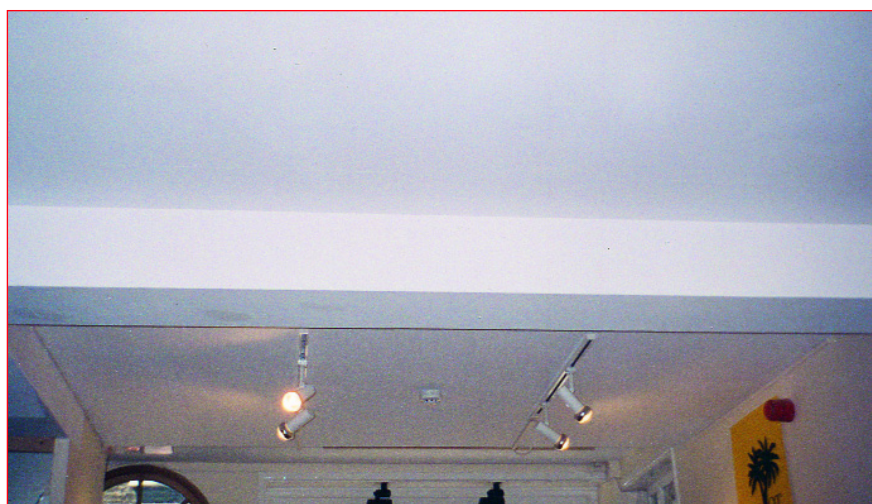
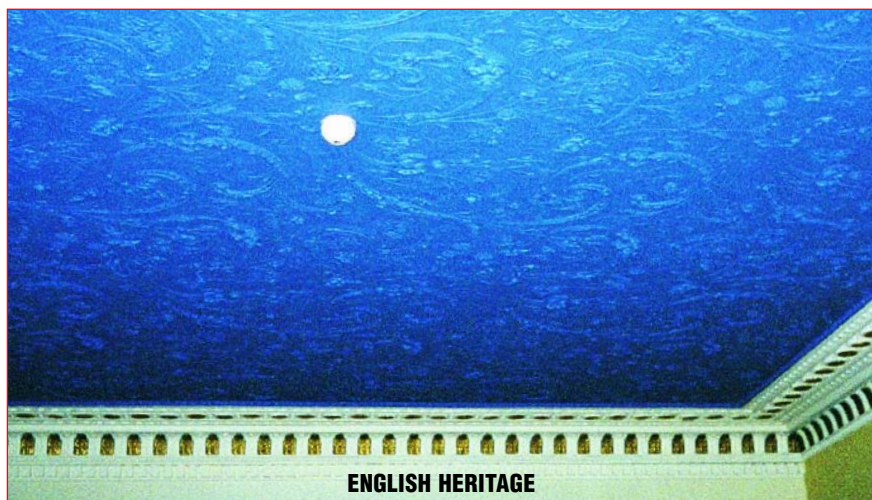
Ref	Coating	Based on	Int/Ext	Finishes
VFR	Clear protection	Water	Both	M
VFR/W	White protection	Water	Both	M
VFR/P	Primer	Water	Both	—
VFR/TC	Clear top coat	Water	Internal	M, SG
HW03UV	Clear top coat	White Spirit	Both	M, SG
HW04UC	White undercoat	Water	Internal	M
HW04UC	White undercoat	White Spirit	Internal	M
HW04TC	White top coat	Water	Internal	SG, G
HW04TC	White top coat	White Spirit	Internal	G
HW05	Clear hard-wearing top coat	White Spirit	Internal	M, SG, G
HW/OPAQUE	White top coat	White Spirit	External	M, SG
AEC	White acrylic top coat	Water	Internal	SG

Finishes: M=matt, SG=semi-gloss, G=gloss)



ENVIROGRAF® PRODUCT 105

FIRE-RESISTANT SMOOTH FINISH FOR UPGRADING 9mm - 12½mm PLASTERBOARD AND LATH-AND-PLASTER CEILINGS TO ONE HOUR OF FIRE PROTECTION



DESCRIPTION

A white or coloured aqueous dispersion coating, offering protection to plasterboard and lath-and-plaster ceilings of various thicknesses. It develops a microporous intumescent layer with a smooth decorative finish. When attacked by fire, the intumescent material protects the coated area's integrity and insulation for a period in excess of one hour. Envirograf® Product 92 (ES/AEC acrylic emulsion coating) can be applied over the smooth coating.

USE

Apply to 9mm or 12½mm thick plasterboard or lath-and-plaster ceilings in two coats at 8m² per litre per coat, which upgrades the substrates to give fire protection in excess of 60 minutes. For a smooth finish, apply by brush, roller, or spray. For a stippled finish, apply with a short-pile roller. For textured finish, see Envirograf® Product 96. This product can be painted over with any external emulsion or undercoat and gloss paint.

PERFORMANCE

This product underwent a fire resistance test in accordance with BS476 Parts 20, 22, and 23 (1987), applied to plaster-coated 9mm thick plasterboard and nailed to a timber-stud partition. The treated partition system achieved a fire resistance (insulation and integrity) of 71 minutes. The product also underwent a fire resistance test in accordance with BS476 Part 21 (1987), applied to 12½mm thick plasterboard beneath a loaded timber floor. The timber floor system achieved a fire resistance of 61 minutes (insulation, integrity, and load-bearing capacity). Also tested to BS476 Part 21 load-bearing lath-and-plaster ceiling for 60 minutes (insulation, integrity, and load-bearing capacity).

ORDERING REFERENCES:

EP/CP	Smooth Coating for 9mm and 12½mm Plasterboard
AEC	Acrylic Emulsion Coating (semi-gloss top coat ONLY)

PATENTED

Internal Moulded Panel FD30 Fire Doors

Fire Rating

FD30 to BS476:Pt 22:1987 (Certifire Certificate CF160).

Construction

44mm thick, moulded wood-fibre facing, softwood/MDF framing and Flaxboard core.

Moisture Content

10% ($\pm 2\%$) in accordance with BS EN 942.

Facings

3.2mm die-formed wood fibre facing, in facing styles below:

Bostonian (BTN)	6 panel wood grain.
Provincial (PROV)	4 panel cathedral wood grain.
Camden (CMN)	2 panel cathedral wood grain.
Atherton (ATH)	4 panel smooth.
Oakfield (OFD)	4 panel grained.
Cambridge (CAMB)	2 panel smooth.
Arlington (ARLI)	6 panel smooth (beaded profile).
Santa Fe (SAFE)	2 panel rounded top boarded effect smooth.

Components

Stiles	Softwood 42mm wide (nominal).
Rails	MDF Double top & bottom rails (33mm outside, 38mm inside)
Core	38mm Flaxboard (Density 350 kg/m ³).

Lock Area

To either edge within 100mm, of mid-height of door. Maximum lock-case dimensions 120mm high by 19mm thick by 70mm deep.

Door Closer

Suitable for face-fixed overhead door closers. Where concealed / jamb-mounted closers such as 'Perko' are used they must be positioned centrally in the horizontal mid-rail.

Finish

Supplied white primed for paint or stain finish on site. (Stain finish excludes smooth faced doors that are intended for paint finish only). Doors can be stained with either an International Ranch Stain or Hickson Décor stain. Wood grain effect doors can be supplied fully finished in white semi-gloss paint as an optional extra.

Standard doors will be supplied un-lipped and un-finished with both exposed stiles, top and bottom rails to be finished on site.



Every effort has been made to ensure the accuracy of this information. In the interest of continuing design development however, we reserve the right to modify specifications without prior notice and without incurring any obligation.

Maximum Trim

4mm from each side and 6mm from the bottom of the door only.

No trim is permitted from the top of the door, due to BWF-Certifire label & production codes.

Approximate Door Weights

2' door	22kg	2'6" door	28kg	2'8" door	31kg
626 door	23kg	826 door	32kg		

Notes

The doors have been tested to British Standard B.S. 476: Part 22: 1987. The doors will achieve:

- FD30 performance, when installed in an appropriate lining and with intumescent strip installed in either the door or the lining. In accordance with the instructions supplied with the door.
- FD30s (Smoke control) can be achieved using a suitably approved combined smoke seal and intumescent strip in a FD30s situation.

Doors for use as a double leaf fire door must be specified as a 'special'.

The cutting of glazing apertures on site is **not permitted**.

Where apertures are requested as a special option, 6mm Pyran 'S' glass or Pilkingtons Pyroshield safety wired (or equivalent) glass must be used and bedded in intumescent compound.

Fire doors should be hung on 1½ pairs of 100mm (4") brass, steel or stainless steel hinges.

All doors were fire tested using only a 12mm deep stop on the doorframes / linings.

Every effort has been made to ensure the accuracy of this information. In the interest of continuing design development however, we reserve the right to modify specifications without prior notice and without incurring any obligation.

8. CONCLUSION

The application proposal is a considered approach to the refurbishment of an existing building. A successful refurbishment would bring a currently unlettable property back onto the market to make a contribution to the borough's local housing need, which in this borough market is acute.

In addition if the proposed application works were carried out the fabric of a listed building at risk would be protected by virtue of the refurbishment process itself, and in the longer-term through the return of the building to a practical use and ongoing occupation. This is acknowledged in relevant guidance to be the most effective way of ensuring the life of such buildings. In achieving this and accommodating new patterns of occupation some degree of adaption is inevitable, a fact which is again acknowledged by relevant guidance. The applicant maintains that the application scheme has carefully considered such matters and that the application proposal actually represents a net benefit to the building in terms of the building's character. The detailed pre-application process and the previous application process is a demonstration of the applicant's commitment to achieving this goal.

APPENDIX 1 – 28 and 30 MORNINGTON CRESCENT APPEAL AND LAYOUTS



Appeal Decisions

Inquiry opened on 29 August 2007

Site visit made on 30 August 2007

by **Stuart M Reid** D Arch (Hons) RIBA

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
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Decision date:
12th December 2007

Appeal A: APP/X5210/C/07/2034125 **28 Mornington Crescent, London NW1 7RE**

- The appeal is made under section 174 of the *Town and Country Planning Act 1990* as amended by the *Planning and Compensation Act 1991*.
- The appeal is made by Anfil Ltd against an enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN06/0666.
- The notice was issued on 13 November 2006.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised change of use involving the self containment of 5 of the 8 bedsit rooms within the House in Multiple Occupation.
- The requirements of the notice are that:
 1. The use of flats 1, 2, 4, 6, and 8 as self-contained flats shall completely and permanently cease.
 2. The property shall be permanently re-arranged to provide non-self contained bedsitting accommodation with shared facilities.
 3. All damage caused to the fabric of the building by the removal of the unauthorised works, shall be made good, to match the original work in terms of materials, colour, texture and profile.
- The period for compliance with the requirements is 12 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the *Town and Country Planning Act 1990* as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.
- The inquiry sat for 2 days on 29 August and 7 September 2007.

Summary of Decision: The appeal is allowed following correction of the enforcement notice in the terms set out below in the Formal Decision.

Appeal B: APP/X5210/C/07/2034118 **28 Mornington Crescent, London NW1 7RE**

- The appeal is made under section 174 of the *Town and Country Planning Act 1990* as amended by the *Planning and Compensation Act 1991*.
- The appeal is made by Anfil Ltd against an enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN04/0185.
- The notice was issued on 13 November 2006.
- The breach of planning control as alleged in the notice is without planning permission the unauthorised insertion of a uPVC door in the ground floor rear elevation.
- The requirements of the notice are that the uPVC door in the ground floor rear elevation shall be permanently removed and replaced with a timber door to match the original removed door in terms of design and materials. Any damage to be made good to match the original fabric.

- The period for compliance with the requirements is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(g) of the *Town and Country Planning Act 1990* as amended. Since the prescribed fees have been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be considered.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Appeal C: APP/X5210/F/07/2034129
28 Mornington Crescent, London NW1 7RE

- The appeal is made under section 39 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended by the *Planning and Compensation Act 1991*.
- The appeal is made by Anfil Ltd against a listed building enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN06/0660.
- The notice was issued on 13 November 2006.
- The contravention of listed building control alleged in the notice is the unauthorised alterations of a Listed Building including the erection of raised timber bed structures in Rooms 1, 2, 3, 4 and 6; the erection of partitions, and the installation of bathroom fittings to create bathrooms and toilets within bedsit rooms; the insertion of a uPVC door in the ground floor rear elevation; cutting through the spine wall of the building, and erection of partitions to accommodate baths; the insertion of a uPVC window in the third floor rear elevation of the building; erection of a partition in Flat 8 to divide the room into 2 parts; erection of partitions to create toilets in the communal hallways which cut into Flats 4 and 6; removal of the wall and door between the sleeping/sitting area and hallway of Flat 2; [and] the erection of a partition in Flat 4 between the sitting area and kitchen, contrary to policies B1 [General Design Principles], B3 [Alterations and Extensions], B6 [Listed Buildings], and policy B7 [Conservation Areas] of the *London Borough of Camden Unitary Development Plan 2006*.
- The requirements of the notice are that:
 - 1) The raised timber bed structures in Rooms 1, 2, 3, 4 and 6 and any associated partitions shall be permanently and completely removed, and any damage (including loss of cornices or other fabric) shall be made good to match the adjacent original fabric.
 - 2) Partitions and bathroom fittings (including tiling) installed to create bath areas in Flats 1, 4, [and] 6 shall be permanently and completely removed, and any damage shall be made good to match adjacent original fabric.
 - 3) The uPVC door in the ground floor rear elevation shall be permanently and completely removed, and replaced with a timber door to match the original removed door in terms of design and materials. Any damage shall be made good to match the original fabric.
 - 4) The openings which have been created, partitions erected, and baths installed through the spine walls between Flats 3 and 4, Flats 5 and 6, [and] Flats 7 and 8 to provide bathroom accommodation, shall be permanently and completely removed, and the spine wall shall be reinstated to match the adjacent original fabric.
 - 5) The uPVC window inserted in Flat 7 (third floor on the rear elevation of the building) shall be permanently and completely removed, and a single glazed double-hung timber sliding sash window, which shall be painted white and match the original in terms of design and materials shall be inserted. Any damage shall be made good to match the original fabric.
 - 6) The partitions erected dividing Flat 8 in two shall be permanently and completely removed, and any damage made good to match the original fabric.
 - 7) The partitions erected to create toilets in the communal hallways (which cut into Flats 4 and 6) shall be permanently and completely removed, and any

- damage shall be made good to match the adjacent original fabric.
- 8) The wall (including cornice and skirting boards) located between the sitting/sleeping area and hallway of Flat 2, and the hall shall be reinstated to match the original in terms of design and materials used, and any damage shall be made good.
 - 9) The door opening between the sitting/sleeping area of Flat 2 shall be reinstated to match the dimensions of the door in Flat 1 and design and materials used, and any damage shall be made good.
 - 10) The partitions erected to separate the kitchen from the sitting area in Flat 4 shall be permanently and completely removed, and any damage shall be made good to match the original fabric.
 - 11) The partitions erected to create a separate toilet within Flat 8 shall be permanently and completely removed, and any damage shall be made good to match the original fabric.
- The period for compliance with the requirements is 12 months.
 - The appeal is made on the grounds set out in section 39(1)(c), (e), and (i) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended.

Summary of Decision: The appeal is allowed in part and listed building consent for that part is granted, but otherwise the appeal fails, and the listed building enforcement notice is upheld as in the terms set out below in the Formal Decision.

Appeal D: APP/X5210/F/07/2034128
30 Mornington Crescent, London NW1 7RE

- The appeal is made under section 39 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended by the *Planning and Compensation Act 1991*.
- The appeal is made by Anfil Ltd against a listed building enforcement notice issued by the Council of the London Borough of Camden.
- The Council's reference is EN04/0755.
- The notice was issued on 13 November 2006.
- The contravention of listed building control alleged in the notice is the unauthorised alterations of a Listed Building including the erection of raised timber bed structures in Rooms 1, 2, 4 and 5; the erection of partitions to enclose kitchens, baths, divide rooms, and create WCs, and cutting through the spine wall of the building; erection of partitions to accommodate baths; [and] the replacement of roof tiles with incongruous concrete tiles, contrary to policies B1 [General Design Principles], B3 [Alterations and Extensions], B6 [Listed Buildings], and B7 [Conservation Areas] of the *London Borough of Camden Unitary Development Plan 2006*.
- The requirements of the notice are that:
 - 1) The raised timber bed structures in Rooms 1, 2, 4 and 5 and any associated partitions shall be permanently and completely removed, and any damage (including loss of cornices or other fabric) shall be made good, to match the adjacent original fabric.
 - 2) Partitions and bathroom fittings (including tiling installed to create bath areas in Flats 1, 5, 7, and 9) shall be permanently and completely removed, and any damage shall be made good to match adjacent original fabric.
 - 3) The openings which have been created, partitions erected, and baths installed through the spine walls between Flats 1 and 2, Flats 4 and 5, Flats 6 and 7 and Flats 8 and 9 to provide bathroom accommodation, shall be permanently and completely removed, and the spine wall shall be reinstated to match the adjacent original fabric.
 - 4) The partitions erected to create toilets in the communal hallways (which cut into Flats 5 and 7) shall be permanently and completely removed, and any damage shall be made good, to match the adjacent original fabric.
 - 5) The partition erected dividing Flat 7 in two shall be permanently and

completely removed, and any damage shall be made good to match the original fabric.

- 6) The partition erected dividing Flat 9 in two shall be permanently and completely removed, and any damage shall be made good to match the original fabric.
 - 7) The partition erected in Room 5 to enclose the bath and handbasin shall be permanently and completely removed, and any damage shall be made good to match the original fabric.
 - 8) The partition erected to enclose the kitchen in Flat 5 shall be permanently and completely removed, and any damage to be made good to match the original fabric.
 - 9) The concrete roof tiles shall be permanently and completely removed and natural Welsh slates shall be reinstated.
- The period for compliance with the requirements is 12 months.
 - The appeal is made on the grounds set out in section 39(1)(c), (e) and (i) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended.

Summary of Decision: The appeal is allowed in part and listed building consent for that part is granted, but otherwise the appeal fails, and the listed building enforcement notice is upheld as in the terms set out below in the Formal Decision.

Applications for costs

1. At the Inquiry applications for costs were made by the Council of the London Borough of Camden against Anfil Ltd, and by Anfil Ltd against the Council of the London Borough of Camden. These applications are the subject of separate Decisions.

Procedural matters

2. The enforcement notice for Appeal A is headed Material Change of Use and requires that:
 1. The use of flats 1, 2, 4, 6, and 8 as self-contained flats shall completely and permanently cease.
 2. The property shall be permanently re-arranged to provide non-self contained bedsitting accommodation with shared facilities.
 3. All damage caused to the fabric of the building by the removal of the unauthorised works, shall be made good, to match the original work in terms of materials, colour, texture and profile.

However, only Requirement 1 is related to the breach of planning control alleged, which is without planning permission the unauthorised change of use involving the self containment of 5 of the 8 bedsit rooms within the House in Multiple Occupation. Requirement 2 goes beyond what is allowed under section 173(4) of the Act, which is (as far as this appeal is concerned) discontinuing the use of the land. As no works are involved in the change of use allegation (only in consequence of the change of use) Requirement 3 goes beyond what is allowed by the Act, as it relates to operations which are not the subject of the allegation. I shall therefore correct the enforcement notice by deleting Requirements 2 and 3.

3. It was agreed at the inquiry that the appellant (and the Council) were not aware that the fees had been paid for the deemed planning application for

Appeal B. No ground (a) appeal had been made, and the appellant had not intended to make an application for deemed planning permission. No evidence had been offered by either party for this reason, and there was no case put forward by the appellant in support of the deemed planning application. In the light of that agreement, I accept that the application for deemed planning permission was withdrawn at the Inquiry, and, as it does not cause injustice to either party, I shall deal with Appeal B solely on ground (g).

The appeal buildings

4. The appeal buildings are part of a terrace, 25-35 (Consecutive) Mornington Crescent, which was listed in Grade II on 14 May 1974. They are within the Camden Town Conservation Area.
5. 28 Mornington Crescent has 1 self-contained flat at basement level, and the established use of the upper floors is as a House in Multiple Occupation with 8 bedsitting type units. 30 Mornington Crescent has 1 self-contained flat at basement level, and the established use of the upper floors is as a House in Multiple Occupation with 9 bedsitting type units. The basement flats were granted planning permission and listed building consent on 10 November 1983 for 28 Mornington Crescent, and 6 December 1989 for 30 Mornington Crescent, respectively. There is no other planning history for the 2 properties.
6. 28 Mornington Crescent at present has 2 self-contained flats on the ground floor (Flats 1 and 2); a non self-contained flat (Flat 3), which has the sole use of the toilet in the hallway, and a self-contained flat (Flat 4) at first floor level; a non self-contained flat (Flat 5), which has the sole use of the toilet in the hallway, and a self-contained flat (Flat 6) at second floor level; and a non self-contained flat (Flat 7), which has the sole use of the toilet in the hallway, and a self-contained flat (Flat 8) at third floor level. 30 Mornington Crescent at present has 9 bedsitting type units, as the established use.

Appeal A

7. This appeal relates to the self-containment of 5 of the 8 bedsitting rooms in 28 Mornington Crescent.

The appeal on ground (c)

8. For this ground of appeal to succeed it is for the appellant to show that those matters (if they occurred) do not constitute a breach of planning control. The relevant matters in this appeal are whether the change of use of the bedsitting rooms with shared facilities to self contained flats is a breach of planning control.
9. As I have said earlier, 28 Mornington Crescent has 1 self-contained flat at basement level, and the established use of the remainder of the building is as a House in Multiple Occupation, with 8 bedsitting type units. At present it has 2 self-contained flats on the ground floor, a self-contained flat at first floor level, a self-contained flat at second floor level, and a self-contained flat at third floor level. There are 3 non self-contained flats, one on each of the first, second and third floors, and each has the sole use of the toilet in the respective hallway.

10. It is not disputed that the building was, with the exception of the basement flat, a House in Multiple Occupation. Planning legislation defines neither "multiple occupation" nor Houses in Multiple Occupation, as such, but relies on the concept of a "single household" and "family" in making distinctions for land-use purposes. Houses in Multiple Occupation are unclassified by *The Town & Country Planning (Use Classes) Order 1987*. The whole building is not used as a single, self-contained unit of occupation, nor is it used by a single person, a family, or more than one person living together like a family, as a single household. The accommodation consists of some bed-sitting rooms with shared WCs, and some self-contained units with their own internal WCs. The building clearly cannot be considered as a Class C3 Dwelling House, as none of the occupiers live together as a single household. It follows that the whole building is a single planning unit in use for the purposes of multiple residential occupation, and it is, in consequence, a *sui generis* use.
11. As a result of the *Housing and Planning Act 1986* and Article 4 of *The Town & Country Planning (Use Classes) Order 1987* as amended, planning permission is not required for the sub-division of premises other than dwelling houses, provided that both the existing and proposed uses fall within the same use class. Intensification of a use within a class in the Order has been held by the courts as not to constitute development unless and until its effect is to take the use outside of that class altogether. Taken together, this means that if a building used for purposes falling within a particular use class were to be sub-divided, without physical works amounting to development, and each of the units was to be used for purposes which also fell within the same class, planning permission is unlikely to be required, even though any associated intensification might be material change of use.
12. Whilst the use is a *sui generis* use, it is clear that the use is for multiple residential occupation whether the use is as a House in Multiple Occupation with all the units with shared WCs, or as a use where some of them are self-contained units. There has been no sub-division of the building, that is, the planning unit, only the provision of WCs within some of the existing units, and consequential amendments to the plan including some partitioning. That is not a material change of use and cannot give rise to a need for planning permission. There has been no increase in the number of units within the planning unit, and there has been no intensification of use. The self-containment of the units by providing internal WCs does not constitute a material change, especially where no overall increase in the number of units has occurred. There have been no planning consequences as a result of the self-containment of the 5 units.
13. The Council seek to prevent the loss of housing in multiple occupation, in the *London Borough of Camden Unitary Development Plan 2006* Policy H6, because it is low cost accommodation. The units that have had an internal WC provided, as opposed to being shared, seem to be as cheap to rent as they were before the improvements, which have merely involved a modest alteration to them to improve the living conditions and the privacy of the tenants. The same number of units remain available, and of a very similar size and standard, and the work has been done to benefit the existing tenants. The units remain similarly affordable, and thus remain accessible as cheap housing.

14. I therefore conclude as a matter of fact and degree that the alterations made to the interior of the building, in changing it from a House in Multiple Occupation with units with shared facilities, to a use for the purposes of multiple residential occupation with some units being self-contained units and some units having shared facilities, has not resulted in a material change of use, nor any material change in the character of the property, and therefore no breach of planning control has occurred. The ground (c) appeal succeeds, and I shall quash the enforcement notice. In consequence the appeals on ground (a), (f) and (g), and the deemed planning application, do not fall to be considered.

Appeal B

15. This appeal relates to the insertion of a uPVC door in the ground floor rear elevation of 28 Mornington Crescent.

The appeal on ground (g)

16. Ground (g) is that the appellant considers that the time given to comply with the notice is too short.
17. In my view 3 months is more than adequate time to replace a uPVC door with a timber door to match the original. It would not be necessary to move a tenant out to carry out this work, which is a simple and relatively straightforward exercise, and I see no reason to allow more time. I therefore conclude that the appeal on ground (g) does not succeed.

Appeal C

18. This appeal is concerned with alterations to the listed building at 28 Mornington Crescent.

The appeal on ground (c)

19. For this ground of appeal to succeed it is for the appellant to show that those matters (if they occurred) do not constitute such a contravention.
20. Section 7 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended states that, subject to the following provisions of this Act, no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised. The question to be addressed in a ground (c) appeal is whether the works alleged in the notice have affected the architectural or historic character of the listed building.
21. At my site inspection it was clear that all of the works had affected the character of the listed building. There was no difficulty in seeing each and every one of them, and in seeing that they all affected, to a greater or lesser degree, the character of the listed building. This ground of appeal is a legal test as to whether the works affect the character of the listed building, not whether the works harm it, or improve it. It is solely concerned with the effect of the works on the listed building.

22. As a matter of fact and degree, I consider that the appearance of the listed building has been materially altered by the works, and that the architectural and historic character of the listed building has been affected. It follows that the appeal on ground (c) does not succeed.

The appeal on ground (e)

23. Ground (e) is that listed building consent ought to be granted for the works.

Main issue

24. I consider that the main issue is the effect that the works have on the character of the listed building as a building of special architectural or historic interest and thus on the character of the Camden Town Conservation Area within which it is situated.

Reasons

25. As the appeal involves a listed building, I am required to take account of section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended which states that, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
26. As the appeal building is in a conservation area, I am required to take account of section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended which states that, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
27. In determining this appeal I shall also take into account relevant Government advice that is contained in Planning Policy Guidance: *Planning and the Historic Environment* (PPG15), as amended. Paragraph 2.4 of PPG15 states that the Courts have accepted that section 54A of the *Town and Country Planning Act 1990* as amended (which has been repealed and replaced by section 38(6) of the *Planning and Compulsory Purchase Act 2004*) does not apply to decisions on applications for listed building consent, since in those cases there is no statutory requirement to have regard to the provisions of the development plan. Policies in the Unitary Development Plan reflect the thrust of the statutory requirements, and I shall deal with them as a material consideration.

1) Raised timber bed structures in Rooms 1, 2, 3, 4 and 6 and associated partitions

28. The advice of English Heritage in *London terrace houses 1660-1860* is that the domestic plan form of London terrace houses is an important part of their character and special interest. It continues as a general rule the character, proportion and integrity of the principal rooms at ground and first floor levels, together with the primary and secondary staircase compartments, should be preserved. Normally such areas should not be subdivided.
29. The raised bed structures are large, bulky, and out of character, with an untidy nature. They are unattractively decorated, which adds to their intrusiveness into the historic space. They conceal or partially conceal historic features such as cornices, or chimney breasts, and they destroy any real understanding and

appreciation of the original plan. The effect of the raised beds with their supporting structures, their associated partitions, their safety rails, and their ladders up to the bed level, is to subdivide the room, and that damages the integrity of the room. Because of their intrusion they harm the proportions of the original space.

30. Although Room 6 is at second floor level, it seems to me that the same considerations should apply, as the room is similar to the others in terms of its character. I appreciate that freestanding beds can be used, and, in the light of the example I saw, they are not nearly so visually harmful, as they are seen as light furniture and not a heavy structure, and they are not, in any case, controlled by the legislation. Plainly there are many other acceptable sleeping arrangements, such as sofa beds, that also do not harm the special interest of the rooms. I consider that listed building consent should not be granted, as the works fail to preserve the listed building.

2) Partitions and bathroom fittings (including tiling) installed to create bath areas in Flats 1, 4, and 6

31. By contrast, the partitions used to form the bathroom areas, and the bathrooms themselves, are to be expected in a building in residential use, and represent part of the building's organic history, and its response to an evolving pattern of use and living. This clearly includes the provision of services, and other domestic improvements, which have occurred since the building was erected in the 1820s. The advice in PPG15 at paragraph 3.10 is that not all original uses will now be viable, and that is plainly the case here. The partitions for the most part seem to have preserved historic detail such as cornices, and to have broadly preserved the listed building. They are not unacceptably intrusive in terms of impact on the historic plan form. I will therefore grant listed building consent for these works.

3) The uPVC door in the ground floor rear elevation

32. The appellant has stated that this uPVC door is unacceptable in a historic building. I agree, as it is so out of character with the listed building, especially when compared with the traditional timber door that has been removed and replaced. I shall refuse listed building consent for the door, as it does not preserve the character of the listed building.

4) Openings created, partitions erected, and baths installed through the spine walls between Flats 3 and 4, Flats 5 and 6, and Flats 7 and 8

33. Evidence was put to the Inquiry that similar openings had been permitted in the past at a number of other properties, including in Mornington Crescent and at 93 Judd Street. One of the appellant's witnesses stated that the work in the appeal buildings was funded by Camden Council, and that the Greater London Council representative at that time took the view that listed building consent was not required for these, and a number of other works of improvement, carried out in the 1980s. No written evidence was produced to support this view, but that does not, to my mind, weaken its value or worth, after the passage of 25 years or so.
34. As with the bathrooms, these works represent a domestic improvement which it is sensible to make, the building being used in a somewhat different way to that for which it was designed and built – I was told as a quite smart upper middle class family dwelling. That is, of course, provided that they do not

unacceptably harm the fabric of the listed building. The plan form remains very much as built and plainly readable, and the building has been able to respond to the needs of a new use, but one which keeps it in relatively good condition, and at present ensures its future. Whilst the formation of the openings has clearly involved the removal of some historic fabric, and the partitions and baths have impacted on the building's special character, it has not been an unacceptable loss or impact on balance, and the character of the building has been generally preserved in this regard. I shall therefore grant listed building consent for these works.

5) UPVC window in Flat 7

35. This window is plainly out of character as bulky uPVC sections in a historic building. The large shiny sections do not have the quality, delicacy, finish or character of historic timber sliding sash windows. I see no reason for it to remain as it does not preserve the listed building, and I shall therefore refuse listed building consent for it.

6) Partitions dividing Flat 8 in two

36. The evidence put to the Inquiry was that this wall was likely to have existed prior to listing, and there was evidence on site that the wall may have been longer. In the light of the English Heritage advice the third floor is of lesser importance in terms of preservation in any case. I shall therefore grant listed building consent for it.

7) Partitions erected to create toilets in the communal hallways (which cut into Flats 4 and 6)

37. In line with my views above on the bathrooms which have been inserted, it follows that it is sensible to retain these toilets so long as they do not cause unacceptable harm to the listed building. Whilst they clearly affect the historic plan form, they do so to an insignificant level, being in the communal hallway, and on balance I consider that the listed building is preserved. I shall therefore grant listed building consent for them.

8) Wall located between the sitting/sleeping area and hallway of Flat 2

38. This represent a loss of historic fabric and the formation of a feature from its remnants. It is an unacceptable and unwarranted loss, and unattractive. It clearly does not preserve the listed building, and harms its special interest. I shall not therefore grant listed building consent for it.

9) Door opening between the sitting/sleeping area of Flat 2

39. Similarly, I shall not grant listed building consent for these works, as they do not preserve the listed building.

10) Partitions erected to separate the kitchen from the sitting area in Flat 4

40. The partitions represent an insensitive intrusion into the historic plan form of the room. They do not reflect its character in any way, and harm the integrity of the unit. They bear no historic relationship to the room, which they do not thereby preserve. I shall therefore refuse listed building consent for them.

11) Partitions erected to create a separate toilet within Flat 8

41. This seems to me to be a modest but acceptable intrusion into the room, providing as it does what I have referred to earlier as the provision of services, and other domestic improvements, which have occurred since the building was erected in the 1820s. It is modestly sized and discreetly located, and has scarcely any impact on the historic plan. On balance I consider that it preserves the listed building and I shall grant listed building consent for it.

Conclusion

42. Paying special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and paying special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, I conclude that listed building consent should be granted for some of the unauthorised works but not for others. The appeal under ground (e) therefore succeeds in part.

The appeal on ground (i)

43. For this ground of appeal to succeed it is for the appellant to show that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose.
44. The appellant asserts that the remedial works put forward in the notice would not allow the building to be used as a House in Multiple Occupation or as a single family dwelling, as the property would have no bathroom or usable toilet facilities. This would appear to be wrong, as the property would seem to have such facilities. Furthermore, this ground is concerned with restoring the character of the listed building to its former state, and not with achieving a particular planning use. The requirements would restore the building to its former state, which was plainly acceptable in terms of a House in Multiple Occupation. The appeal on ground (i) does not succeed.

Appeal D

45. This appeal is concerned with alterations to the listed building at 30 Mornington Crescent.

The appeal on ground (c)

46. At my site inspection it was clear that all of the works had affected the character of the listed building. There was no difficulty in seeing each and every one of them, and in seeing that they all affected, to a greater or lesser degree, the character of the listed building. This ground of appeal is a legal test as to whether the works affect the character of the listed building, not whether the works harm it, or improve it. It is solely concerned with the effect of the works on the listed building.
47. As a matter of fact and degree, I consider that the appearance of the listed building has been materially altered by the works, and that the architectural and historic character of the listed building has been affected. It follows that the appeal on ground (c) does not succeed.

The appeal on ground (e)

Main issue

48. I consider that the main issue is the effect that the works have on the character of the listed building as a building of special architectural or historic interest and thus on the character of the Camden Town Conservation Area within which it is situated.

Reasons

1) Raised timber bed structures in Rooms 1, 2, 4 and 5 and associated partitions

49. For the reasons that I have given for Appeal C, I consider that these raised bed structures with their associated works are similarly harmful to the listed building at 30 Mornington Crescent, which they likewise fail to preserve. I shall therefore not grant listed building consent for them.

2) Partitions and bathroom fittings (including tiling) installed to create bath areas in Flats 1, 5, 7, and 9

50. For the reasons that I have given for Appeal C, I consider that the partitions and bathrooms are not unacceptably intrusive in terms of their impact on the historic plan form, and that they broadly preserve the listed building, and I shall in consequence grant listed building consent for them.

3) Openings created, partitions erected, and baths installed through the spine walls between Flats 1 and 2, Flats 4 and 5, Flats 6 and 7 and Flats 8 and 9

51. Again, these represent a sensible domestic improvement which causes no unacceptable harm to the listed building, and which is thereby preserved, notwithstanding a modest loss of historic fabric. I shall grant listed building consent for them.

4) Partitions erected to create toilets in the communal hallways (which cut into Flats 5 and 7)

52. Similarly, as with Appeal C, I find these to be acceptable for comparable reasons, and I shall grant listed building consent for them.

5) Partition erected dividing Flat 7 in two

53. As this wall seems, as with the wall in Flat 8 in Appeal C, to have been part of a wall present when the building was listed, I shall grant listed building consent for it.

6) Partition erected dividing Flat 9 in two

54. Again, this wall may have been part of the listed building at the time of listing. It seems to me to cause no undue harm, and I therefore consider that it preserves the listed building. I shall grant listed building consent for it.

7) Partition erected in Room 5

55. For reasons I have given in connection with Appeal C I consider this to be a reasonable and acceptable solution, in connection with providing a modest level of domestic facilities, without unduly harming the historic building or its plan form. I shall grant listed building consent.

8) Partition erected to enclose the kitchen in Flat 5

56. This partition seems to me to be a harmful and unnecessary intrusion into the historic space, which it unacceptably subdivides. It fails to respect the historic plan and it thus damages the integrity of the listed building. It fails to preserve the listed building and I shall not grant listed building consent for it.

9) Concrete roof tiles

57. There is no evidence as to what the building was roofed in when it was listed. It may well not have been inspected closely as the 3 slopes of the mansard roof concerned are difficult to see. The concrete tiles seem to be of some age, and I note that a number of roofs to the Crescent have artificial slates rather than Welsh slates. In view of this uncertainty, whilst I do not deny that Welsh slates would be very much more attractive than the rather dismal and unattractive concrete tiles, in the light of the judgement in *Bath City Council v Secretary of State for the Environment and Grosvenor Hotel (Bath) Ltd* [1983] JPL 737, where it was held that an improvement could not be secured to a listed building compared to its state before the unauthorised works were carried out, it seems to me wrong to require such a reinstatement when there is no evidence that at the date of listing the roof had Welsh slates on it. I shall therefore grant listed building consent for the concrete tiles, there being no evidence to the contrary.

Conclusion

58. Paying special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and paying special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, I conclude that listed building consent should be granted for some of the unauthorised works but not for others. The appeal under ground (e) therefore succeeds in part.

The appeal on ground (i)

59. The appellant asserts, as with Appeal C, that the remedial works put forward in the notice would not allow the building to be used as a House in Multiple Occupation or as a single family dwelling, as the property would have no bathroom or usable toilet facilities. This would appear to be wrong, as the property would seem to have such facilities. Furthermore, this ground is concerned with restoring the character of the listed building to its former state, and not with achieving a particular planning use. The requirements would restore the building to its former state, which was plainly acceptable in terms of a House in Multiple Occupation. The appeal on ground (i) does not succeed.

Overall conclusions

60. From the evidence given at the inquiry, and for the reasons given above and having regard to all other matters raised, I conclude with regard to Appeal A that the appeal should succeed on ground (c). I shall delete Requirements 2 and 3, and quash the enforcement notice. In these circumstances the appeal under the various grounds set out in section 174(2) to the 1990 Act as amended and the application for planning permission deemed to have been made under section 177(5) of the 1990 Act as amended do not need to be considered.

61. For the reasons given above and having regard to all other matters raised, I consider that Appeal B should not succeed.
62. For the reasons given above and having regard to all other matters raised, I conclude that Appeals C and D should succeed in part only, and I will grant listed building consent for one part of the matter the subject of the notices, but otherwise I will uphold the listed building enforcement notices and refuse to grant listed building consent on the other part. It should be noted that the listed building enforcement notices cease to have effect for those matters granted listed building consent, by virtue of section 44(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*.

Formal Decisions

Appeal A: APP/X5210/C/07/2034125

63. I direct that the enforcement notice be corrected by the deletion of Requirements 2 and 3. Subject to this correction I allow the appeal, and direct that the enforcement notice be quashed.

Appeal B: APP/X5210/C/07/2034118

64. I dismiss the appeal and uphold the enforcement notice.

Appeal C: APP/X5210/F/07/2034129

65. I allow the appeal insofar as it relates to Requirements 2), 4), 6), 7) and 11) of the listed building enforcement notice and grant listed building consent for the retention of:

- 2) Partitions and bathroom fittings (including tiling) installed to create bath areas in Flats 1, 4, and 6;
- 4) The openings which have been created, partitions erected, and baths installed through the spine walls between Flats 3 and 4, Flats 5 and 6, and Flats 7 and 8 to provide bathroom accommodation;
- 6) The partitions erected dividing Flat 8 in two;
- 7) The partitions erected to create toilets in the communal hallways (which cut into Flats 4 and 6); and
- 11) The partitions erected to create a separate toilet within Flat 8;

at 28 Mornington Crescent, London NW1 7RE.

66. I dismiss the appeal, and uphold the listed building enforcement notice, insofar as it relates to Requirements:

- 1) The raised timber bed structures in Rooms 1, 2, 3, 4 and 6 and any associated partitions;
- 3) The uPVC door in the ground floor rear elevation;
- 5) The uPVC window inserted in Flat 7;
- 8) The wall (including cornice and skirting boards) located between the sitting/sleeping area and hallway of Flat 2;
- 9) The door opening between the sitting/sleeping area of Flat 2; and

10) The partitions erected to separate the kitchen from the sitting area in Flat 4;

and refuse to grant listed building consent for the retention of the works at 28 Mornington Crescent, London NW1 7RE carried out in contravention of section 9 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended.

Appeal D: APP/X5210/F/07/2034128

67. I allow the appeal insofar as it relates to Requirements 2), 3), 4), 5), 6), 7), and 9) of the listed building enforcement notice and grant listed building consent for the retention of:

2) Partitions and bathroom fittings (including tiling) installed to create bath areas in Flats 1, 5, 7, and 9;

3) The openings which have been created, partitions erected, and baths installed through the spine walls between Flats 1 and 2, Flats 4 and 5, Flats 6 and 7 and Flats 8 and 9 to provide bathroom accommodation;

4) The partitions erected to create toilets in the communal hallways (which cut into Flats 5 and 7);

5) The partition erected dividing Flat 7 in two;

6) The partition erected dividing Flat 9 in two;

7) The partition erected in Room 5 to enclose the bath and handbasin; and

9) The concrete roof tiles;

at 30 Mornington Crescent, London NW1 7RE.

68. I dismiss the appeal, and uphold the listed building enforcement notice, insofar as it relates to Requirements:

1) The raised timber bed structures in Rooms 1, 2, 4 and 5 and any associated partitions; and

8) The partition erected to enclose the kitchen in Flat 5;

and refuse to grant listed building consent for the retention of the works at 30 Mornington Crescent, London NW1 7RE carried out in contravention of section 9 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended.

Stuart M Reid

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alun Alesbury	of Counsel, instructed by E M Pick of E M Pick Planning, 30 Golders Manor Drive, London NW11 9HT.
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He called

John Eva	c/o 19 Victoria Rd, Romford, Essex.
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Tina Garrett MSc BSc (Hons) IHBC	Associate Director in Historic Buildings, CgMs Limited, Morley House, 26 Holborn Viaduct, London EC1 2AT.
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E M Pick BSc(Hons) MRICS BTP MRTPI	E M Pick Planning, 30 Golders Manor Drive, London NW11 9HT.
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FOR THE LOCAL PLANNING AUTHORITY:

Simon Randle	of Counsel, instructed by the Solicitor to the London Borough of Camden.
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He called

Robert Farnsworth DipUP MSc MA (Cantab) MRTPI	Senior Planner (Policy and Information), Forward Planning, London Borough of Camden.
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Sharon Bermingham BA MSc	Planning Enforcement Officer, Planning Appeals and Enforcement Team, London Borough of Camden.
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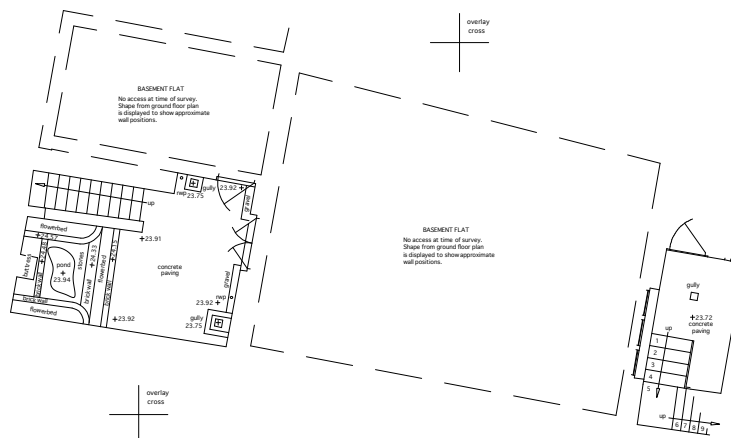
Hannah Walker BA (Hons) MSc	Conservation and Urban Design, London Borough of Camden
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INTERESTED PERSON:

Dave Dearie	Flat 4, 30 Mornington Crescent, London NW1 7RE.
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DOCUMENTS PUT IN AT THE INQUIRY

- 1 Statement of Common Ground dated 24 August 2007.
- 2 Bundle of Tenancy Agreements relating to 28 and 30 Mornington Crescent put in by the appellant.
- 3 Office Copy of Register Entries subsisting in the register on 23 November 2001 for 28 Mornington Crescent, St Pancras, put in by the appellant.
- 4 Office Copy of Register Entries subsisting in the register on 8 January 2002 for 30 Mornington Crescent, put in by the appellant.
- 5 Completion Statement re 30 Mornington Crescent as at 16.9.1983, put in by the appellant.
- 6 Advertisement for Lot 57, 25/25A Mornington Crescent, Camden Town NW1, from 1979, put in by the appellant.
- 7 The list of persons notified by the Council.
- 8 Minimum HMO Standards for Bedsits, Studios, Shared Houses and Shared Flats. Housing Act 2004. Effective April 2004. Put in by the Council (this Document supersedes Mr Pick's Appendix 8).
- 9 Table of analysis by the Council of relevant matters of various properties, identified by the appellant, put in by the Council.
- 10 Statement of John Michael Eva, for the appellant.
- 11 Bundle of Documents relating to whether planning permission was needed for the installation of a WC in Flat 5, 30 Mornington Crescent, put in by the appellant.
- 12 Policy HG17 and supporting text from the *London Borough of Camden Unitary Development Plan March 2000*, put in by the appellant.
- 13 Policy HG17 and supporting text from the *London Borough of Camden Unitary Development Plan March 2000*, with the last sentence of 6.63 highlighted, put in by the appellant.
- 14/1 2 sets of coloured plans put in for 28 and 30 Mornington Crescent by the
and appellant.
- 14/2
- 15 Appendix of monthly rents for 28 and 30 Mornington Crescent put in by the Council.
- 16 Extract from *The London Plan* page 61 put in by the Council.
- 17 Table produced by the Council showing the HMO Standards and the actual sizes of the Flats in 28 and 30 Mornington Crescent.
- 18 Part of the corrected Witness Statement of Diane Fleming, Team Leader Appeals and Enforcement, The London Borough of Camden, dated 22/11/2006 put in by the Council.
- 19 Exhibit DF/4 cover sheet and A3 attachment, put in by the Council.
- 20 Letter from Leo Kaufman to Peter Swingler of the Central Complaints Unit, Law and Administration, London Borough of Camden, dated 22 March 2007.
- 21 Missing page 14 from Mr Pick's Appendix 8, put in by the appellant.
- 22 Approval of Application for Special Grant from London Borough of Camden, dated 6 December 1985, relating to 93 Judd Street WC1, dealt with by Mr Eva, put in by the appellant.
- 23 The Council's Final Remarks.
- 24 Letter from the Council to E M Pick dated 22 August 2007 entitled NOTICE REGARDING COSTS put in by the Council.



The image displays two architectural floor plans for a building. The top plan is the 'GROUND FLOOR PLAN' and the bottom plan is the 'BASEMENT FLOOR PLAN'. Both plans show a complex layout of rooms, corridors, and structural elements. Elevation markers are provided throughout the plans, and a north arrow is located in the upper right corner of the ground floor plan.

GROUND FLOOR PLAN:

- KITCHEN:** Includes a concrete floor, kitchenette, and a small courtyard (0.7m by 1.5m).
- LIVING AREA:** Features a fireplace, a large window, and a view of the garden.
- FLAT 1:** Includes a bedroom, bathroom, and a living area.
- FLAT 2:** Includes a bedroom, bathroom, and a living area.
- CORRIDOR:** Connects the various rooms and provides access to the garden.
- Garage:** Located at the rear of the property, with a concrete floor and a view of the garden.
- Structural Details:** Includes walls, doors, windows, and a north arrow.

BASEMENT FLOOR PLAN:

- Basement:** Includes a large storage area, a bathroom, and a living area.
- Structural Details:** Includes walls, doors, windows, and a north arrow.

Notes

THIS SURVEY HAS BEEN PREPARED WITH A SCALING ACCURACY
FOR A PLOT AT A SCALE OF 1/50
ALL LEVELS ARE IN METRES AND RELATED TO OSBM, LOCATED ON
THE POST OFFICE BUILDING EVERSOLT STREET (value 24.16m).
THE CO-ORDINATE GRID IS BASED ON ASSUMED VALUES

ALL TREE HEIGHTS AND SPREADS ARE APPROXIMATE

WE HAVE TRIED TO IDENTIFY TREE TYPES, HOWEVER IF TREE SPECIES ARE CRITICAL SPECIALIST ADVICE SHOULD BE GAINED.

DRAINAGE PIPE SIZES HAVE BEEN MEASURED FROM THE SURFACE, CHAMBER ACCESS HAS NOT BEEN GAINED FOR SAFETY REASONS, THEREFORE SIZES SHOULD BE REGARDED AS APPROXIMATE

<u>STA</u>	<u>EASTINGS</u>	<u>NORTHINGS</u>	<u>LEVELS</u>
ST01	10000.002	5000.017	25.674
ST02	9998.789	4991.386	25.691
ST03	9985.136	4983.961	25.785
ST08	9968.667	4993.790	25.110
ST09	9960.873	4997.197	26.424
ST10	9970.962	4996.557	25.993
ST11	9979.752	4994.952	26.535
ST12	9969.852	4957.584	26.166

bl	bed level
cl	cover level
il	invert level
tl	threshold level
utl	unable to lift
wl	water level

sh	sill to head height
fs	floor to sill height
w/s	underside height
t/s	topside height
fb	floorboard direction
conc	concrete
rl	roof light
cup'd	cupboard
fp	fireplace
sl	sliding door
sw	soil and vent pipe
wp	rain water pipe
carpet	carpet
3.17	room height
roof slope	roof slope

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job
28 MORNINGTON CRESCENT
LONDON
NW1 7RE

client	NICE GROUP
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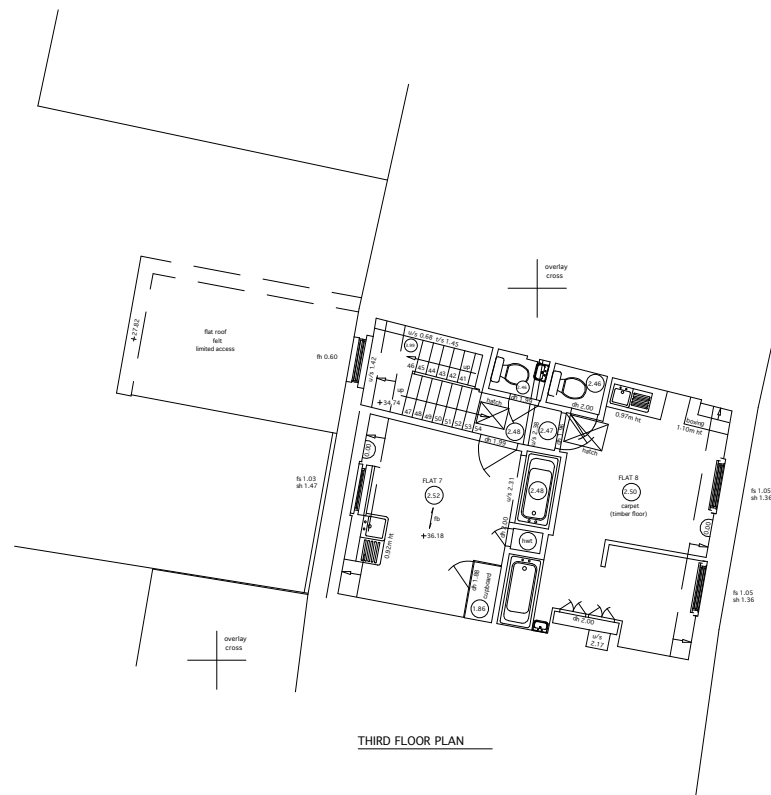
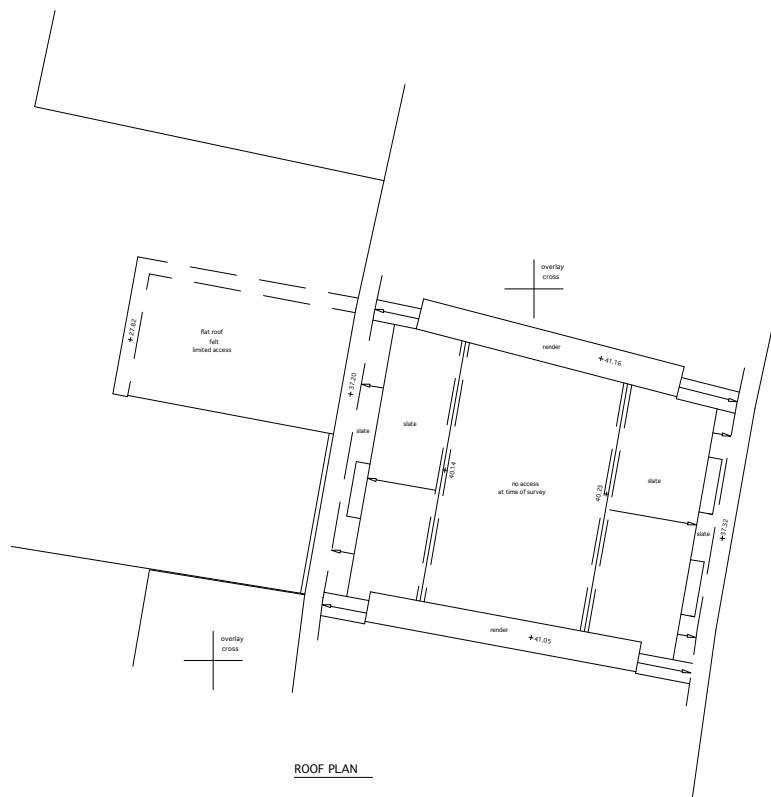
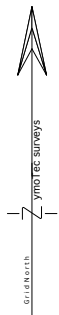
title FLOOR PLANS	dwg no. 1481-C/1
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scale	date
1/50 @ A1	DECEMBER 2008

ZymoTEC Surveys

THE STANDARD FOR ACCURACY

TOPOGRAPHICAL AND MEASURED BUILDING SURVEYORS
PO Box 4256, Leamington Spa, CV31 9BZ
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www.zymotechsuirveys.com

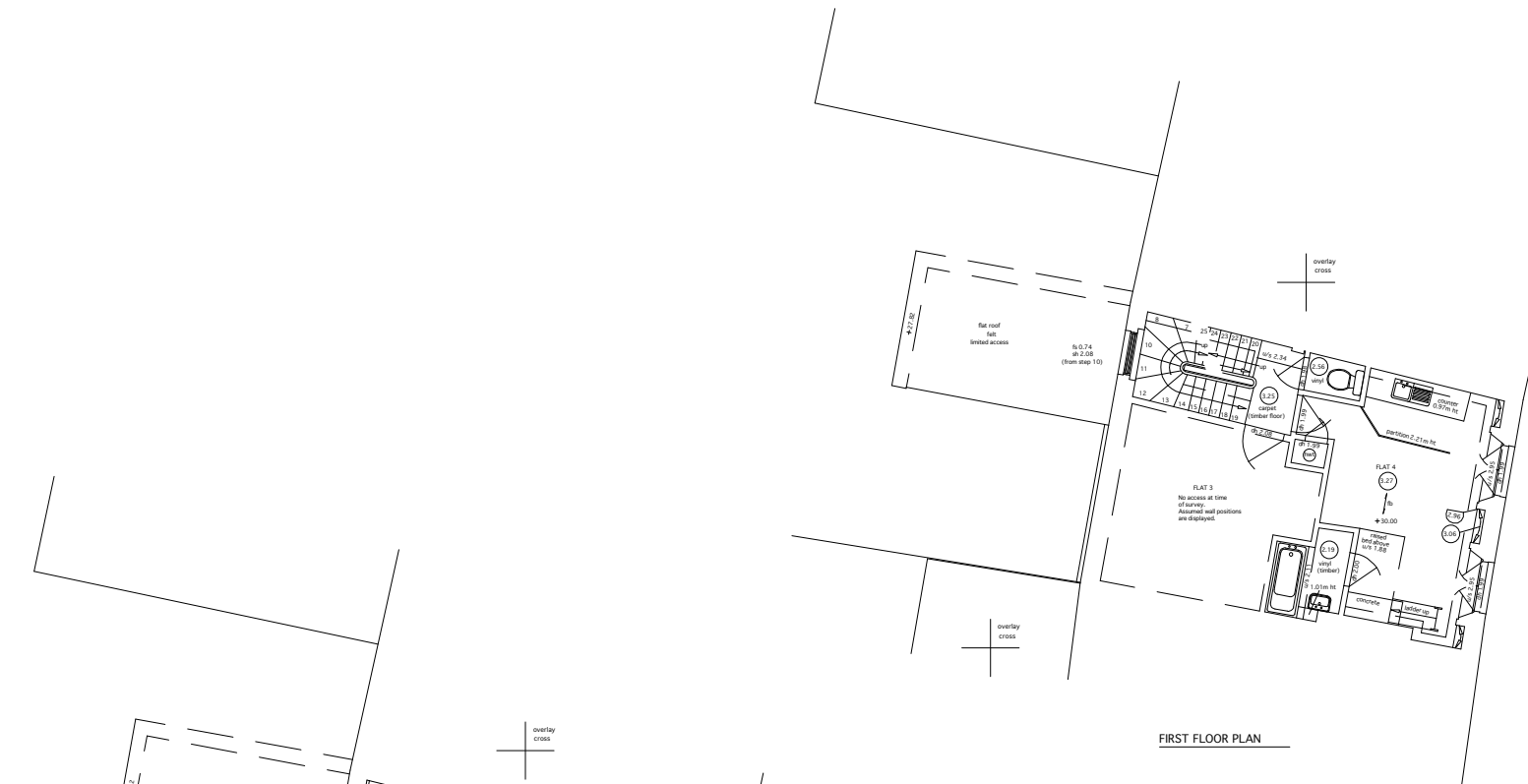
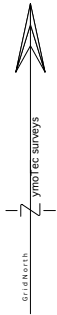


Notes

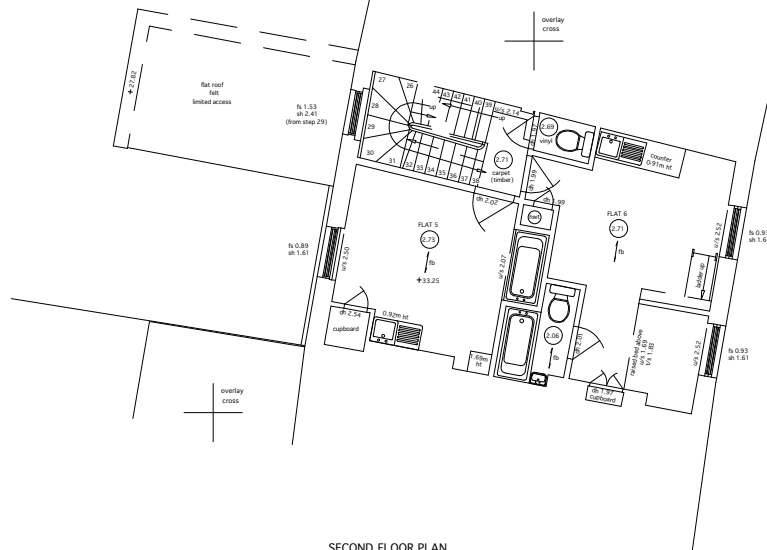
THIS SURVEY HAS BEEN PREPARED WITH A SCALING ACCURACY
FOR A PLOT AT A SCALE OF 1:50
ALL LEVELS ARE IN METRES AND RELATED TO OSBM LOCATED ON
THE POST OFFICE BUILDING EVERSHOLT STREET (value 24.16m).

sh	all to head height
h	floor to all height
u/h	underside height
h/h	ceiling height
h/h	floorboard direction
cont	concrete
cl	roof light
up/h	upward
h/h	threshold
sliding door	sliding door
cell and waste pipe	cell and waste pipe
rain water pipe	rain water pipe
carpet	carpet
room height	room height
roof slope	roof slope
radiator	radiator

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job	28 MORNINGTON CRESCENT LONDON NW1 7RE	
client	NICE GROUP	
title	FLOOR PLANS	draw no. 1481-C/3
scale	1/50 @ A1	date DECEMBER 2008
Zymotec Surveys		
TOPOGRAPHICAL AND MEASURED BUILDING SURVEYORS PO Box 4256, Leamington Spa, CV31 9RZ TEL: 01926 429565 FAX: 01926 429565 E-MAIL: info@zymotecsurveys.com www.zymotecsurveys.com		



FIRST FLOOR PLAN



SECOND FLOOR PLAN

Notes

THIS SURVEY HAS BEEN PREPARED WITH A SCALING ACCURACY
FOR A PLOT AT A SCALE OF 1:50
ALL LEVELS ARE IN METRES AND RELATED TO OSBM, LOCATED ON
THE POST OFFICE BUILDING EVERSHOLT STREET (value 24.16m).

ah	all to head height
fh	floor to all height
u/s	underside height
v/s	topside height
f/s	floorboard direction
cc	concrete
rl	roof light
cup/d	cupboard
fr	fireplace
sd	sliding door
u/s and vent pipe	soil and vent pipe
wp	rain water pipe
carpet	carpet
room height	room height
roof slope	roof slope
radiator	radiator

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job 28 MORNINGTON CRESCENT
LONDON
NW1 7RE

client NICE GROUP

title FLOOR PLANS sheet no. 1481-C/2

scale 1/50 @ A1 date DECEMBER 2008

ZymoTEC Surveys

THE STANDARD FOR ACCURACY
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Notes

THIS SURVEY HAS BEEN PREPARED WITH A SCALING ACCURACY
FOR A PLOT AT A SCALE OF
1:150
ALL LEVELS ARE IN METRES AND RELATED TO ODNM, LOCATED ON
THE POST OFFICE BUILDING EVERSHOLT STREET (value 24.16m).

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job
28 MORNINGTON CRESCENT
LONDON
NW1 7RE

client
NICE GROUP

title
ELEVATIONS
dwg no.
1481-C/4

scale
1/50 @ A1
date
DECEMBER 2008

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THIRD FLOOR LEVEL
(FLAT 8)
36.18m A.O.D.

SECOND FLOOR LEVEL
(FLAT 6)
33.23m A.O.D.

FIRST FLOOR LEVEL
(FLAT 4)
30.00m A.O.D.

GROUND FLOOR LEVEL
(FLAT 1)
26.52m A.O.D.



FRONT ELEVATION
23.00m A.O.D.



REAR ELEVATION
23.00m A.O.D.