



# Appeal Decisions

Inquiry held on 11 May 2010

by Philip Wilson RIBA MRTPI

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

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Decision date:  
23 June 2010

## **A1: Appeal Ref: APP/X5210/E/09/2119323**

### **Witanhurst 41 Highgate West Hill, London N6 6LS**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
- The appeal is made by Safran Holdings Limited against the Council of the London Borough of Camden.
- The application Ref: 2009/2595/L is dated 3 June 2009.
- The works proposed are repair and reconstruction of boundary wall with associated tree removal and replanting.

## **A2: Appeal Ref: APP/X5210/A/09/2119328**

### **Witanhurst 41 Highgate West Hill, London N6 6LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Safran Holdings Limited against the Council of the London Borough of Camden.
- The application Ref: 2009/2597/P, is dated 3 June 2009.
- The development proposed is repair and reconstruction of boundary wall with associated tree removal and replanting.

## **B1: Appeal Ref: APP/X5210/E/09/2119329**

### **Witanhurst 41 Highgate West Hill, London N6 6LS**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Safran Holdings Limited against the decision of the Council of the London Borough of Camden.
- The application Ref: 2009/3195/L, dated 6 July 2009, was refused by notice dated 16 December 2009.
- The works proposed are construction of basement for residential use as part of Witanhurst House including terrace area and associated parking, forecourt reinstatement and landscaping plus permanent vehicular access from Highgate West Hill.

## **B2: Appeal Ref: APP/X5210/A/09/2119330**

### **Witanhurst 41 Highgate West Hill, London N6 6LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Safran Holdings Limited against the decision of the Council of the London Borough of Camden.
- The application Ref: 2009/3192/P, dated 6 July 2009, was refused by notice dated 16 December 2009.

- The development proposed is construction of basement for residential use as part of Witanhurst House including terrace area and associated parking, forecourt reinstatement and landscaping plus permanent vehicular access from Highgate West Hill.
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**C1: Appeal Ref: APP/X5210/E/09/2119331**  
**Witanhurst 41 Highgate West Hill, London N6 6LS**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Safran Holdings Limited against the decision of the Council of the London Borough of Camden.
  - The application Ref: 2009/3174/L, dated 6 July 2009, was refused by notice dated 16 December 2009.
  - The works proposed are removal of service wing and consequential remodelling of front façade (residential) and forecourt reinstatement and landscaping. Construction of Orangery building providing residential accommodation as part of Witanhurst House with linking building, terrace, gardens retaining walls and landscaping of eastern garden plus permanent vehicular access from Highgate West Hill.
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**C2: Appeal Ref: APP/X5210/A/09/2119332**  
**Witanhurst 41 Highgate West Hill, London N6 6LS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Safran Holdings Limited against the decision of the Council of the London Borough of Camden.
  - The application Ref: 2009/3171/P, dated 6 July 2009, was refused by notice dated 16 December 2009.
  - The development proposed is removal of service wing and consequential remodelling of front façade (residential) and forecourt reinstatement and landscaping. Construction of Orangery building providing residential accommodation as part of Witanhurst House with linking building, terrace, gardens retaining walls and landscaping of eastern garden plus permanent vehicular access from Highgate West Hill.
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**Appeal Decisions**

1. **A1 A2:** I allow the appeals, and grant listed building consent and planning permission for repair and reconstruction of boundary wall with associated tree removal and replanting at Witanhurst 41 Highgate West Hill, London N6 6LS in accordance with the terms of the applications, Ref: 2009/2595/L and 2009/2597/P, dated 3 June 2009, and the plans submitted with them, subject to conditions set out in the attached Schedule.
  2. **B1 B2:** I allow the appeals, and grant listed building consent and planning permission for construction of basement for residential use as part of Witanhurst House including terrace area and associated parking, forecourt reinstatement and landscaping plus permanent vehicular access from Highgate West Hill at Witanhurst 41 Highgate West Hill, London N6 6LS in accordance with the terms of the applications, Ref: 2009/3195/L and 2009/3192/P dated 6 July 2009, and the plans submitted with them, subject to conditions set out in the attached Schedule.
  3. **C1 C2:** I allow the appeals, and grant listed building consent and planning permission for removal of service wing and consequential remodelling of
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front façade (residential) and forecourt reinstatement and landscaping. Construction of Orangery building providing residential accommodation as part of Witanhurst House with linking building, terrace, gardens retaining walls and landscaping of eastern garden plus permanent vehicular access from Highgate West Hill at Witanhurst 41 Highgate West Hill, London N6 6LS in accordance with the terms of the applications, Ref: 2009/3174/L and 2009/3171/P dated 6 July 2009, and the plans submitted with them, subject to conditions set out in the attached Schedule.

### **Preliminary Matters**

4. The Inquiry opened on 11 May 2010 and was adjourned on 14 May 2010. The Inquiry resumed on 18 May 2010 and closed that day. The purpose and effect of draft planning conditions and of agreements between the two main parties, made under the provisions of the Town and Country Planning Act 1990, as amended, were discussed at the Inquiry.
5. On 7 May 2010, before the Inquiry opened and by arrangement with the two main parties and The Grove Rule 6 Party, I undertook an informal inspection of the appeal building and most of its grounds. The inspection included the boundary wall to Highgate West Hill. I also viewed the appeal site from the rear gardens of 1 and 6 The Grove.
6. My formal and accompanied site inspection took place on 19 May 2010. Before the Inquiry closed, a scaffolding frame covered with mesh fabric was erected on site to indicate the size and situation of the proposed orangery and its relationship to the main house and neighbouring properties. I again visited houses in The Grove, in some cases viewing the appeal site from upper floor windows. My formal inspection included those parts of the interior of Witanhurst relevant to the proposals taking particular note of accommodation provided by the service wing. I also identified trees referred to in evidence, noting their relationship with buildings or structures within and adjacent to the appeal site.
7. With the benefit of an itinerary prepared by third parties, I undertook a further, unaccompanied tour of the Highgate area, recording features and characteristics of the conservation area and of Highgate West Hill in the vicinity of the appeal site. A tour of the wider area included views of Witanhurst and the appeal site from the grounds of Kenwood House, from Hampstead Heath and from Parliament Hill Fields. I walked the length of Highgate West Hill from south to north. I have, in determining the appeals, taken full account of evidence provided by my site inspections.
8. For convenience, I refer to linked planning and listed building appeals in terms set out in the heading to this document. Appeals A1 and A2 – the boundary wall reconstruction appeals – correspond with the local planning authority's Scheme 3, F and E. Appeals B1 and B2 – the proposed basement and vehicular access from Highgate West Hill – correspond with the planning authority's Scheme 1, B and A. Appeals C1 and C2 – demolition of the service wing and construction of the orangery – correspond the planning authority's Scheme 2, D and C. Appeals B1 and B2, and C1 and C2, both incorporate the proposed vehicular access from Highgate West Hill.

9. It was established at the Inquiry that each three elements of the scheme for which approvals are sought could be undertaken independently. In confirmation of this, I accepted, with the Council's agreement, drawings illustrating in detail the development and works proposed by appeals B1 and B2, and C1 and C2. The amendments are confined to the basement of the orangery and its relationship to the main house. They provide information that might otherwise have needed to be inferred from the application drawings. My decisions take into account the additional information.
10. Following the close of the Inquiry, I was sent a revised and agreed schedule of drawings and a full set of drawings for each pair of appeals.

### **Main Issues**

11. These do not differ from those identified at the Inquiry. They are:
  1. Whether the special interest of Witanhurst or other listed buildings within the appeal site would be preserved by the development and works proposed.
  2. Whether the development and works proposed would preserve or enhance the character or appearance of the Highgate Conservation Area.
  3. The effect of the development and works proposed on trees growing within the appeal site.
  4. The effect of the development and works proposed on public views of Witanhurst and land associated with it.
  5. Whether the development and works proposed would have a seriously adverse effect on the amenity of the occupiers of nearby dwellings with particular regard to outlook and activity associated with use and occupation of Witanhurst.
  6. If harm were to be found in relation to any of the foregoing main issues, whether there are circumstances present to outweigh that harm and justify a grant of listed building consent and planning permission.
12. On opening the Inquiry, I referred to other matters on which I invited further information. They are (i) construction and servicing management (ii) highway improvements (iii) local transport network (iv) traffic generation/access arrangements (v) completed development (vi) waste management. These are all matters referred to in reasons for refusal of planning permission. They were, I was advised, to be addressed by planning conditions or obligations. I comment on these later.

### **Reasons**

13. My decisions have regard to the duties imposed by sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. These require me to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
14. The Council's decisions on the applications were taken against the background of Planning Policy Guidance note 15 *Planning and the Historic*

*Environment* (PPG15). That guidance, and guidance on archaeological matters set out in PPG16, was superseded before the Inquiry opened by Planning Policy Statement 5 *Planning for the Historic Environment* (PPS5). My decisions are taken with the Government's historic environment objectives in mind, as now expressed in PPS5 and expanded upon the accompanying *Historic Environment Planning Practice Guide*. More general guidance on development in relation to the historic environment is contained in Planning Policy Statement 1 *Delivering Sustainable Development* (PPS1).

15. The development plan comprises The London Plan 2008 and the London Borough of Camden Unitary Development Plan 2006 (UDP). Both plans include policies to protect the natural and built environment and to achieve a high standard of design. Significant among these are policies B3 and N2.
16. UDP policy B3 supports the alteration or extension of buildings to allow them to be used more flexibly and efficiently, provided that the development proposed would not harm the architectural quality of the existing building or its surroundings. The UDP recognises, in general terms, the importance of open space in a largely urban environment. The UDP designates Witanhurst and its grounds as private open space where policy N2 advises development will not be permitted unless ancillary to a use taking place on the land and for which there is a demonstrable need that cannot reasonably be satisfied elsewhere.
17. Other UDP policies set out general design principles covering matters that include the setting of buildings, landscaping and relationship with neighbouring buildings – policy B1, the alteration and extension of listed buildings – policy B6, the preservation or enhancement of conservation areas – policy B7, and the protection of trees of amenity value – policy N8. I have taken the purpose of these policies, and the objectives of other policies referred to in the Council's reasons for refusal of listed building consent and planning permission, into account in determining the appeals.

#### **A1 A2 - Boundary Wall**

18. The wall defines part of the appeal site boundary to Highgate West Hill. From its detail most of the wall appears to be either contemporary with or slightly later than the construction of Witanhurst. The wall is not listed in its own right but, by virtue of its position within the curtilage of Witanhurst, is subject to planning controls affecting listed buildings.
19. The wall is of good quality red brick with stone copings. It rises, at its highest, roughly 6 metres above the adjacent public footway. The lower part acts as a retaining wall to a height of between 2 and 3 metres above the footway. The wall incorporates five rusticated brick piers with stone caps and, in four cases, ball finials. The finials appear to have been taken from a former wall. The piers raise the overall height of the wall by another metre.
20. At its northern end, the wall abuts a section of brick wall that evidence indicates was constructed no earlier than 1927. The applications relate only to the taking down and reconstruction of the earlier and more ornate section of boundary wall. For a good portion of its length, this section of wall leans over the footway. The lean is most pronounced at the position of the highest

- pier. At the time of the Inquiry a roughly 12 metre length of the tallest part of the wall was supported by steel and timber shores positioned on the footway to Highgate West Hill. Although the Council acknowledges the urgent need to stabilise the boundary wall, it does not approve of the wall being taken down and rebuilt.
21. The Council's principal objection, supported by third parties, is the consequential loss of 12 trees positioned close to the wall. These include 6 Limes and a Sycamore protected by a Tree Preservation Order (TPO). They range from 15 to 20 metres in height and are prominent in public views from Highgate West Hill. They presently make a significant contribution to the street scene and to local amenity. Their exposure to public view extends to Hampstead Heath from where they can be seen forming part of the leafy southern slopes of Highgate Hill.
  22. Because of the high risk of failure and proximity to the public highway, the Council withdrew its objection to the removal of TPO Limes T202, T204, T205 and T206. From observation, I conclude that these 4 trees account for roughly half the contribution made by the group of trees proposed for removal to the local and wider amenity of the area. Were they to be removed, the Appellant would be under an obligation to replace them with others of suitable species.
  23. The application drawings show 5 semi-mature Hornbeams planted at 8 metre centres replacing the 12 trees that would be removed. Most of these existing trees are growing within a metre of the inner face of the boundary wall. Although they have acquired a fair degree of maturity, their root development and potential for further growth will almost certainly have been inhibited by their position in relation to the wall. Although they might survive for a further 10 to 20 years, I am inclined to the Appellant's view that there will be a significant reduction in the contribution they make to local amenity during that period.
  24. The alternative, a row of semi-mature trees spaced to allow proper crown development and positioned a sufficient distance from the boundary wall to allow balanced root systems to form, offers a high degree of certainty that the contribution presently made by trees to the amenity of Highgate West Hill and the wider area would be restored. In arriving at this conclusion, I have taken into account technical information and arboricultural evidence provided by both main parties.
  25. My conclusion also takes into account views expressed by local residents who clearly place a high value on the contribution made by trees to the character of this part of Highgate. In the short term, that contribution would be lost. However, I am satisfied that it would be restored and perhaps even increased during a comparatively short period. Moreover, a presently unsafe section of boundary wall that makes its own contribution to local character would be restored to a safe and stable condition.
  26. I have considered an alternative method of stabilising the boundary wall preferred by the Council. Structurally, I see no reason why a ground anchor system could not stabilise the wall and address issues of public safety.

Given the system's limited intrusions into areas occupied by tree roots, I consider it unlikely that existing trees would be adversely affected by the ground anchor option. However, I am less convinced that a ground anchor system would offer a complete and permanent safeguard against future damage to the wall by trees.

27. The boundary wall is a local landmark close to a point where Highgate West Hill changes direction. It makes a positive contribution to the Highgate Conservation Area and is, in my view, a heritage asset. The ground anchor system would have little effect on the appearance of the wall, but it would continue to display a disturbing outward lean. That, in my opinion, could only be satisfactorily addressed by reconstruction. I see no reason why reconstruction could not incorporate features and details of the existing wall from which it derives its character.
28. I therefore conclude that the section of boundary wall with which appeals A1 and A2 are concerned could be taken down and reconstructed in a way that would preserve its significance as a heritage asset and meet the requirements of UDP policies B1 and B6. In that the development and works proposed would preserve the contribution made by the boundary wall to the character and appearance of the Highgate Conservation Area, I find no conflict with UDP policy B7.
29. The development and works proposed would inevitably result in the loss of protected and unprotected trees. This would, in the short term, have a detrimental effect on the amenity of this part of Highgate West Hill and on the quality of some distant views. In the medium and longer term, however, I see no reason why the public amenity value of trees in this location should not be restored. Accordingly, I find no serious conflict with the underlying objective of UDP policy N8.
30. A temporary loss of trees and the greater prominence this would give to buildings within the appeal site would not, in my opinion, have a seriously detrimental effect on public views. To the extent that the loss of trees would be discernible, I do not consider this would amount to permanent harm to views obtainable from Hampstead Heath and Parliament Hill Fields. My conclusion takes into account the prominence of trees in the foreground of views from the south and the contribution made by trees in general to the setting of buildings on Highgate West Hill. I therefore find no real conflict in this respect with UDP policy N2B.
31. From an inspection of the wall and its surroundings, I do not consider that the occupiers of nearby dwellings would suffer loss of amenity as a consequence of the development and works that are the subject of appeals A1 and A2. To the extent that harm might be attributable to the development and works proposed, this is outweighed, in my opinion, by the contribution the reconstructed boundary wall would continue to make to the setting of Witanhurst and to the Highgate Conservation Area.
32. I therefore conclude that appeals A1 and A2 be allowed and that listed building consent and planning permission may be granted, subject to conditions, for the works and development proposed.

47. I have considered technical evidence concerning the ability of fire appliances to negotiate the existing and proposed emergency access. It indicates that a 'high reach' platform vehicle could enter and leave the site through the emergency access but could not use the access at the main entrance to Witanhurst because of restrictions imposed by the size of the entrance lodge openings. It was suggested at the Inquiry that a permanent lowering of the existing carriageway through the lodge might be considered as an alternative. This could, however, have consequences for the setting of Witanhurst and its listed lodge which have not been investigated.
48. I heard evidence at the Inquiry concerning type and number of appliance likely to attend an emergency at Witanhurst. While a particular pattern of response might be predicted, I do not discount the possibility of fire appliances being called from other areas. I am also doubtful that arrangements can be predicted with such certainty as to determine the exact number and types of appliances likely to attend in an emergency. Constraints imposed by the height and width of the entrance lodge accesses could, in my opinion, have serious and unforeseen consequences.
49. The proposed access, able to accommodate any type of appliance, offers a direct and unobstructed route to that part of Witanhurst most likely to be occupied. This is an important consideration, given that a large number of people may be in the building at any one time.
50. Witanhurst an important heritage asset and the desirability of preserving it from harm must be given some weight. Other means of meeting the functional requirements of the relevant regulations were discussed at the Inquiry, but there remains uncertainty about their effect on the fabric of the listed building. The proposals, as submitted for approval, rely on an emergency access being provided. I have considered them on their particular merit. For the reasons set out above and in the absence of demonstrable harm, I conclude that the proposed access is unobjectionable.
51. Issues concerning the removal of TPO trees T197 and T198 – a Lime and a Sycamore – arise mainly in connection with the linkage of the proposed orangery to the basement that would extend below the forecourt. Neither tree is prominent in views from the east but they are visible, at a distance, from the grounds of Kenwood House and from Hampstead Heath. They also feature prominently in views from a number of houses in The Grove.
52. The upper part of the crown of Sycamore T198 is visible from Highgate West Hill but, because of its remoteness, it makes only a limited contribution to local amenity. From Kenwood House and Hampstead Heath the Sycamore is seen, from a distance, in close association with trees in the grounds of Witanhurst and in the rear gardens of houses in The Grove. The Lime is also discernible, but features less prominently than the Sycamore.
53. The western slopes of Highgate Hill, rising from Highgate Ponds to St Michael's Church, are well provided with trees. They occupy much of the foreground of views from Hampstead Heath. Those positioned towards the top of Highgate Hill create an attractive skyline. To the extent that the amenity value of TPO trees T197 and T198 can be appreciated at a distance,



I consider that it lies mainly in the contribution they make to the wooded setting of Witanhurst and the western slopes of Highgate Hill.

54. I heard evidence at the Inquiry concerning the health of trees T197 and T198, and their safe life expectancy. The Lime, placed by the Appellant in Category C, has a fungal infection, but not of a kind that suggests imminent structural failure. The Council considers it to be a Category B tree, reflecting the contribution it makes to distant views. In the position in which it has become established, it creates shady conditions in rooms on the north-west side of Witanhurst.
55. The Sycamore, considered by the Appellant to be a Category B tree, is an apparently vigorous specimen with a strong visual presence. However, past removal of its lower branches has given a stilted appearance. It is also close to a retaining wall to gardens of houses in The Grove. While brickwork can be seen to have been penetrated by roots, there is little evidence of any serious damage to the wall.
56. Assuming both trees are classified as Category B trees against criteria set out in Table I of BS5837:2005, as I believe they should, they may be expected to survive for more than 20 years. Were it not for the development proposed, I do not consider that serious pressure for their removal would arise. Given their contribution to the setting of Witanhurst and to public amenity, the proposal to remove trees T197 and T198 gives rise to conflict with UDP policy N8B.
57. In terms of the main issues I have identified, I conclude that the special interest of heritage assets within the appeal site would be preserved by the development and works proposed in accordance with UDP policies B3 and B6. I further conclude consider that the development and works proposed would preserve the character and appearance of the Highgate Conservation Area in accordance with policy B7. The removal of trees T197 and T198 would be contrary to policy N8B. However, this is a matter capable of being weighed in the overall balance when considering the merit of the proposals.
58. Apart from issues arising from the loss of trees T197 and T198, I consider that public views of Witanhurst would be preserved in accordance with UDP policy N2B. I also see no reason why the amenity of the occupiers of nearby dwellings should be seriously and adversely affected, either in terms of outlook or activity associated with use and occupation of Witanhurst. My conclusion that the requirements of UDP policy SD6 are met in this respect takes into account the effect on the outlook from houses in The Grove of the loss of two protected trees and proposed new planting close to the boundary.
59. UDP policy N2A restricts development on private open space to that which is ancillary to a use taking place on the land and for which there is a demonstrable need that cannot reasonably be satisfied elsewhere. Although other uses have been proposed in the past, residential use continues to be the lawful and, in my view, the most appropriate use of Witanhurst and land associated with it. Development that forms the subject of appeal B2 would support that use in a way that I consider would be ancillary to the residential use and occupation of Witanhurst. Moreover, the development proposed

would support the continued residential use of a building that, in its present form and without facilities normally associated with a dwelling of this size, has attracted little interest. Need has, in my view, been established.

60. While it may be possible to speculate that accommodation of a similar quality and with similar facilities might be provided elsewhere within the appeal site, or elsewhere within the Borough of Camden, no practical or achievable alternative has been proposed. To the extent that there would be an actual or perceived reduction in openness, I consider this would be so minor as not to be material when considered against the objectives of policy N2. I therefore find no serious conflict with UDP policy N2A.
61. A potential for disturbance would exist during the construction period but I believe that the construction and site waste management plan referred to earlier, would minimise any conflict with UDP policy SD6. I therefore find no unacceptable harm to amenity in this respect. In short, I find harm in connection with these proposals only in respect of the effect of the loss of trees T197 and T198 on public amenity. While I find nothing in the proposals that form the subject of appeals B1 and B2 to outweigh that harm, I am mindful that the combined effect of the proposals, were they to be implemented, would be to restore and bring back into use an important listed building and a heritage asset that has suffered a long period of neglect. I return to the matter of balance later.

#### **C1 C2 – Service Wing and Orangery**

62. Proposals that form the subject of appeals C1 and C2 comprise the removal of the service wing to Witanhurst, remodelling of part of the eastern façade of Witanhurst revealed by removing the service wing, the construction of an orangery to provide additional and ancillary residential accommodation, the construction and laying out of gardens to the north of the orangery and the formation of an emergency access from Highgate West Hill. I have already considered the emergency access in the context of appeals B1 and B2. No fresh issues arise in this respect in connection with appeals C1 or C2.
63. Issues arising from removal of the service wing were discussed at some length at the Inquiry. Internally, the service wing contains little of significance. A layout that places a series of rooms around a central corridor reflects the purpose for which the accommodation was built. Externally, the plainer elevational treatment of the service wing conveys its distinctly subordinate relationship to the main building.
64. As part of a larger composition, the service wing makes, in my opinion, a very limited contribution to the significance of Witanhurst as a building of special architectural or historic interest. It sits in a rather uncomfortable relationship against the main building. Removal of the service wing would result in a loss of evidence of the way large houses of this kind were occupied and managed. However, I believe that replacement of the service wing by a less bulky element would, to advantage, give greater emphasis to the central block of accommodation.
65. From the above, I conclude that, while the service wing is an integral part of the listed building, it is not of such significance that it could not be replaced

by a building of an alternative design and of a quality compatible with the main building.

66. The proposed orangery would be of neo-classical design and would, in my opinion, be sympathetic with the architectural character of Witanhurst. In terms of its siting, form, scale, composition and detail, it would be seen as a scholarly response to its situation. Set back from the position of the present service wing, it would be architecturally subordinate to the main front of Witanhurst. Its curved loggia would, in my opinion, draw the eye in an entirely pleasing manner.
67. The design of the loggia, its attached lodges and the accommodation wing to the north, shows respect for classical form and detail while accommodating the functional needs of a modern household. The application drawings indicate a quality of detail and materials appropriate to both the orangery and the existing building. The discipline of the design is carried through to the north side of the orangery and, beyond, to the layout of formal gardens on its north side.
68. My conclusions concerning the significance of the service wing and the architecture of the orangery design do not differ from those of English Heritage. English Heritage consider replacement of the service wing by the proposed orangery would benefit the setting of Witanhurst and would sustain the overall significance of this Grade II\* listed building. I therefore conclude that the appeal scheme accords with UDP policies B1, B3 and B6.
69. From information provided by the application drawings I am satisfied that the proposed re-modelling of the eastern façade of Witanhurst – particularly that part exposed by removal of the service wing – could be undertaken in an architecturally acceptable manner and without harm to fabric important to the special interest of the listed building.
70. In that I have concluded that the development and works that form the subject of appeals C1 and C2 would preserve the special interest of the listed building, the contribution made by Witanhurst to the Highgate Conservation Area would also be preserved, in accordance with UDP policy B7.
71. Construction of the orangery would require the removal of protected trees T197 and T198. I have previously addressed matters relating to their removal in considering appeals B1 and B2. My conclusions in respect of appeals C1 and C2 are similar. I return to the matter of balance later.
72. With regard to the purpose of UDP policy N2 and the criteria it contains, I am satisfied that the orangery would be used and occupied in way entirely ancillary to the main accommodation of Witanhurst. From evidence given at the Inquiry, I am satisfied that there is a need for the accommodation the orangery would provide which could not be provided by adapting the present service wing. While other options for locating accommodation that would be provided by the orangery might be considered, my site inspection leads me to conclude that none would relate so well, functionally or architecturally, to the main building.

73. Differences between the size of the orangery and the service wing do not, in my opinion, raise serious issues in relation to UDP policy N2. Various dimensional comparisons were made at the Inquiry. In terms of protecting the openness of private open space for public benefit, I conclude that any difference would be marginal. In arriving at this conclusion, I have had regard to the siting of the orangery, its lower profile in comparison with the existing service wing and its limited exposure to public view. Accordingly, I find no serious conflict in this respect with UDP policy N2A.
74. The outlook from houses towards the southern end of The Grove would be reduced by the orangery, both by the orangery itself and, in due course, by additional landscaping within the grounds of Witanhurst. As part of my site inspection I compared views from these houses with visual material prepared by the Appellant.
75. The orangery building would be visible from houses at the southern end of The Grove, particularly from upper floors, and the extent of views from the gardens of these properties of and across the grounds of Witanhurst would be reduced. However, I do not consider that the orangery building would intrude upon views to an extent that might be considered oppressive or which might otherwise detract seriously from the level of amenity currently enjoyed by the occupiers of nearby properties.
76. I therefore conclude that the amenity of the occupiers of nearby dwellings, either in terms of outlook or activity associated with occupation of the orangery or the main building, would not be so affected as to justify withholding planning permission or listed building consent. My conclusion takes into account the size of the grounds of Witanhurst and activity that might be generated by occupation of Witanhurst in its present form. I am therefore satisfied that the requirements of UDP policy SD6 are met.
77. As with proposals that form the subject of appeals B1 and B2, construction works being undertaken close to the boundary raises at least a potential for disturbance. However, I believe that this could be mitigated through the implementation of construction and site waste management plans for which the relevant section 106 agreement provides. I therefore find no unacceptable harm to amenity in this respect.
78. I conclude that, subject to safeguards secured by planning conditions or a section 106 agreement, the orangery development would not result in permanent harm being caused to the occupiers of neighbouring properties of a kind that would result in conflict with the underlying objectives of UDP policy SD6 and justify a withholding of planning permission.

### **Other Material Considerations**

79. I have considered each pair of appeals in the light of the main issues identified earlier. I have concluded that no enduring harm would be caused by the works and development that form the subject of appeals A1 and A2. In terms of the sixth and final main issue, I take the view that any harm attributable to the proposals is outweighed by the contribution the reconstructed boundary wall would continue to make to the setting of Witanhurst and the Highgate Conservation Area.

80. With regard to works and development that are the subject of appeals B1 and B2, I have concluded that the formation of a new and permanent emergency access from Highgate West Hill would have no appreciable effect on local character and any disbenefit arising from the loss of trees from a position close to the boundary would be offset by the greater exposure to public view of Witanhurst.
81. The B1 and B2 proposals would result in the loss of two TPO protected trees whose value in terms of public amenity lies mainly in the contribution they make, at a distance, to the wooded slopes of Highgate Hill and the setting of Witanhurst. Replacement planting would not be capable of reproducing that contribution for a considerable time. However, harm arising from the loss of these trees can, in my view, properly be weighed against the benefit of restoring Witanhurst and the benefit of landscaping, securable by planning conditions, that would, in due course, be capable of being appreciated well beyond the grounds of Witanhurst.
82. The excavation of a deep basement would involve construction works of a kind that raises the prospect of disturbance to the occupiers of existing houses nearby. I am satisfied that obligations contained in the relevant section 106 agreement would minimise the potential for disturbance. I have also borne in mind that construction works would be for a finite period. To the extent that disturbance might result in harm, I believe that is outweighed by the benefit of development and works capable of securing the preservation of an important heritage asset.
83. Issues arising from works and development that are the subject of appeals C1 and C2 are similar to those set out above in relation to the B1 and B2 proposals. The balance to be struck is, in my view, the same.
84. I therefore conclude that, to the extent that harm would be caused by the works and development proposed, there are circumstances present in these appeals to outweigh that harm and justify a grant of listed building consent and planning permission.

### **Section 106 Agreements**

85. There are three section 106 agreements, one for each set of proposals. They seek to address matters not included in applications for listed building consent or planning permission but essential to achieve an acceptable form of development. They include matters referred to in the Council's reasons for rejecting the proposals, summarised earlier in paragraph 12. Obligations set out in the section 106 agreements were explained at the Inquiry. I have considered them in the light of guidance provided by Circular 05/2005, in particular Annex B5, and against the general background of national and local planning policies concerned with land use and development.
86. The agreement in relation to proposals that form the subject of appeal A2 (LPA Ref: 2009/2597/P) requires the owner to prepare and to submit for the Council's approval a Construction Management Plan, the main objective of which is to ensure that development can be undertaken safely and with minimum impact on its surroundings. The agreement includes a contribution

of £19,662 towards the cost of works to the highway, principally the making good and re-paving of the carriageway and footways.

87. The agreement includes a further sum of £700 towards the cost to the Council of monitoring obligations contained in the agreement and calculated according to a formula set out in Supplementary Planning Guidance. Procedural arrangements between the parties to the agreement are also included. In terms of the now statutory tests of Circular 05/2005, the obligations contained in the agreement relating to appeal A2 are, in my opinion, necessary to make the development proposed acceptable. They are directly related to the development proposed and, on the evidence available, fairly and reasonably related in scale and kind to it.
88. With regard to appeal B2 (LPA Ref: 2009/3192/P), the section 106 agreement provides, as in the case of appeal A2, for a Construction Management Plan, a highways contribution of the same amount and a monitoring fee of £2,450, reflecting additional obligations required to be monitored. The agreement includes five further obligations.
89. First, a pedestrian environment contribution of £50,000 towards the cost of improving public areas in the vicinity of the site; secondly, a commitment by the owner of Witanhurst not to use the new permanent access other than by emergency vehicles; thirdly a requirement on the owner to prepare for the Council's approval a Refurbishment Plan to ensure that refurbishment of the main building and refurbishment and restoration of listed structures within the grounds of Witanhurst are completed within an agreed time frame; fourthly, the preparation of a Service Management Plan to ensure that deliveries and servicing arrangements minimise the potential for disturbance; and finally, an obligation on the owner to prepare for the Council's approval a Site Waste Management Plan incorporating a strategy for the handling and disposing of construction waste.
90. While it might, with other measures, produce in incidental environmental benefits, I am satisfied that a pedestrian environment contribution of £50,000 is needed to take account of the almost certainly more intensive use of Witanhurst by people arriving by car and on foot. The amount payable is divided proportionally between the basement and orangery elements of the scheme, according to the scale of works involved. The whole amount would be payable if the two elements were to proceed together to completion. Each of the obligations set out in the agreement is necessary, in my view, to make the development proposed acceptable and I am satisfied that they meet the relevant tests of Circular 05/2005.
91. The obligations set out in the section 106 agreement relating to appeal C2 are identical to those contained in the appeal B2 agreement and meet the relevant tests of circular 05/2005.

### **Planning Conditions**

92. Draft planning conditions are included in the Statement of Common Ground. A fresh schedule was prepared following the Inquiry. I have omitted some conditions where they duplicate others or address matters included in a section 106 agreement, or where I consider them unnecessary in the light of

Circular 11/95 guidance. Where wording has been amended, it is to satisfy tests set out in the circular. The numbering referred to in the following text corresponds with the condition numbers in attached schedule.

#### **A1 Boundary Wall – Listed Building Consent**

93. Condition 1 is a statutory requirement limiting the consent to 3 years. Condition 2 is necessary to ensure that new brickwork is of a quality comparable to that of the brickwork it will replace. Condition 3 will ensure that any disturbance caused to existing brickwork is made good in a way that matches the original. Condition 4 requires the re-use of existing salvaged materials for reasons of sustainability and to secure a good match with the original wall and existing brickwork to be retained.
94. Condition 5 is necessary to preserve the patina of the original wall and that of re-used materials. Condition 6 is necessary to a neat and effective junction between the new and retained walling. Conditions 2 to 5 are all necessary to secure a replacement wall of a quality commensurate with that of the principal listed building whose boundary it defines.

#### **A2 Boundary Wall – Planning Permission**

95. Condition 1 imposes the same statutory time limit on commencement as that imposed on the listed building consent. Condition 2 recognises that trees will need to be removed to allow development to take place. It requires details of replacement trees to be approved before development commences to ensure that trees presently contributing to the appearance of Highgate West Hill will be restored on completion of the development. Condition 3, not suggested by either party, will facilitate the approval of minor amendments to the approved scheme, should they be necessary.

#### **B1 Basement and Emergency Access – Listed Building Consent**

96. Condition 1 limits the consent to 3 years. Condition 2 will ensure that any disturbance to existing brickwork is made good in a way that matches the original. Condition 3 is necessary to control the installation of services or fixtures that might affect the appearance of the building. Condition 4 requires the cessation of works if a feature of archaeological interest is revealed and provision made, and thereafter its retention or recording. The site is known to have potential archaeological interest.
97. Condition 5 is necessary to ensure that the listed building is maintained in a secure condition while works proceed. Condition 6 is needed to ensure that architectural details and materials used in positions not fully detailed in the application are compatible with the building's special interest. Condition 7 will ensure that the details of pavement lights in the forecourt are compatible with the appearance and setting of the listed building.

#### **B2 Basement and Emergency Access – Planning Permission**

98. Condition 1 is the statutory time limit of 3 years on commencement of the development. Condition 2 is to ensure that all works that might affect trees are undertaken in accordance with best practice, as set out in the relevant British Standard. Condition 3 is necessary to establish that hard and soft

landscaping proposals are consistent with a scheme illustrated in the planning application. Condition 4 is needed to establish a programme of implementation of landscaping works approved pursuant to Condition 3.

99. The basement excavations would be deep and extensive. Condition 5, requiring ground investigation, is necessary to determine the presence of contamination and to ensure that measures are taken to safeguard against its effect. Condition 6 requires the preparation and implementation of a scheme of archaeological investigation. Condition 7, requiring the implementation of an approved sustainable surface water drainage system, is necessary to minimise the effect of surface water run-off.
100. Condition 8 requires a further assessment of the hydrological impact of the development, mainly to ensure no adverse effect on Highgate Ponds. Condition 9 is intended to establish groundwater levels and the presence of aquifers that might affect the design of the basement or the occupiers of buildings on neighbouring land. Condition 10 is required to address the possibility of surcharge or backflow in a sewerage system modified to accommodate the development proposed. Condition 11, requiring care to be taken in dismantling a section of boundary wall at the position of the proposed entrance, is needed to ensure that the opening is properly formed.
101. Condition 12 will ensure that trees that might otherwise be affected by the development are protected against damage during the construction period. For similar reasons, Condition 13 requires details of all excavations to be approved in advance by the local planning authority. Condition 14 requires details of renewable energy measures to be approved by the local planning authority to meet sustainable development policy objectives of the UDP.
102. Condition 15 extends Condition 11 and requires prior approval of details of materials to be used in forming the new access to ensure compatibility with the existing boundary wall and the character of the listed building. For the same reasons, Condition 16 limits the height of the entrance gates to that of the existing boundary wall. Condition 17 is concerned with the construction of ramps so that construction vehicles may, as a temporary measure, pass through the lodge while construction is taking place. Details of the ramps are required to ensure that the listed lodge building is not harmed. Condition 18, not suggested by either party, will facilitate the approval of minor amendments to the approved scheme, should they be necessary.

#### C1 Service Wing and Orangery – Listed Building Consent

103. Condition 1 is a statutory requirement limiting the consent to 3 years. The reasons for Conditions 2 and 3, are identical to those relating to appeal B1 Conditions 5 and 3. Conditions 4 and 5, concerned with external pipework, flues, ducts etc. are necessary to ensure that no incidental works are undertaken that might harm the special interest of the listed building.
104. Condition 6 is necessary to ensure that all repairs and making good are of a quality consistent with the existing building. Condition 7 is needed to ensure that, so far as is practicable and to preserve the integrity of the listed building, materials removed or disturbed as a result of the works are re-used or incorporated in the new work. The purpose of Condition 8, with regard to



unforeseen architectural or archaeological find, is identical to that of B1 Condition 4. The purpose of Condition 9 is the same as that of A1 Condition 5 with regard to preserving the patina of original masonry.

105. The re-pointing of brickwork can have an adverse effect on its appearance. Condition 10 requires prior approval if this is proposed. Condition 11 requires external soil pipes and rainwater goods to be of cast iron, in keeping with the period and appearance of the existing building. Condition 12, requiring details of various architectural elements not fully explained on the application drawings or not detailed to a sufficient scale, to be approved in advance by the local planning authority to ensure compatibility with the design and appearance of the existing building. Condition 13, requiring joinery details to match existing or, if new, be approved in advance, is necessary for the same reason.

#### **C2 Service Wing and Orangery – Planning Permission**

106. Many of the conditions attached to this planning permission are similar in their purpose and effect to those attached to planning permission B2, although they may be differently numbered. I do not propose to repeat the justification for those conditions as they serve a similar purpose. I refer below to conditions that are not common to appeals B2 and C2.
107. C2 Condition 11 requires that the two lodges in the forecourt area shall not be built unless the development works forming the subject of appeals B1 and B2 have been approved and construction has commenced. This is to ensure that the lodges are constructed only in association with that part of the overall scheme of development for which they are required. The particular design of the orangery requires further details of materials, construction and architectural features to be provided and approved before development commences. To this end, C2 Conditions 12 and 13 require sample panels to be provided on site and retained for the duration of the construction works.
108. C2 Condition 17 is worded to preclude the use and occupation of the orangery wing other than in association with accommodation provided by the main building. It is intended to prevent the creation of an independent dwelling within the site. Condition 19, not suggested by either party, will facilitate the approval of minor amendments to the approved scheme, should they be necessary.

#### **Conclusion**

108. I have considered all other matters raised at the Inquiry and in writing but for the reasons given above I conclude that each of the appeals should be allowed.

*Philip Wilson*

INSPECTOR

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Megan Thomas of Counsel, instructed by Andrew Maughan - Head of Legal Services

She called:

Kevin Fisher BA(Hons) MA DipLA	Senior Landscape Architect – LB Camden
Tim Attwood BSc CEng MStructE	Director – Conisbee Consulting Structural and Civil Engineers
Charles Rose BA(Hons)	Design and Conservation Officer – LB Camden
Elaine Quigley BSc(Hons) MSc	Planning Officer – LB Camden

### **FOR THE APPELLANT:**

Keith Lindblom QC Queen's Counsel, instructed by Caroline Dawson - Planning Potential

He called:

Professor Robert Adam	Principal – Adam Architecture
Michael Balston MA DipArch LA RIBA ALI	Principal – Balston & Company
Allan Mendelsohn BSc(Hons) MSc MIHT MCILT	Director - ADL Traffic Engineering Ltd
Dr Mervyn Miller PhD BA BArch(Hons) MUP March RIBA FRTPI IOHBC	Chartered Architect and Town Planner
Simon Jones DipArb(RFS) FARbora	Director and Principal Consultant – Simon Jones Associates Ltd
Caroline Dawson BA(Hons) DMS MRTPI	Partner – Planning Potential

### **FOR RESIDENTS OF THE GROVE, HIGHGATE – RULE 6 PARTY:**

Mark Sutton

He called:

Nicholas Taylor MA FRTPI	Principal – Nicholas Taylor & Associates
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### **FOR INTERESTED PERSONS, HIGHGATE WEST HILL, HIGHGATE:**

Alasdair and Kate Douglas

They called:

Alan Baldwin	Managing Director – Impact Fire Ltd
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**OTHER INTERESTED PERSONS:**

Maya de Souza  
Michael Hammerson

LB Camden Councillor – Highgate Ward  
Vice President - Highgate Society

**DOCUMENTS A – STATEMENTS: PROOFS: APPENDICES**

- A1 Opening Statement – Keith Lindblom for Appellant
- A2 Opening Statement – Megan Thomas for Local Planning Authority
- A3 List of Appearances (APP)
- A4 List of Appearances (LPA)
- A5 Statement of Common Ground
- A5.1 Transport Statement of Common Ground
- A5.2 Arboricultural Statement of Common Ground
- A6 LPA – Fisher: Proof Rebuttal Appendices
- A7 LPA – Attwood: Proof Appendices
- A8 LPA – Rose: Proof Appendices
- A9 LPA – Quigley: Proof Summary Appendices
- A10 APP – Adam: Proof Appendices
- A11 APP – Balston: Proof Appendices
- A12 APP – Mendelsohn: Proof Summary Appendices
- A13 APP – Miller: Proof Appendices
- A14 APP – Jones: Proof Appendices
- A15 APP – Dawson: Proof Summary Appendices
- A16 The Grove Rule 6 – Statement
- A17 The Grove Rule 6 – Arboricultural Report by Marcus Foster
- A18 HWH – Statement and Petition
- A18.1 HWH – Highways Statement by Bellamy Roberts
- A18.2 HWH – Baldwin: Proof Appendix
- A19 HWH – Suggested Itinerary
- A20 HWH – e-mail Roberts>Douglas 11 May 2010 3894/TR/08
- A21 Cllr Maya de Souza: Proof (3P)
- A22 Highgate Society – Hammerson: Proof (3P)
- A23 Highgate CAAC – Statement 6 May 2010 (3P)
- A24 Dorothy Johnson: Written statement with attachments (3P)
- A25 H Bernard: Written statement 17 May 2010 (3P)
- A26 Closing Statement – HWH
- A27 Closing Submissions – The Grove Rule 6
- A28 Closing Submissions – Megan Thomas for Local Planning Authority
- A29 Closing submissions – Keith Lindblom for Appellant

**DOCUMENTS B**

- B1 Copy letters – Council's notification of appeals and Inquiry (LPA)
- B2 English Heritage letter – 15 April 2009 (APP)
- B3 Extract from Camden Planning Guidance 2006 Section 23 (APP)
- B4 Conisbee – Report on retaining wall dated 14 Sep 2009 (APP)

- B5 LB Camden Unitary Development Plan – 2006 (UDP)
- B6 Highgate CA – Appraisal and Management Proposals (APP)
- B7 Section 106 Agreement – Planning Permission A2  
LPA Ref: 2009/2597/P
- B8 Section 106 Agreement – Planning Permission B2  
LPA Ref: 2009/3192/P
- B9 Section 106 Agreement – Planning Permission C2  
LPA Ref: 2009/3171/P
- B10 Section 106 Agreement – LPA explanatory note
- B11 Planning Heritage and Design and Access Statement for alterations to Witanhurst – June 2009

## **PLANS**

- A Set of application drawings (superseded)
- B Set of application drawings – Reduced set to A3 (superseded)
- C1 Amended Plans and Schedule – Listed Building Consent A1  
LPA Ref: 2009/2595/L
- C2 Amended Plans and Schedule – Planning Permission A2  
LPA Ref: 2009/2597/P
- C3 Amended Plans and Schedule – Listed building Consent B1  
LPA Ref: 2009/3195/L
- C4 Amended Plans and Schedule – Planning Permission B2  
LPA Ref: 2009/3192/P
- C5 Amended Plans and Schedule – Listed Building Consent C1  
LPA Ref: 2009/3174/L
- C6 Amended Plans and Schedule – Planning Permission C2  
LPA Ref: 2009/3171/P
- D Quigley/Adam drawings 5344 A-03A [A] and 5344 A-05A [B] (LPA)
- E A3 Folder – Site History and Building Development: June 2009 (APP)
- F A3 Drawings/A4 Schedule: Comparative Floorspace (3P-Taylor)
- G A3 – Swept path diagram for fire appliance (APP Mendelsohn)
- H A3 (x2) – Gatehouse access height [A] width [B] (APP Mendelsohn)
- I Set of revised drawings illustrating severability of B1/B2 and C1/C2  
601-P-003 Rev 003  
601-P-010 Rev 001  
601-P-011 Rev 002  
601-P-012 Rev 002  
601-P-014-Rev 001
- J Addendum to drawing Schedules and A3 set of application drawings
- K Corrected site boundaries - Plans PP1 and 601-OS-000 Rev 000

## **PHOTOGRAPHS**

- 1 Balston Appendices p23 – Marked to identify T197 T198 T300
- 2 Appellant's photomontage of view from rear garden of 1 The Grove

## **SCHEDULE OF PLANNING CONDITIONS**

### **A1 Boundary Wall – Listed Building Consent**

LPA Ref: 2009/2595/L Appeal Ref: APP/X5210/E/09/2119323

1. The works hereby permitted shall be begun not later than the end of three years from the date of this consent.
2. A sample panel of the proposed brickwork, demonstrating the proposed brick type, face-bond, mortar mix and pointing shall be constructed on the site and shall be approved by the local planning authority in writing before the works authorised by this consent are commenced; thereafter works shall not be undertaken other than in accordance with the approved sample and the panel shall not be removed from the site until all works have been completed.
3. All works of making good shall be carried out to match the original as closely as possible in materials and detailed execution.
4. The reconstructed section of boundary wall shall incorporate reclaimed materials wherever possible, including facing bricks, copings and stone dressings; the facing brickwork shall be constructed to match the original brickwork in respect of colour, texture, face bond and pointing.
5. No cleaning of masonry, other than a gentle surface clean, is authorised by this consent unless details have been submitted to and approved in writing by the local planning authority before works commence; thereafter the works shall not be carried out other than in accordance with the details approved.
6. Annotated details of the movement joint to be formed between the plain brickwork of the boundary wall and the section of wall to which this consent relates, drawn to a scale of not less than 1:5, shall be submitted to and approved by the local planning authority before construction works commence; thereafter the works shall not proceed other than in accordance with the details approved.

### **A2 Boundary Wall – Planning Permission**

LPA Ref: 2009/2597/P Appeal Ref: APP/X5210/A/09/2119328

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission
2. Details of replacement trees including the height, species and the positions in relation to each other and to the boundary wall shall be submitted to and approved by the Council in writing before development commence on site. Any tree which, within a period of 5 years from the completion of the development, dies, is removed or become seriously damaged or diseased shall be replaced not later than the end of the next planting season with another of similar size and species, unless the Council gives written consent to any variation.
3. The development hereby permitted shall not be undertaken other than in accordance with approved plans listed in the Schedule forming part of Inquiry Document 'Plans C2'.

### **B1 Basement and Emergency Access – Listed Building Consent**

LPA Ref: 2009/3195/L Appeal Ref: APP/X5210/E/09/2119329

1. The works hereby permitted shall be begun not later than the end of three years from the date of this consent.

2. All new work and works of making good shall be carried out to match the original work as closely as possible in materials and execution.
3. Details of the position, type and method of installation of all new and relocated services and related fixtures, including communications and information technology equipment and services that may be visible from the exterior of the building, or where ducts or other methods of concealment are proposed, shall be submitted to and approved in advance and in writing by the local planning authority; thereafter installation shall not take place other than in accordance with the details approved.
4. Any feature of possible architectural or archaeological interest revealed during the course of the works authorised by this consent shall be retained in situ, construction work suspended in the relevant area of the site and the local planning authority notified immediately; thereafter provision shall be made for the retention and/or recording of the feature in a manner specified in writing by the local planning authority.
5. Before any works of demolition or partial demolition authorised by this consent commence, a structural method statement, to include illustrative drawings and specifying the means by which the safety and stability of the existing building fabric is to be secured, shall be submitted to and approved by the local planning authority in writing; thereafter works shall not proceed other than in accordance with the approved structural method statement.
6. Detailed drawings and, if requested by the local planning authority, samples of materials in respect of the following elements, shall be submitted to and approved in writing by the local planning authority before the relevant works are commenced:
  - (a) masonry facings to the pool entrance and loggia,
  - (b) entrance doors to the basement pool room, the drawings to illustrate their relationship to the loggia at a scale of not less than 1:10;thereafter the relevant works shall not be undertaken other than in accordance with the details approved.
7. Annotated drawings of the proposed glazing of forecourt pavement lights illuminating the basement, at a scale of not less than 1:10 and showing the means by which light and visibility will be obscured, shall be submitted to and approved in writing by the local planning authority before the relevant works commence; thereafter the works shall not be undertaken other than in accordance with the details approved.

**B2 Basement and Emergency Access – Planning Permission**  
LPA Ref: 2009/3192/P Appeal Ref: APP/X5210/A/09/2119330

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission
2. All development affecting trees shall be carried out in accordance with the relevant recommendations of British Standard 3998:1989 *Recommendations for Tree Work*.
3. Prior to the bringing into use of the development hereby permitted details of all hard and soft landscaping and means of enclosing any presently open land shall have been submitted to and approved by the Council in writing; such details shall be consistent with Balston application drawings 120 D and 121B and shall show any proposed earthworks, grading, mounding or other changes in ground levels; thereafter hard and soft landscaping works shall not be carried out other than in accordance with the details approved.
4. All hard and soft landscaping works approved pursuant to Condition 3 shall be carried out in accordance with the details approved not later than the end of the first planting season

following completion of the development; any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced not later than the end of the next planting season with others of similar size and species, unless the Council gives its written approval to any variation.

5. The development shall not proceed other than in accordance with the programme of ground investigation to determine the presence of groundwater contamination or landfill gas, as specified in *Site Investigation Report: May 2009* and *Structural Engineers Feasibility Report: June 2009*; all remediation measures shall be implemented in accordance with the requirements of those reports and on completion a verification report shall be submitted and approved by the Council.
6. No development shall take place within that part of the site to which this permission relates until the applicant, their agent or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority in writing; archaeological investigations pursuant to this condition shall be carried out by an appropriately qualified investigating body.
7. Prior to commencement of development details of a sustainable urban drainage system for surface water run-off shall be submitted to and approved by the local planning authority in writing, thereafter the approved system shall be implemented before the building is first occupied and thereafter maintained in a fully operational condition.
8. Prior to the commencement of the basement construction works, an assessment of possible hydrological impacts and details of any necessary mitigation measures found to be necessary shall be submitted to and approved in writing by the local planning authority; thereafter the development shall not proceed other than in accordance with the details approved.
9. Before the development authorised by this permission commences, the results of a geotechnical investigation to determine the presence of aquifers and groundwater levels shall be submitted to the local planning authority; details of mitigation measures deemed necessary as a result of that investigation shall be submitted to the local planning authority and approved in writing before any excavations takes place; thereafter the development shall not proceed other than in accordance with the mitigation measures approved.
10. Prior to first use or occupation of the development hereby approved, details of measures to protect against surcharge in the sewerage network shall be submitted to and approved by the local planning authority; thereafter any installation to prevent surcharge and backflow shall be provided before first use or occupation of the basement accommodation and thereafter permanently retained in an operational condition.
11. Notwithstanding details forming part of the application, the removal of a section of boundary wall at the position of the proposed access shall be undertaken using hand tools only in order that reinstated brickwork may be properly bonded with the adjacent, retained section of wall.
12. All trees on the site, or parts of trees growing from adjoining land shall, unless shown on the permitted drawings as being removed, be retained and protected from damage during the construction period in accordance with details to be submitted to and approved by the Council in writing before development commences on site; such details shall be consistent with guidelines and standards set out in BS5837:2005 *Trees in Relation to Construction*.

13. Details of the design of all building foundations and the layout, with dimensions and levels, of service trenches and other excavations on site insofar as these might affect trees on or adjoining the site, shall be submitted to and approved by the local planning authority in writing before development commences; thereafter the relevant works shall not be carried out other than in accordance with the details approved.
14. Before development commences, details of all renewable energy measures to be incorporated in the development shall be submitted to and approved by Council in writing; thereafter the measures approved shall be provided in their entirety prior to first use or occupation of the development and they shall thereafter be retained in an operational condition.
15. Detailed drawings to a scale of not less than 1:20 and samples of materials to be used in the construction of the new access gates and supporting brick piers, shall be submitted to and approved by the local planning authority in writing before the relevant development commences; thereafter the development shall not proceed other than in accordance with the details approved.
16. Notwithstanding details submitted as part of the planning application the entrance gates to the new vehicular access shall not exceed a height greater than that of the adjacent boundary wall.
17. The development hereby approved shall not commence before drawings have been submitted to and approved in writing by the local planning authority illustrating temporary vehicular ramps to be formed in the area indicated on drawing 601-SK-069; thereafter the ramps shall be constructed and shall be retained for use throughout the construction period.
18. The development hereby permitted shall not be undertaken other than in accordance with approved plans listed in the Schedule forming part of Inquiry Document 'Plans C4'.

**C1 Service Wing and Orangery – Listed Building Consent**  
LPA Ref: 2009/3174/L Appeal Ref: APP/X5210/E/09/2119331

1. The works hereby permitted shall be begun not later than the end of three years from the date of this consent.
2. Before any works of demolition or partial demolition authorised by this consent commence, a structural method statement, to include illustrative drawings and specifying the means by which the safety and stability of the existing building fabric is to be secured through the period of demolition and construction shall be submitted to and approved by the local planning authority in writing; thereafter works shall not proceed other than in accordance with the approved structural method statement.
3. Details of the position, type and method of installation of all new and relocated services and related fixtures, including communications and information technology equipment and services that may be visible from the exterior of the building, or where ducts or other methods of concealment are proposed, shall be submitted to and approved in advance and in writing by the local planning authority; thereafter installation shall not take place other than in accordance with the details approved.
4. No new plumbing, pipe work, soil stacks, flues, vents or ductwork shall be fixed on the external faces of any part of a building to which this consent relates unless shown on the approved drawings.



5. No new grilles, security alarms, lighting, cameras or other appurtenances shall be fixed on the external faces of any part of a building to which this consent relates unless shown on the drawings hereby approved.
6. All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing adjacent work with regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the application drawings or any other document forming part of the application for listed building consent, or which may be required pursuant to another condition attached to this consent.
7. Before works authorised by this consent commence a sample panel of the rebuilt eastern elevation, demonstrating brick face bond and pointing, stone dressings and jambs, heads and cills of all new window and doors, shall be provided on site and a construction specification, including mortar mix, shall be submitted to and approved in writing by the local planning authority before the relevant parts of the works are begun; thereafter the works shall be carried out in accordance with the approved sample panel and specifications and the sample panel shall not be removed from the site before all works have been completed.
8. Any feature of possible architectural or archaeological interest revealed during the course of the works authorised by this consent shall be retained in situ, construction work suspended in the relevant area of the site and the local planning authority notified immediately; thereafter provision shall be made for the retention and/or recording of the feature in a manner specified in writing by the local planning authority.
9. No cleaning of masonry, other than a gentle surface clean, is authorised by this consent unless details have been submitted to and approved in writing by the local planning authority before works commence; thereafter the works shall not be carried out other than in accordance with the details approved.
10. No re-pointing of brickwork is authorised by this consent without prior approval in writing of the local planning authority.
11. Any new or additional external rainwater goods and soil pipes shall be of cast iron, painted black.
12. Detailed drawings and, if requested by the local planning authority, samples of materials in respect of the following elements, shall be submitted to and approved in writing by the local planning authority before the relevant works are commenced:
  - (a) structural glazing and its relationship to the open loggia between the existing house and orangery drawn to a scale of 1:10
  - (b) all new external doors drawn to a scale of 1:10 with details moulding and architrave details drawn to a scale of 1:1.
  - (c) all new windows drawn to a scale of 1:10 with typical glazing bar details drawn to a scale of 1:1;thereafter the relevant works shall not be carried out otherwise than in accordance with the details approved.
13. All new and repaired joinery shall match the existing adjoining joinery work in respect of materials, dimensions and profiles, unless shown otherwise approved in advance and in writing by the local planning authority or approved pursuant to another condition attached to this consent.

**C2 Service Wing and Orangery** – Planning Permission  
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1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.
2. All work relating to trees shall be carried out in accordance with the relevant recommendations of British Standard 3998:1989 *Recommendation for Tree Work*
3. Prior to bringing into use of the development hereby permitted details of all hard and soft landscaping and means of enclosing any presently open land shall have been submitted to and approved by the Council in writing; such details shall be consistent with Balston application drawings 120 D and 121B and shall show any proposed earthworks, grading, mounding or other changes in ground levels; thereafter hard and soft landscaping works shall not be carried out other than in accordance with the details approved.
4. All hard and soft landscaping works approved pursuant to Condition 3 shall be carried out in accordance with the details approved not later than the end of the first planting season following completion of the development; any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced not later than the end of the next planting season with others of similar size and species, unless the Council gives its written approval to any variation.
5. The development shall not proceed other than in accordance with the programme of ground investigation to determine the presence of contamination or landfill gas, as specified in *Site Investigation Report: May 2009* and *Structural Engineers Feasibility Report: June 2009*; all remediation measures shall be implemented in accordance with the requirements of those reports and on completion a verification report shall be submitted and approved by the Council.
6. No development shall take place within that part of the site to which this permission relates until the applicant, their agent or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority in writing; archaeological investigations pursuant to this condition shall be carried out by an appropriately qualified investigating body.
7. Prior to commencement of development details of a sustainable urban drainage system for surface water run-off shall be submitted to and approved by the local planning authority in writing, thereafter the approved system shall be implemented before the building is first occupied and thereafter maintained in a fully operational condition.
8. Notwithstanding details forming part of the application, the removal of a section of boundary wall at the position of the proposed access shall be undertaken using hand tools only in order that reinstated brickwork may be properly bonded with the adjacent, retained sections of wall.
9. All trees on the site, or parts of trees growing from adjoining land shall, unless shown on the permitted drawings as being removed, be retained and protected from damage during the construction period in accordance with details to be submitted to and approved by the Council in writing before development commences on site; such details shall be consistent with guidelines and standards set out in BS5837:2005 *Trees in Relation to Construction*.
10. Details of the design of all building foundations and the layout, with dimensions and levels, of service trenches and other excavations on site insofar as these might affect trees on or adjoining the site, shall be submitted to and approved by the local planning authority in writing before development commences; thereafter the relevant works shall not be carried out other than in accordance with the details approved.

11. Notwithstanding the plans hereby approved the two lodges in the front forecourt area of Witanhurst shall be constructed only if planning permission 2009/3192/P and listed building consent 2009/3195/L have been granted and construction commenced on the development and works authorised by those decisions.
12. A sample panel of materials to be used in the construction of the external surfaces of the orangery hereby permitted shall be provided on the site and shall be approved by the local planning authority in writing before the works authorised by this permission commence; thereafter the development shall not be undertaken other than in accordance with the approved sample and the panel shall not be removed from the site until all works have been completed.
13. A sample panel of all facing materials, including brickwork and stonework - demonstrating their colour, texture, bond and pointing - together with samples of railings and balustrades - shall be provided on the site and shall be approved by the local planning authority in writing before the relevant part of the development commences; thereafter the development shall not be undertaken other than in accordance with the approved samples, which shall not be removed from the site until all works have been completed.
14. Detailed drawings to a scale of not less than 1:20 and samples of materials to be used in the construction of the new access gates and supporting brick piers, shall be submitted to and approved by the local planning authority in writing before the relevant development commences; thereafter the development shall not proceed other than in accordance with the details approved.
15. Notwithstanding details submitted as part of the planning application the entrance gates to the new vehicular access shall not exceed a height greater than that of the adjacent boundary wall.
16. The development hereby approved shall not commence before drawings have been submitted to and approved in writing by the local planning authority illustrating temporary vehicular ramps to be formed in the area indicated on drawing 601-SK-069; thereafter the ramps shall be constructed and shall be retained for use throughout the construction period.
17. The orangery extension hereby permitted shall not be occupied at any time other than for a purpose ancillary to the residential use of the dwelling known as Witanhurst.
18. No development shall take place within that part of the site to which this permission relates until the applicant, their agent or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority in writing; archaeological investigations pursuant to this condition shall be carried out by an appropriately qualified investigating body.
19. The development hereby permitted shall not be undertaken other than in accordance with approved plans listed in the Schedule forming part of Inquiry Document 'Plans C6'.