

8 Elsworthy Road, London NW3 3DJ

**APPEAL BY MR M PREEDY AGAINST THE FAILURE OF THE LONDON BOROUGH
OF CAMDEN TO DETERMINE PLANNING APPLICATION 2014/1477/P**

GROUNDS OF APPEAL AND FULL STATEMENT OF CASE on behalf of the Appellant

12th June 2014

Appellant: Mr M Preedy

Agent: AZ Urban Studio

**AZ Urban Studio
83 Weston Street
London
SE1 3RS
t: 020 7234 0234
martin@azurbanstudio.co.uk**

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1. Introduction and reason for appeal

1.1. The site at 8 Elsworthy Road is currently undergoing redevelopment following the grant of planning permission ref 2012/5897/P which permitted the erection of a 3 storey plus basement dwelling house following substantial demolition of the existing dwellinghouse.

1.2. An application to vary condition 2 upon that permission to make minor material amendments to the approved scheme under construction was submitted on the 25th February 2014 and validated on the 11th March 2014 with the reference 2014/1477/P. The amended description of development proposed by the Council was:

'Variation of condition 3 (approved plans) of planning permission 2012/5897/P granted 9/7/13 (for erection of 3 storey plus basement dwelling house), namely to allow erection of mansard roof extension with dormer window and forward-projecting gable, addition of chimney, and installation of solar PV and solar thermal panels on flat roof area'

1.3. Whilst this amended description was agreed by the applicant, it should be noted that the 'erection of mansard roof *extension*' is in fact a reconfiguration of an approved pitched roof with dormer roof design at the Elsworthy Road frontage, and whilst the mansard will marginally extend the volume of the house, it is an alternative roof form as opposed to an additional one.

1.4. Confirmation was received by email from Camden on the 11th March that the application had been validated and that the 8 week target determination period would expire on the 22nd April. During consideration of the application a number of minor errors were noted on the drawings by the case officer, and corrected drawings were issued by email to Camden as requested on the 31st March.

- 1.5. As agents for the application we attempted on numerous occasions to contact the case officer Mr Heather by telephone during April, prior to the 8 week target date, with the aim of discussing an appropriate Deed of Variation to the section 106 agreement that the 'parent' planning permission had been granted subject to. Such a Deed would be required to incorporate reference to a new permission granted following the application for minor material amendments.
- 1.6. Despite leaving messages for Mr Heather on the 1st, 3rd, 4th, 23rd of April and the 2nd May no response was received. An email was sent to Mr Heather on the 14th May further requesting an update on progress with the application (some 3 weeks after the target determination date), and no response was received.
- 1.7. We find the complete lack of dialogue and engagement from Camden frustrating and unprofessional, and contrary to the guidance set out in the NPPF and the recently published NPPG which emphasises the benefits of dialogue and communication in the planning application process in seeking to avoid the need for appeals.
- 1.8. In this case we have made repeated efforts to engage in dialogue with Camden as set out above. In the absence of any response from Camden the appeal process is considered an appropriate last resort to follow in this case.

2. Statement of Case

2.1. The planning application to which this appeal relates was submitted with a detailed *Design & Access Statement (incorporating Heritage Statement) / Planning Statement* dated February 2014 which set out:

- why the proposed alterations are considered to be 'minor material amendments'
- relevant planning decisions at neighbouring properties
- an assessment of no.8 and the wider block nos.2-20 Elsworthy Road and their contribution to the significance of the Elsworthy Road Conservation Area (CA)
- relevant planning policy and guidance
- a detailed analysis of how the proposed amended design:
 - meets the relevant development plan policies
 - conforms with Camden supplementary guidance on design
 - is similar in form to that recently approved in the same group
 - will contribute to a more coherent and consistent roofscape, enhancing the conservation area

2.2. We would ask that the Inspector refers to that *Statement* dated February 2014 for the full analysis of the character and appearance of the Conservation Area and the merits of the proposed development, and provide here a summary of the proposed amendments and why, having regard to the development plan and other material considerations, planning permission should be granted.

The proposed development

2.3. In short, the application seeks a roof design to the Elsworthy Road frontage of the house that is different to that approved, with the aim of better integrating the resulting building with the appearance of neighbouring

properties (eight of the ten buildings within the group have such a mansard type roof). Solar photovoltaic and solar thermal panels are also proposed on the central flat roof area (not visible to the street) to enable the development to meet the Code for Sustainable Homes level required under the terms of the legal agreement upon the extant permission.

- 2.4. The proposals to alter the roof design are considered to fall within what the DCLG Guidance (*Greater flexibility for planning permissions, 2010*) suggests can be considered a minor material amendment, and the Council has not at any point in the determination of the application indicated that they consider otherwise.

The building, the group, and the Conservation Area

- 2.5. The Council's Elsworthy Road Conservation Area Appraisal and Management Strategy, 2009 ('CAAMS') identifies the group formed by nos. 2-20 as distinctive for their consistency, and in determining a previous appeal at nos. 18-20 the Inspector commented in her decision that the group nos. 2-20 have a '*cohesive quality ... that ... contributes to its significance in the CA*'.
- 2.6. Upon detailed assessment (p.5 of the application *Statement*) despite consistency of height and building line, and general consistency of window form, proportions, materials and detailing, the roofscape and landscape setting of the building in the group varies notably.
- 2.7. The most notable variation is that no.8 and no.4 have pitched roofs with projecting gable and dormer, whilst the other eight houses in the group have mansard roofs or in the case of 18-20 a full built storey with walls.
- 2.8. Those notable areas of variance in appearance present an opportunity for alteration to allow them to reflect the prevailing form, and thereby contribute better to the key identified characteristics of coherence and consistency.

Compliance with the development plan, guidance, and other material considerations

- 2.9. The proposed amendments to the roof design will match that found prevailing along the Elsworthy Road elevation, enhancing the coherence and consistency of the group and by extension enhance the significance of the group within the CA.
- 2.10. The National Planning Policy Framework states at paragraph 137 that proposals that make a positive contribution to or better reveal the significance of heritage assets should be treated favourably.
- 2.11. The requirements of Camden's policies CS14, DP24 and DP25 requiring high quality design responsive to context, that preserves and enhances the character and appearance of conservation areas, are met.
- 2.12. The proposals will not impact upon the amenity of neighbours and therefore the requirements of DP26 are met.
- 2.13. The detailed guidance set out in *Camden Planning Guidance 1: Design, 2013* section 5 is met by the proposals, as set out fully on page 7 of the application *Statement*.
- 2.14. It is important context to consider that Camden approved in 2008 a proposal at nos.18-20 (see page 8 of the application *Statement*) near identical to the present proposal for no.8, and at that time the Council considered a tiled mansard roof with projecting gable form and dormer window, together with roof mounted solar panels, to be an appropriate and high quality form of development in the conservation area. We consider that decision, and the approval of the installation of solar panels at no.16 in May 2007 to be relevant material considerations (see Appendix 2).

Third party comments received upon the application

- 2.15. Comments upon the application have been made by the Elsworthy Conservation Area Advisory Committee, the Elsworthy Residents Association, and two neighbours.
- 2.16. All object to the amended roof design on the basis that it is different to the pitched roof, other mansard roofs were approved long ago, and also that solar panels should not be installed within a conservation area.
- 2.17. As set out above, the proposals are considered to add a further degree of cohesion and consistency to the established roofscape of the group of buildings, enhancing their role within and contribution to the CA.
- 2.18. The Council has approved both mansard roof forms and solar panels within the same group since 2008, after the area was added to the CA and under similar previous and the current development plan provisions, contrary to what the Elsworthy Residents Association suggest.

3. Conclusion

- 3.1. This statement sets out why it is considered, having regard to the development plan and any material considerations, the development proposed should be approved.
- 3.2. It is frustrating to the appellant that the local planning authority has failed to determine the application despite a further 7 weeks having passed since the target determination date, and has failed to respond to all correspondence requesting dialogue.
- 3.3. Following the submission of this appeal we will also write to Camden requesting that they engage in discussions regarding an appropriate Deed of Variation to the legal agreement upon the extant permission (to enable the agreement to relate to a new permission granted following this appeal). In accordance with the guidance it is anticipated that a certified copy of an executed Deed of Variation will be issued to the Planning Inspectorate within 7 weeks of the appeal start date.

APPENDIX 1: Email correspondence with Camden

Martin Harradine

From: Martin Harradine
Sent: 14 May 2014 14:42
To: 'Heather, Christopher'
Cc: Felix Finkernagel
Subject: re: 2014/1477/P - 8 Elsworthy Road

Dear Christopher,

I have tried to contact you by telephone to discuss this application. The eight week statutory target date expired some 3 weeks ago on the 22nd April and I have had no correspondence from you since we discussed various validation matters shortly after submission.

Could we please discuss progress asap, as the applicant is minded to appeal against non-determination.

Many thanks

Martin

Martin Harradine BA MA MSc MRTPI
Director (Planning)

AZ Urban Studio
83 Weston Street
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SE1 3RS
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Martin Harradine

From: Martin Harradine
Sent: 31 March 2014 11:39
To: 'Heather, Christopher'; 'Planning'
Cc: 'Felix Finkernagel'
Subject: RE: 2014/1477/P - 8 Elsworthy Road
Attachments: 8ELS-300 P7.pdf; 8ELS-301 P6.pdf

Dear Christopher,

I have attached revised elevation drawings which should now reflect only the specific changes requested, with all notes etc as previously approved.

Please note that as a result of the mansard extension it is now proposed that the upper front part of the side elevation (forward of chimney breast) be faced in brick as opposed to wood / render – this was shown on the drawings that we originally submitted, but in the initial discussions with your validation team I may not have made that element clear.

Please do let me know if you need anything else.

Regards

Martin

Martin Harradine BA MA MSc MRTPI
Director (Planning)

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From: Heather, Christopher [mailto:Christopher.Heather@camden.gov.uk]
Sent: 18 March 2014 14:55
To: Martin Harradine
Subject: FW: 2014/1477/P - 8 Elsworthy Road
Importance: High

Hi Martin,

I am the case officer for this application. I have reviewed the drawings again and there are differences in the elevations now proposed compared to what was approved previously. Based on your email below then they do not appear to be proposed but I do then need revised drawings which do not show them. I will need them ASAP if I am to move the application forward.

12/06/2014

Regards,

Christopher Heather
Senior Planning Officer

Telephone: 020 7974 1344

From: Planning
Sent: 11 March 2014 15:49
To: 'martin@azurbanstudio.co.uk'
Subject: FW: 2014/1477/P - 8 Elsworthy Road

Dear Martin

Thank you for your prompt reply.

I am pleased to confirm that your application has now been fully validated, and the description corrected.

By way of acknowledgement, please find attached details of the planning officer and expected procedure for your registered cases.

Kind regards

.

Darlene Dike

Planning Technician | Fast Track and Validations Team | Development Management

Tel: 0207 974 1029 | **Fax:** 0207 974 1680

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From: Martin Harradine [mailto:martin@azurbanstudio.co.uk]
Sent: 11 March 2014 12:49
To: Planning
Subject: RE: 2014/1477/NEW - 8 Elsworthy Road

Dear Darlene,

That is correct. The drawing annotations as far as I am aware simply reflect the annotations upon the original approved drawings.

Can I please also point out that in your description there is a mistake as it should refer to 'solar panels on flat roof area' not 'on flat at roof area' as in your email.

Thank you

Martin

Martin Harradine BA MA MSc MRTPI
Director (Planning)

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From: Planning [mailto:Planning@camden.gov.uk]
Sent: 11 March 2014 12:28
To: Martin Harradine
Subject: Re: 2014/1477/NEW - 8 Elsworthy Road

Hi Martin

Thanks for your time on the phone.

As discussed, the description for your application to vary condition 3 currently reads as follows:

“Variation of condition 3 (approved plans) of planning permission 2012/5897/P granted 9/7/13 (for erection of 3 storey plus basement dwelling house), namely to allow erection of mansard roof extension with dormer window and forward-projecting gable, addition of chimney, and installation of solar PV and solar thermal panels on flat at roof area.”

If by way of reply you can confirm that despite the drawing's annotations, no additional changes are proposed to the front and/or rear elevation other than those identified above, we expect to be in a position to progress your application for you.

Kind regards meanwhile

Darlene Dike

Planning Technician | Fast Track and Validations Team | Development Management

Tel: 0207 974 1029 | **Fax:** 0207 974 1680

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APPENDIX 2:

Relevant planning decisions at neighbouring properties referred to

Brian Waters
The Boisot Waters Cohen Partnership
Studio Crown Reach
149a Grosvenor Road
LONDON
SW1V 3JY

Application Ref: **2007/5933/P**
Please ask for: **Bethany Arbery**
Telephone: 020 7974 **2077**

15 January 2008

Dear Sir/Madam

DECISION

Town and Country Planning Acts 1990 (as amended)
Town and Country Planning (General Development Procedure) Order 1995
Town and Country Planning (Applications) Regulations 1988

Full Planning Permission Granted

Address:
**18 - 20 Elsworthy Road &
15 Elsworthy Rise
London
NW3 3DJ**

Proposal:

Excavation of basement with front lightwells and rear sunken terraces and erection of single-storey rear ground floor level extensions (including raising boundary wall onto Elsworthy Rise) to provide additional habitable accommodation to the existing ground floor flats, remodelling of existing roof to create a slate clad mansard roof with gables, dormers and solar panels, installation of entrance door, canopy and glass balustrading to entrance to No. 20 (Elsworthy Rise elevation), alterations to windows/doors on east elevation, replacement of all windows with timber sash windows and other elevational changes, erection of new brick front boundary wall and timber fence (1.2m) on existing wall dividing the two rear gardens.

Drawing Nos: 18-20 ELS-P-000; 001A; 002; 003; 030; 031; 032; 033; 100; 101A; 102; 103; 104; 200; 300A; 301A; 302A; 303; Planning Policy Statement and Design and Access Statement by Finkernagel Ross; and E-mail dated 10/01/08 from The Boisot Waters Cohen Partnership.



The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies S1/S2, B1, B3 and B7 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 3 All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage to the satisfaction of the Council. A method statement to demonstrate that the trees can be retained and how they shall be protected during construction work (this includes showing areas of protective fencing, areas for site accommodation, site storage and site access points) shall be submitted to the Council and approved in writing prior to the commencement of works. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the Council may be satisfied that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policies N8 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 4 No development shall take place until full details of hard and soft landscaping including trees (this shall include the provision of either 1 or 3 semi-mature Silver Birches in the rear garden depending on whether it is demonstrated under condition 3 that the 2 existing Silver Birches can be retained and 2 lime trees in the front garden) and means of enclosure of all un-built, open areas have been submitted to and approved by the Council. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policies B1 and N8 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 5 All hard and soft landscaping works (including tree planting) shall be carried out to a reasonable standard in accordance with the approved landscape details by not later than the end of the 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 as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the Council gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a satisfactory standard of visual amenity in the scheme in accordance with the requirements of policies B1 and N8 of the London Borough of Camden Replacement Unitary Development Plan 2006.

Informative(s):

1 Reasons for granting permission.

The proposed development is in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, with particular regard to policies S1, S2, SD6, SD9, H1, H8, B1, B3, B7, N5 and N8. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

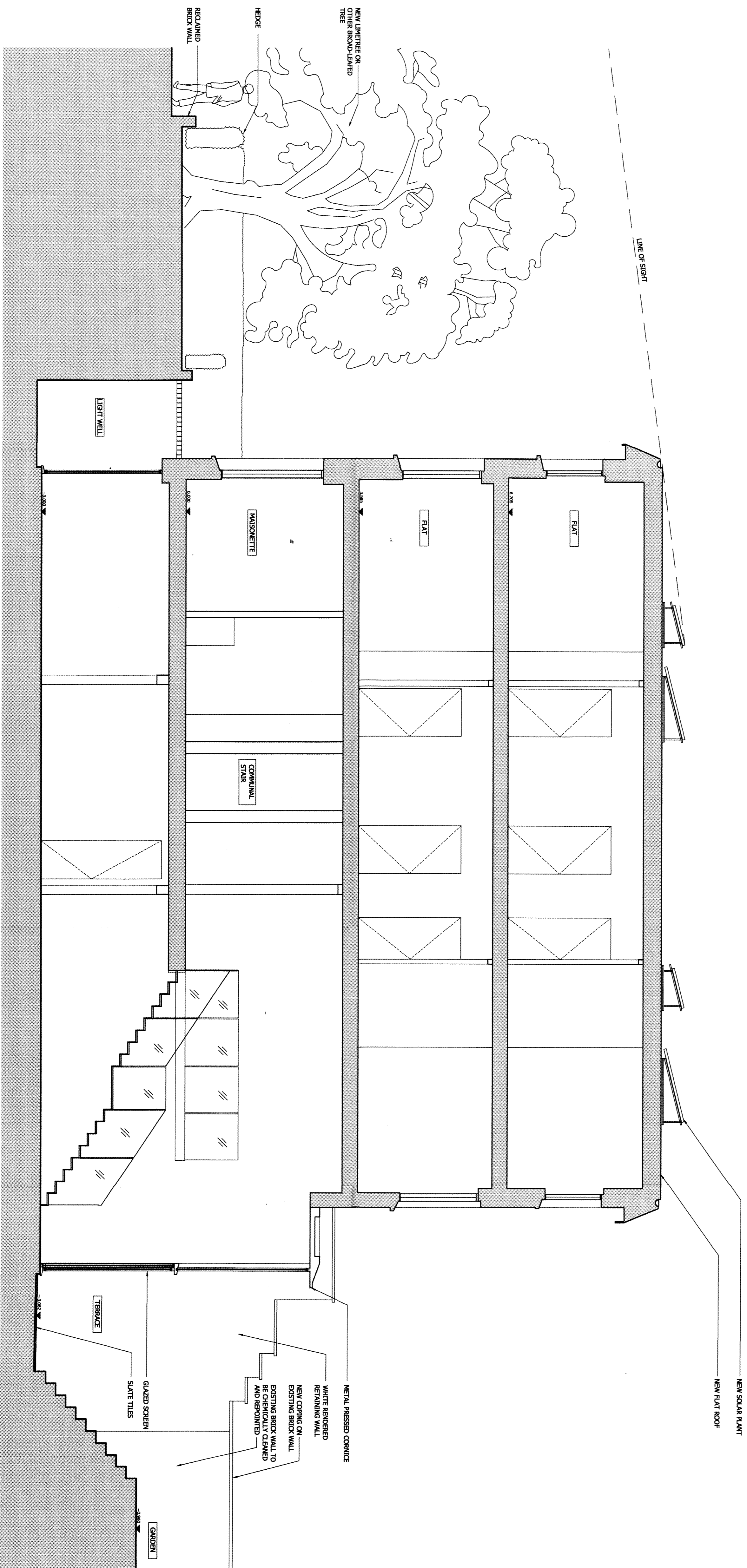
2 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 2363).

3 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Environmental Health Service, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 2090 or by email env.health@camden.gov.uk or on the website www.camden.gov.uk/pollution) or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

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1 PROPOSED SECTION
 1:50

finkernagel ro:
 architects

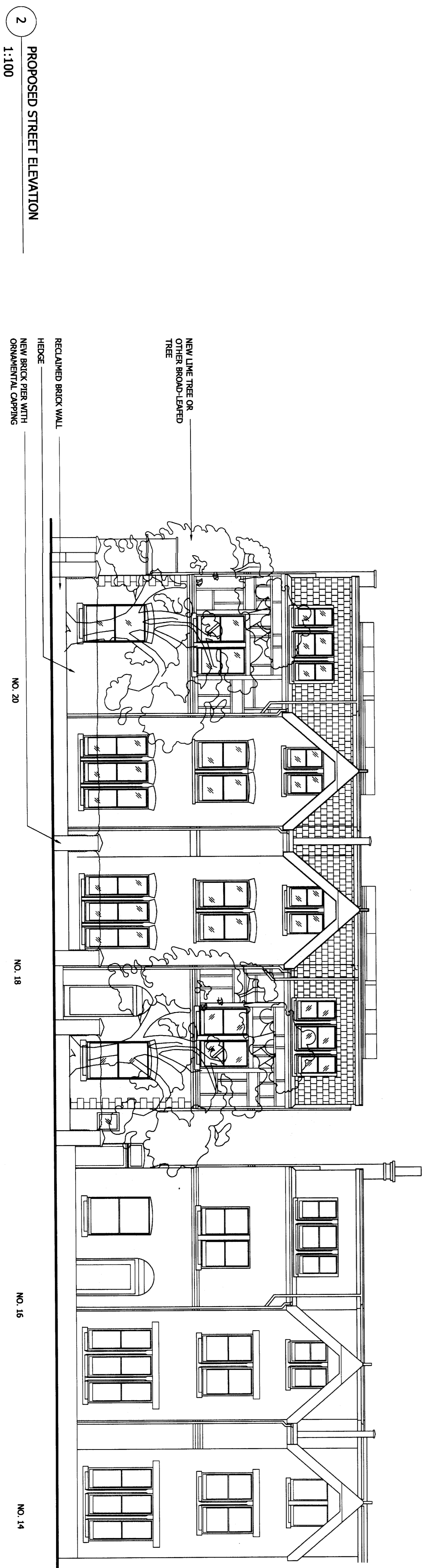
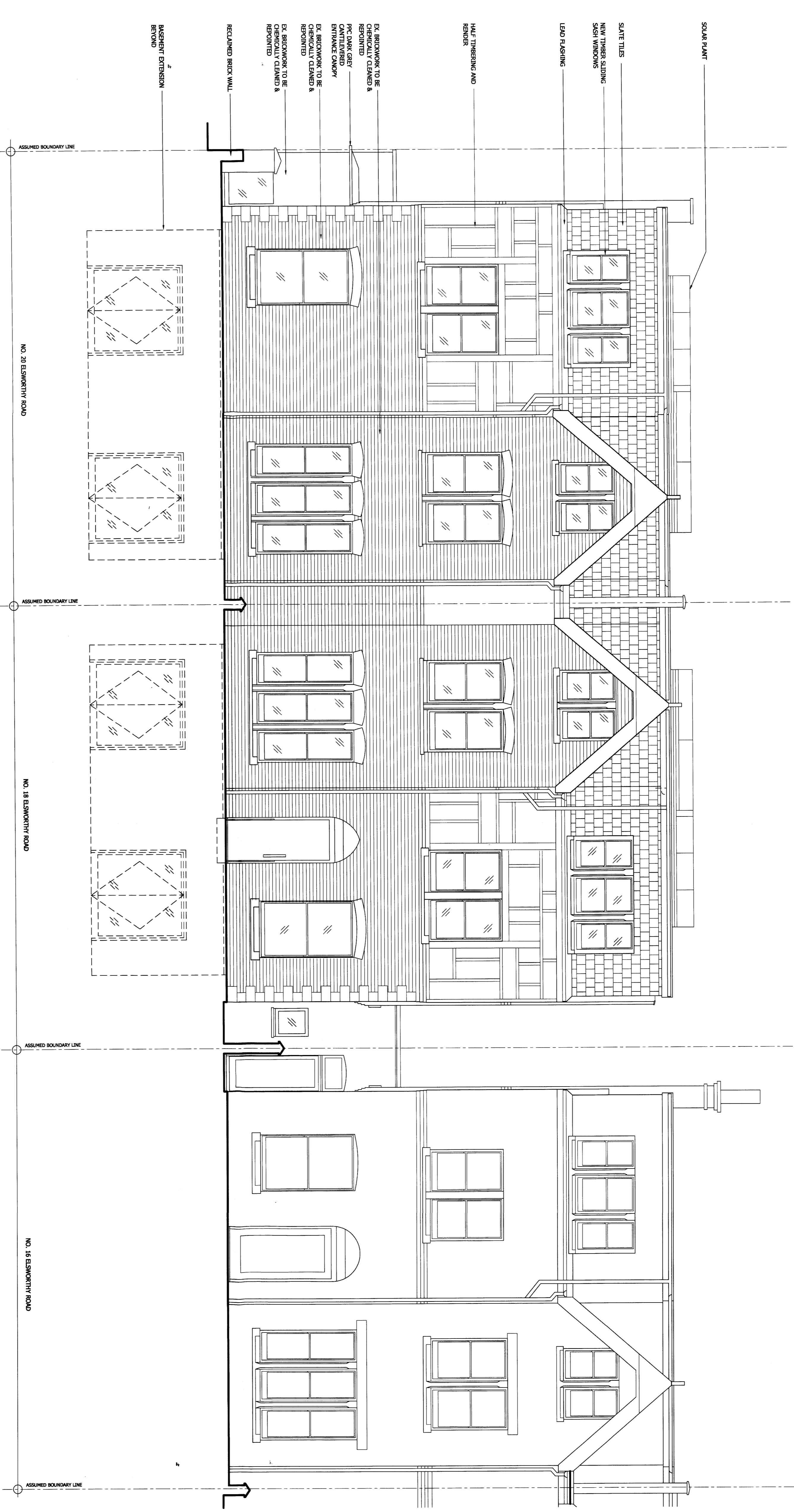
Studio 215, Stratford Worksho
 Burford Road, London E15 2s
 Tel 020 8555 0951
 Fax 020 8555 0958

PROJECT
 18-20 ELSWORTHY ROAD
 LONDON NW3

DRAWING
 PROPOSED SECTION

SCALE
 1:50 @ A1

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 architects

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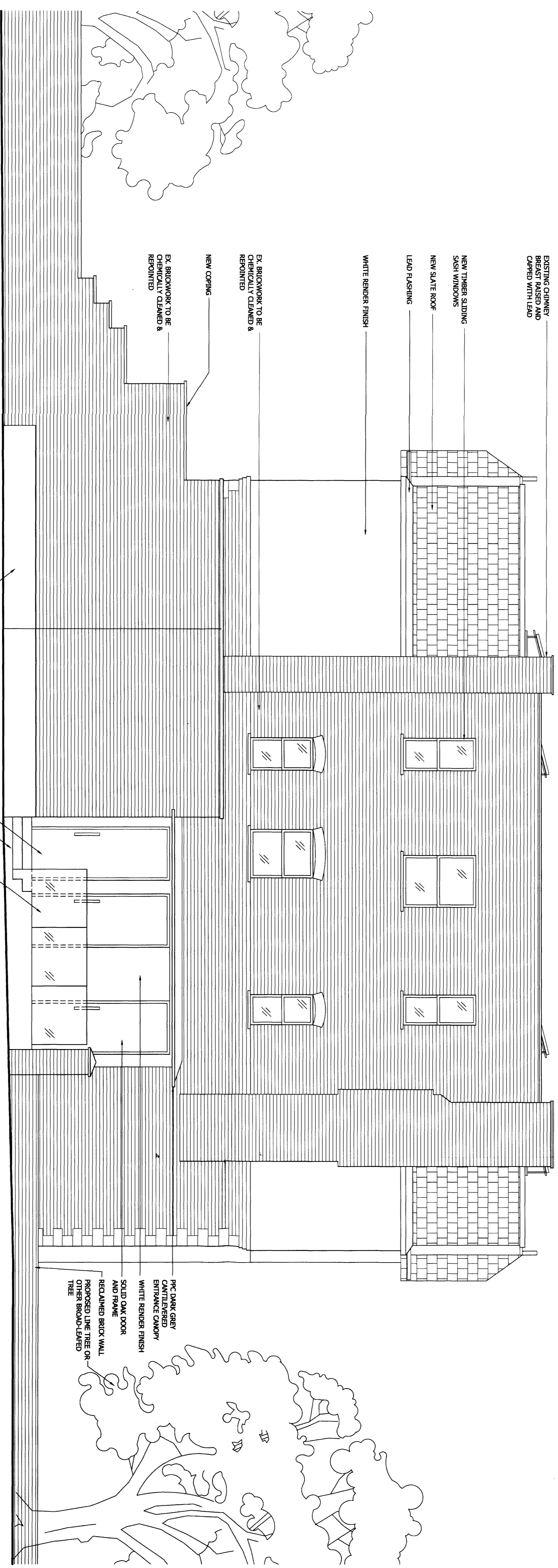
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 PROPOSED FRONT ELEVATION

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 18-20 ELS-P-300

DATE
 26.10.07

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EXISTING CHIMNEY
TO BE
CAPPED WITH LEAD

NEW TIMBER SLIDING
SASH WINDOWS

NEW SLATE ROOF

LEAD FLASHING

WHITE RENDER FINISH

EX. BRICKWORK TO BE
CHEMICALLY CLEANED &
REPOINTED

NEW COPING

EX. BRICKWORK TO BE
CHEMICALLY CLEANED &
REPOINTED

TIMBER DOOR SETBACK

SLATE TILES

FRAMED TONGUED
GLASS BALUSTRADE

RENDERED PLINTH
AND
SILL JOISTS
EXISTING

PPC DARK GREY
CANTILEVERED
ENTRANCE CANOPY
WHITE RENDER FINISH
AND RAIME

SOLID OAK DOOR

RECLAIMED BRICK WALL
PROPOSED LIKE TREE ON
OTHER BRICK-LINED
TREE

1
 PROPOSED SIDE ELEVATION
 1:50

finkernagel ross
 architects

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 Fax 020 8555 0958

PROJECT
 18-20 ELSWORTHY ROAD
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DRAWING
 PROPOSED SIDE ELEVATION

SCALE
 1:50 @ A1

DRAWING NO
 18-20 ELS-P-301

DATE
 26.10.11

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1
 PROPOSED REAR ELEVATION
 1:50

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 architects

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 Fax 020 8555 0958

PROJECT
 18-20 ELSWORTHY ROAD
 LONDON NW3

DRAWING
 PROPOSED REAR ELEVATION

SCALE 1:50 @ A1
 DATE 26.10.07
 DRAWING NO. 18-20 ELS-P-302
 REVISION

Felix Finkernagel
Finkernagel Ross Architects
Studio 215
Stratford Workshops
Burford Road
LONDON
E15 2SP

Application Ref: **2007/1570/P**
Please ask for: **Paul Wood**
Telephone: 020 7974 **5649**

18 May 2007

Dear Sir/Madam

DECISION

Town and Country Planning Acts 1990 (as amended)
Town and Country Planning (General Development Procedure) Order 1995
Town and Country Planning (Applications) Regulations 1988

Full Planning Permission Granted

Address:
16 Elsworthy Road
London
NW3 3DJ

Proposal:
Installation of 17 raised photovoltaic solar panels on the flat roof of property.
Drawing Nos: Site Location Plan ELS P001; 200; 300; HIP Photovoltaic Module Technical Specification

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).



Informative(s):

1 Reasons for granting permission.

The proposed development is in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, with particular regard to policies S1, S2, SD9, B1, B3 and B7. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

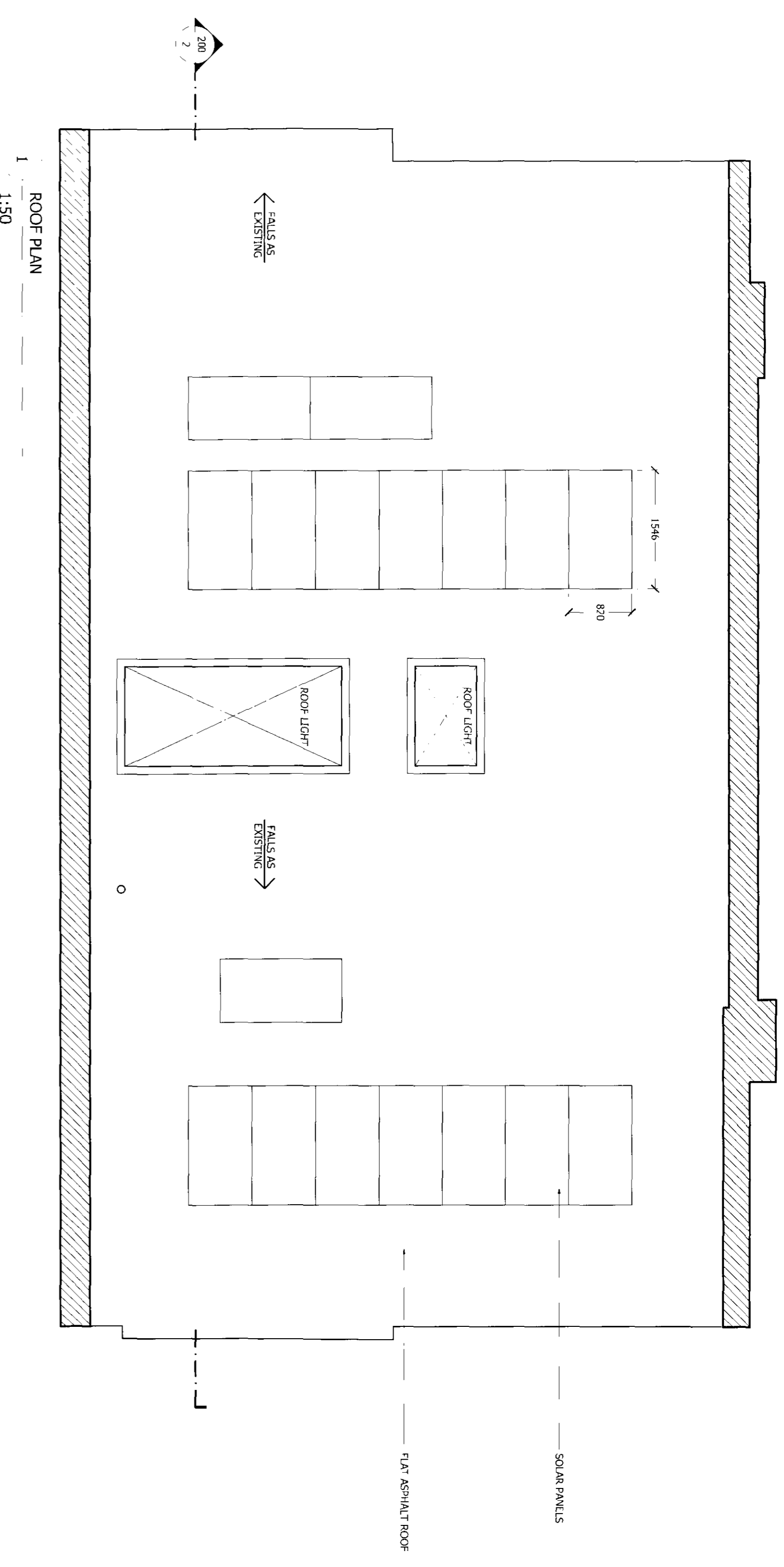
2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Environmental Health Service, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 2090 or by email env.health@camden.gov.uk or on the website www.camden.gov.uk/pollution) or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).

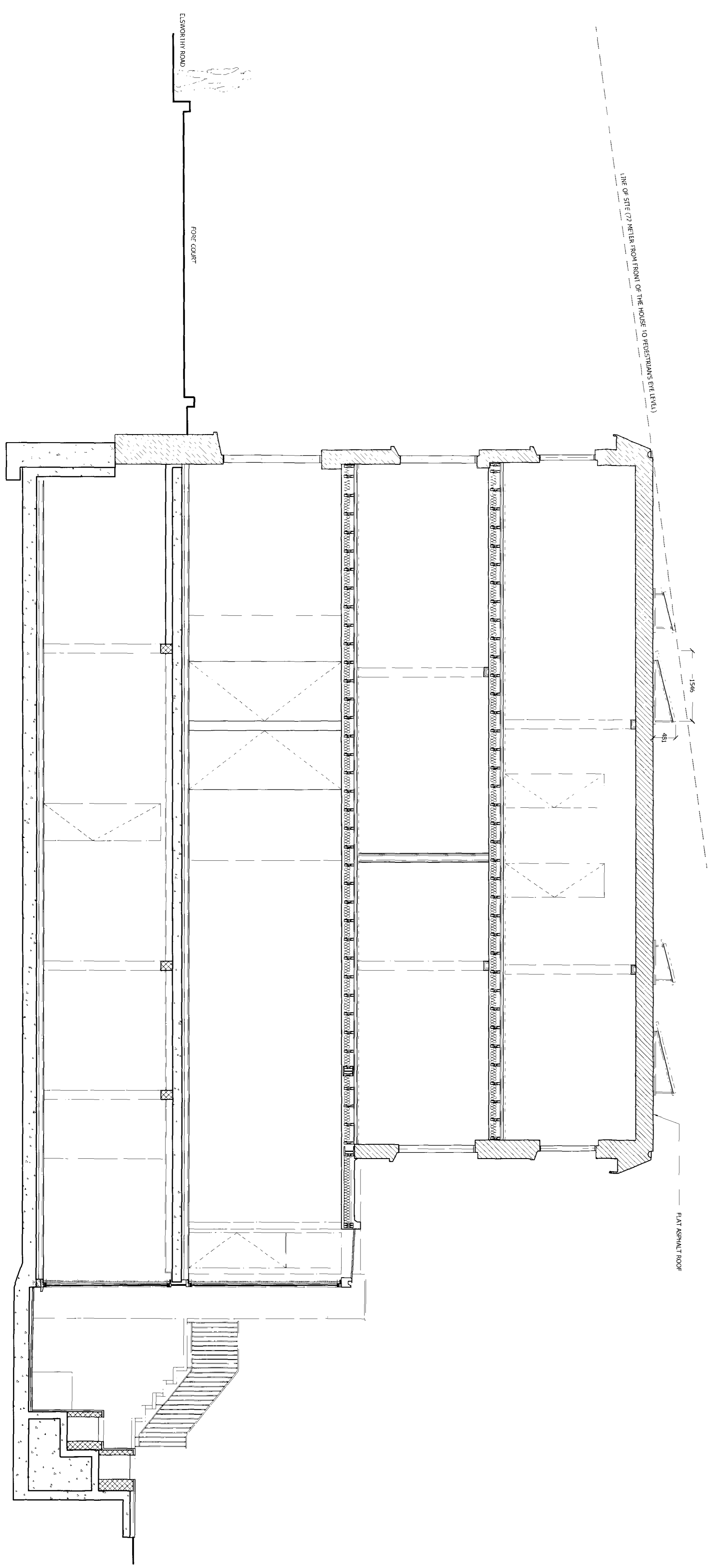
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1 ROOF PLAN
 1:50



2 LONGITUDINAL SECTION
 1:50

finkernagel ross
 architects

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26 MAR 2007

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PROJECT
 16 ELSWORTHY ROAD
 LONDON NW3

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 ROOF PLAN & SECTION

SCALE 1:50 @ A1
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FRONT ELEVATION

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 ALL DIMENSIONS TO BE CHECKED ON SITE
 ANY OMISSIONS OR DISCREPANCIES TO BE
 REPORTED TO THE ARCHITECT IMMEDIATELY
 IF IN DOUBT ASK

RECEIVED
26 MAR 2007

finkermagel ross
 architects

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PROJECT

16 ELSWORTHY RD
 LONDON N16 3

DRAWING NO

FRONT ELEVATION

DATE

05.03.07

SCALE

1/50@A3

DRAWING NO

ELS - P - 300

REVISION