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determined in accordance with the development plan unless material considerations indicate otherwise. We would also draw your attention to section 16(2) of the Listed Buildings Act 1990 which requires planning authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

3. We would go further and suggest that, as a matter of law, not only does the decision-maker have to have special regard to the building, but listed building consent itself is required for the proposed development, given that it proposes changes to a listed structure; namely the boundary wall between our client's property and the curtilage of Wellington House.
4. Section 7 of the Listed Building Act 1990 states that authorisation is required for alterations to a listed building if such alterations would affect their character as a building of special architectural or historic interest. The term "listed building" encompasses objects or structures within the curtilage of the listed building; see section 1(5) Listed Buildings Act 1990. For this reason the courts have determined on several occasions that works within the curtilage of a listed building require listed building consent; see, for examples, *AG v Calderdale BC* [1983] JPL 310 and *Skerritts of Nottingham v Secretary of State* [2000] 2 PLR 84. Further the courts have also held that listed building consent is required for works to the party wall of a listed building; see, in particular, *Sumption and Sumption v London Borough of Greenwich and Rokos* [2007] EWHC 2776.
5. It is clear from the drawings that the development would enclose a large section of the (listed) party wall dividing Wellington House from 9 Eton Villas, and also appears to cut into its fabric at three points. Possibly it is proposed to make other changes to the wall itself, including changing its height. However, these other changes are not clear from the small scale plans that have been submitted with the application. It therefore follows that listed building consent is required for these works in addition to planning permission.
6. We would also suggest that the planning permission applied for cannot be issued until an accompanying listed building consent application has been submitted to and considered by the Council. The benefits of such an application are twofold: first, it would help avoid the possibility of unauthorised works being carried out to the listed building, the sanction for which can be a criminal conviction; and second, it would afford the opportunity for all parties to consider the impact of the proposed development on the significance of the designated asset, namely our client's listed building and the wider conservation area. The absence of such an assessment of these important (statutory) material considerations would, potentially, render any planning permission issued unlawful, and therefore vulnerable to being quashed by the courts.
7. We would therefore ask that you take no further action on this planning application until such time as the requisite listed building consent application has been submitted to the council and duly considered by an appropriately qualified officer and also English Heritage.

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8. Turning to the policy considerations: in terms of heritage, as you will recognise both the Conservation Area itself and our client's listed building are "designated heritage assets" for the purposes of the National Planning Policy Framework ("NPPF") which means that paragraph nos. 128 to 141 of the Framework must be considered in determining the application. The relevant local planning policies are: *DP24 – Securing High Quality Design*; *DP25 – Conserving Camden's Heritage*; and *CS14 – Promoting High Quality Places and Conserving our heritage*.
9. In brief these policies seek to protect the built heritage. The NPPF calls for planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset; see paragraph no. 129. At the local level, policy *DP25 (f) – Conserving Camden's Heritage* states that the Council will not permit development that would harm the setting of a listed building. The supporting text, at paragraph no. 25.15, states: *"The setting of a listed building is of great importance and should not be harmed by unsympathetic neighbouring development...The value of a listed building can be greatly diminished if unsympathetic development elsewhere harms its appearance or its harmonious relationship with its surroundings."*
10. It is submitted that the location of the cycle storage area, the bin store and the security fence are unsympathetic and inappropriately located additions, harmful to the setting of our client's listed building. The existing development at Wellington House provides an appropriate and well-considered setting for the listed building. Specifically, the gap between the buildings at 9 Eton Villas and Wellington House enables both the frontage and the flank wall of 9 Eton Villas to be viewed and enjoyed from both Eton Road and Eton College Road. This creates a sense of spaciousness which is both characteristic of the Conservation area and appropriate for the setting of the listed building; the gap ensures that the modern Wellington House has a harmonious relationship with the historic building at 9 Eton Villas. The proposal would encroach upon this important gap, eroding the harmonious relationship between the two properties, thus harming the Conservation Area and undermining the setting of the listed building. The loss of this relationship through the proposed development cannot be justified.
11. Moreover, as is abundantly clear, the grounds of Wellington House provide several other alternative locations for the cycle store and the bin store. We would suggest that given the opportunity to locate these facilities elsewhere within the curtilage of Wellington House, the presently proposed locations are manifestly unsuitable.
12. In summary we submit that both the character and appearance of the Conservation Area, and the setting of the listed building, would be harmed by the proposal. This is contrary to the both the Government's and the Council's heritage protection policies. Therefore the development should be refused because it breaches those policies.
13. Turning to amenity: policies which protect this are found in the Development Policies DPD at *DP26 – Managing the Impact of Development on Occupiers and Neighbours* and *CPG 6 – Amenity*. In brief, these policies seek to prohibit proposals

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which have harmful effects on the amenity of existing occupiers. Policy DP 26 states that permission will only be granted for development that does not cause harm to amenity. The factors that are considered include noise and odour.

14. At present, our client suffers harm from the existing location of the bin store in three ways. First, through the noise generated by people emptying their rubbish into the bins at all hours of the day and night, which is further exacerbated by the lids of the large "Euro bins" crashing down after the rubbish has been emptied. Second, our client regularly finds rubbish intended for the bins in her garden; caused presumably by carelessness, the wind or, possibly, thrown there deliberately. We understand that this happens quite regularly. Third, the bin store generates unpleasant odours, immediately next to our client's patio area. We understand that these odours are especially problematic during warm weather in the summer months. It can only be pre-supposed that an enlarged bin store area will exacerbate these problems, resulting in yet more unacceptable harm to our client's amenity.
15. For these reasons - noise, littering and smell - it is submitted that the proposal breaches your amenity protection policies as well as your heritage protection policies discussed above. We therefore submit that the application does not accord with the development plan and ask that you refuse to grant permission on these grounds.

Our client would like to make it clear she would have no objection to the scheme if measures to safeguard both the setting of her property and her amenity were incorporated into the proposal. Her specific concerns, as detailed above, relate to the fact that the majority of the proposed development is located hard on the boundary with her property, creating unacceptable impacts. She would not object if the bin store and the cycle store were located away from her boundary. Furthermore she would suggest that, given the poor state of much of the hard landscaping, for example, the worn and inappropriate tarmac surfaces, the opportunity is taken through the application to make improvements to this aspect of the existing development.

We ask that you please kindly acknowledge receipt of this letter of objection. We also ask that, before the Council determines the application, officers from the Council, including an appropriately qualified design and conservation officer, visit our client's property to assess the impact of the proposal. In any event, we respectfully request that the Council refuses the application in its current form for the reasons set out above.

Yours faithfully,



**David Evans**

**Partner**

**For and on behalf of Geoffrey Searle Planning Solicitors**