

**38 HEATH DRIVE
LONDON BOROUGH OF CAMDEN
LONDON NW3 7SD**

**PLANNING (HERITAGE) PROOF
OF EVIDENCE OF
DR CHRIS MIELE
MRTPI IHBC FRHS FSA**

**IN RELATION TO APPEALS AGAINST
THE REFUSAL OF PLANNING
PERMISSION**

LPA REF: 2013/7355/P

**PINS REF:
APP/X5210/A/14/2215857**

JULY 2014

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APPENDICES

SEE SEPARATELY BOUND APPENDICES CONSISTING OF:

1	Dr Chris Miele CV (June 2014)	
2	Decision Notice (26 February 2014)	
3	Selected application drawings, as agreed in the Statement of Common Ground, (May 2014)	
4	Conservation and Design comments extracted from the Delegated Committee Report (February 2014)	
5	Screenshot from Planning website of London Borough of Camden website - showing boundaries of surrounding Conservation Areas (taken July 2014)	
6	Relevant extract from the Redington/Froggnal Conservation Area Appraisal	
7	Map of the West End Green Conservation Area	
8	Heritage Statement produced by Montagu Evans (November 2013)	
9	Relevant extract from Camden's draft Local List and selection criteria (October 2013)	
10	Section 12 'Conserving and enhancing the historic environment' extract from the National Planning Practice Guidance (March 2014)	
11	Barnwell Manor Wind Energy Limited vs East Northamptonshire District Council, Court of Appeal Decision ([2014] EWCA Civ 137)	
12	English Heritage guidance, <i>The Setting of Heritage Assets</i> (2011 revised June 2012)	
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14	English Heritage Guidance <i>Understanding Place: Conservation Area Designation, Appraisal and Management</i> (2011 revised June 2012)	

- 15 Email from J Litherland (27 June 2014)
- 16 Independent Assessment of BIA, LBH Wembley, (June 2014)
- 17 Updated Basement Impact Assessment, Soiltechnics, (29 June 2014)

1.0 INTRODUCTION

- 1.1 My name is Dr Chris Miele (pronounced 'Mealy') and I am a Senior Equity Partner at Montagu Evans LLP, Chartered Surveyors and Town Planners. I am a Chartered Town Planner and a Member of the Institute of Historic Building Conservation.
- 1.2 We thirty owning-partners at Montagu Evans employ more than 200 staff. Most are based in our West End head office. As a practice, we provide all areas of development consultancy from rating and valuation to management and investment advice. The town planning consultancy has always been central to our business, and it is provided through our Planning and Development (P&D) Department.
- 1.3 Within the P&D department I provide specialist advice on sites which involve the development in the historic environment and sensitive landscapes. These instructions are discharged with the assistance of a specialist team, many dual qualified as am I. We also employ specialist research staff.

Expert Witness' Duties

- 1.4 I appear regularly as an independent expert witness on planning Appeals and Call-in Inquiries where I give evidence on heritage matters, urban design, design quality and landscape/townscape and visual impact assessment.
- 1.5 I am aware of the duties of expert planning witnesses and adhere to the RTPI Code of Conduct in this regard (see my signed affirmation in the final section of this Proof). My involvement in this Appeal is described in Section 2.0 of this Proof, where I also set out my scope of evidence.

Experience

- 1.6 I have more than twenty years' professional experience of advising on cultural heritage matters in a planning context. During this time I have dealt with a very wide range of heritage assets, in many different and sensitive settings. This expertise includes landscape and visual impact assessment work, and I was principal author of the 2007 London View Management Framework, SPD to the London Plan. This provides visual management guidance for the then 25 designated strategic views, many of which concern World Heritage Sites. I have also worked on sites in rural areas, including sites in the Green Belt, AONBs, and National Parks.
- 1.7 My employment history over this period has been:
- English Heritage Designations Team and Historical Analysis and Research Team, providing statutory advice on designations and support for the discharge of English Heritage's planning function (1991-98);

- Alan Baxter and Associates, where I was Director in a multi-disciplinary consultancy based in engineering, providing heritage planning advice (1998-2005);
- RPS Planning, where I was Senior Planning Director and Head of Historic Environment where I gained particular experience of infrastructure projects spanning above and below ground heritage (2005-06).
- Montagu Evans LLP where I am a partner with responsibilities described above (2006 to the present).

Academic Background and Projects

- 1.8 Prior to settling in the United Kingdom, and whilst completing my higher education degrees, I held several part-time museum and academic appointments at Columbia University, New York University, the Metropolitan Museum of Art, and the Museum of Modern Art, all in New York City.
- 1.9 My special doctoral subject was nineteenth-century British architecture and urban planning. In recognition of my contribution to the academic and professional literature on this subject, I was elected a Fellow of the Society of Antiquaries and of the Royal Historical Society. I received a post-doctoral fellowship which entailed extensive research in my special topic area, and consequent publications.
- 1.10 I continue to lecture here and abroad on my special subject and on town planning matters. Over the years I have published many articles and edited several books, most recently on the new UK Supreme Court (commercially published by Merrell for the UK Supreme Court Executive and Ministry of Justice, 2010) and in April of 2011 a book on Georgian Architecture (English Heritage). I have several articles in preparation, including on the Victorian architect Sir George Gilbert Scott (I am working on his biography) and on the historian and politician E A Freeman.
- 1.11 I am an external member of the Centre for Urban History, Leicester University, and a Board Member of the AHRC project for knowledge transfer between Midlands universities and the professional private sector. I am also leading on a knowledge exchange between UK and planning and heritage professionals in mainland China, through contacts at Zhejiang University (south of Shanghai). I have lectured here on the UK planning system.

Other Appointments

- 1.12 My other appointments include a term on the CABE Design Review Panel. I also acted as special advisor to the Parliamentary Subcommittee inquiring into the role of heritage in urban regeneration. I have served as an external member of English Heritage steering groups on research and standards and regularly review books for the Burlington Magazine. In the course of the last decade I have acted as a trustee of

two historic houses in Bexley, London: Danson House (a late C18 villa) and Hall Place (a Tudor and Stuart period manor house). I also established and chaired a conservation area advisory panel in my local area and a community neighbourhood action group devoted to environmental improvements (which received funding under the last government's New Deal for Communities).

1.13 My CV and list of academic and professional publications is set out in Appendix 1.

Camden Experience

1.14 I have recently advised, or am advising on, many very sensitive sites and sites where heritage settings in a landscape context are under consideration, including in the London Borough of Camden.

- For the Trustees of the British Museum, I provided all the planning advice in support of the Trustees' c.20,000 sqm World Conservation and Exhibitions Centre, with Rogers Stirk Harbour Partners;
- For the owners of Centre Point, a Grade II listed building in the southern part of the Borough, I was involved in the feasibility studies on its part redevelopment;
- For the Architectural Association, in Bedford Square, also in Camden, I was responsible for overseeing a masterplan for the site it occupies, comprising 8 Grade I listed late Georgian houses;
- For University College London, also in Bloomsbury, I was responsible for a masterplan and development framework, with architects Lifschutz Davidson Sandilands;
- On numerous private householder and residential projects, including a major consent achieved for Barratts Homes on the Kings College, Kidderpore Avenue Site (2013). I am advising a shortlisted bidder on parts of that site and one adjoining, being sold by Kings (whom I advise on their Strand site, within the Somerset House complex). I mention this project because it is close to the Appeal Site and many of the considerations at large in this appeal were considered in the consents process for that site.
- I have been part of the Montagu Evans' team advising the property division of the Borough itself on a number of sensitive, potential disposal sites, including its town hall (both the listed part and the more recent extension).
- Very recently I achieved planning and listed building consent for Which? (the Consumers' Association), for redevelopment of their Headquarters Building at 1 Marylebone Road, which includes a Grade I listed Nash villa, and a site that was part of the Crown Estate development of Regent's Park. This entailed a net

increase in floor area and an extension of striking and dramatic design – at the back, away from the listed building.

Other Projects

1.15 I list below a selection of other recent projects of note:

- For the Dean and Chapter of Westminster Abbey, I have been involved in several projects including a new 140 seat visitor café and centre formed partly within a previously inaccessible C14 arched space;
- For the Trustees of the South Bank Centre, I am involved in a conservation management plan for the Grade I listed Royal Festival Hall and the unlisted 1960s buildings comprising the Hayward Gallery and QEH;
- For Green Property and CIT, I am involved in the 130,000 sqm redevelopment of Market Towers in the Vauxhall and Nine Elms Opportunity Area, with architects KPF. I have been novated to the new Chinese owners, Dalian Wanda (Beijing based) and am working on a section 73 package for this, the tallest building complex in the Vauxhall and Nine Elms Cluster;
- For Chelsfield and London and Regional, I am involved in the 120,000 sqm mixed use redevelopment of Elizabeth House at Waterloo Station, with David Chipperfield Architects;
- For the University of Oxford, I achieved planning consent (working also as a heritage expert) for the 8,000 sqm Blavatnik School of Government, working with internationally regarded architects Herzog and de Meuron Architects;
- Again for the University of Oxford, to provide expert witness work on a new quad for St Cross College, in the St Giles area of the historic city centre;
- For Qatari Diar and the US State Department, I had a joint instruction on the US Embassy in Grosvenor Square. I am recently instructed to consider this site again;
- For Greenland properties (another Chinese developer), I am retained to provide expert heritage advice on the conversion of the Grade II* listed brewery buildings at the Ram Brewery, Wandsworth Town Centre, along with townscape advice on the consented tall buildings there;
- For Chelsfield and the Design Museum, ongoing work (since 2008) on the conversion of the Commonwealth Institute (a grade II* 1960 exhibition complex in Holland Park) for the museum's new central London venue, working with award-winning architects John Pawson.

- 1.16 I work regularly for housebuilders on schemes in London and on urban extensions from the Midlands to the south east of England. These include Berkeley Homes (whom I am currently advising on Woolwich Arsenal Phase III, CrossRail and a new station square), Barretts, Taylor Wimpey, Bloors, Hallam Land, Barwood Land, City and Country, Williard Davis. Other clients, engaged in mixed use development, include Delancey, Land Securities, and CIT.

2.0 SCHEME INVOLVEMENT AND SCOPE OF EVIDENCE

- 2.1 I have not worked for the Appellant before this instruction. I have no other instructions at the moment with the Appellant's company.
- 2.2 The Appellant invited me to review the emerging proposals at a pre-application stage. This included an analysis of the site and its relationship to the wider area, including the Redington/Froggnal Conservation Area (hereafter the 'CA'). I was already very familiar with this CA through my instruction on the nearby Kidderpore Avenue site (a Barratt's scheme, now consented and implemented).
- 2.3 My assistant and I undertook research in journals from the period c. 1900 and secondary publications on Victorian and Edwardian architecture. The purpose of this was to use precedents from the period to refine the design. This was in addition to the contextual analysis Mr Green had undertaken. There followed discussions on the proposed detailing of the scheme, a process Mr Green documents in his Proof.
- 2.4 Montagu Evans also prepared the heritage statement submitted as part of the planning application. This was done under my direction, and I have since reviewed it again. That identified one erratum, a drafting error (see my paragraph 3.49 below).
- 2.5 In preparing this evidence, I have visited the site and its surrounds again. I have carefully considered the council's criticisms of the proposed design and comment on these later. By way of introduction to my Proof, and to define the scope of my evidence clearly, I will take a moment here to highlight what I consider are the salient points of the Council's objection to the proposals.

Observations on the Delegated Committee Report

- 2.6 I include the relevant section of the committee report on conservation and design at Appendix 4.
- 2.7 In the drafting of the delegated committee report it appears that the authority has applied part c) of DP25 in this case as a gateway test. Paragraph A1.2 (Appendix 4, my numbering) states:

"Policy DP25 outlines a clear presumption in favour of buildings that make a positive contribution to the character and appearance of a conservation area. Their loss will only be acceptable where "exceptional circumstances are shown that outweigh the case for retention." Furthermore, any replacement building must preserve and enhance the character and appearance of the conservation area to an appreciably greater extent."

- 2.8 I do not agree with the interpretation of this policy. If applied as it has been by the officer in this case, then there would be a strong presumption in favour of retaining a building that makes any degree of positive contribution. I infer from the Statement of

Common Ground (paragraph 2.9 (1)) that the Council will look at the effect of the development as a whole and so not be approaching the matter as set out in the report. If that is the approach taken in evidence, I reserve the Appellant's position in respect of a Rebuttal Proof.

- 2.9 The officer goes on to comment on the design of the replacement building. I address these comments in detail in my Section 6 of this Proof, but make the following observations here.
- 2.10 It is stated at paragraph A1.9 that the proposal will 'fundamentally alter' the appearance of the site'. That in itself is not a reason to oppose a development in a Conservation Area, particularly this one. The Council furthermore reject the idea that the site's open condition is capable of improvement by better enclosure. This is to reject principles of good urban design: enclosure, definition, legibility of a significant junction, etc. The Council are also concerned about the height, bulk and mass of the development.
- 2.11 Second, it appears that a key criticism of the proposals is based on the perception that the site functions as a gateway to the CA, effectively announcing its suburban character on Finchley Road. Our heritage assessment did not consider this possibility simply because my analysis did not lead to that conclusion, and I remain of that view. Neither does the detailed, published appraisal of the CA support the Council's evaluation of the site as a gateway.
- 2.12 I think the Council's evaluation of this site as a 'gateway' is misplaced for the following reasons:
- a) The design of the building is not what I would expect on a planned gateway site. The building has no particular features oriented towards the corner. It is a typical 1920s house set down on a large corner plot, orienting towards Finchley Road and the adjoining properties there (not in Heath Lane). The corner 'condition' is just a side/rear garden;
 - b) The garden has no particular feature that appears to address the corner;
 - c) The building's location and orientation, set back from Heath Drive, reduces rather than increases its prominence on the corner, which is poorly enclosed and so poorly defined (in an urban design sense);
 - d) One would expect a site intended to be a gateway, or practically functioning as one, to have some obvious point of resemblance to the plot opposite, on the other side of the putative gateway. A 'gate' comprises two equal parts, generally. The two corners here could not be more different. I should say here that the proposals take the opportunity to define the corner as a point of transition and arrival by responding to surrounding buildings and the boundaries along the two public highways defining it.
- 2.13 At paragraph A1.11 the officer states that the proposals are 'grandiose'. I understand this to be a point taken on scale; however, the lower part of the design plainly does

acknowledge the change in scale down to that of traditional houses. If 'grandiose' is meant to mean elaborate, then I disagree. The design is humble, simple, not extrovert. That was a deliberate decision taken during the revision process. We wanted something that drew together the townscape, introducing greater coherence.

2.14 The officer makes detailed design criticisms. The elevations are too 'fussy', the Council say. This is a vague statement. The specific criticism seems directed as a minor feature, the double dormers on the lower element, itself criticised for being without precedent in the area. Architecture around the appeal site is ornamented and well articulated.

2.15 I note that there is no real concept of 'precedent' in conservation area regulation, namely that only development which repeats existing forms in detail will be acceptable. I was surprised to read this comment because I know from long experience in this Borough that it encourages design innovation of a high quality in conservation areas, including in this CA, where there is a variety of architectural design from the period 1870 to 1939.

2.16 I must say I am surprised by these general concerns, because it seems to me that the proposals do plainly relate to surrounding influences, and in an entirely appropriate way. Some of those influences are, I accept, outside the CA, but in this location, the CA's character is influenced by the development on adjoining sites in the Finchley Road, including a site in the nearby West End Green Conservation Area. Furthermore, the late Victorian mansion flat opposite the site at Albemarle Mansions, is itself a locally listed building.

2.17 The scheme as submitted is not intended as a pastiche of a mansion flat or a house. Rather the intention is to apply traditional architectural forms in a creative way to solve a contemporary problem. This means striking the optimum balance amongst different, potentially competing objectives, even on sensitive land. The scheme is a traditional design language applied to a contemporary design challenge.

The Reasons for Refusal Which I Consider in this Evidence

2.18 Accordingly, this evidence deals with the first and second reasons for refusal, which are:

"Reason(s) for Refusal

1 The proposed demolition would result in the loss of a building which makes a positive contribution to the Redington/Frogna Conservation Area to the detriment of the character and appearance of the Redington/Frogna Conservation Area, contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high

quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

2 The proposed building, by reason of its excessive height, mass and bulk, inappropriate design and extent of site coverage, fails to relate to the context of the Redington/Frogna Conservation Area, to the detriment of the character and appearance of the Redington/Frogna Conservation Area, contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.”

- 2.19 As set out in the Statement of Common Ground 8 May 2014 (agreed at the time of the date for exchange of proofs), the outstanding issue which I address is identified at para 2.9, item 1, on page 12, namely:

“Whether the development as a whole would preserve or enhance the character or appearance of the Conservation Area.”

- 2.20 This position reflects the statutory duty incumbent on the decision maker set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (see below in section 3.0) and consequent policy.

- 2.21 The development of course comprises both phases of the building operation, that is demolition and redevelopment, and there is a single development plan policy dealing with these separate operations. I consider it is appropriate in this kind of case to take such a staged approach in assessment, that is, first look at the impact of the demolition and then, second, at the impact of the proposals, and then apply the section 72(1) provision to see whether the development either preserves or enhances the character or appearance of the CA. The Council agree that this is the relevant test at para 2.9 (1) of the Statement of Common Ground.

3.0 STATUTORY PROVISIONS, POLICY AND MATERIAL CONSIDERATIONS

3.1 In this section I summarise salient parts of statutory provision, development plan policy, guidance and best practice as these pertain to the appeal.

3.2 I take the wording of policies as read, and will comment only where I think it assists the Inspector.

Statutory Provisions: The Town and Country Planning (Listed Building and Conservations Areas) Act 1990

3.3 In section 2.0 I observed that the overarching consideration here is the statutory duty incumbent on the decision maker. This is set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, hereafter ‘the 1990 Act’ which states:

“In the exercise [of planning functions], with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions of subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

3.4 The ‘South Lakeland’ decision of the House of Lords (South Lakeland District Council v Secretary of State for the Environment and another [1992] 1 ALL ER 573) established that the test of preservation is satisfied either by development which leaves a conservation area unharmed or which enhances it.

3.5 I am familiar with recent judgments (in the High Court and Court of Appeal) which relate to the provisions of the 1990 Act, and these, on my understanding, merely reaffirm the intention of Parliament, which is that special regard should be given to the desirability of preserving or enhancing designated heritage assets – in this case the character or appearance of the CA- and that therefore where harm to it is found to occur, considerable weight should be attributed to any such harm.

3.6 This does not preclude development where the countervailing wider benefits are sufficient enough to outweigh the harm. It is down to planning judgment to take a proportional view of just what great weight means on the facts of any particular case.

3.7 I note that CA regulation is about the character or appearance of the area primarily and not of specific buildings within it, though necessarily these contribute to the appearance of an area in varying degrees.

The Statutory Development Plan

3.8 The statutory development plan consists of:

- the London Plan 2011 (amended and consolidated in October 2013, draft further alterations consultation version January 2014);
- Camden's Core Strategy 2010 and;
- Camden's Development Policies, also 2010.

The London Plan

- 3.9 The plan has general strategic policies on heritage and design matters, and those are consistent with the Framework's approach.
- 3.10 There are now proposed Further Alterations to the London Plan which are in the main concerned with policies relating to the provision of housing land and numbers, in response to data establishing higher population figures.
- 3.11 Mr Cunnane will comment on the weight to be accorded to the revised policies in this case.
- 3.12 In my opinion the London Plan's objectives in seeking an increase in housing land supply do have a bearing on the application of development plan policy as it relates to heritage and design matters. Thus that plan's policy objectives of seeking the intensification of use, including residential use, of previously developed, accessible sites, is relevant to my evidence (see, for example, policies 3.3 and 3.4).
- 3.13 Policy 7.4 on Local Character seeks to encourage a contextual approach, based on an assessment of the physical characteristics of an area appropriately interpreted and applied.
- 3.14 Policy 7.6 encourages design appropriate to its context and of high quality, comprising details and materials that complement, without necessarily replicating local architectural characteristics.
- 3.15 Policy 7.6 part (i) seeks development that optimises the potential of all sites having regard, of course, to general design and contextual considerations as well as issues of amenity, transport and so forth.
- 3.16 Policy 7.8 encourages councils and developers to have regard to the significance of all heritage assets in the development process.

Camden Core Strategy (Adoption Version 2010)

- 3.17 Camden's Core Strategy Policy CS14 is a broad statement of intent seeking the conservation of the Borough's heritage. It also promotes excellence in design.

Camden Development Policies (Adoption Version 2010)

- 3.18 The Development Management Document, Camden Development Policies 2010, includes policy DP24. This is a general design policy recognising contextual and heritage influences as important determinants of change.
- 3.19 The Borough accepts high quality contemporary design except in areas ‘*of homogeneous architectural style that it is important to retain...*’ (24.6). This policy recognises that buildings of local interest can make a significant contribution to the good planning of the area.
- 3.20 Policy DP25, Conserving Camden’s Heritage considers all aspects of heritage – conservation areas, listed buildings, archaeology and other heritage assets.
- 3.21 DP25 purports to implement the statutory test, although it refers to preservation and enhancement. It is difficult, if not impossible, to square the policy’s drafting with the section 72(1) duty which requires either preservation or enhancement. On the face of it, it is hard to see how both objectives can be achieved in all cases.
- 3.22 The Council acknowledge, however, in the Statement of Common Ground, that the statutory test of preservation or enhancement is the relevant consideration here (see paragraph 2.9 (1) of that document).
- 3.23 There are other difficulties with the logic and wording of DP25. For example, part (c) seeks to prevent the demolition of any unlisted building in a conservation area ‘*unless special circumstances are shown to outweigh the case for retention*’. This is, in effect, the same test one applies to listed buildings. The policy is also binary: if a building makes any degree of positive contribution, it will be kept. Applying it in that way, as strictly written, would not be consistent with the Framework (discussed below) or indeed with the statutory provision at section 72.
- 3.24 When I last gave detailed evidence on this policy, I concluded that its drafting left much to be desired because it was internally contradictory and inaccurate in its referencing of national policy, and even, I chose my words carefully, muddled. Looking at it again, I conclude it needs to be handled with care.
- 3.25 Nevertheless, I conclude that its intent cannot be to impose an exceptional circumstances test on any redevelopment of unlisted buildings of note in the conservation area, because that would plainly not be consistent with either section 72 (1) of the Act or current guidance.

The National Planning Policy Framework (the ‘NPPF’ or the ‘Framework’)

- 3.26 Given my ‘handle with care’ instructions on DP25, I feel it is right to start with the weight which I think it should have in the presence of the Framework.

- 3.27 This is contained at paragraphs 214 and 215.
- 3.28 The Development Management Policies are outside the 12-month saved period, and so are accorded due weight on the basis they are consistent with the Framework. Read and applied strictly, I do not see DP25 is consistent with the equivalent Framework provision.
- 3.29 On the demolition point, the first stage of the process, we start with paragraph 138. This expressly contemplates demolition of buildings making a positive contribution (irrespective of the nature or scale of that contribution) and advises this will cause some harm to the significance of that area.
- 3.30 The policy specifies that the determination must be made 'taking into account the relative significance of the element affects and its contribution to the Conservation Area... as a whole [my emphasis].' From this I reason that substantial harm would be pervasive, amounting to undermining the reason for designating the CA in the first place. In this respect the scale of the area and the site's position on the edge of it become relevant considerations. It is also pertinent that the site was not at first included in the CA, but only came to be after three boundary reviews.
- 3.31 Thus, the decision maker must consider the level or degree of contribution a building makes, and so to a reasoned finding on the facts of the case. The policy does not take an absolute or binary view of things. It does not say, in other words, that if a building makes some positive contribution, then its removal must cause substantial harm to the conservation area. To take that approach would be to blur the difference – which is embedded in statute – between a listed building and unlisted one in a conservation area.
- 3.32 There will, I have no doubt, be cases where there are unlisted buildings of such importance or prominence in an area that their demolition in itself could be said potentially to cause substantial harm to that area as a whole. I do not see this is one such case.
- 3.33 The decision maker needs to decide if the demolition of the building causes substantial harm – and the definition I will come to in a moment – or less than substantial harm. That is a cliff-like distinction. If the finding on the facts of any particular case is, yes, substantial harm, then demolition can only be supported on the basis of special or exceptional circumstances. These circumstances are set out in paragraph 133. The Council are not alleging this severity of harm.
- 3.34 A finding on less than substantial harm engages a value judgment. 'Less than substantial harm' has been accepted in appeal decisions to comprise a gradient of harm, either very little or a great deal approaching substantial.

- 3.35 In such cases, and it is my evidence this is one such at this Appeal, the countervailing public benefit needed to offset the harm should be proportional to that harm. That is a clear inference from reading chapter 12 of the NPPF as a whole. Proportionality is, in any event, a well-established land use planning principle.
- 3.36 Such benefits, we see from paragraph 134, can be heritage benefits, such as an enhancement to the significance of an asset by an appropriately designed new building, or land-use planning benefits, such as the provision of housing and land-use optimisation. Both are claimed in this case. See Mr Cunnane's Proof for the weight to be given to land-use planning benefits (here, primarily housing delivery).
- 3.37 Overall, I think the Framework introduced no particularly new concepts into heritage planning.
- 3.38 So, decisions should be formed on the basis of a complete understanding of the particular significance of an affected asset (128) and appreciating the great weight which Parliament attaches to the preservation of designated assets (132).
- 3.39 The Council do not question the adequacy of the factual information we present in our statement, and I think will accept in evidence that there is sufficient information before the Inspector.
- 3.40 Paragraph 131 encourages new development affecting heritage to make a positive contribution to local character and distinctiveness, which in this case would mean by a design which reinforces important historic forms and materials.
- 3.41 The direction of policy travel since PPG15 has been to remove specific guidance on new design and heritage assets, and that is consistent with the approach to design set out in chapter 7 of the Framework. Here government focuses on general principles of urban design, in other words, the objective bases for evaluating design.
- 3.42 Thus we read at paragraph 60 that 'Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles.' With one exception, as the paragraph concludes: it is 'proper to seek to promote local distinctiveness'.
- 3.43 Paragraph 61 states that planning decisions on design should 'address the connections between people and places and the integration of new development into the natural, built and historic environments'. Thus, design in a heritage context is not a special subset of good design.

The National Planning Practice Guide

- 3.44 At the time of exchange of this Proof, the relevant NPPG extracts on conservation guidance are those provided in my Appendices (Appendix 10).
- 3.45 The NPPG advises that a finding on substantial harm will invariably be based on judgement. However, it adds, '*substantial harm is a high test*'. Specifically in relation to conservation areas, the NPPG states that if the building proposed for demolition '*is integral to the character or appearance of the conservation area then its demolition is more likely to amount to substantial harm to the conservation*'.
- 3.46 This advice does not add much to the consideration at paragraph 138 of the Framework.

Material Considerations

- 3.47 In preparing my evidence I have considered in particular the adopted conservation area appraisal. This is a material consideration of weight in this decision making process and I rely on it for my analysis in section 4.0. The map of the area and the relevant extract is reproduced for convenience as Appendix 6. I have also appended the map of the West End Green Conservation Area, which shares a boundary with the Redington Frogna CA.
- 3.48 I have again reviewed the application materials and in particular our Heritage Statement. I pause here to identify a drafting error in that document.
- 3.49 Paragraph 3.2 is plainly a simple drafting error. I ask the Inspector to draw a line through it.
- 3.50 In my normal practice, I have regard to *Conservation Principles* of 2008 (English Heritage) for the method it applies to defining significance.
- 3.51 Of particular relevance to this case is another EH publication, *Understanding Place: Conservation Area Designation, Appraisal and Management* (revised June 2012).
- 3.52 This notes, as relevant to this Appeal, that past CA designations were sometimes drawn too tightly (see 1.15), and it encourages the kind of boundary amendment made to latterly include the appeal site. I do not claim this was inappropriate, only that the original exclusion tells us something about the way the site is perceived.
- 3.53 Paragraph 2.2.21 of the document states that most buildings in a CA will 'help to shape its character', which is plainly true, and the document advises that it can be helpful to identify 'key unlisted buildings that make an important contribution to the character of the area'. Questions to ask in order to assist in the identification of such

buildings are set out in a well-used checklist at page 15. We applied this method in our assessment.

3.54 The Inspector will appreciate that these questions are very wide ranging, and many structures, even ones of no architectural merit, would score a yes to at least one.

3.55 This is why, I assume, English Heritage adds an explanatory note:

“A positive response to one or more of the following may indicate that a particular element within a conservation area makes a positive contribution provides that its historic form and values have not been eroded.”

3.56 My own assessment, as noted, is that the existing building does make some contribution to the area by virtue of its materials and appearance. That contribution is, however, limited by its date (built after the main historic phase of the CA's development), its modest quality, and its position and orientation relative to the site and adjoining plots. The tree cover reduces that contribution. With the trees in full leaf one is scarcely aware of the house from here. I can understand why it was omitted from the area on first designation and the subsequent revisions to the boundary in 1988 and 1992.

4.0 THE HISTORY AND SIGNIFICANCE OF THE HERITAGE ASSETS

The Redington Froggnal Conservation Area

- 4.1 The application site is situated within the Redington/Froggnal Conservation Area, first designated in June 1985 under the 1990 Act. Section 69 of the Act defines a Conservation Area as an area “*of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance*”.
- 4.2 The appraisal and management strategy defines the qualities of the Conservation Area which warrant its designation and identifies approaches to its management and care.
- 4.3 The topography of the area is distinctive and comprises the western slope of Hampstead Heath. The land levels off towards Finchley Road and Heath Drive runs south to the lower point. The original designation did not extend to Finchley Road, and the reasons for this are understandable and I discuss them later in this proof.
- 4.4 The basic framework of streets was established by the C18 but the land use remained for the most part arable (with some gardens to larger residential properties) for most of the Victorian period. The land belonged largely to the Maryon Wilson estate, remembered for its controversial attempt to develop all of Hampstead Heath for housing.
- 4.5 A public campaign securing the land as public open space in perpetuity. That outcome was certain by 1872, and so the family looked to the western slopes to establish building activity. From the late 1870s, the Maryon Wilson family developed the estate with large houses. It appears there was no estate plan, but covenants, many still in force, were used to control the appearance of the buildings without adhering to a particular design or code. The estate developed over the next forty years, a period which saw a flowering of English domestic architecture: Gothic Revival, Arts and Crafts, Queen Anne Revival, Georgian Revival. The CA is, as a result, a catalogue of high quality domestic architecture, some of it designed by named architects and now designated on the statutory list.
- 4.6 Towards the end of the C19, many of the plots were developed under the direction of the architect C H B Quennell in association with the contractor George Washington Hart. Together they built 100 properties in 16 years, concluding their partnership in 1914. Their output was stylistically varied, but is generally characterised by its picturesque qualities, the use of clay plain tiles, and soft bricks in deep orange and red colours. It is speculative building of a high order.
- 4.7 The CA is, the Appraisal concludes, a ‘*well preserved example of a prosperous late C19 and Edwardian suburb*’, comprised mostly of large houses, mature trees and dense vegetation.

- 4.8 Notwithstanding this, the authority took the view that the CA was sufficiently varied to be subdivided for the purposes of analysis and development control.
- 4.9 The identification of the sub-areas is largely due to the difference in the density, scale and style of buildings, the period of their construction, topography and the density of vegetation. The site at 38 Heath Drive lies within Sub area 5: Heath Drive and Environs, and is situated at the southernmost tip of this subarea.
- 4.10 With the exception of the College site bounded by Kidderpore Avenue, Platts Lane and Finchley Road, the distinguishing characteristics of these sub areas are pretty subtle.

The Conservation Area boundary

- 4.11 There is a complicated story here. The Conservation Area was first designated in 1985 and the boundary was revised three times, in 1988, 1992 and in 2003. This is explained in the CA appraisal, and the relevant extracts are included at Appendix 6.
- 4.12 I think it significant that the site at 38 Heath Drive was first included within the amended boundary of the Conservation Area in 2003.
- 4.13 Through the boundary revision at this time, it appears the local authority sought to provide some positive management for what I would call transitional sites, plots at the ends of streets. I can understand why they did this. There is inevitably greater pressure of change and opportunities for development on the Finchley Road, and the boundary revisions would assist in the positive management of the area at these points of transition. These have a different character than ones higher up the slopes, where the Finchley Road, its traffic and mix of uses, has no particular influence.
- 4.14 In other words, I see a difference between sites higher up the slopes, distant from busy roads, and those, like the Appeal site, which are on the periphery of the CA. The Appraisal does not draw this distinction.

Subarea Five: Heath Drive and Environs

- 4.15 Within the overarching boundary of the Redington/Froggnal Conservation Area, the authority have identified a series of distinct sub-areas, eight (8) in all. The site at 38 Heath Drive lies within Sub area 5: Heath Drive and Environs, and is the subject of a character appraisal. The relevant extract is included at Appendix 6.
- 4.16 Heath Drive was developed from 1890. Plots of land were sold off individually or in pairs, an approach to development that produced the different styles or designs one sees today. The Quennell houses have a consistency of design. These run along the western side of the road and have common characteristics, such as decorated gables and bay windows, and are of orange and red brick with white painted window frames.

- 4.17 This run on the west side finishes very attractively in 'Albemarle Mansions' at the south on the junction with Finchley Road which, surprisingly, is not included in the CA. That building is, however, included on the draft local list which was published by Camden in October 2013 and was the subject of consultation from October to December 2013. The appeal site lies within the Fitzjohns-Netherhall ward of the draft Local List. The relevant extract from the draft Local List is included at Appendix 9.
- 4.18 A number of the houses of the Quennell and Hart partnership are Grade II listed at numbers 24-26 and 31-33. The Council do not allege any harm to the settings of these buildings, which do contribute to the appearance of the CA. Neither do they allege any harm to the setting of the locally listed building.
- 4.19 The sub area stretches to the north from Heath Drive to include Kidderpore Avenue, Kidderpore Gardens and Oakhill Avenue. Oakhill Avenue was originally laid out as 'Barby Avenue' in 1907 and a number of these were built by Quennell and Hart partnership. Four of these properties are listed at Grade II and exhibit characteristic red and orange brick, tile hanging and white painted render.
- 4.20 Kidderpore Avenue was laid out slightly earlier than Heath Drive from 1870, whilst Kidderpore Gardens was laid out around the turn of the century. The houses to the north are predominantly semi detached houses, part of Quennell's architectural language more like that used on the properties on Heath Drive. To the south these have an appearance that is often called Queen Anne Revival.
- 4.21 This part of the Conservation Area has seen some more recent infill development. New dwellings have more recently been constructed along Oakhill Avenue. These draw on the prevailing characteristics of the Quennell phase.
- The Appeal Site
- 4.22 An analysis of the relevant maps and literature puts the date of 38 Heath Drive in the interwar development, that is, later than the main phase of Quennell development along Heath Drive opposite and elsewhere in the CA. These earlier properties can be seen in the map of 1915 included in the Heritage Statement (Appendix 8).
- 4.23 I have not identified any evidence linking nos. 35-38 to Quennell and neither, I understand, has the Council.
- 4.24 The affected property is in the neo-Georgian idiom, faced in red brick and having two storeys above ground floor level and a third in the roof, with prominent chimneys, white painted sash windows. A pedimented porch adorned with columns marks the entrance of the property from Finchley Road. I do not think the porch is well integrated with the body of the building, which has had some minor extension. The elevation to Heath Drive retains a projecting ground floor area which constitutes a form of conservatory to the west and there is porch to the south elevation. This could have been a later extension to the property, although it does appear to reflect the footprint shown on the OS survey of 1934-6.

- 4.25 The site is bounded with a red brick boundary wall to Finchley Road and Heath Drive, and this in turn is topped with simple black railings. London Plane trees bound the site. These were probably planted in one phase, during the initial development of the street, that is, before the construction of nos. 35-38. .
- 4.26 The character of this property, and its location upon the corner plot, isolates it from the CA. The building relates more directly to its neighbours on Finchley Road
- 4.27 The property has some relationship with nos. 35, 36 and 37, by virtue of its date, materials and design (which is similar). However, these three buildings face a spur or cul-de-sac off of Heath Drive, away from no. 38, which faces in an entirely different direction. I do not think they are intended to form a group with no. 38.
- 4.28 Walking along Heath Drive, towards the Finchley Road, I am really aware of the Appeal site building. There is no immediate apparent relationship between it and the group of three interwar houses further north. There is still less of a relationship with the late Victorian properties opposite or even the mansion block abutting those Quennell houses.
- 4.29 Overall, the townscape on the east side of Heath Drive, south of Kidderpore Avenue, is quite varied. There is a c 1970s terraced development (not unpleasant) and the three interwar houses just discussed. These interwar houses have a very different design to the ones opposite.
- 4.30 I note that the description of the sub-area does not describe the Appeal site as forming any 'gateway'.

Site Context

- 4.31 Looking at the wider context of the site, and along the Finchley Road, there is, in fact, a genuine gateway within the CA, further south along the Finchley Road at the junction of Langland Gardens, and I suggest the Inspector pay a visit to that junction as part of this Inquiry.
- 4.32 Here is a pair of identical mansion flat on either side of the road, and houses stepping down from them. The comparison with the Appeal site junction is, I think, very significant.
- 4.33 It is worth also considering, as part of any site view, the other junctions between the CA and the Finchley Road. Two others to the south – at Arkwright Road and Frogmal Lane are asymmetric because one side is developed as a cultural building (the Camden Arts Centre and a place of worship).
- 4.34 Further north is the junction with Platts Lane. Historically, this was occupied by unattractive student accommodation, and I helped achieve consent to redevelop this

plot with flatted development in a contemporary style. The scale of this building in the CA is comparable to the mansion flats outside the CA, on the opposite corner (with Fortune Green Road). In that case, officers of the Council accepted that townscape outside the CA could provide a point of reference for development within it.

4.35 This consent also involved the demolition of a group of three similar properties of early twentieth-century date which were identified as positive contributor buildings in the CA.

4.36 As I observed earlier, I do not think that conservation-area boundaries are canyons, and in certain circumstances, on the facts of any particular case, it is appropriate to have regard to those influences. I consider the Finchley Road, a major route, is something that can fairly be taken into account, not least because its status and uses inevitably affects the character and appearance of adjoining streets around the junctions.

4.37 Opposite the Appeal site on Finchley Road are situated a row of twentieth century residential apartments. These are of red brick and stone detailing, which have drawn references from earlier blocks in the Queen Anne style. One of these mansion flats falls within the adjoining CA, West End Green.

4.38 Adjacent to the site to the south at 264-270 Finchley Road is a block of 1960s apartments, of two storeys above ground floor level and brown brick and low quality finishes. This block is not included within the Conservation Area boundary and does not contribute to its setting.

4.39 Further to the south are two substantial red brick buildings at nos. 260 and 262 Finchley Road. These are of late nineteenth century date and are included on the draft Local List for architectural and townscape significance.

4.40 The building at 280 Finchley Road, Albemarle Mansions (opposite the Appeal site) is excluded from the Conservation Area boundary, but has been included on the draft Local List for its Architectural and Townscape Significance. This mansion building continues the larger scale of architecture in this location along Finchley Road and is echoed by Avenue Mansions on the opposite side of the road. This property lies within the West End Green Conservation Area.

4.41 This mansion block form is appropriate to the scale and function of the Finchley Road, and the Inspector will find many similar examples along it.

The Draft Local List

4.42 The local list which was published by Camden in October 2013 and was the subject of consultation from October to December 2013.

- 4.43 The draft Local List includes the red brick mansion block of 280 Finchley Road and Albemarle Mansions, on the corner of Finchley Road and Heath Drive. The extract reads as follows:

“Late 19th century mansion block on the corner of Finchley road and Heath Drive, of 4 storeys plus attic and basement levels in red brick with contrasting white painted stonework to windows string courses and cornice. Windows have splayed stone mullions and transoms which gives a deeply recessed appearance, and the top lights are multi-paned, adding to the vitality of the elevations, This building provides a substantial focal point on this junction and reflects the scale and relationship with the street of other buildings on this junction, for instance Avenue Mansions at 503.”

- 4.44 Nos. 260 and 262 Finchley Road are included upon the list for their architectural and Townscape Significance.

“260 and 262 Finchley Road. Two substantial detached houses dating to the late 19th/early 20th centuries, set behind large front gardens. The houses are broadly symmetrical with central entrance bay flanked by two large projecting bay windows. . At roof level are dormers rising sheer from the front elevation (260 also has two dormers within the pitch of the roof). No 260 retains original timber casement windows with decorative top lights, which add significantly to the architectural interest of the building.”

Significance of no. 38 and its contribution to the Area

- 4.45 Here I conclude on the significance of no. 38 and its contribution to the Conservation Area, summarising the detailed analysis contained within the Heritage Statement submitted with the application (Appendix 8).
- 4.46 No. 38 is a good example of interwar, suburban architecture, and it is typical of many such properties across this part of London, both inside and outside conservation areas. It is handsome in its finishes and details, but not special.
- 4.47 I understand why it has been identified by the Borough as making a positive contribution to the Conservation Area. The house is pleasant enough, suburban in character and shares physical characteristics with other buildings in the Conservation Area. However, it is later than the construction of the greater number of buildings that do make a particular contribution to the area’s particular interest as a late Victorian and Edwardian suburb. No. 38 also sits away from any well defined group.
- 4.48 Mature trees in this location make a very significant contribution to the character of the area. These trees are not affected by the proposals. The garden has an open character and is suburban in nature, though this is diminished by car parking and the land is subject to the more urbanising influences of the Finchley Road. Additionally,

the house and garden do not sit in relation to Heath Drive in a way which is typical of the earlier suburban development that makes the area special.

- 4.49 Reflecting on this, I do not think the site relates well to the junction or provides any satisfactory threshold or entrance to the CA. It seems to me instead to offer the opportunity for a better solution.
- 4.50 Therefore, I conclude the Appeal site building makes a very limited contribution to the character or appearance of the area.

5.0 EFFECT OF THE APPEAL PROPOSALS ON THE SIGNIFICANCE OF THE HERITAGE ASSETS

5.1 Here I consider the effects of the proposed development as a whole on the conservation area, beginning with the demolition and concluding with the proposed new building.

5.2 I note that it is common ground with the authority that the trees can be retained, and this is desirable because of their visual amenity and townscape value.

5.3 I will structure my discussion around the comments contained in the delegated refusal report, my Appendix 4 cited previously in Section 2.

The Effect of the Demolitions on the Conservation Area's Character or Appearance

5.4 The building is a later example of the type of suburban property that characterises the CA and is in fact typical of many houses across this part of North London. It is handsome, yes, but not of any particular interest. It makes some positive contribution by virtue of its design, materials and type, but has an uncharacteristic relationship with the townscape and is, practically, divorced from that.

5.5 For these reasons, elaborated earlier in this Proof, I conclude the demolition of no. 38 would cause very limited harm to this part of the CA and effectively none to the CA as a whole. I am very mindful, as I must be, of the section 72 (1) provision and Parliament's intention, and for this reason conclude that the demolition in itself engages the 134 provision.

5.6 I do think that the demolition only just engages this provision because of the particular facts of this case, and it is right to make fine distinctions in cases such as these. The spectrum of harm that falls within the category 'less than substantial harm' must be a broad one.

5.7 Having drawn that conclusion, I move on to consider the second part of the proposal, the proposed new building and its effect on the special interest of the CA. That consideration is part of the section 72 (1) requirement and comprises a balancing heritage benefit in the terms of paragraph 134.

The Impact of the Replacement Building on the Appearance of the Conservation Area

5.8 The effects on the CA I discuss here relate to the design of the building; its appearance. The character of the use, residential, is consistent with the CA and is not, I understand, at issue with the Council. The intensity of the use is greater than what one finds elsewhere in the conservation area, but is similar to the intensity of

use on sites adjoining the Finchley Road. Again, I understand the Council take no point on harm to character through greater intensity of use.

- 5.9 Appearance or design can be assessed in different ways. Objective criteria include those pertaining to height, bulk, mass, scale, building line, materials, and details which contribute to the general appearance of the building.
- 5.10 Design also has a technical side, such as adaptability, efficiency and sustainability. I understand the technical considerations that relate to design are not at issue with this authority. I refer the Inspector to the Proofs of Mr Cunnane and Mr Green for a discussion of these matters.
- 5.11 Design and heritage appraisal also entails a degree of subjective judgment. I offer my own later in this section, but in doing so I am mindful that the Town and Country Planning Act (1990) is more concerned with those more objective aspects of good design. That is the approach taken in the Framework too.

The General Character of the Design: Relating Two Contexts and Defining the Street Edge

- 5.12 Before looking at the more objective design elements, I want to comment first on the general approach Mr Green has taken in developing his design.
- 5.13 His idea – and it informed the first design I saw – was for a development that sought to relate to two contexts, and so produce a more coherent and consistent townscape, and with it an enhancement of the CA.
- 5.14 In his proof before the Inquiry, Mr Green describes the plan as a ‘cranked’ plan, that is, a building layout which forms an angle. This is a plan type which one finds in houses and blocks of flats c. 1900 and later. Here it was adopted to make efficient use of the site. The plan has the added benefit of defining the alignment of the street and so defining the junction.
- 5.15 By turning the corner in this way, the scheme is able to unify two disconnected frontages, which is a benefit in urban design terms.
- 5.16 The plan enables a larger element to face Finchley Road. This part takes its form and massing from traditional Victorian mansion flats nearby, including the locally listed one on the corner of Heath Drive and one opposite including in the West End Green Conservation Area.
- 5.17 Returning along Heath Drive the proposals assume a different, lower form, which relates it to the more traditional suburban housing here. That element has a slightly greater scale reflecting the intensity of the use (thus dormers in the roof which the authority has criticised).

Height, Bulk, Mass, Scale, Materials, Siting

- 5.18 Turning now to the more objective elements of design, height, bulk, mass, scale, materials and so forth, I will be brief. I consider that in all these respects the proposed design complements its surroundings.
- 5.19 First are building heights. These reflect what is found on adjoining heights. The larger 'mansion flat' element is consistent with other purpose built flatted developments c. 1900, examples of which are nearby. These are shown on Mr Green's street elevations, reproduced in section 6.0 of his Proof.
- 5.20 The height of the taller element is greater than the properties adjoining in Finchley Road, but that change in scale is consistent with what one finds nearby in developments of this period, so I do not see it as discordant. I understand the Council do not take any point against the proposals in this respect.
- 5.21 The lower element is, likewise, consistent with the scale of housing on Heath Drive.
- 5.22 The materials are intended to match the late Victorian/Edwardian vernacular that characterises the area: thus it is proposed to use a complementary brick facing, with details done in a traditional way. These can be controlled satisfactorily by condition.
- 5.23 The proportion of window to wall is likewise complementary. The walls have a solid masonry character consistent with late C19 and Edwardian-period buildings.
- 5.24 The roofscape of the two parts are different to help distinguish the two elements one from the other and to relate the building to two contexts.
- 5.25 The mature trees and their overhanging canopies necessarily determine the siting of the proposed development. The building sits comfortably on the plot, and the layout is not cramped and does not give rise to any adverse impact on the amenity of neighbouring occupiers (these points are, I understand, agreed with the Council).
- 5.26 The depth of the lower 'house' part, parallel with Heath Drive, is greater than that of a traditional house. That is a relationship that I think needs close attention. The difference in depth is resolved by the step back at the north corner. The depth of the lower part is partly screen by no. 37 on the adjoining plot and will therefore not be perceived.

The Detailed Appearance of the Building

- 5.27 I want now to say a few words on the appearance of the building, starting with the taller element to Finchley Road.
- 5.28 The first point to make is that the details have been informed by the architect's study of the area and then by our review of journals contemporaneous with the period from

which the scheme draws inspiration. This is not, then, a generic or ideal traditional design, but one based on the careful consideration of local types, informed by a broader understanding of the architecture of the period.

- 5.29 The Finchley Road elevation is perceived as a symmetrical composition of five bays. The end bays project, providing a clear definition to the block and reflecting the special corner treatments which are typical of mansion flats in the area and more generally of this period. The intermediate bays are well defined vertically. The base is treated as a distinct element, with a different brick finish to the upper parts.
- 5.30 There is a terminating attic story, where the scale of the openings is diminished. This three-part composition is typical of traditional architecture from the period.
- 5.31 The mansard roof is contained by stacks at either end and has a double pitch, again a common feature in buildings of this period. Its scale is suitable to the main block, because although it equates to a full storey when seen in strict elevation, practically the scale will appear less as it slopes away from the eye. The use of clay tiles and the change to window form will enhance this effect. The roof comes out on the returns to meet the tall stacks, a detail which is again typical and in this case creates an area within which to disguise the lift shaft and overrun.
- 5.32 Overall, I think this element is well proportioned and attractive.
- 5.33 The Council considered this part of the development as 'grandiose', but it appears to me, as someone who has studied the architecture of the period for many years, modest and restrained. Those were the qualities the team were striving to achieve. It is not flashy or demonstrative, if indeed that is what the Council allege when they used this word in the delegated report.
- 5.34 The return to the west is defined by a broad chimney stack whose form is broken up to create a vertical emphasis, and so form a composition with the corner bay and double mansard, here seen in profile.
- 5.35 Mr Green's Proof and his Design and Access Statement provide precedent studies showing how the brick detailing is intended to work. The language is part of standard building practice, and so easily capable of resolution at conditions discharge stage.
- 5.36 The lower element emerges from the left or west flank of the taller piece, following the alignment of Heath Drive.
- 5.37 The details and materials of this range are intended to complement those of the taller block, but its character and scale are different.
- 5.38 Its main elevation takes the form, that of a symmetrical, semi detached house of the 1920s.

The 'Style' or Manner of the Design in a Critical and Historical Context

- 5.39 The choice of a traditional language of architecture was made out of respect for the CA and other relevant influences nearby.
- 5.40 But this design is not intended to replicate a particular form of historic development exactly. Rather the design uses the language of traditional late C19 and early C20 architecture to solve what is a contemporary challenge: the provision of much needed housing on a sensitive site. Such an approach is encouraged by the Council through the published CA Appraisal and is consistent with its policies.
- 5.41 A similar form of development, in a contemporary style, could be just as successful, and some might prefer that approach. Here, more weight has been placed on creating something that is based on familiar forms, drawing on local influences inside and outside the CA.
- 5.42 I think the varied form of development is appropriate irrespective of style since it provides a consistent scale of development that fills what I see as an unattractive gap in the townscape.
- 5.43 As an expert witness, I have to draw to the Inspector's attention all relevant matters, including potential criticisms of the approach we have adopted.
- 5.44 I can, for example, anticipate the following criticism: this is pastiche. If the problem you are trying to solve is a modern one, this argument goes, the solution should appear modern through an architecture that has no obvious ties with the past. I respect this point of view, and it is one that has shaped some of the great achievements in the history of C20 design.
- 5.45 But this kind of criticism can, I think, tend to ideological purity. As a planner schooled in the history of architecture I am very comfortable with eclecticism. Professionally I am involved with both types of schemes and work with leading traditional architects (with Adam Architecture on new country houses) and non-traditional ones (with Rogers, Stirk, Harbour on modern flats near the Thames and the British Museum extension).
- 5.46 If I take a broad view of this debate, as an historian, then I conclude that the eclectic approach we are proposing here has been practiced over many centuries.
- 5.47 Renaissance architects adapted the forms of ancient Roman architecture to the design of churches, palaces, markets and bridges.
- 5.48 C18 architects continued that tradition, enriching it with forms taken directly from classical Greece.

- 5.49 Creative eclecticism – the combination of old forms to solve a new problem – reached its peak in the C19 century, and particularly in the Victorian period. Gilbert Scott modelled his St Pancras Station hotel on a Flemish, late medieval cloth hall. Quennell himself was an eclectic since his buildings have no precise source but combine forms from past architecture in new ways for a picturesque effect. Albemarle Mansions opposite the appeal site has no strict historic precedent. Its designer simply applied a language which was itself an interpretation of earlier architecture to a new problem, at a different scale. A well known recent example of this is Quinlan Terry's development at Richmond, where a modern deep plan office building (itself now something of an anachronism) has had its elevations dressed up as Georgian townscape.
- 5.50 The Florentine Banker Luca Pitti (Luca Pitti (1398–1472) wanted a house that looked Roman because the style 'all'antica' as it was called demonstrated his learning and so gave the wealth he had amassed through modern trade legitimacy. The London banker Henry Drummond (1786-186) instructed William Wilkins to extend his family's country house, the Grange, at Northington, in the manner of the Parthenon because of his particular political interests. C19 speculative housing developers put up buildings that were redolent of traditional village buildings, albeit in a modern suburban context, because these projected a welcome image of homeliness and purity. Much housing today, including from many of the major housebuilders, draws on those same associations because they are familiar and comforting and communicate the idea of a home.
- 5.51 And that is what Mr Green is proposing for the Appellant, a new piece of architecture that is based on familiar forms and materials but is contemporary in what it seeks to achieve. It responds to environmental considerations, the trees and heritage, and optimises land use.

Statutory Duty and Performance against Policy Provision

- 5.52 In my evidence I have carefully considered the significance of the Conservation Area, and I am mindful of the great weight Parliament attaches to the preservation or enhancement of the character or appearance of this designated asset. I have applied that consideration to the facts of this case, looking at the particular value of the Appeal site building and the site. I have had regard to the adjoining West End Green conservation area as well, though the Council allege no effect on its setting.
- 5.53 With that in mind, then, I turn to policy.
- 5.54 The proposals optimise the use of the land, taking into account environmental and sensitive land considerations (the CA principally, including the trees). In this way the strategic policies in the London Plan are satisfied.
- 5.55 Likewise policies 7.4, 7.6 and 7.8 of the London Plan are satisfied because the proposals reinforce local character and respond to context, including the heritage of the area.

- 5.56 CS14, from Camden's Core Strategy, is fully satisfied. The design is both contextual and of high quality. Indeed, the authority (see section 6.0) does not claim the building is poor design. They allege it is inappropriate by virtue of its size and the loss of openness on one part of the site.
- 5.57 Policy DP24 is met through the contextual aspects of the design. DP25 is likewise met, because the development as a whole at least preserves the character or appearance of the area. On my evidence, the proposals enhance the CA by providing an appropriate design which integrates better with the surrounding streetscape than what is there at the moment. I also conclude the proposals are of a high architectural quality, developing its form and language from local precedents.
- 5.58 Framework policies are likewise fully satisfied. The application and appeal materials contain information enabling the Inspector to understand the significance of the asset and the site's contribution to it. In particular, the Appeal proposals have regard to the significance of the asset and reinforce or better reveal that, whilst also providing a more satisfying urban design solution for this corner site.
- 5.59 When the development is looked at as a whole – having regard to both the demolition and the new building, the two parts comprising a single building operation – the net result is beneficial to the asset. I do not see any residual harm requiring countervailing benefit under the terms of 134.
- 5.60 If however, the Inspector finds some residual harm from demolition, then on my evidence this is bound to be limited on the facts of this case and certainly less than substantial. The design of the new building, ultimately, is critical to the planning balance. If the Inspector finds that it at least causes no harm then the heritage objection from the Council is not sustained.

6.0 COMMENTS ON THE DELEGATED COMMITTEE REPORT

6.1 In this penultimate section of my Evidence I will comment on those parts of the Officer's report that deal with the section 72 test and consequent policy.

6.2 I reproduce selected text with commentary following.

Demolition Considerations

6.3 Regarding DP25, the officer states:

"Policy DP25 outlines a clear presumption in favour of buildings that make a positive contribution to the character and appearance of a conservation area. Their loss will only be acceptable where "exceptional circumstances are shown that outweigh the case for retention." Furthermore, any replacement building must preserve and enhance the character and appearance of the conservation area to an appreciably greater extent."

6.4 The officer has misinterpreted DP25 and has applied it in a binary way: because the building makes a positive contribution, its demolition can only, the officer says, be acceptable if there are special circumstances. This implies the test set out in paragraph 133 of the NPPF should be applied, and I can only conclude the officer considers that demolition causes substantial harm to the whole of the conservation area significantly undermining its historic and architectural interest.

6.5 The officer does not, however, carry out the test set in paragraph 138, explaining why the demolition would cause harm to the whole of the area.

6.6 The judgment reached here is, on the facts of this case, unreasonable. The essential interest of the area is defined in the Council's own appraisal as deriving from its character as a prosperous late Victorian and Edwardian suburb formed on the sloping land running west down from the Heath. The property at 38 Heath Drive was built after those buildings that define the area's particular interest, and faces towards Finchley Road, not the streets leading down the slope. Furthermore, no. 38 does not relate clearly to the small group of buildings constructed contemporaneously.

6.7 Then the officer states:

"Paragraph 134 of the NPPF is relevant and states "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

6.8 The officer has confused references to paragraphs 133 and 134. The first extract cited above referred to 'exceptional circumstances', 133, whereas the second extract, taken from paragraph 134, is a different test.

In any event, it is clear the Officer considers one should read DP25 alongside the Framework, which I think is the right approach.

- 6.9 There follows a description of the CA drawn from the Appraisal, and with which I broadly agree (see my section 4.0 above).
- 6.10 The officer fairly acknowledges the basis for the designation in its late Victorian and Edwardian buildings. She also fairly states that the Appeal site building has some similarities with neo-Georgian buildings constructed during the heyday of Quennell and Hart's partnership. I agree. The house has not been attributed to Quennell who died in 1935. We agree that the map evidence is definitive in providing a likely date of construction in the 1920s or early 1930s. Again, there is no point between the Appellant and the Council on these facts.
- 6.11 The officer also acknowledges the more varied character in this part of the road, and summarises the Appraisal in stating that the north western side has elements and materials similar to the attributed, listed and unlisted Quennell buildings nearby. These, she writes, again citing the Appraisal, "contribute to the setting of the Quennell houses and the character of the road."
- 6.12 Pausing there, it is worth noting that the value of the buildings in the set comprising 35 through 38 lies in their contribution to the setting of a run of Quennell buildings. The Appeal site building and its plot do not, however, face that range of houses. The Appeal site is out on a 'spur' of the CA boundary. If that is the real value of no. 38 then I think that any building which similarly contributes would maintain the setting of these buildings. The range of Quennell houses on the other side of the road from the Appeal scheme have within their setting rather more obviously the very large c.1900 mansion flats. That does, I know, fall outside the CA, but it is a non-designated heritage asset broadly contemporary with the Quennell buildings. I think its exclusion from the CA is questionable. Its local listing status (proposed) in effect makes good the gap in the boundary.
- 6.13 I read further that our heritage statement acknowledges that the [Appeal site] building 'shares similarities with the adjoining buildings at nos. 35, 36 and 37 which thus have value as a group.' I agree, and do not vary from that finding in Evidence.
- 6.14 The officer then assesses the existing building, describing it in broad terms. The officer at least accepts that the point we made about its orientation can be argued reasonably (or so I conclude from the report).

"It could be argued that the building has a rather unusual relationship with the surrounding townscape, being aligned with the neighbouring properties on Finchley Road and somewhat divorced from the remainder of the conservation area as a result."

- 6.15 The officer qualifies her remarks by stating:

However, its character corresponds with that of the conservation area and the residential hinterland beyond.

- 6.16 Thus, I conclude, the officer must logically accept the first proposition – the building has a rather unusual relationship with the surrounding townscape, being aligned with Finchley Road and ‘*somewhat divorced*’ from the CA.
- 6.17 She gives, however, less weight to that condition than to the physical characteristics of the building. Thus I see there must be common ground that the relationship between the appeal site building and the CA, and in particular to the run of Quennell houses to the northwest, must be relatively weak. The officer gives more weight to abstract qualities of resemblance disregarding the perceptual relationships at play. What one can see or directly experience is, I think, a fundamental aspect of conservation area management of the policy supporting it.
- 6.18 Here I must refer to the English Heritage Guidance on the Setting of Heritage Assets (see Appendix 12). This does indeed acknowledge that setting is not merely about visual relationships (inter-visibility) and can include associations and other matters of intellectual understanding.
- 6.19 Nevertheless, the criteria for assessment published on pages 19 and 21 of that document are mostly about perceptions involving the senses, and indeed perceptual influences are discussed at greater length in the document than matters of intellectual understanding.
- 6.20 I hope the officer can agree in Evidence that the setting relationships at play here are not direct visual ones (that is the inference reasonably drawn from her reporting).
- 6.21 Then the officer comments on the boundary itself, stating that

“It is notable that the very attractive mansion blocks on the opposite side of Heath Drive, which are more consistent with other buildings along Finchley Road, are not included within the Redington/Frongal conservation area presumably due to their differing scale, typology and detailed design. Furthermore, the late addition of the site to the conservation area reinforces the significance of the building and its relevance to character and appearance – this was the only site on this portion of Finchley Road that was included following the 2003 review which was clearly intended to afford the building additional protection.”

- 6.22 The officer overlooks the fact that the CA boundary does include mansion flats from the Edwardian period, such as those flanking Langland Gardens on Finchley Road. The CA also includes the collegiate institutional buildings forming part of the Kings site in Kidderpore Avenue. I do not know why the authority excluded that attractive mansion flat from this or the adjoining CA, West End Green. I think it was short sighted, and could reasonably have been included for reasons of historical typology

and resemblance to other larger buildings in the area. Practically, however, that range of buildings feels to me like a seamless whole.

- 6.23 The officer goes on to balance benefits, acknowledging housing as a public benefit, but saying there is no affordable housing offer. In any event housing, irrespective of affordable housing, is a potential benefit capable of offsetting less than substantial harm to a heritage asset. I understand this has been the matter of discussion between the Appellant and the Council and I leave it to Mr Cunnane to cover the officer's comments in more detail in his evidence.
- 6.24 Then, considering the harm-benefit equation, the officer concludes:

"The NPPF states that harm should be weighed against public benefit. The scheme would provide public benefit including a contribution toward to boroughs housing stock which is a priority land use in the borough, albeit without an appropriate contribution towards affordable housing. The proposed building would also perform well in terms of sustainability. However, additions to housing stock and improvements in sustainability can be achieved elsewhere in the borough or not at the expense of the loss of the existing building. These benefits are not considered to outweigh the loss of this building which makes a positive contribution to the character and appearance of the Redington/Frognaal Conservation Area."

- 6.25 The fact that increasing the supply of housing can be achieved elsewhere does not, as a matter of planning policy, mean that less weight should be given to the delivery of units on this site. This is defective planning reasoning, and although it is contained in the section on heritage, and so presumably prepared by a conservation officer (Ms Walker, I believe), it would appear that this reasoning figured in the striking of the planning balance. I leave it to Mr Cunnane to comment further. My understanding is that some hypothetical other site and its potential contribution to housing supply is not relevant to this case. .

The Proposed Replacement Building

- 6.26 The officer then moves on to the second part of the assessment that section 72 and policy requires: the effects of the replacement building.
- 6.27 The officer fairly acknowledges the neo-Georgian styling of the building is the same broad language of architecture used in the existing building and other buildings in the group of interwar houses in this part of the area.
- 6.28 The officer concludes, that notwithstanding these measures accepted, it seems, as positive ones, that the scale of the building is 'too assertive'. No allowance appears to be made for the varied scale of the building, clearly relating it to different contexts, but then the report deals with this in some further detail later (see below).

- 6.29 The officer does not say the building is too high and it is the appellant's evidence that the building relates positively to the surrounding height data. The judgment offered by the officer is that the building is too big, and that it would:

"Fundamentally alter the character of site and would detract from the character and appearance of the conservation area."

- 6.30 I have no doubt that the character and appearance of the site would be different, but that in itself does not equate to harm.

- 6.31 And it may be a point of drafting, but the officer concludes harm to the character and appearance of the conservation area, that is, I can only conclude, the whole of the conservation area. I cannot see how this conclusion is derived. It is a large conservation area, and the authority itself has broken it down into units for analysis and development management. The officer herself has relied on those units. It is more accurate in these circumstances to say the proposals affect 'this part of the conservation area'. It is my evidence that the proposals do not have an effect across the majority of the conservation area.

- 6.32 I found the next part of the report a little hard to follow, so I cite it in full.

"The applicant has argued that the site appears underdeveloped and highlights the larger buildings and mansion blocks on Finchley Road - the buildings on the other three corners of the main intersection between Finchley Road, Heath Drive and Cannon Hill are of 4-5 storeys. Whilst many traditional buildings expertly address their corner location this site exhibits a different approach, offering relief within the built environment and allowing the openness of the corner, the mature trees and its verdant character to predominate. Whereas built form can often act as a gateway, in this instance the open character of the site is of significance, signalling a change in character, scale and grain as one moves northwards and eastwards away from Finchley Road and into the residential hinterland beyond. Furthermore, the layout and disposition of solid to void on the site is historic (perhaps as much as 90 years old) and it is not considered that the site requires intervention to solve its perceived 'weak' townscape character or address its generous ratio of green space to built form, as suggested in the submission."

- 6.33 The site is, then, the Council reason, because it presents an open corner, forming a gateway signaling the change in character from the Finchley Road to the suburban streets.

- 6.34 I cannot see how this can be right. With reference to the Langland Gardens townscape gateway further south in this CA, this provides a well-defined, enclosed junction, and then all at once a transition to suburban houses. I do not see how an appreciation of the suburban character of Heath Drive would be lessened for the presence of a larger building on the corner of this busy road, particularly where the

form of that building steps down to a suburban scale and maintains the mature line of trees. One look into Heath Drive indicates this is a suburban street. Furthermore, the Appraisal for this character area refers positively to the enclosed nature of the street, a passage the officer has not cited in her reasoning.

6.35 I comment now on the passage in the report which deals with design.

“The proposed building is designed on a grandiose scale that ignores the context of the conservation area in favour of that of Finchley Road. When considering the Heath Drive elevation the building aligns with the ridge height of no.36 and takes no account of the falling gradient towards Finchley Road or the existing stepped relationship between nos. 36 and 37 – the existing ridge height of no.38 is a little higher than no.37 but its eaves steps accordingly.”

6.36 As discussed, the design intention was to provide a façade to Finchley Road based on historical mansion flat precedents and the architectural language of the housing in the area. The officer in effect acknowledges we have succeeded in that attempt. She then refers to a stepped relationship amongst the group which, allegedly, the proposals ignore. The authority has recently consented development further north along Finchley Road which replaces houses with blocks of flats that do frankly reflect the character of that busy road. I do not see how that site is any different to this one.

6.37 The word ‘grandiose’ is not defined or explained, but I take it to mean a building with a scale and character more suitable to the Finchley Road. The terms also implies decorative elaboration, whilst in fact the detailing of the proposals as a whole is relatively understated, and without any really dramatic architectural flourishes. That was the intention, and it reflects one approach common in the CA.

6.38 The report continues:

“The width of the building is also significantly larger than the existing building and fails to relate to the scale and grain of the other buildings along the southeast side of Heath Drive, a grouping and relationship which the applicant themselves acknowledges. Furthermore, the application of neo Georgian detailing to a building of this scale results in a rather fussy elevation, particularly when combined with the double row of dormers that is not characteristic of other buildings within the conservation area.”

6.39 Undoubtedly, the footprint of the main block is deeper than a suburban house, but I see that this is handled successfully by the proposals. The issues therefore surround the extent to which one perceives the building, whether this is harmful and if so, to what degree.

6.40 As I explained in section 5.0, the footprint of the lower range is set back and is subject to the context of the real viewing conditions One will of course appreciate the scale of

the mansion flat element, but that will be seen in the context of Albemarle Mansions opposite the Appeal site and other mansion flats along the Finchley Road. The difference in scale will not be jarring or intrusive- buildings of this scale are what one expects to find all along the Finchley Road, where it intersects suburban streets.

6.41 Lastly, the officer states:

“Furthermore, the proposed building is of excessive scale and bulk, with a design that fails to relate sufficiently sympathetically to the context of the Redington/Frognaal Conservation Area.”

6.42 This is not the case. The CA does include buildings of this scale, including those just to the north in Kidderpore Avenue.

Summary

6.43 As discussed, the outstanding matters between us and the Council are as follows:

- The scale of the building as expressed in its height and footprint, being contrary to the appearance of the CA;
- The loss of openness at the corner, providing a gateway to the CA which is suburban in character;
- If there is harm, then the degree of that harm

6.44 Therefore, the points in common between the parties are:

- The materials of the building are suitable in principle;
- The height of the building is acceptable, subject to comments on the perception of scale;
- The neo-Georgian styling of the building is appropriate in principle;
- The site does not present itself in a way which is typical, and may be said to be ‘somewhat divorced’ from the CA because of that;
- The run of development of which it is part has a varied character, documented in the CA Appraisal;
- The house is not attributed to Quennell, and post-dates the main phase of development one finds in the CA, and which provides the main reason for its designation. The Appeal site property and nos. 35 – 37 date to the 1920s or early 1930s;
- That the demolition would be acceptable in principle if the level of harm was outweighed by benefits; and, furthermore,
- That such countervailing benefits would comprise land use planning benefits such as the provision of housing (including affordable housing).

6.45 I bring these points together in my Summary and Conclusions section as follows.

7.0 SUMMARY AND CONCLUSIONS

- 7.1 This evidence considers the first and second reasons for refusal.
- 7.2 Respectively, these deal with the demolition of the existing building and its proposed replacement.
- 7.3 The Council object, in the first reason, to the demolition on the basis that the existing building is identified as one which makes a positive contribution to the CA. The published appraisal for the CA confirms this identification.
- 7.4 The second reason alleges that the proposed replacement building does not relate to the 'context' of the CA by virtue of its height, bulk, mass, detailed appearance and site coverage.
- 7.5 It has been agreed with the Council in the Statement of Common Ground, paragraph 2.9 (1), that the salient consideration in this case is whether the proposals as a whole preserve or enhance the character or appearance of the CA.
- 7.6 This agreed position reflects the statutory duty as set out in section 72 (1) of the 1990 Act. Section 72 (1) requires the decision maker to have 'special regard to the desirability of preserving or enhancing the character or appearance' of a conservation area. This objective must be considered first, before the decision maker strikes the balance of harm versus benefit (assuming s/he finds harm in the first place).
- 7.7 'Preservation' means the avoidance of harm (as established in the South Lakeland decision [1992] 1 ALL ER 573). Thus, the Appellant only has to demonstrate that its proposals at least leave the character or appearance of the CA unharmed. Accordingly, if the decision maker finds no harm, then consent should be forthcoming.
- 7.8 There is a single development plan policy dealing with both reasons for refusal, Development Policy DP25. Policy DP25 falls outside the twelve-month period as specified in the Framework.
- 7.9 I have considered DP25's consistency with corresponding policies in the Framework in my evidence and accord it only due weight. As drafted it does not reflect the balancing provisions at paragraph 134 or the terms of paragraph 138. DP25 is also internally inconsistent. Amongst other things, it seeks both preservation and enhancement which is not logically possible.
- 7.10 On this test, seeking both outcomes, proposals that merely preserved the special interest of a conservation area, in line with section 72 (1), would fail. That cannot have been the intention of Parliament in drafting this provision of the 1990 Act.
- 7.11 The approach I recommend, then, is the one set out in the NPPF. First, one must understand the significance of the conservation area as a whole, and then, second,

the contribution of the building proposed for demolition to that significance. This is what paragraph 138 advises.

- 7.12 From there, one concludes whether the demolition causes harm and, if so, the degree of harm. If that harm is substantial, amounting to a near total loss of the area's significance, then the demolition can only be justified in what are essentially special circumstances. This is the test in paragraph 133. The Council do not contend that there is substantial harm, but rather that the other condition (less than substantial harm) applies. I agree. We disagree, however, on the level of harm.
- 7.13 In cases of less than substantial harm, the decision maker needs to consider whether the harm can be justified by any countervailing planning benefits. Logically, I think this must mean starting with a 'benefit in kind', that is, a heritage benefit. That potential benefit would normally be the design of the proposed new building as it bears directly on the section 72 (1) duty.
- 7.14 It is perfectly possible, and indeed is common, to treat the design of the replacement building as counter-balancing the loss of an existing building of interest.
- 7.15 In that case, there would be no residual harm arising from the demolition, and the section 72 (1) duty would be fully discharged in the grant of a consent.
- 7.16 However, if there is residual harm (notwithstanding, the design quality of a proposal), then the decision maker may consider whether other planning benefits would offset that harm. In this case, those benefits would comprise principally housing, including a commuted payment for affordable housing, and the optimisation of previously developed land, both of which are of particular importance in London and supported by the London Plan 2011. The weight to be attributed to planning benefits is evaluated in Mr Cunnane's evidence for the Appellant.
- 7.17 I have approached my assessment according to the stages outlined above.
- 7.18 There is nothing between the Appellant and the Council on the important matter of what makes this CA special. That significance is summarised clearly in an adopted appraisal, which forms the basis of my analysis in section 4.0 above.
- 7.19 Essentially, the Redington/Frognaal CA is notable as a very good example of a middle-class suburb, with good quality architecture from the late Victorian and Edwardian periods. This townscape is the product of a process of development that commenced in the 1870s and concluded at the start of WWI.
- 7.20 There was no single estate plan, producing a uniform architectural solution, instead, the land was let in smaller plots. Each successive phase was characterised by designs reflecting the best of British domestic design: Victorian Gothic; Queen Anne Revival; Arts and Crafts; then neo-Georgian. Overall, however, some consistency is achieved by the use of similar materials: soft red and orange brick, clay tiles. The

composition of many properties is picturesque or varied. Gardens and mature trees, including street trees, are of particular importance. Generally, the prevailing building type is the single house on its own plot, arranged in coherent groups with consistent boundary and front garden treatments. The area has a particular historic association with the architect Quennell, working in partnership with the builder Hart, to achieve consistently high quality buildings, with a fine degree of finish.

- 7.21 Nevertheless, the variety in the CA is sufficiently great to lead the local planning authority to identify several discrete sub-areas. The Appeal site is situated within subarea 5: Heath Drive and Environs.
- 7.22 The appeal site building was not built during the main period of the CA's development. It is agreed that it was built in the 1920s as part of a group of four buildings on the east side of Heath Drive (nos. 35-38). There is no documented association of these properties with Quennell, and the Council do not contend one. The published CA appraisal identifies all as making a positive contribution.
- 7.23 The southeast side of Heath Drive has a more varied townscape than that of the northwest which dates to the main phase of the CA's development.
- 7.24 The streetscape to the north of the Appeal site on the east side of the street includes a c. 1970s terraced development (not unattractive) and the group of 1920s houses, including the appeal site. Three of these properties at nos. 35-37, orientate towards a small shared garden area or cul-de-sac (a kind of inlet off of the main road). The fourth in the group, no. 38 (the appeal site building), faces away from the group towards the Finchley Road. Its side/rear garden faces Heath Drive, and as a result it is not closely associated with the CA or even the group of houses which were constructed at the same time.
- 7.25 The position and orientation of the house, therefore, diminish no. 38's contribution to the CA, and it is interesting to note that it was not included in the original boundary designation or even the later extensions in 1988 and 1992. In my view, the fact that officers of the Council designating the area did not originally include the appeal site building or other sites on the Finchley Road is significant. The Council accept (the relevant extract is included see their delegated report included at Appendix 4) that the site is at least to some extent divorced from the rest of the CA.
- 7.26 How, then, does the building contribute to the special interest of the area? In my opinion it does this through its facing materials and neo-Georgian styling that are consistent with houses found elsewhere. Architecturally, it is a handsome building, but it is of lower quality than the Quennell buildings in the area and many unlisted ones from that earlier phase of development. No. 38 is typical of interwar, neo-Georgian houses built across this part of north London. Consequently, because of the building's materials and appearance and building type, I conclude the demolition would cause some but very limited harm to this part of the CA only.

- 7.27 It then falls to consider the qualities of the proposed replacement building and its effect on the CA.
- 7.28 By the time of my instruction, the basic plan concept (a 'cranked' or angled plan, as Mr Green, the architect, describes it) was settled. I think this plan form appropriate to this site for two reasons. First, it defines the corner and produces a more cohesive townscape in the CA and in its setting. Second, the plan form itself was devised during the late C19. My work then consisted of looking at the proposed detailing and roof form. With an assistant, I undertook research in journals from the period and secondary sources. The purpose of this was to refine the details of the design and the roof form so that it more accurately reflected early C20 practice. I also gave advice which led to the simplification of the building form, in particular the larger element to Finchley Road.
- 7.29 The Finchley Road element has a scale and character that reflects the mansion flats' nearby. These are outside the Redington/Froggnal CA, I accept, but within its setting and so contribute to its character at this point. It is relevant that the mansion flats opposite the site, Albemarle Mansions, whilst not in the area nevertheless form part of a cohesive group of houses that do fall within the CA. This mansion block is on the Council's draft list of locally listed buildings, and another of the mansion flats opposite is included in the adjoining West End Green CA. On the facts of this case, I think it is right to treat the immediate setting of the CA as a relevant context to be taken into account in the determination of this appeal.
- 7.30 There are other forms of flatted development in the CA, notably a pair of mansion flats flanking Langland Gardens to the south of the Appeal site. There is flatted development in Kidderpore Avenue, and more has recently been consented on the King's College site at the junction of Finchley Road and Platt's Lane just to the north of the Appeal site. In that case, I know that the Council accepted that the scale of the new flatted accommodation could have regard to mansion flats opposite outside the CA. In other respects the sites are different, but in terms of approach this Council has deemed it acceptable to have regard to the setting of a CA when determining applications within it. That approach must also be right in this part of the CA, where the suburban streets conclude in the Finchley Road which is a major route.
- 7.31 Therefore, I consider appropriate in principle a denser form of development here that has regard to wider townscape influences of recognised value.
- 7.32 I think the proposed design has significant urban design benefits in the treatment of this corner site, and these are relevant to the consideration of its effects on the CA.
- 7.33 The development does not fill the entirety of the site and the layout is not cramped. In terms of heights, I refer to the context elevations in Mr Green's evidence. These demonstrate that the proposed heights are consistent with surrounding buildings.

- 7.34 I have also considered the detailing of the design, and assessed how that relates to the overall form and proportions of each of the two ranges. I conclude that each range is well composed and proportioned, and that the two relate well each to the other. The Council accept, I think, that the detailing and materials of the proposals are acceptable in themselves.
- 7.35 The Council also accepts that a design that draws on the language of traditional architecture is appropriate in the CA.
- 7.36 In my evidence I explain how I understand what is proposed. Mr Green, Appellant's architect, has applied traditional forms and materials to a modern problem, how to make best use of land on a site that is subject to environmental constraints (heritage and trees) whilst respecting neighbouring amenity. The Council, I should add, do not contend that there is any breach of the latter.
- 7.37 I explain in evidence the historical background to this approach. For centuries architects have been adapting older architectural forms to new challenges. I refer, for example, to Scott's design of the St Pancras Station Hotel, based on a Flemish, late medieval cloth hall, one stunning example of creative eclecticism in this Borough.
- 7.38 My conclusion, then, is that the proposed design does respect its context, reinforcing prevailing characteristics and improving the townscape of the CA and the area more generally. Its height is appropriate. Its bulk has been modulated through the application of traditional forms and facing materials, and as a result its scale is acceptable.
- 7.39 As for its detailed design, which the authority specifically criticises, I conclude that this is well resolved in all its parts. The authority's delegated report on this aspect of the proposals is not, I suggest, as clear as it might be, relying on language that appears based on subjective judgments ('grandiose', 'fussy').
- 7.40 The Framework policies on good design apply in heritage contexts and rely on the broad principles of good urban design, expressing caution about judgments based on taste. I say this because I am not sure what evidence the Council will present to support an objection on grounds of detailed design.
- 7.41 The authority alleges that the extent of building on the site undermines its contribution to the suburban character of the CA. The site, officers say, is a gateway. I do not agree that the site plays this kind of role. Plainly, the Appeal site was not designed to match the other corner, which has a mansion flat. There is nothing in the orientation, position or design of the building that positively addresses the corner in the manner I associate with 'gateway' development. In fact, I think the existing development was planned without any regard to the corner, still less to the corner's potential role in framing the junction. Why else position the building so it abuts the boundary with properties in the Finchley Road? Why plan the group of four houses here so that they do not relate in a regular way to the houses opposite? That failure to tailor the

building to its corner location is, in my opinion, one of the existing development's weak points.

- 7.42 Overall the proposal at the very least preserves the character or appearance of the conservation area and in my considered opinion offers an overall enhancement of it through an improved definition of the corner which relates two contexts, the Finchley Road and Heath Drive, better than the existing building. I also think the form of the proposed development is an interesting adaptation of the traditional language of architecture, applied to solve a modern objective (the efficient use of land for housing in environmentally sensitive locations).
- 7.43 I find there is much to commend in these proposals.
- 7.44 Looking at paragraph 134, I find no residual harm to heritage interests which requires a countervailing land use planning benefit. If the Inspector forms a different judgment and finds there is some residual harm, then that must be less than substantial and so engage the provisions of paragraph 134. In that case the public benefits are to be weighed against the less than substantial harm.
- 7.45 However, for the reasons summarised above and which are elaborated in my full Proof, I conclude that section 72 of the 1990 Act is satisfied, and with it the consequent development plan policy and national policy.

8.0 SIGNED AFFIRMATION

- 8.1 I confirm that, insofar as the facts stated in my Proof of evidence are within my own knowledge, I have made clear which they are and that I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.
- 8.2 I confirm that my Proof of evidence includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matter which would affect the validity of those opinions.
- 8.3 I confirm that my duty to the Inspector and the Secretary of State as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- 8.4 I confirm that I am neither instructed, nor paid, under any conditional fee arrangement.
- 8.5 I confirm that I have no conflicts of interest of any kind other than any already disclosed in my Proof of evidence.
- 8.6 I confirm that my Proof of evidence complies with the requirements of the Royal Town Planning Institute, as set down in the revised Royal Town Planning Institute "Chartered Town Planners at Inquiries – Practice Advice Note 4".

Dr Chris Miele MRTPI IHBC FSA FRHS
Senior Partner, Montagu Evans LLP



Signed: _____

Dated: _____ 2/7/2014 _____