

# **HERITAGE STATEMENT**

## **22 FROGNAL WAY LONDON NW3 6XE:** **FOR RECLADDING OF EXISTING HOUSE WITH NEW BRICKWORK**

This Heritage Statement should be read in conjunction with the architect's Design & Access Statement that accompanies this planning application.

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## **1 BACKGROUND**

- 1.01 This is the second planning application for the replacement of the existing brickwork.
- 1.02 The first application – planning reference 2010/2938/P - was formulated after extensive opening up of the lower levels of the building revealed serious defects in the type and quality of brickwork used, and also the standard of workmanship, at the time of construction.
- 1.03 Both the original application, and this application, seeks approval for the re-cladding of the existing building with new brickwork, with a colour that is sympathetic to the existing colour.
- 1.04 The Council itself has described the proposals under planning reference 2010/2938/P as follows:

*“Removal of existing facing brickwork and re-cladding of existing residential dwelling (Class C3) with 'Roman' proportioned bricks in connection with planning permission reference 2009/3168/P (granted 28/09/2009) for the excavation and enlargement of a basement including fenestration alterations.”*

- 1.05 The Council describes the development type as *“Residential Minor Alterations”*
- 1.06 The term 'demolition' was not used by the Council to describe the proposals<sup>1</sup>, nor is permission sought by the applicant for demolition of the property.

## **2 DEFINITION OF THE WORKS**

- 2.01 It will be seen from the above that the Council defines the works as re-cladding.

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<sup>1</sup> This is presumably the actual reason why the Council did not register the Conservation Area Consent application.

- 2.02 In this regard, it is worth reiterating here that is NOT the applicant's intention to demolish the building. The intention is to replace the existing external brickwork.
- 2.03 However, as per Ellen Wiles's advice, 'rebuilding' is defined separately to 'demolition' in the Town and Country Planning Act 1990 (S.55).
- 2.04 Consequently, given the Council's own description of the proposals, and given the fact that applicant does not intend demolishing the building, and given that the act of demolition is defined separately from rebuilding in the 1990 Act, the CA officer may wish to assert that a building form needs to be 'demolished' before it can be rebuilt, but this is not the definition of the term 'demolition' under planning law, and nor is permission sought for demolition under planning law.
- 2.05 To be absolutely clear on this point, permission is sought for sequential rebuilding, with 'rebuilding' as defined by the 1990 Act.

### **3 PRINCIPLE OF REBUILDING/METHODOLOGY**

- 3.01 The applicant intends to sequentially take down and rebuild the external brickwork. This work will be undertaken one wall at a time. A detailed method statement has been prepared by the main contractor and is submitted here for approval by the Council.
- 3.02 It is proposed that the method statement for sequentially re-cladding the building one wall at a time be secured by way of a Section 106 agreement.
- 3.03 It is noted that there is precedent for such procedural issues to be secured by way of a Section 106 Agreement – for example, a Construction Management Plan, which sets out how a site is to be managed and a development actually constructed.
- 3.04 From this we conclude that it would be entirely possible to demonstrate that the proposals can be defined as 'rebuilding' under the 1990 Act, and not as 'demolition'.

3.05 In the event that the Council is concerned that the applicant could sell the property on after any grant of planning permission, we have suggest that planning permission could be granted personally to the applicant, Mrs J Naviede.

#### **4 EFFECT OF THE WORKS ON THE CONSERVATION AREA**

4.01 The intention is to preserve and enhance the conservation area with these works, by replacing poor quality and, in many places, defective and sub-standard brickwork, in order to improve the appearance of the building and ensure its long-term future.

4.02 The proposal is for the sequential replacement of the external brickwork with Roman bricks, utilising bricks specifically manufactured for this project, and in a colour palate that relates to the existing brickwork.

4.03 To this end, detailed elevations have been prepared at a scale of 1:25 to describe this work, and these form part of this planning application.

4.04 It is our view that these elevations demonstrate that, although the proportion of the Roman brick is different to a standard brick, the effect on the appearance of the building is a subtle one, and one that would be beneficial to the appearance of the building, particularly given the colour palate proposed.

4.05 To demonstrate this, during the pre-application period for this second planning application, several sample panels of specially manufactured brickwork were erected on site for review by the CA officer.

4.06 These sample panels were in two set of three panels each, with a slight variation in colour between the two sets. The three sizes of brickwork provided were 450mx 50mm (considered to be a typical 'standard' Roman brick); 329.5mm x 50mm brick (referred to as the 'intermediate' Roman brick) and the standard UK brick size of 215mm x 65mm.

4.07 It is understood that the CA officer agreed with our view that the 'intermediate' size Roman brick, but with 8mm rather than 10mm joints,

created an appropriate and elegant appearance, and one that would enhance the conservation area.

4.08 We therefore conclude that the replacement bricks do not harm the Conservation Area in any way, and that, in fact, the new bricks, due to their better quality and more elegant appearance, would actually enhance the CA.

4.09 We understand that this view is shared by many local residents, including those along Church Row.

## **ASSESSMENT OF THE PROPOSALS IN RELATION TO PPS 5**

The Conservation Area officer has requested clarification of the proposals in the light of the new planning policy PPS5, and with specific reference to the following PPS5 policies: HE1, HE6, HE7 and HE9.

### **Policy HE1: HERITAGE ASSETS AND CLIMATE CHANGE**

HE1.1 Local planning authorities should identify opportunities to mitigate, and adapt to, the effects of climate change when devising policies and making decisions relating to heritage assets by seeking the reuse and, where appropriate, the modification of heritage assets so as to reduce the carbon emissions and secure sustainable development. Opportunities to adapt heritage assets include enhancing energy efficiency, improving resilience to the effects of a changing climate, allowing greater use of renewable energy and allowing for the sustainable use of water. Keeping heritage assets in use avoids the consumption of building materials and energy and the generation of waste from the construction of replacement buildings.

- a) This policy addresses the issue of climate change in relation to loss of, change to, or alterations of, heritage assets. The implication here appears to be that material change should only be carried out – and total or partial loss avoided – only when absolutely necessary, in order to minimise carbon emissions generally, thereby promoting sustainable development.
- b) This point is acknowledged and accepted, and the proposed retention of the heritage asset in this application fully complies with this policy. However, essential repairs are necessary to this particular heritage asset, and they cannot be avoided. Consequently, with regard to this specific policy, consideration should be given as to how this work could be carried out, and the effect on this policy.
- c) Two options were considered: one, retention and propping up of the existing sound brickwork whilst the defective brickwork below is rebuilt, and, two, sequential removal of all external brickwork, and its replacement with all new brickwork of a higher quality.

- d) It is the view of the applicant that option one is not actually viable, practical, or safe. However, if the retained brickwork were to be propped up, and in order to make every effort to avoid movement in the retained brickwork during the works, then a substantial three-dimensional steel frame would be required (and even then, we would assert, movement during the works could not be guaranteed). Adequate and substantial propping is important because much of the retained brickwork would be in isolated panels, because of the proliferation of French windows through out the property, meaning that the retained areas of brickwork within an elevation would not be adequately cross-tied for stability.
- e) Given this requirement for substantial propping, it will be obvious that the tasks involved in propping the existing brickwork would involve considerably more expenditure of materials than if the brickwork were to be simply taken down and rebuilt. The materials used in propping the existing brickwork would be sacrificial and could not be re-used and we cannot see how this additional – and, actually, unnecessary – expenditure of materials can be considered to be sustainable. Quite the reverse, in fact.
- f) The above comments are made on a 'without prejudice' basis because it has already been stated in the application documents – and this remains the applicant's position - that retaining and propping the retained brickwork is not practical, viable or safe (and, on the contrary, it can be said to be potentially very hazardous).
- g) Furthermore, any attempt to retain the existing brickwork does not deal with the problem of matching the retained brickwork. After very substantial research, over a period of many months, it is the view of the applicant that it is simply not possible to match in any acceptable way the existing bricks.
- h) A final point to be made with regard to policy HE1 relates to improving energy performance, with a central plank of HE1. The proposed re-cladding allows for a much higher level of insulation to the external envelope of the building, thereby greatly improving its energy performance.

HE1.2 Where proposals that are promoted for their contribution to mitigating climate change have a potentially negative effect on heritage assets, local planning authorities should, prior to determination, and ideally during pre-application discussions, help the applicant to identify feasible solutions that deliver similar climate change mitigation but with less or no harm to the significance of the heritage asset and its setting.

- a) The proposals here are not primarily driven by the desire to promote sustainable measures on the site in order to mitigate against the effects of climate change, although this is a by-product of these proposals. In addition, it has been pointed out above that retention of the existing brickwork in any case necessitates greater expenditure of energy due to the need to form substantial support structures to the retained brickwork, with such structures being discarded at the end of the works.
- b) There will undoubtedly be a benefit with regard to climate change by creating the opportunity to install far better quality brickwork, and also using this opportunity to install cavity insulation with a much higher 'U' value than exists at present.

HE1.3 Where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefit of mitigating the effects of climate change should be weighted against any harm to the significance of heritage assets in accordance with the development management principles in this PPS and national policy on climate change.

We have already stated above that the most effective sustainable option is to remove all the existing brickwork, rather than retaining it. By taking this more sustainable approach to the problem, we are also of the view that it is the most beneficial to the heritage asset.

#### **POLICY HE6: INFORMATION REQUIREMENTS FOR APPLICATIONS FOR CONSENT AFFECTING HERITAGE ASSETS**

HE6.1 Local planning authorities should require an applicant to provide a description of the significance of the heritage assets affected and the



contribution of their setting to that significance. The level of detail should be proportionate to the importance of the heritage asset and no more than is sufficient to understand the potential impact of the proposal on the significance of the heritage asset. As a minimum the relevant historic environment record should have been consulted and the heritage assets themselves should have been assessed using appropriate expertise where necessary given the application's impact. Where an application site includes, or is considered to have the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where desk-based research is insufficient to properly assess the interest, a field evaluation.

HE6.2 This information together with an assessment of the impact of the proposal should be set out in the application (within the design and access statement when this is required) as part of the explanation of the design concept. It should detail the sources that have been considered and the expertise that has been consulted.

HE6.3 Local planning authorities should not validate applications where the extent of the impact of the proposal on the significance of any heritage assets affected cannot adequately be understood from the application and supporting documents.

a) These policies aim to deal with understanding the nature of the significance of a heritage asset, and the level of importance of the asset, and the reasons why the asset is considered to be important. Such an assessment is critical, because once the detail of the significance of a heritage asset has been determined, it is then possible to make informed judgements about any proposed changes to the heritage asset.

b) We believe that, in part due to the recent planning history of the site, which necessitated substantial research into the provenance of the building, and in part due to the evidence provided with the current application (both in the Design and Access Statement and within the advice of Ellen Wiles) there is already on the record an appropriate description and understanding of what constitutes a 'heritage asset' in

this particular instance, and why the building falls within the definition of a heritage asset.

- c) It can be summarised by saying that it is the form of the building, and its overall scale, and its association with a local architect, that has led to the conclusion that it makes a positive contribution to the conservation area, and this therefore creates the 'heritage asset'. This highly specific definition of the heritage asset does not include the materials of which the building is made, which are considered to be poor, and to detract from the overall quality of the building.
- d) For further details on the assessment of the importance of the heritage asset, please refer to the Design & Access Statement and the Advice from Ellen Wiles, Counsel.

#### **Policy HE7: POLICY PRINCIPLES GUIDING THE DETERMINATION OF APPLICATIONS FOR COSENT RELATING TO ALL HERITAGE ASSETS**

HE7.1 In decision-making local planning authorities should seek to identify and assess significance of any element of the historic environment that may be affected by the relevant proposal (including by development affecting the setting of a heritage asset) taking account of:

- (i) evidence provided with the application
  - (ii) any designation records
  - (iii) the historic environment record and similar sources of information
  - (iv) the heritage assets themselves
  - (v) the outcome of the usual consultations with interested parties; and
  - (vi) where appropriate and when the need to understand the significance of the heritage asset demands it, expert advice (from in-house experts, experts available through agreement with other authorities, or consultants, and complemented as appropriate by advice from heritage amenity societies).
- a) The application (by others) in 2007 to have the building listed (and subsequently turned down by English Heritage), the original planning application for the site (reference 2007/3790/P) and the subsequent appeal decision following a public enquiry (reference

APP/X5210/A/08/2069663 and 2072992) followed a process whereby the significance of the heritage asset was fully aired and discussed in the public domain. The relevant elements of this process, and the conclusions reached, are clearly set out in the advice of Ellen Wiles, submitted with this planning application.

- b) In addition, at the time of the Public Enquiry into the appeal, the appellant submitted a comprehensive overview of the architectural career of Philip Pank by way of a specially commissioned research report. This report set the development of the design, and the eventual construction, of 22 Froggnal Way within the context of Pank's overall career. This report forms part of the public record.
- c) The conclusion reached, by the Appeal Inspector and EH, was that, given the form of the building, and its association with a local architect, Philip Pank, the building made a positive contribution to the Conservation Area, and should be retained. According to English Heritage, endorsed by the Appeal Inspector, the significance of the building was compromised by the poor quality of materials used, including the brick used.
- d) This application accepts this conclusion, and seeks to retain and enhance the existing building, but addresses practical problems concerning the condition of the external brickwork that have since arisen, and which were not known about at the time of the appeal.

HE7.2 In considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations. This understanding should be used by the local planning authority to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposals.

- a) Following the report from English Heritage on the rejection of the application for listing the property, and following the appeal decision in 2008 to demolish the building, it is understood that it is common ground between the applicant and the Council that the significance of the existing building to its immediate environment relates to its plan form,

height and its position within key views identified within the CA Policy Statement.

- b) The materiality of the building is not a factor in the buildings' significance. In fact, it could be said that the poor quality of materials used in its construction, including the brickwork (and as identified by English Heritage) mitigates against the significance of the building within the historic environment.
- c) It is the intention of the present planning application to undertake the work of re-cladding the building with handmade bricks, replacing the present very poor quality bricks. This work will, in fact, enhance the quality of the heritage asset, and ensure greater longevity for it.

HE7.3 If the evidence suggests that the heritage asset may have a special significance to a particular community that may not be fully understood from the usual process of consultation and assessment, then the local planning authority should take reasonable steps to seek the views of the community.

We believe that this particular requirement has no specific relevance to this application. Nevertheless, it is our understanding that the applicant has received messages of support for the proposals from many local residents, several of whom consider that the proposals would enhance the local historic environment.

HE7.4 Local planning authorities should take into account:

- the desirability of sustaining and enhancing the significance of heritage assets, and of utilising their positive role in place-shaping; and
- the positive contribution that conservation of heritage assets and the historic environment generally can make to the establishment and maintenance of sustainable communities and economic vitality by virtue of the factors set out in HE3.1

We are of the view that by approving the current application the LPA will be complying with this policy, thereby allowing the enhancement of the

heritage asset. Nevertheless, other options, which have already been discussed with the LPA, are set out in Section 6 above.

HE7.5 Local planning authorities should take account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials and use.

- a) There is no proposal to change the form of the building in any way, be it in plan form or in elevation, other than where planning permission has already been granted. The intention is, whilst undertaking essential repairs, to improve the appearance of the building by re-cladding it in new brickwork of far better quality than exists at present.
- b) At the same time, it is considered that the use of an 'intermediate' length Roman brick – which reflects the design provenance of the building – would be a more sympathetic and elegant form of brick for this particular building, and that in this way, the proposals would make a positive contribution to the character and local distinctiveness of the historic environment.

HE 7.6 Where there is evidence of deliberate neglect of or damage to a heritage asset in the hope of obtaining consent, the resultant deteriorated state of the heritage asset should not be a factor taken into account in any decision.

- a) This policy is not relevant to this application, as the damage that has occurred to the property is historic, and is derived from the time the property was constructed, and in the intervening period since.
- b) On the contrary, it is the intention of the application to make good the significant damage that has occurred to the property.

HE7.7 Where loss of significance is justified on the merits of new development, local planning authorities should not permit the new development without taking all reasonable steps to ensure the new development will proceed after the loss has occurred by imposing appropriate planning conditions or securing obligations by agreement.

No loss of significance is proposed. As to taking steps to ensure that the development will proceed, the applicant has already proposed elsewhere here that any planning consent be via a Section 106 agreement, which would control the implementation of the proposals.

**POLICY HE8: ADDITIONAL POLICY PRINCIPLE GUIDING THE CONSIDERATION OF APPLICATIONS FOR CONSENT RELATING TO HERITAGE ASSETS THAT ARE NOT COVERED BY POLICY HE9**

HE8.1 The effect of an application on the significance of such a heritage asset or its setting is a material consideration in determining the application. When identifying such heritage assets during the planning process, a local planning authority should be clear that the asset meets the heritage criteria set out in Annex 2. Where a development proposal is subject to detailed pre-application discussions (including, where appropriate, archaeological evaluation (see HE6.1) with the local planning authority, there is a general presumption that identification of any previously unidentified heritage assets will take place during this pre-application stage. Otherwise the local planning authority should assist applicants in identifying such assets at the earliest opportunity.

We do not believe that the status of this heritage asset is an issue here. The existing building, by reason of its plan form, massing, siting, context within key CA views, and its association with a notable local architect, makes a positive contribution to the Conservation Area. None of these characteristics change as a result of the present application.

**POLICY HE9: ADDITIONAL POLICY PRINCIPLES GUIDING THE CONSIDERATION OF APPLICATIONS FOR CONSENT RELATING TO DESIGNATED HERITAGE ASSETS**

HE9.1 There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II

listed building, park or garden should be exceptional. Substantial changes to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, including scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings and grade I and II\* registered parks and gardens, World Heritage Sites, should be wholly exceptional.

- a) This policy essentially establishes the importance of retaining and conserving heritage assets, and avoiding major changes to the asset.
- b) It is the intention here to conserve the heritage asset, by undertaking substantial repairs, and by improving the quality of the exterior materials. No actual loss of the heritage asset is envisaged, only its improvement and enhancement.

HE9.2 Where the application will lead to substantial harm to or total loss of significance local planning authorities should refuse consent unless it can be demonstrated that:

- (i) the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that harm or loss; or
  - (ii)
    - (a) the nature of the heritage asset prevents all reasonable uses of the site; and
    - (b) no viable use of the heritage asset itself can be found in the medium term that will enable its conservation; and
    - (c) conservation through grant-funding or some form of charitable or public ownership is not possible; and
    - (d) the harm to or loss of the heritage asset is outweighed by the benefits of bringing the site back into use.
- a) This policy appears to deal with instances where there is a permanent total or partial loss of a heritage asset, and it seeks to set out the tests that must underpin approval for any such permanent loss – for example, assessing viable (i.e. alternative) uses for the building; grant funding or public ownership that would allow the building to be retained and productively used; consideration of other uses to bring the site back into

use. None of these relate to this particular application, and these 'tests' cannot be carried out, because they do not apply here.

- b) We therefore do not believe that the intent of this particular policy relates to the present application, as it is not proposed that there be any partial or total loss of the historic asset.
- c) The evidence for this is in the wording of the policy itself: contrary to the concerns of this particular policy, the historic asset will be retained, in its present form and position on the site, and in its present use, which is C3 Permanent Residential.
- d) The works proposed involves re-cladding – i.e. removal and reinstatement with new materials – and not demolition that removes any element of the heritage asset in its entirety, and permanently.
- e) The applicant's consultants and contractor have taken great care to formulate a methodology that will allow the re-cladding work to take place wall by wall, without damaging adjacent elements of the building. A sequence has been proposed that restricts the removal and re-cladding at any one time to specific lengths of wall: this sequence is shown on page 4 of the contractor's Method Statement, and follows the colour sequence blue: green: red: yellow.
- f) It should be further pointed out that the works proposed are essential and unavoidable: the brickwork above ground floor is sub-standard (it is not frost-proof) and it is deteriorating; the brickwork uncovered to the lower level is almost consistently sub-standard throughout, and must be replaced. The proposal formulated here, therefore, is to replace sub-standard materials with new material that matches the existing in terms of colour and finish, but which is of a much higher standard.

HE9.3 To be confident that no appropriate and viable use of the heritage asset can be found under policy HE9.2(ii) local planning authorities should require the applicant to provide evidence that other potential owners or users of the site have been sought through appropriate marketing and that reasonable endeavours have been made to seek grant funding for the heritage asset's



conservation and to find charitable or public authorities willing to take on the heritage asset.

This policy is not relevant to this application, because the heritage asset will remain as a single-family dwelling upon completion of the works, with all the work being funded by the site owner.

HE9.4 Where a proposal has a harmful impact on the significance of a designated heritage asset which is less than substantial harm, in all cases local planning authorities should:

- (i) weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and
- (ii) recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.

As has been argued elsewhere here, it is asserted that the proposals do not constitute harm to the heritage asset; rather, they represent an opportunity to repair and improve a seriously compromised heritage asset. The heritage asset will remain in its present form.

HE9.5 Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. The policies in HE9.1 to 9.4 and HE.10 apply to those elements that do contribute to the significance. When considering proposals, local planning authorities should take into account the relative significance of the element affected and its contribution to the significance of the World Heritage Site or Conservation as a whole. Where an element does not positively contribute to its significance, local planning authorities should take into account the desirability of enhancing or better revealing the significance of the World Heritage Site or Conservation Area, including, where appropriate, through development of that element. This should be seen as part of the process of place-shaping.

- a) The contribution of this heritage asset is to do with its overall form, rather than its materiality. Indeed, the poor quality of the materials of the existing building – specifically the brickwork and the softwood barge

boards, as identified by English Heritage – detract from the building, and make it less of a heritage asset.

- b) This policy does offer the opportunity of improving the asset in relation to the Conservation Area, and this is the intention with this application, by substantially improving the quality of the external materials.

HE9.6 There are many heritage assets with archaeological interest that are not currently designated as scheduled monuments, but which are demonstrably of equivalent significance. These include heritage assets:

- that have yet to be formally assessed for designation
- that have been assessed as being designatable, but which the Secretary of State has decided not to designate; or
- that are capable of being designated by virtue of being outside the scope of the Ancient Monuments and Archaeological Areas Act 1979.

The absence of designation for such heritage assets does not indicate lower significance and they should be considered subject to the policies in HE9.1 to HE9.4 and HE10.

It is not the purpose of this report to address archaeological issues, nor do we believe that any archaeological issues are raised by the proposed works.