



**15 Lyndhurst Terrace, London NW3 5QA**

*Demolition of existing dwelling and redevelopment to provide a single dwelling and associated landscape works*

**APPLICATION FOR FULL PLANNING PERMISSION**

**Planning Statement**

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# AZ URBAN STUDIO

## Planning Statement

*Demolition of existing dwelling and redevelopment to provide a single dwelling and associated landscape works*

Client:

Mr & Mrs Mond

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Signature

Position .....  
Director (Planning)

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## 1. Introduction

1.1. This Planning Statement has been prepared on behalf of Mr & Mrs Mond, and is submitted in support of an application for full planning permission (including relevant demolition in a conservation area) for redevelopment of the site at 15 Lyndhurst Terrace (“the Site”), within the London Borough of Camden (“LBC”). The development for which full planning permission is sought is described as:

*“Demolition of existing dwelling and redevelopment to provide a single dwelling and associated landscape works.”*

1.2. The proposed development has been the subject of recent formal pre-application discussions with officers of LBC, following a refusal to grant planning permission for redevelopment of the site in February 2016 (see Section 3 below).

1.3. This Planning Statement forms part of a suite of application documents and should be read in conjunction with those other application documents, which are:

- Application forms and certificates, CIL information form, application fee
- Site location, existing and proposed drawings – *Sergison Bates architects*
- Design and Access Statement - *Sergison Bates architects*
- Heritage Assessment – *Peter Stewart Consultancy*
- Sustainability Statement – *Medick Waring*
- Arboricultural Assessment – *Dr Frank Hope*
- Basement Impact Assessment and Structural Engineering Report – *Heyne Tillet Steel / Site Analytical Services Ltd*
- Draft Construction Management Plan – *800 Group*

1.4. This Statement draws upon all of the above to set out a summary of the Site and the nature of the development proposals, and an assessment of the proposed development against the relevant statutory provisions, planning policy and guidance at the national, city-wide, and local level, together with any other material considerations.

## 2. The site and context

### *The site*

- 2.1. The Site is located on the west side of Lyndhurst Terrace, a short road that is aligned approximately north / south and runs from Lyndhurst Road in the south to terminate in a dead end to the north, just beyond the junction with Thurlow Road.
- 2.2. The Site area is 0.025 hectares.
- 2.3. There is an existing dwelling house upon the site, extending in footprint fully across the width of the plot. The dwelling is understood from historic Ordnance Survey maps to have been built in the early 1970s. A search of LBC planning files has revealed no records relating to the original construction of the dwelling.
- 2.4. In terms of design, the existing building is two storeys in height and built in yellow brick, with large window openings defining the façades of the two storey element. The plan is effectively split along the centre of the building, with a single storey element to the north offset forward in plan.
- 2.5. Further detailed assessment of the existing building is provided in the *DAS* and *Heritage Assessment* documents submitted.
- 2.6. The building is not listed, nor is it included upon LBC's Local List which was adopted on the 21<sup>st</sup> January 2015.

### *Context*

- 2.7. The Site falls within the designated Fitzjohns Netherall Conservation Area (the 'CA'). LBC has prepared a Fitzjohns Netherall Conservation Area Statement (the 'CA Statement'), adopted formally by LBC in 2001.
- 2.8. The CA Statement sets out the essence of the character of the area at page 10 which describes how:

*'Long views along the Avenues combine with substantially scaled properties and generous grounds to create an imposing district.'*

2.9. It goes on to divide the area into two distinctive sub-areas for the purposes of assessment, with the Site falling within *Sub Area Two: Rosslyn*, introduced in with the summary:

*'The street layout in this sub-area has a smaller and more intimate character, with gentler gradients, and the architecture ranges from the earlier period of the 1860s to the 1880s.'*

2.10. The CA Statement makes brief commentary upon Lyndhurst Terrace, with the block of 1960s flats at no.11 noted as being *unsympathetic* in terms of design, scale and detail, as is the two storey house at no.9. The Site at no.15 is then mentioned briefly, and noted by way of comparison to the aforementioned unsympathetic buildings as *'fitting better in the streetscape'* and being a *'narrow brick and glass building'*.

2.11. At page 31 of the CA Statement no.15 Lyndhurst Terrace is identified as making a positive contribution to the character and appearance of the area. No.11 is identified as a negative feature. The categorisation of no.15 as making a positive contribution is challenged, as set out in detail in the *Heritage Assessment* submitted (see section 5 for further discussion on this issue).

### 3. Planning history and consultation to date

#### *Existing building*

3.1. We understand from enquiries made to London Borough of Camden that there are no records held on their files relating to the approval of the existing building upon the Site during the 1970s.

#### *2015 application for a replacement dwelling*

3.2. An application for full planning permission for development described as '*Demolition of existing house to provide a new dwelling*' was submitted in 2015 (ref 2015/6278/P). The proposed new dwelling was noted by the Council to be 2.5 storeys in height with basement, and maintained the modest form of the existing building. The design was characterised by two interlocking elements, with a brick faced module projecting forward from a limit glazed rear, taller, element

3.3. The application was refused under delegated powers on the 11th February 2016 for the following reasons:

- 1) Principle of loss of existing building, considered to make a positive contribution to the CA, which would cause harm to the character and appearance of the CA
- 2) The proposed development, by reason of its massing, footprint and detailed design would fail to preserve or enhance the character and appearance of the conservation area
- 3) The applicant has failed to demonstrate that the proposed basement would avoid adversely affecting drainage and run-off or causing other damage
- 4) Absence of legal agreement to secure a construction management plan
- 5) Absence of legal agreement to secure contributions towards public highway works
- 6) Basement excavation would result in harm to the root protection area of a mature chestnut tree in the front garden of 17 Lyndhurst Terrace

3.4. Each of these reasons for refusal has been carefully considered in formulating a revised proposal for the Site as presented in this statement, the DAS and the accompanying drawings. Full details of how the proposed development addresses these previous reasons for refusal of an earlier scheme are set out in the Planning Assessment chapter of this report, making reference where necessary to other submitted documents.

*Pre-application consultation with LBC*

3.5. Following the February 2016 refusal of planning permission, the applicant sought a new architect and professional team to formulate a new approach to redevelopment of the Site.

3.6. A formal pre-application submission was made to LBC on the 28<sup>th</sup> July 2016, comprising a detailed Design and Access, Heritage and Planning Statement, architects drawings, and a revised Tree Report which included the findings of air spade investigations at the site. A fee of £3,800 was paid as requested by LBC. The design of the dwelling proposed has not changed significantly since that pre-application submission.

3.7. Given the importance of design matters to the project, it was requested in the pre-application submission that the proposals be taken to the LBC Design Review Panel for expert appraisal. That request was denied.

3.8. A pre-application meeting with LBC officers was held on the 4<sup>th</sup> October 2016, and a written note of advice received on the 7<sup>th</sup> November 2016. The advice set out the following LBC officer views (summarised and sequenced here):

- Reasons for refusal 3,4,5,6 of the previous application could likely be overcome relatively straightforwardly
- Loss of existing building which is considered to make a positive contribution to the CA key issue
- Applying the NPPF para 134 test, no public benefits were considered to be associated with the proposals
- Therefore the principle of development is unacceptable



3.9. In response to the case set out in the pre-application submission that the existing building did not contribute positively to the CA, LBC set out in detail the qualities of *architectural, historic, townscape and social interest in the building, which make up its positive contribution to the character and appearance of the conservation area* as:

- It is characteristic of the post-war development in the CA, yet provides a notably more imaginative and successful response to its site and context than nearby near-contemporaries (such as nos 9 and 11);
- The building was designed by a well-known architect, Ted Levy, who had some associations with the CA, and the commissioning original occupiers of the house bring some interest through their own reputations and as residents in many ways typical of the Hampstead society ... during the C20;
- The architecture of the building has merit as an architect-designed modernist house using brick, timber and glazing and an esoteric combination of forms and proportions to create an interesting, contextual and modest detached dwelling;
- The building contributes to the rhythm of the street scene and it helps to preserve the sense of a gap between the larger C19 buildings;
- The smaller size of no.15 allows no.17 and its setting to be viewed and fully appreciated from the street corner and as part of the street scenes;
- The building is small and tucked away as intended and this is a critical part of its contribution to the CA. The building was designed to be discreet and we consider it provides a welcome contrast with the 'louder' buildings in the area.

3.10. These points are all addressed in the *Heritage Assessment* by PSC.

3.11. It is important to note that the advice from LBC officers included the overarching logic (in the final two bullet points under the heading *Other considerations*) that, whilst the proposed contemporary design had architectural merit, the principle of replacing the existing building is not supported, as its loss would have a harmful impact on the CA. It is clear from this approach that LBC officers were not considering the development

proposal as a whole (demolition *and* new dwelling) in terms of impact upon the CA.

3.12. This is reinforced in the final bullet point of that section of the pre-application response, where LBC officers state:

*'We do not consider that outstanding design of a replacement dwelling would constitute public benefit to outweigh the abovementioned harm to the conservation area (rather this is a requirement of the Act). Therefore there remains no public benefit justification which would outweigh the harm caused by the demolition and the proposals remain unacceptable in principle. To be clear, officers do not consider that there are likely to be **any** circumstances where the principle objection would be overcome by proposals for residential re-development of the site.'*

3.13. The LBC position is that harm from demolition is assessed in isolation first, as a threshold test, with no consideration of the merits (including potential heritage benefits) of the proposed replacement dwelling. That is not the correct approach to applying the NPPF, which states that when assessing the impact of proposals upon the significance of a heritage asset it is the 'proposed development' as whole that falls to be assessed – encompassing any demolition together with the impact of any new replacement development proposed.

3.14. In a recent appeal decision in a case engaging similar issues at 22 Frogna Way in LBC, (APP/X5210/W/16/3150327, Allowed, 9<sup>th</sup> March 2017) the Inspector applied a single stage, combined, assessment of impact of the totality of proposals (i.e. demolition and replacement) in considering whether any harm would be caused to the conservation area in that case. At paragraph 16 of the decision letter the Inspector noted '...the net effect of the provision of the new dwelling and thereby its removal would at worst be neutral as what is special about the HCA (Hampstead Conservation Area) would not be lost.'

3.15. We consider that the approach taken by the Inspector in the 22 Frogna Way appeal was the correct approach to the assessment of the impact of development proposals on the significance of a heritage asset in accordance with the requirements of the NPPF.

3.16. We consider that Officers' assessment of the qualities of the existing building in the pre-application response is flawed in that its relative significance within the CA has been overstated, and the applicable policy tests should be applied to the totality of the proposed development not the demolition in isolation (examined further in Section 5).

3.17. The pre-application advice did confirm a number of useful aspects of the proposals, including that the proposed design

- has architectural merit;
- would provide a good standard of living accommodation for future occupiers;
- would not cause undue harm to the amenities of nearby and neighbouring properties;
- would promote sustainable transport choices through reduction of car parking spaces;
- included a welcome enhancement to the landscape at the front of the site; and, in subsequent written correspondence
- would not cause harm to trees adjacent to the site

#### *Other pre-application consultation*

3.18. As the applicant's request to Camden Council for the proposed design to be assessed by the Council's Design Review Panel was rejected at the pre-application stage, the architects undertook a private Peer Review process, engaging a number of recognised experts in the fields of architecture, townscape, and heritage. Responses to that engagement are included in the DAS and confirm that the development represents the highest standards of architecture and will enhance the CA.

#### **4. The proposed development**

- 4.1. The client brief for the project is to replace a house of low architectural merit, poor layout, and poor energy efficiency, that fails to make efficient use of the site, with one of high architectural merit, providing outstanding internal spatial qualities, high levels of energy efficiency, that maximises efficient use of land whilst also delivering an enhanced contribution to the character and appearance of the CA.
- 4.2. The DAS prepared by Sergison Bates architects provides a thorough description of the proposed development, including how the design of the proposed dwelling responds to the specific site context and the qualities of the CA.
- 4.3. The Heritage Assessment provides a detailed appraisal of the architectural qualities of the proposal, and its impact upon the CA.
- 4.4. These documents, together with the architect's drawings submitted, fully set out the proposed development.

## 5. Planning policy assessment

### *Introduction*

5.1. This section of the statement sets out how the proposed development can be assessed against the relevant adopted Development Plan provisions and those contained in any supplementary guidance, together within any material considerations. Where appropriate, reference is explicitly made to how the current proposal differs to the previously refused application at the Site.

### *Statutory provisions*

5.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the policies of the adopted statutory development plan, unless material considerations indicate otherwise.

5.3. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act requires that decision makers, in exercising their planning functions in relation to buildings or land in a conservation area, pay '*special attention ... to the desirability of preserving or enhancing the character or appearance of that area*'.

5.4. The courts have held in the *South Lakeland* decision that the test of preservation can be satisfied by development which does not cause harm to a conservation area, thus leaving character and appearance preserved.

### *National Planning Policy*

5.5. The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. The policies of the NPPF are a material consideration in the determination of planning applications.

5.6. At the heart of the NPPF is a *presumption in favour of sustainable development*, which should be seen as a golden thread running through both plan-making and decision-taking. Indeed, the NPPF sets out how the very purpose of the planning system is to contribute to the achievement of

sustainable development, which comprises economic, social, and environmental dimensions. At paragraph 9 it states that '*pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life...*'.

5.7. Sections of the NPPF of particular relevance to the proposed development include 6 *Delivering a wider choice of high quality homes*; 7 *Requiring good design*; 10 *Meeting the challenge of climate change, flooding and coastal change*; 12 *Conserving and enhancing the historic environment*. The proposed development has been formulated to be fully compliant with and deliver the objectives of the NPPF.

5.8. The National Planning Practice Guidance (NPPG) was published as an online resource on the 6<sup>th</sup> March 2014, with sections being updated periodically since that date. The NPPG provides further detailed guidance upon the application of Government planning policy in practice, and is a material consideration in the determination of planning applications. The proposed development has been formulated to be fully compliant with and deliver the objectives of the NPPG.

#### *Development plan policy and other guidance*

5.9. The statutory Development Plan for the area consists of the London Plan (MALP, 2016) the Camden Core Strategy (2010) and the Camden Development Policies (2010).

5.10. The London Plan provides strategic policy for planning in the city, and includes relevant policies upon housing, design, heritage, sustainability, and transport.

5.11. The Camden Core Strategy and Development Policies were adopted prior to the publication of the NPPF and therefore individual policies need to be examined for compliance with the NPPF as part of their application to development proposals.

5.12. There are also a number of Supplementary Planning Documents published by Camden in the *Camden Planning Guidance* series that are directly relevant

to the proposed development, together with the adopted *Fitzjohn's and Netherall Conservation Area Statement*.

5.13. The Camden Local Plan has been submitted to the Secretary of State for Examination, and as it has reached an advanced stage it can be afforded some limited weight in decision making and should be considered.

#### *Development plan designations and other constraints*

5.14. The adopted Proposals Maps identifies that the only development plan designation applicable to the site area is the *Fitzjohn's and Netherall Conservation Area*.

5.15. Other constraints relevant to the redevelopment proposed are:

- Tree Preservation Order – we understand from LBC that there is a TPO recorded upon a Mature Birch Tree at the site. It is unclear what this refers to as there were no trees present on the site when it was purchased by the applicant in early 2015.
- A Chestnut tree is located to the front of the adjacent plot (no.17-19)

#### *Planning policy assessment*

5.16. This main section of the statement provides an assessment of how the proposed development can be assessed against the relevant development plan policies and other policies and guidance introduced above.

5.17. The assessment is structured around the various thematic aspects of planning policy that are relevant and applicable to the Site and development proposed, as listed below:

- A. Principle of the proposed land use;
- B. Quality of the residential accommodation;
- C. Heritage and townscape: principle of demolition and the benefits of the proposed development;
- D. Basement development matters;
- E. Neighbour amenity;
- F. Arboriculture and landscape;

- G. Sustainability;
- H. Access and parking / s106;
- I. Community Infrastructure Levy

5.18. A detailed assessment of the proposed development in the context of each of these considerations is set out below.

#### A. Principle of the proposed land use

5.19. The NPPF sets out under the heading *Core planning principles* (para 17) how planning should '*encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value*'. Section 7 *Requiring good design* identifies how developments should '*optimise the potential of the site to accommodate development*' (para 58).

5.20. London Plan Policy 3.4 *Optimising Housing Potential* requires that development should optimise housing output for different types of location within the relevant density ranges set out in the Plan.

5.21. At the borough level, Camden Core Strategy ('CS') (2010) Policy CS1 *Distribution of Growth* sets out how the Council will promote the most efficient use of land, taking into account quality of design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site, and resist proposals that make inefficient use of Camden's limited land resource. Policy CS4 *Areas of more limited change* notes in the supporting text (para 4.10) that the northern part of the borough, including the CA, is predominantly residential in character, is expected to '*experience smaller scale development and more incremental change in future years*'.

5.22. Policy CS6 *Providing quality homes* seeks to make full use of Camden's capacity for housing, including by minimising the net loss of existing homes, and by regarding housing as the priority land-use.

5.23. At the more detailed policy level within Camden Development Policies ('DP') (2010) Policy DP2 *Making full use of Camden's capacity for housing* sets out



how the Council will optimise the capacity for housing including by expecting the maximum appropriate contribution to supply of housing on sites that are underused or vacant, and resisting alternative development of sites suitable for housing.

5.24. The Site is currently in residential use and hosts a building that provides a single dwelling house with two bedrooms. The Site therefore falls within the category of *Previously developed land* as defined in *Annex 2: Glossary* of the NPPF.

5.25. The surrounding area is predominantly residential in use and character, and therefore it is considered that continued residential use of the site as proposed is supported and indeed required by the policies noted above. It is also noted that the policy framework requires optimisation of land use and maximisation of housing provision. The proposed development seeks to optimise the use of the Site and the provision of housing accommodation, within the broader framework of policy considerations relating to sustainable development.

#### B. Quality of the residential accommodation

5.26. NPPF Section 7 *Requiring Good Design* sets out how good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states that developments should 'function well'.

5.27. London Plan policy 3.5 *Quality and function of new housing developments* sets out how the design of new housing should be functional and fit for purpose, taking into account concepts relating to 'arrival' and 'home as a place of retreat'. New homes should meet the *Technical housing standards - nationally described space standard* (2015).

5.28. Camden Policy DP6 *Lifetime homes and wheelchair housing* requires all housing development to meet lifetime homes standards, and 10% of home to either meet wheelchair housing standards or be easily adapted to meet them.

5.29. Camden Planning Guidance 2: *Housing* sets out in section 4 *Residential development standards* how development should provide high quality housing

that provides secure, well-lit accommodation that has well-designed layouts and rooms.

5.30. In terms of amenity space, Policy DP24 Securing high quality design part (h) requires developments to provide appropriate amenity space. The London Plan Housing SPG (2016) sets out a number of housing standards for developments to adhere to which are considered to be the most up to date set of housing standards. In respect to private open space, Standard 26 and Standard 27 are of particular relevance.

5.31. As explored in detail in the *Design and Access Statement (DAS)* by Sergison Bates architects, the proposed dwelling house has been designed to provide the highest standards of living accommodation, with great attention to volumetric character and the nature and experience of the unfolding sequence of internal spaces. Such qualities of internal space are noted and praised in a number of the expert Peer Review responses, provided in the Appendices to the DAS.

5.32. The proposed dwelling will provide 3 bedrooms and a total of 285m<sup>2</sup> floor area. It has been designed to meet lifetime homes standards (see Lifetime Homes plans submitted), and all room sizes and other dimensions of the building meet or exceed the minimum required by the *Technical housing standards - nationally described space standard* (2015).

5.33. The proposed development is therefore considered to represent residential accommodation of a very high standard.

5.34. By way of comparison, it is useful to note that the existing dwelling provides a layout and circulation that suffers from basic flaws. The stair, located central to the plan, is arranged so as to require five steps to be climbed to move between the main living spaces of the house – living room and kitchen. This severely restricts the use of the existing house for any occupants with even mildly limited mobility.

5.35. In terms of amenity space, the proposed dwelling includes a rear garden area of 21m<sup>2</sup> and a further terrace area of approximately 5m<sup>2</sup>, comfortably exceeding the London Plan Housing SPG (2016) 9m<sup>2</sup> requirement for new dwellings providing up to 6 occupants.

### C. Heritage and townscape: principle of demolition and the benefits of the proposed development

#### *Policy*

5.36. As noted above, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act requires that decision makers, in exercising their planning functions in relation to buildings or land in a conservation area (CA), pay ‘*special attention ... to the desirability of preserving or enhancing the character or appearance of that area*’.

5.37. Notably, the courts held in the *South Lakeland* decision that the test of preservation can be satisfied by development which does not cause harm to a conservation area, thus leaving character and appearance preserved. Therefore the statutory threshold of acceptability of a proposed development is that it must not cause harm to the character and appearance of the CA.

5.38. The NPPF at Section 12 *Conserving and enhancing the historic environment* sets out how heritage assets should be conserved in a manner appropriate to their significance, and that local planning authorities should take account the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 17 of the NPPF confirms that conserving heritage assets in a manner appropriate to their significance is a ‘Core planning principle’.

5.39. The definition of *Heritage Asset* provided in Annex 2 of the NPPF is:

*‘A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).’*

5.40. The NPPG provides further guidance on the matter under the heading *What are non-designated heritage assets and how important are they?* (para ref ID: 18a-039-20140306). It sets out how a substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets, and only a minority have enough interest for their significance to be a material consideration in the planning process.

- 5.41. The approach set out in NPPF Section 12 is that applicants should describe the significance of any heritage assets engaged (para 128), local planning authorities should identify and assess the particular significance of any heritage asset that may be affected (para 129), a series of particular considerations should be taken account of (para 131), and that great weight should be given to the asset's conservation (para 132).
- 5.42. In relation to *designated* heritage assets a distinction is then made between '*substantial harm to or total loss*' of an asset and '*less than substantial harm*'. Para 134 states that where development would result in less than substantial harm, the harm should be weighed against the public benefits of the proposal. The NPPG provides further guidance upon what public benefits might result from a development proposal (see para 5.69 below).
- 5.43. In relation to non-designated heritage assets, NPPF para 135 sets out how '*a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset*'.
- 5.44. NPPF para 138 clarifies that loss of a building which makes a positive contribution to the significance of the CA should be treated as substantial harm or less than substantial harm as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the CA as a whole.
- 5.45. Adopted development plan policy at the Borough level in the Camden Core Strategy (2010) and Development Policies (2010) pre-dates the NPPF. Policy CS14 *Promoting high quality places and conserving our heritage* requires that Camden's rich heritage assets and their settings are preserved and enhanced, and also requires development of the highest standard of design that respects local context and character.
- 5.46. Policy DP24 *Securing high quality design* sets out how the Council will require all developments to be of the highest standard of design and take account of a series of considerations including: character and setting, form and scale, materials, provision of visually interesting frontages at street level, and appropriate landscaping including boundary treatments.

5.47. Policy DP25 *Conserving Camden's heritage* seeks to maintain the character of Camden's conservation areas. It sets out that to do so the Council will:

- take account of conservation area statements...;
- only permit development within conservation area that preserves and enhances the character and appearance of the area;
- prevent the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area where this harms the character or appearance of the conservation area, unless exceptional circumstances are shown that outweigh the case for retention;

5.48. The supporting text to DP25 sets out, in the context of total demolition, that *'Any replacement building should enhance the conservation area to an appreciably greater extent than the existing building'*.

5.49. Pre-dating the NPPF, it is notable that DP25 weighs any harm to the CA against *'exceptional circumstances'* as opposed to the public benefits test of NPPF para 134.

5.50. The Submission Draft Local Plan Policy D2 *Heritage* states that the Council will:

- not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm;
- require that development within conservation areas preserves or, where possible, enhances the character or appearance of a conservation area;
- resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area, unless circumstances are shown that outweigh the case for retention (para 7.48)

### *Assessment*

5.51. The key statutory and policy consideration is the designated heritage asset, which is the CA. It is also necessary to consider whether the existing building at 15 Lyndhurst Terrace is a non-designated heritage asset (NDHA).

5.52. A *Heritage Assessment* prepared by Peter Stewart Consultancy (PSC) is submitted in support of the application, and provides a full assessment of the significance of the heritage assets engaged and an assessment of the impact of the proposed development upon that significance. The following summary draws upon the findings of that *Heritage Assessment*.

The existing building

5.53. Taking the existing building and whether it is a NDHA first, it has been suggested in the past by one objector that the existing building on the Site was designed by the architect Ted Levy. No evidence to support this claim has been found by PSC in their extensive research. The *Heritage Assessment* finds the building to:

- Lack a cohesive appearance and form
- Be muddled in design, with many details unresolved and crudely executed
- Have the appearance of an unsophisticated self-build project or a building that has been extended in successive phases over time
- Lack street presence
- Be of very limited architectural interest, lacking the rigour and sophistication of the other post-war infill buildings in the local area (such as those illustrated in the DAS)

5.54. In the context of NPPG guidance set out above (para ref ID: 18a-039-20140306) these findings are considered to fall within the 'little or no heritage significance' category and thus the existing building does not constitute a non-designated heritage asset.

5.55. Were those findings to not be agreed by a decision maker, the alternative assessment could only reasonably be that the existing building had a low degree of heritage significance that would just exceed the threshold to be considered a NDHA. As set out in the *Heritage Assessment*, even if the building were demonstrated to be the work of Ted Levy it would be a poor example of his work, and of his better examples of work none are on the statutory list, and only two are locally listed in Camden (one of which has been granted permission for redevelopment at appeal).

5.56. In that scenario, the NPPF paragraph 135 would be engaged, requiring a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset to be applied. As set out in the *Heritage Assessment* and further evidenced in the Peer Review responses provided in the *Design and Access Statement* (Appendix) the proposed development will provide a dwelling of high architectural quality, and will deliver townscape benefits which will enhance the character, appearance and significance of the CA. These qualities and benefits are considered to exceed any minor harm that could be attributed to loss were the building considered to be a NDHA.

#### The Fitzjohns Netherall Conservation Area (CA)

5.57. As set out in paragraph 3.13 above we consider the correct application of NPPF paragraph 134 to engage a single assessment of the impact of 'a development proposal' in its entirety – demolition of existing and construction of a new dwelling in this case. The recent appeal in LBC referenced in paragraph 3.13 above confirms this to be the correct approach.

5.58. In terms of the designated heritage asset, the *Heritage Assessment* describes the significance of the CA at Section 4, noting '*large houses generally conform to a common layout pattern, are of a similar scale and massing and share a broad palette of materials. This brings an overall cohesion to the townscape which has a distinctive grain and richness derived from the varied detailed design of houses*'. It goes on to note a number of post-war infill developments, redevelopments and extensions, which vary in quality, are isolated and scattered around the area and consequently the dominant townscape character of large houses remains, including upon Lyndhurst Terrace.

5.59. Moving on to examine the contribution of the existing building at the Site, the *Heritage Assessment* finds that it:

- Does not confirm to the prevailing character and appearance of residential architecture in the conservation area, or along the street
- Does not reflect the more ordered and accomplished elevation design of the larger houses along the street, nor their materiality
- Is of limited architectural interest in its own right

- 5.60. The Heritage Assessment also appraises the proposals against the criteria of the Historic England guidance document *Conservation Area Designation, Appraisal and Management* (2016) which sets out a number of questions to assess the value of an unlisted building to the significance of a conservation area.
- 5.61. The *Heritage Assessment* concludes that the existing building at the Site makes at best a neutral contribution to the significance of the CA. It notes that the Council's positive assessment of the existing building at the Site relative to nos 11 and 9 (in the Council's adopted Conservation Area Statement, 2001) appears to be heavily influenced by how visible those buildings are in the local street scene, as opposed to their detailed design and architectural quality<sup>1</sup>.
- 5.62. It follows that the demolition of the existing building at the Site is not considered to cause harm (of any degree) to the significance of the CA (the designated asset), subject to the replacement building proposed being of equal (neutral) or greater contribution – an outcome that would leave the CA unharmed.
- 5.63. Regarding the design of the proposed replacement dwelling, the *Heritage Assessment* finds that it is based upon a thorough understanding of character and context of the site and the significance of the CA, has a distinctive residential character, and will provide a valuable addition to the rich tradition of 'one off' architect designed homes in the area. It offers architecture of a high quality, and will remain subservient to the neighbouring grand villas as a result of its size and restrained façade design. The 'fold' in the street elevation will help define the northern end of the dead-end street, enhancing the townscape. The requirements of policy DP24 *Securing high quality design* are all fully satisfied, as the design proposed is responsive to context and character in scale, form, massing and appearance, provides visual interest, and includes

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<sup>1</sup> It is not uncommon for officers at application stage to take a different view upon the contribution of a building to the character and appearance of a conservation area to that set out in an adopted Conservation Area Statement. This is because further detailed evidence and appraisal of an individual building can be examined carefully when focusing in upon that building, beyond that which is feasible when assessing a whole Conservation Area. There are many examples in LB Camden where buildings identified as *positive contributors* in an adopted CAS have then at application stage been considered by officers to be *neutral contributors* include, such as redevelopment of 18 Redington Road, NW3 7RG – 2010/5099/P



provisions of appropriate hard and soft landscaping including boundary treatments. Overall, the proposed building will enhance the significance of the CA.

5.64. The quality of the architecture and its contribution to the CA is further evidenced in the Peer Review responses received from a range of recognised experts (see Appendix of DAS).

5.65. The policy DP25 requirements are fully met as the development will preserve and enhance the character and appearance of the area; the existing building does not make a positive contribution to the CA and there is no harm arising from its demolition and replacement with the proposed building; there will be no harm to trees or garden spaces which contribute to the CA, indeed, both will be the subject of enhancement.

5.66. The requirements of *draft* policy D2 would also be fully met as the existing building does not make a positive contribution to the CA and there is no harm arising from its demolition and replacement with the proposed building. The proposed development will preserve and enhance the character and appearance of the CA.

5.67. In summary on the impact upon the CA there is no harm identified from the loss of the existing building (subject to an equal or greater contributing replacement), and the replacement of a neutral building with one of high architectural merit that will enhance the local streetscape will positively enhance the significance of the CA. Paragraph 134 of the NPPF is therefore not engaged.

5.68. The proposals therefore meet the statutory duty under section 71(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and fulfil the NPPF core planning principle (para 17) of conserving heritage assets in a manner appropriate to their significance. The further NPPF requirements for new development to make a positive contribution to local character and distinctiveness (para 126), and to ensure the conservation of the designated heritage asset (to which great weight should be given (para 132)), are met. Development Plan policies CS14, DP24 and DP25 are fully complied with, and their objectives of securing high quality design and enhancement to significance of conservation areas are secured by the proposed development.

*The Council's position and why it is not agreed*

5.69. In determining a previous application at the Site and in subsequent pre-application engagement (2016/4281/PRE, 7<sup>th</sup> November 2016) the Council have disagreed with this approach and assessment, the sequence of their argument being – the existing building contributes positively to the CA; demolition of it would cause harm to significance of the CA; there are no public benefits associated with the proposal.

5.70. As set out above, it is our case that NPPF para 134 is not engaged as the 'development proposal' – being demolition of the existing and the replacement with the proposed building – does not result in any *net or resultant* harm to significance of the designated heritage asset, the CA.

5.71. The Council's stance implies a different two stage approach, where any perceived harm from demolition of the existing building is taken straight to the para 134 test (without any consideration of the impact of the proposed replacement building) to be weighed against public benefits of the proposal.

5.72. If the Council's approach were to be applied then, notwithstanding the clear findings of the *Heritage Assessment* by PSC, even if the existing building was considered to provide a positive contribution to the CA, any reasonable and proper assessment against the identified character and appearance of the CA could only conclude that any positive contribution from the existing building would be very minor in terms of relative significance to the wider CA. Therefore its loss (when considered in isolation) would fall squarely within the less than substantial harm category, engaging NPPF 134.

5.73. The NPPF at para 138 makes it clear that it is the '*relative significance of the element affected and its contribution to the significance of the Conservation Area ... as a whole*' that is to be considered. Again, the relative significance of the building could only be considered very low at best, and being largely alien in form and design to its surroundings, and 'tucked away', its contribution to the CA minimal. Any such perceived or claimed harm to the significance of the CA would therefore be very limited.

5.74. On the Council's approach it would then be necessary to weigh this limited degree of harm against any public benefits that the proposals would deliver.

- 5.75. In the pre-application response the Council asserts that there would be no public benefits associated with the proposed development, as there would be no net gain in dwellings. At the pre-application meeting on the 4th October 2016, officers suggested that provision of a replacement dwelling that made an enhanced or more positive contribution to the character and appearance of the conservation area could not be considered a public benefit.
- 5.76. The concept of a public benefit in the context of NPPF heritage policy and specifically paras 133 and 134 is explained in some detail in NPPG at para reference ID: 18a-020-20140306 under the heading *What is meant by the term public benefits?* That guidance clearly identifies that public benefits ‘could be anything that delivers economic, social or environmental progress’ and specifically that ‘Public benefits may include heritage benefits, such as ... sustaining or enhancing the significance of a heritage asset...’.
- 5.77. Our case, as evidenced above, is that the proposed replacement dwelling is of high architectural merit and responsive to context, and would provide an enhancement to the CA. That positive contribution to the CA would be greater than that the Council attribute to the existing building, and therefore the significance of the designated heritage asset would be enhanced. That is a clear public benefit in NPPF and NPPG terms.
- 5.78. Further, whilst achieving such heritage benefits, other sustainable development objectives would be achieved by the development including making more efficient use of land and delivering a larger dwelling, replacing a low energy efficient building with a highly energy efficient building and thus reducing future carbon emissions, increasing rainwater retention on site to reduce flood risk elsewhere, and increasing planted areas to enhance biodiversity. These all deliver economic, social and environmental progress, and whilst secondary to the primary heritage benefits, are nonetheless valid public benefits.
- 5.79. We therefore consider, even on the Council’s approach, that were the para 134 test to be engaged, the heritage and other public benefits associated with proposal would demonstrably outweigh any limited harm to the significance of the CA.

#### D. Basement development matters

5.80. Development Policy DP27 *Basements and lightwells* sets out the assessment information the Council will require in such cases, and states that the Council will only permit basement and other underground development that does not cause harm to the built and natural environment and local amenity and does not result in flooding or ground instability. It requires that proposals demonstrate that they:

- Maintain the structural stability of the building and neighbouring properties;
- Avoid adversely affecting drainage and run-off or causing other damage to the water environment; and
- Avoid cumulative impacts upon structural stability or on the water environment in the local area.

And sets out how the Council will consider whether schemes:

- Harm the amenity of neighbours;
- Lead to the loss of open space or trees of townscape or amenity value;
- Provide satisfactory landscaping, including adequate soil depth;
- Harm the appearance or setting of the property or the established character of the surrounding area; and
- Protect important archaeological remains

5.81. Related to the above, Development Policy DP23 *Water* requires development to reduce their water consumption, the pressure on the combined sewer network and the risk of flooding. Development Policy DP26 *Managing the impact of development on occupiers and neighbours* states that the Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity. The factors pertinent to this section relate to sunlight, daylight and artificial light levels within basements.

5.82. Camden Planning Guidance CPG4 *Basements and Lightwells* sets out guidance for planning and design considerations; assessing basements and Basement Impact Assessments; and Impacts to neighbours from demolition

and construction. CPG2 *Housing* sets out guidance on residential development standards for basements.

5.83. The proposed development includes a single basement level designed to accommodate a guest bedroom with ensuite, library, music room, shower / sauna, storage space and plant / utility room. Two modest lightwells are proposed.

5.84. A *Structural Engineering Report in Support of Basement Impact Assessment* prepared by Heyne Tillett Steel and a *Basement Impact Assessment* prepared by Site Analytical Services Ltd are submitted as part of this planning application, and those reports should be read together and are referred to together as 'the BIA' in the summary assessment below. The reports follow the guidance set out for in CPG4 in terms of assessing impact of basement development.

5.85. The BIA identifies how the structural stability of neighbouring properties will be maintained, including during the construction process, through appropriate temporary works, construction sequencing, and appropriate structural design.

5.86. Flood risk and hydrological matters are assessed fully within the BIA in terms of groundwater flow, slope stability, surface water drainage and flooding, and mitigation methods identified where necessary within the scoping and basement impact assessment sections of the report. As the Site is located within flood zone 1 and the site area is under 1 hectare, a full flood risk assessment is not required. No hydrological or slope stability concerns are raised.

5.87. In reviewing the previous BIA for a similar scale and type of basement proposed at the site, Camden's BIA Audit confirmed that the BIA satisfactorily demonstrated that the basement development would be acceptable, with a query remaining outstanding relating to seasonal monitoring of groundwater levels. Further monitoring of groundwater levels has been undertaken and found to be acceptable as set out in the current BIA.

5.88. A proposed drainage and SUDS strategy is set out in section 4 of the *Structural Engineering Report*, and identifies how the landscape design and green roof proposed will result in a significant reduction in impermeable area

upon the site, significantly reducing runoff from the site and contributing to the a reduced risk of surface water flooding beyond the site.

5.89. A draft Construction Management Plan has been prepared to demonstrate how measures will be taken to ensure that no unacceptable impacts upon amenity occur during the construction process.

5.90. In terms of the basement accommodation provided and its qualities, two lightwells are proposed to give natural light and ventilation to the guest bedroom and music room space. In terms of compliance with DP27 (points i – k) and further guidance set out in CPG4 upon lightwells:

- The lightwells are located to the rear and side of the proposed dwelling, and are an integral element of the architectural design of the dwelling
- Due to their small size and discreet location will have no impact upon the character of the area
- The lightwells do not result in the loss of more than 50% of the front garden or amenity area, as there are no front lightwells

It is also noteworthy that the previous application included larger lightwells, including to the front of the proposed dwelling, and those were not found to be objectionable in the officer report upon that application.

5.91. As the Site is not in an area prone to flooding, there should be no in-principle objection to the inclusion of habitable rooms within the proposed basement.

5.92. In summary, the proposed basement comprises a single level of accommodation, is modest in size and extent, and has been demonstrated through the BIA submitted and the further assessment above to be compliant with adopted development plan policy relating to basements.

5.93. We note that the current emerging replacement Local Plan includes a revised policy, Policy A5 *Basements*, which addresses basement development. Whilst only limited weight can be attributed to that draft policy, we note that the proposed development will comply fully with it (as currently set out in the Local Plan Proposed Main Modifications). The basement development proposed has been demonstrated to not cause harm to neighbouring properties, ground or water conditions, or the character of the

area, and is essentially located within the extent of the footprint of the proposed building.

#### E. Neighbouring amenity

5.94. Development Policy DP26 *Managing the impact of development on occupiers and neighbours* states that permission will only be granted for development that does not cause harm to amenity, and outlines a number of factors to be considered including privacy and overlooking and daylight / sunlight conditions. To assess whether acceptable levels of daylight and sunlight are available, the Council will take into account the standards recommended in the BRE *Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice* (1991).

5.95. The existing dwelling on the Site has an almost entirely glazed rear elevation to the main two-storey element of the building, with a door at first floor level providing access to a rear amenity terrace that looks out directly across the rear lawn of the neighbouring language school building. A low wooden fence separates the two sites. Accordingly there is an established degree of overlooking between the interior of the dwelling at no.15 and its rear amenity terrace, and the grounds of the adjacent language school.

5.96. The proposed dwelling includes a rear terrace at first floor level of a similar size to that existing at the Site. The design of the proposed rear terrace is inset, with built form to either side, restricting views to either side marginally compared to that existing. This is considered to be a minor enhancement.

5.97. Whilst the proposal does increase the amount of development upon the north-west edge of the site, adjacent to no.17-19, due to the position of the proposed building in relation to the windows of that neighbouring dwelling there will be no adverse impact upon daylight / sunlight / outlook, as shown in the section drawings provided when applying the BRE standards referred to in policy DP26.

5.98. Pre-application advice from officers confirmed that the replacement dwelling would not cause undue harm to the amenity of nearby and neighbouring properties by way of visual privacy and overlooking, overshadowing and outlook, sunlight, daylight and artificial light levels, or noise and vibration.

5.99. A query was raised by officers in the pre-application response relating to the relationship between the proposed ground floor living area window and the rear garden of no.13. As set out above, there is an existing glazed rear elevation at no.15 that has an open aspect to the rear garden of no.13. The proposed design includes reduced glazed openings to the rear, together with an increased height of boundary fence. Together these measures are considered to result in an improved relationship between the garden of no.13 and the proposed dwelling at no.15.

5.100. Accordingly the relevant policy contained within CS6 and DP26 is fully satisfied, and where possible enhancements have been secured.

#### F. Arboriculture and landscape

5.101. Camden policy DP24 *Securing high quality design* states that the Council will expect developments to consider existing natural features, such as topography and trees. Policy DP25 *Conserving Camden's heritage* states that in order to maintain the character of Camden's conservation areas, the Council will preserve trees and garden spaces which contribute to the character of a conservation area and which provide a setting for Camden's architectural heritage. Policy DP27 *Basements and lightwells* sets out how in determining proposals for basement and other underground development, the Council will consider whether schemes lead to the loss of open space or trees of townscape or amenity value.

5.102. The officer report for the previously refused scheme raised the following points of discussion which required further consideration:

- *The T1 is situated on the neighbouring property, its alleged poor condition does not by default justify excavating in the RPA of T1 where there could be significant roots. Whilst it is possible the boundary wall has acted as a root barrier to some degree, this has not been confirmed. Trial pits along the proposed line of excavation have not be carried out to ascertain the level of root encroachment of T1 across the property boundary into the application site which would allow the potential impacts of the proposals on T1 to be assessed.*



- *The report submitted in objection categorises T1 as cat. C not cat. U and suggests that there is another tree at no. 17 Lyndhurst Terrace, a Eucryphia, which have not been included in the applicant's arboricultural report. It is considered that the applicant has not fully assessed the impact of the scheme on the trees on neighbouring sites and therefore is considered unacceptable.*

5.103. These were identified as part of reason 6 for refusal which stated:

*'6. The proposed development by virtue of the basement excavation would result in harm to the root protection area of a mature chestnut tree in the front garden of 17 Lyndhurst Terrace which would impact upon the visual amenity and character of the conservation area contrary to policies CS14 (Promoting high quality places and conserving our heritage), CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) 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.*

5.104. A subsequent *Arboricultural Impact Assessment Report* has been prepared by Dr Frank Hope. The report concludes that:

- The Horse Chestnut in the grounds of number 17/19 Lyndhurst Terrace is in terminal decline. The whole of its crown has recently been removed on safety grounds, and there is significant decay and deterioration in the large open wounds at its base and along its trunk.
- Extensive fungal decay is present within the root system of the tree, as confirmed by the Air-Spade investigation (which was attended by LBC Tree Officer Nick Bell). The few roots of the tree which have encroached into the grounds of number 15 Lyndhurst Terrace are almost all dead, and most have been decaying for many years.
- The Chestnut is clearly in terminal decline. It has a British Standard 5837 category rating of "U", not "C" as claimed by the owner of the tree.

- The proposed development will have no adverse influence on the visual amenity, or safe life expectancy of the Horse Chestnut. The tree can be left in situ and be allowed to die and decay naturally.
- In his opinion, it would be unreasonable, and unjustified, to attempt to use the Horse Chestnut to affect the proposed development of number 15 Lyndhurst Terrace.

5.105. As the pre-application response from Camden made no reference to the updated *Arboricultural Impact Assessment Report* (including results of air spade root investigation survey in relation to the Horse Chestnut) a written request was sent to Camden on the 10<sup>th</sup> January 2017 requesting the Tree Officer's comments. A written response was received on the 19<sup>th</sup> January from Kate Henry, Senior Planning Officer, confirming that Nick Bell (Tree Officer) had assessed Dr Frank Hope's revised report and was satisfied with its findings. Accordingly, we consider the proposal to be acceptable in arboricultural impact terms and the relevant development plan policies fully complied with.

5.106. The proposed development includes an enhanced landscape to the front of the Site, with increased planted areas and new tree planting, where currently there is gravel upon which cars are parked. Secure refuse / recycling and cycle storage are discretely located behind the front wall as an integral part of that landscape design. These landscape enhancements will improve the appearance of the site, enhance its contribution to the townscape and wider conservation area, contribute to sustainable drainage, and also offer biodiversity enhancement. The relevant requirements of policies DP24, DP25 and DP27 are therefore met.

## G. Sustainability

5.107. Camden Policies CS13 and DP22 *Promoting sustainable design and construction* requires development to incorporate sustainable design and construction measures. It refers to Code for Sustainable Homes at part (c), but CSH has now been withdrawn following the Government decision to generally remove energy and waste related sustainability considerations from the realm of planning and address those matters through the building regulations. Policy

DP23 *Water* requires new development to reduce water consumption, pressure on the sewer network, and risk of flooding.

5.108. An *Energy Statement* prepared by Medick Waring is submitted as part of this application, and sets out how the proposed dwelling has been designed with consideration to relevant policy and best practice regarding sustainability and carbon emission reduction in particular.

5.109. The Energy Statement confirms that the proposed dwelling will achieve:

- compliance with 2013 Building Regulations through Energy Efficiency and FEE
- a 29.3% C02 reduction compared to the baseline building regulation
- a 20.4% C02 reduction from use of on site renewable energy supply

5.110. It is also demonstrated the proposal will achieve carbon emission reduction of 30% associated with energy use compared to the existing building.

5.111. As noted above in relation to basement development matters, the proposed development will provide a significant increase in permeable surface area on site, and will therefore result in a marked reduction of runoff from the site, reducing pressure on the sewer network and reducing the risk of flooding elsewhere.

#### H. Access and parking / s106

5.112. Camden Development Policy DP17 *Walking, cycling and public transport* states that the Council will promote walking, cycling and public transport use. Development should make suitable provision for pedestrians, cyclists and public transport. Policy DM18 *Parking standards and limiting the availability of car parking* sets out that the Council will seek to ensure that developments provide the minimum necessary car parking provision. Policy DM20 *Movement of goods and materials* seeks to minimise the impact of the movement of goods and materials by road.

- 5.113. The London Plan *Housing* SPG (2016) sets out a number of housing standards for developments to adhere to and are considered to be the most up to date set of housing standards. In regard to transport matters, Standard 17 *Car parking* and Standard 20 *Cycle Storage* (21 if external) are of particular relevance.
- 5.114. The existing dwelling at the site has parking provision for three cars within the front garden area, which is surfaced with blockwork and gravel to allow parking. The site has a PTAL rating of 3, which means that it is relatively well served by public transport.
- 5.115. The proposed development provides a single car parking space within the Site, representing a 67% reduction in car parking from the existing situation. Such a reduction meets the aims and requirements of London Plan policy and DP18, and should be welcomed. Secure and covered cycle parking for two bicycles is proposed within the front garden area as part of a holistic landscape enhancement for that area. This meets the requirements of Camden policies DP17 and DP18 and the London Plan *Housing* SPG.
- 5.116. A Construction Management Plan (using the Council's template) has been prepared and is submitted as part of the application, and sets out the various methods and measures that will be followed in order to minimise disturbance to neighbouring residents and the broader area during the course of construction. The Council indicated in their pre-application response that a financial contribution towards making good any damage (caused through the course of construction) to the public highway adjacent to the site would likely be requested and secured through a s106 legal agreement, and this is acceptable in principle to the applicant.

#### I. Community infrastructure levy

- 5.117. The proposed development will be liable for Community Infrastructure Levy in accordance with the charging schedules in place for the area (Mayoral / Camden CIL).
- 5.118. A CIL information form has been submitted as part of the application and identifies the relevant floorspace figures and confirms that the existing floorspace upon the site qualifies for CIL credit.

## 6. Conclusion

6.1. This application for a replacement dwelling at no.15 Lyndhurst Terrace presents an opportunity to secure a number of tangible and important planning benefits for the Site and surrounding area.

6.2. Peter Stewart Consultancy conclude that the development will replace a house of low architectural merit and neutral contribution to the significance of the conservation area with one of high architectural merit, that will enhance the character and appearance of the CA.

6.3. The proposed new dwelling, designed by award winning practice Sergison Bates architects, has been the subject of a thorough, inclusive and critical design process. As the applicant's request to Camden Council for the proposed design to be assessed by the Council's Design Review Panel was rejected at the pre-application stage, the architects undertook a private Peer Review process, engaging a number of recognised experts in the fields of architecture, townscape, and heritage. Responses to that engagement are included in the DAS and confirm that the development represents the highest standards of architecture and will enhance the conservation area.

6.4. In conclusion upon other relevant planning considerations, the proposed development will also:

- deliver a dwelling that makes efficient use of land whilst providing excellent quality living accommodation;
- secure enhancements to the landscape within the front garden area of the site;
- provide a dwelling of high sustainability and low energy usage;
- secure SUDS approach that will reduce rainwater run-off from the site, reducing the risk of flooding elsewhere;
- not cause any harm to the amenity of neighbours, including through the construction of the basement as evidenced in the BIA; and
- promote sustainable travel choices through the reduction of parking on site from 3 spaces to 1 space

6.5. As set out in this Planning Statement, the proposed development fully complies with the relevant statutory and policy provisions, including those

within the NPPF and the adopted Development Plan for the area. As the proposal is fully compliant with that policy framework and represents sustainable development we therefore request that planning permission be granted to allow the development to proceed.

## **APPENDIX A – Appeal decision APP/X5210/W/16/3150327**

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## Appeal Decision

Hearing held on 15 & 16 November 2016

Site visit made on 16 November 2016

**by D J Board BSc (Hons) MA MRTPI**

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

**Decision date: 09 March 2017**

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**Appeal Ref: APP/X5210/W/16/3150327**  
**22 Frogal Way, Hampstead, London, NW3 6XE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Jez San OBE against the decision of the Council of the London Borough of Camden.
  - The application Ref 2015/3530/P, dated 19 June 2015, was refused by notice dated 18 March 2016.
  - The development proposed is demolition of existing dwelling house at 22 Frogal Way and redevelopment to provide a single detached family dwelling house and all other necessary works.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling house at 22 Frogal Way and redevelopment to provide a single detached family dwelling house and all other necessary works at 22 Frogal Way, Hampstead, London, NW3 6XE in accordance with the terms of the application, Ref 2015/3530/P, dated 19 June 2015, subject to the conditions in Annex A.

### Main Issue

2. The Council confirmed at the hearing that subject to the legal agreement being in place it would not be defending reasons 2 and 3 on the decision notice. I have been provided with an executed planning agreement made under section 106 of the Town and Country Planning Act 1990. This contains obligations relating to provision of a construction management plan and detailed basement construction plan. Accordingly the main issue is:
  - Whether the proposed development would preserve or enhance the character or appearance of the Hampstead Conservation Area (HCA), taking into account the effect of the loss of No 22 Frogal Way, a non designated heritage asset.

### Reasons

3. The definition of heritage assets, as set out in the National Planning Policy Framework (the Framework), includes buildings, sites and places as having a degree of significance meriting consideration in planning decisions, because of their heritage interest. Heritage assets include designated heritage assets and non-designated heritage assets (NDHA) identified by the local planning authority. The Planning Practice Guidance (PPG) sets out that local authorities
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- may identify non-designated heritage assets. Local lists are given as one useful way of identifying these assets but it is clear that not being on a list would not preclude a building from being considered. Such assets have a degree of significance due to their heritage interest that merits consideration in the planning process.
4. There is no dispute that the building was built by Camden based architect Philip Pank for client Harold C. Cooper and that it represents an individual bespoke design. However, the resultant significance of No 22 is a key point of dispute with there being a wide difference of opinion between the main parties. In this case for the development to go ahead the building would have to be removed and would be lost. Therefore consideration of the scale of harm from its loss is required, having regard to its significance. There are a number of areas that contribute to the consideration of the significance of the building which I consider in turn.
  5. The Council have not placed the building on a local list of buildings of special or architectural and historic interest in the borough. English Heritage considered a request to have the building listed. Their conclusion was that it did not merit inclusion on the statutory list of buildings of special architectural and historical interest. The report does identify the local importance of the building.
  6. The dwelling was extended in the 1980s to provide additional accommodation. It is constructed from brick with stained wood and has flat roof forms and a central rotunda. It was pointed out at the hearing that, due to the connection to other buildings within the borough Pank cannot be dismissed as a mediocre architect. However, the English Heritage report highlights that many of his commissions were for private houses, the majority of which were in the London Borough of Camden. It identifies the most striking feature of No 22 as being its plan form, that is the rotunda and the three ranges or 'fingers' that radiate from it.
  7. It goes on to identify that unlike another building designed by Pank within the Borough No 22 does not display the same level of originality in the interior design, the building has been altered inside and out and that the interplay of natural materials and setting is not as fully developed at No 22 as in other Pank designs. I appreciate that these comments were made in response to the request for inclusion on the statutory list. Nevertheless, these observations contribute to understanding the significance of the building.
  8. It was established through a more recent appeal<sup>1</sup> that planning permission 2009/3168/P has been implemented. This was on the basis of material operations that had been carried out to the building albeit that work then ceased. This appeal decision also refers to the condition of the building. In particular that there is no evidence that the former owner's intention to run the building into a state of irretrievable disrepair. Planning permission was also granted<sup>2</sup> for '*...replacement of existing external brickwork of existing residential dwelling with custom manufactured bricks...*'
  9. At the hearing two 'baseline' positions were considered regarding the significance of the building. The first being that the building could be restored through implementation of the 2009 consent and a brick replacement. The

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<sup>1</sup> APP/X/5210/C/15/3136490

<sup>2</sup> LPA Ref 2011/0924/P

second is restoration by works that would not require planning permission. In either case the building could be brought back into use as a dwelling without being demolished. I appreciate that if this were the case the building would retain the layout of a rotunda with fingers. Nevertheless, cumulatively the permitted alterations and a further application for the brick would markedly change the building from the original design. Fundamentally, it is clear that over time the building has been extended and altered and could lawfully be further altered.

10. I appreciate that the building is of some architectural interest. Nevertheless No 22 is a low rise building that is mainly glimpsed within the street scene. As such it cannot reasonably be described as a 'landmark' building or having a significant impact in the immediate area. Overall, based on the evidence in this case, the significance of the building, whilst of some limited local heritage interest, does not weigh significantly in favour of retention.
11. Paragraph 135 of the Framework requires a balanced judgement which seeks in weighing applications that affect directly non designated heritage assets assessing the scale of any harm or loss and having regard to the significance of the heritage asset. The proposal result in the total loss of the building. The design of the replacement building would be acceptable and promote and reinforce local distinctiveness. Therefore, considering the reasons given above, there would not be an adverse impact from the total loss of the NDHA. I have taken this in account and with this in mind I consider the issue of the site location within the HCA.
12. The statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 sets out that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the conservation area.
13. In relation to the appeal scheme the HCA is a designated heritage asset and the appeal property is a non-designated heritage asset. The *Conservation Area Statement for Hampstead* (CAS) refers to Froggnal Way in 'Sub Area Five: Froggnal'. It is described as wide un adopted and relaxed road that has a variety of architecture. Therefore the significance of the HCA in this location is derived primarily from the contribution of the architectural contributions of the individual dwellings within Froggnal Way. The Framework states that when considering the impact of a proposal on the significance of a designated heritage asset great weight should be given to the asset's conservation.
14. At the Hearing a number of local residents raised the appearance of the site. They consider that demolition of the building and its replacement would remove important public views of a building with a design solution employed to keep it low level. However, No 22 is described with the CAS as being a 'neutral building'. The existing building is not prominent within long vistas along Froggnal Way. It comes into view when approaching on foot. The rotunda is glimpsed from the Froggnal Way and within the nearby churchyard. I have been referred to a number of previous decisions for the site. A scheme to demolish the existing property and replace it with two new dwellings and the associated conservation area consent<sup>3</sup>. Whilst the policy framework has changed since this decision it considered whether the building makes a positive contribution to the HCA. At that point the Inspector considered that the alterations did not

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<sup>3</sup> APP/X5210/A/08/2069663; APP/X5210/E/08/

seriously erode the form and depth of the house and that No 22 *'...As a commissioned house it continues and adds to the theme of individual house in Froggnal Way, which define its character'*. Nevertheless careful consideration is required of whether the removal of the existing building at this point and its replacement would preserve or enhance the contribution of the site to the character of the HCA in this area which is derived from the contribution of the individual detached dwellings.

15. The new dwelling proposed would also be a single detached property. It would be a low profile, accessible home. The design approach would respond to the site constraints. It would create a building that would read as single storey from ground level and be a high quality one off house. The appellant submits that it would be constructed to a high standard and have high sustainability credentials. The scale, massing and detailed design of the new dwelling would be appropriate within the context of its conservation area setting.
16. The existing building would be lost entirely. Whilst it is a large dwelling in the HCA in its own right I have identified in consideration of it as a NDHA that its positive contribution is limited. In this regard the net effect of the provision of the new dwelling and thereby its removal would at worst be neutral as what is special about the HCA would not be harmed. In this regard should it be constructed the appeal scheme would reflect the character of the HCA and preserve the part of the HCA it would be located in.
17. Therefore the scheme would not be in conflict with policy CS14 of the London Borough of Camden Local Development Framework and policy DP25 of the London Borough of Camden Local Development Framework Development Policies which amongst other things seek to preserve and enhance Camden's rich and diverse heritage assets, including conservation areas and paragraph 17 indicates that planning should conserve heritage assets in a manner appropriate to their significance.

#### *Other matters*

18. I have carefully considered the representations made by interested parties at the hearing. In particular, third parties raised the matter of 'deliberate neglect or damage' as set out in paragraph 130 of the Framework. Based on the information before me there is no doubt that the condition of the building has changed since the Inspector considered the site in 2008. However, as my colleague found in the most recent appeal there is no evidence that the current condition of the building is due to 'deliberate neglect or damage' but rather the cessation of the works that commenced to implement the 2009 consent<sup>4</sup>. I appreciate that residents are concerned that to allow the building to be removed could be seen as a precedent. However, my decision is based on the evidence put to me in this case and would not prevent the Council resisting future proposals on other sites.

#### **Conditions**

19. The Council has suggested a number of conditions which it considers would be appropriate were I minded to allow the appeal. The appellant has commented on these and they were discussed at the hearing. I have considered these in

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<sup>4</sup> 2009/3168/P

light of the Framework and PPG and for clarity some of the proposed wording is amended.

20. Conditions are necessary that relate to the standard time limits and requiring development to be carried out in accordance with the approved plans. In the interests of the character and appearance of the area conditions are necessary that require the submission of the detail of the green roof, a detailed landscaping scheme and relevant tree protection measures.
21. The appellants suggested a personal permission at the hearing. However, the PPG is clear that such an approach would rarely be justified as planning permission runs with the land. I have not heard anything that would suggest such a condition would be necessary or reasonable in this case.

### **Conclusion**

22. For the above reasons and having regard to all other matters raised I conclude that the appeal should be allowed.

*D J Board*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Jez San OBE	Appellant
Natasha San	Appellant
Rupert Warren QC	Instructed by Brechers LLP
Anjana Guosh	Brecher LLP
Wesley Fongenie	Brecher LLP
Matthew Gibb	DP9
Ignus Froneman	Heritage Collective
Richard Soloman	KSR Architects
Guy Ailion	KSR Architects
Matthew Penfold	GEA
Steve Branch BSc MSc CGeol	GEA
FGS	Price Myers
Paul Batty	

### FOR THE LOCAL PLANNING AUTHORITY:

Mark Beard	Six Pump Court
Catherine Bond BA Hons, MTP, Grad DipCons AA IHBC	London Borough of Camden
John Sheehy	London Borough of Camden
Pritej Mistry	London Borough of Camden

### INTERESTED PERSONS:

Richard Harwood QC	39 Essex Chambers
Ashleigh Murray	Donald Insall Associates
Robert Gowing	Berwin Leighton Paisner
Emily Pittaway	Berwin Leighton Paisner
Alec Forshaw MRTPI IHBC	Church Row Residents Association
Douglas Maxwell	Local resident
Lewis Cadji	Local resident
Monique Cadji	Local resident
Mabel Lee	Local resident
Ben Sherman	Local resident
Nicola Lacey	Local resident
David Soskice	Local resident
Helen Sherman	Local resident
David Margulies	Local resident
Emanuel Monday	Local resident
Martin Horradine	Local resident
Ashley Bailey	Local resident
Dr Jenny Stratford	Local resident
Mr Felber	Local resident
Neil Stratford	Local resident
David Milne	Local resident
Hutch Nathanson	Local resident
David Bearman	Local resident
Martin Woollacott	Local resident

Sam Sanson	Local resident
James Sanson	Local resident
Michael Hockley	Local resident
Anthony Todd	Local resident
Antonia Aaron	Local resident
Anat Shafran	Local resident
Jeremy Karpel	Local resident
Bruce Denny	Local resident
Tim Cohen	Local resident
Richard Jankel	Local resident
Neil Norris	Local resident
Paivi Bjorklund	Local resident
Dr Christopher Williams	Local resident
Bryan Edery	Local resident
Amoreena Campbell	Local resident
Katrina Lamont	London Borough of Camden
Gilpa Beechook	London Borough of Camden

### **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Letter from Andrew Lavery
- 2 Comprehensive list of suggested conditions
- 3 Statement of Common Ground dated November 2016
- 4 English Heritage Advice Report
- 5 Email dated 11 March 2016 from Neil McDonald, London Borough of Camden
- 6 Photographs from Mr Lacey
- 7 Example of Bauder Rood Garden System from KSR Architects
- 8 Closing submission on behalf of the Church Row Residents Association
- 9 Closing submission by Mr Harwood QC on behalf of Mr and Mrs Nathanson
- 10 Closing submission by Mr Beard on behalf of the Council
- 11 Closing submission by Mr Warren QC on behalf of the appellant

### **DOCUMENTS SUBMITTED AFTER THE HEARING CLOSED**

- 1 Certified copy of the planning obligation dated 30 November 2016

## **Annex A – Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: KSR Architects Design and Access Statement (dated June 2015), Skelly and Couch Energy and Sustainability Report (dated June 2015), Heritage Collective Archaeological Desk Based Study (dated June 2015), Heritage Collective Heritage Statement (dated June 2015), Motion Draft CMP, Deloitte Daylight and Sunlight Report (dated June 2015), DP9 Planning Statement (dated June 2015), Motion Transport Statement (dated June 2015) and Price and Myers Basement Impact Assessment and Construction Method Statement (dated April 2015), Arboricultural Impact Assessment (dated June 2015).
- 3) No development shall take place (except for demolition of the existing building) until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the local planning authority in writing. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.
- 4) All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 5) All work shall be carried out in accordance with the relevant recommendations of British Standard 3998: 2010. (Recommendation for Tree Work)
- 6) Details of the design of building foundations and the layout, with dimensions and levels, of service trenches and other excavations on site in so far as these items may affect trees on or adjoining the site, shall be submitted to and approved in writing by the local planning authority before any works on site are commenced. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.
- 7) Prior to the first occupation of the building a plan showing details of the green roof including species, planting density, substrate and a section at scale 1:20 showing that adequate

depth is available in terms of the construction and long term viability of the green roof, and a programme for a scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.