



APPEAL BY:

Mr Malik Mohammad Ramzan

AGAINST THE LONDON BOROUGH OF CAMDEN'S REFUSAL  
TO GRANT PLANNING PERMISSION FOR:

*Replacement of all existing metal, timber and uPVC sash and casement windows and  
timber patio doors with uPVC sash and casement windows and patio doors  
(retrospective)*

AT

7 Lyncroft Gardens, London, NW6 1LB

London Borough of Camden Council's Reference: 2017/1274/P

WRITTEN REPRESENTATIONS: GROUNDS OF APPEAL

December 2017

**RJS PLANNING**

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## 1.0 INTRODUCTION

- 1.1 This statement has been prepared by RJS Planning, on behalf of Mr Malik Mohammad Ramzan, in support of the appeal lodged against the refusal of planning application 2017/1274/P.
- 1.2 The application was registered by the council on 10<sup>th</sup> April 2017 and sought retrospective planning permission for the replacement of all existing metal, timber and uPVC sash and casement windows and timber patio doors with uPVC sash and casement windows and patio doors at No. 7 Lyncroft Gardens, in West End Green, London. The application was refused under delegated authority on 23<sup>rd</sup> October 2017 for the following reason:
1. *The replacement windows and patio doors, by reason of their inappropriate uPVC materials and detailed design, are detrimental to the appearance of the host building and the character and appearance of the West End Green Conservation Area. This is contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017, and Policies 2 (Design & Character) and 3 (Safeguarding and enhancing Conservation Areas and Heritage Assets) of the Fortune Green & West Hampstead Neighbourhood Plan 2015.*
- 1.3 This grounds of appeal will address the central concerns raised within the council's reason for refusal, notably:
- Whether the replacement windows and patio doors, by reason of their inappropriate uPVC materials and detailed design, are detrimental to the appearance of the host building and the character and appearance of the West End Green Conservation Area.
- 1.4 To set some context, this statement will first provide a description of both the appeal site and the proposed development. This statement will then discuss the relevant national and local planning policy before responding to the Council's concerns.

## 2.0 PLANNING HISTORY

- 2.1 **Planning Application Reference 2015/3571/P** – *Conversion of 1x studio flat and 7x bedsits into a single family dwelling*  
**Refused 28<sup>th</sup> October 2015**
- 2.2 **Planning Application Reference 2016/3435/P** – *Erection of single rear extension and internal alterations*  
**Granted 15<sup>th</sup> August 2016**
- 2.3 **Planning Application Reference 2016/5872/P** – *To replace the existing metal, timber and UPVC windows (sash and casement) with UPVC sash windows*  
**Refused 22<sup>nd</sup> February 2017**

### RJS PLANNING

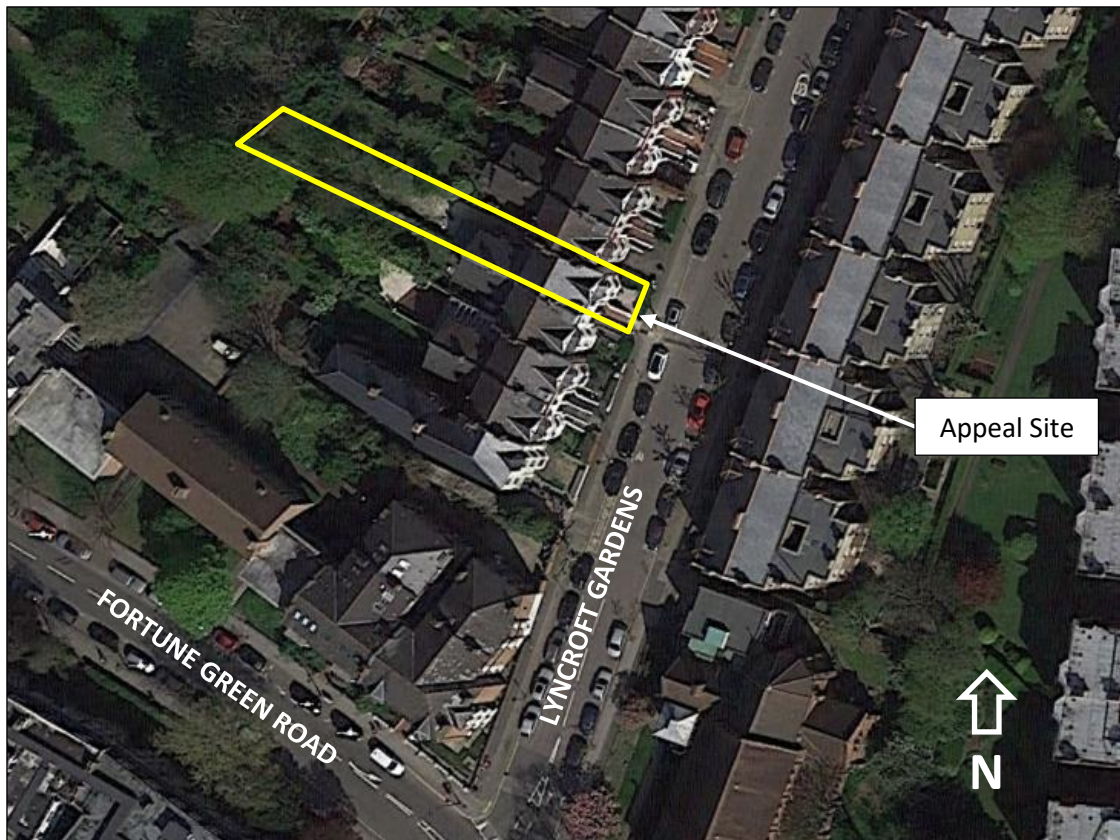
### 3.0 THE SITE

3.1 The appeal property is a three storey mid terrace property located on the northwest side of Lyncroft Gardens. The property is occupied as a House in Multiple Occupation and has a single storey extension to the rear. The property is set back from the highway behind a small front garden and is reached via steps up to the front entrance. To the rear there is an enclosed garden.



**Appeal Property - No. 7 Lyncroft Gardens**

3.2 The appeal property is set amongst similar style dwellings upon Lyncroft Gardens within the West End Green Conservation Area and has been identified as a positive contributor but is not listed.



**Appeal Site & Surrounding Area**

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#### **4.0 THE PROPOSED DEVELOPMENT**

- 4.1 The appeal proposal sought retrospective planning permission for the replacement of all existing metal, timber and uPVC sash and casement windows and timber patio doors with uPVC sash and casement windows and patio doors at No. 7 Lyncroft Gardens, in West End Green, London.
- 4.2 The uPVC window units have replaced the pre-existing mixture of metal, timber and uPVC units that were unsightly, mismatched and in a poor state of repair, and have been fitted to the front and rear of the property to enhance the appearance of the building and to improve the habitable accommodation for current and future tenants to enjoy.

#### **5.0 RELEVANT PLANNING POLICY**

- 5.1 The reason for refusal refers to Policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017, and Policies 2 (Design & Character) and 3 (Safeguarding and enhancing Conservation Areas and Heritage Assets) of the Fortune Green & West Hampstead Neighbourhood Plan 2015.
- 5.2 Although it is not referred to within the reason for refusal, the National Planning Policy Framework is also considered to be of relevance to this appeal. The following paragraphs provide a brief summary of the relevant policies. The paragraphs are in a hierarchical order relative to the importance of national and local planning policy.

##### **National Planning Policy Framework (NPPF)**

- 5.3 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The following sections and paragraphs make reference to the parts of the NPPF which are directly relevant to this appeal.

##### **Presumption in Favour of Sustainable Development**

- 5.4 Paragraph 14 of the NPPF sets out that a presumption in favour of sustainable development is at the heart of the National Planning Policy Framework with paragraph 187 stating that local planning authorities should approach decision making in a positive way and should look for solutions rather than problems. The NPPF also advises that decision takers at every level should seek to approve applications for sustainable development where possible.
- 5.5 For decision making this means:
- Approving development proposals that accord with the development plan without delay;
  - Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

#### Core Planning Principles

5.6 Paragraph 17 of the NPPF sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The second, fourth and tenth bullet points state that planning should:

- *“Not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives”.*
- *“Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.*
- *“Conserve heritage assets in a manner **appropriate to their significance**, so that they can be enjoyed for their contribution to the quality of life of this and future generations.”*

#### Requiring good design

5.7 Section 7 of the NPPF refers to design, with paragraph 56 describing how the Government attaches great importance to the design of the built environment, stating that *“ Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”*

5.8 Paragraph 57 notes that *“It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes”*, with Paragraph 58 stating that planning policies and decisions should aim to ensure that developments:

- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;*
- *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;*
- *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;*



- *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and*
- *are visually attractive as a result of good architecture and appropriate landscaping.*

5.9 Paragraph 59 suggests that design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally; with paragraph 60 stating that:

*“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles”.*

#### Conserving and enhancing the historic environment

- 5.10 Section 12 of the NPPF refers to the conservation and enhancement of the historic environment. Paragraph 131 sets out that that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, to the positive contribution that the conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness.
- 5.11 Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset that great weight should be given to the asset’s conservation. Paragraph 133 states that local planning authorities should refuse consent if a proposed development would lead to substantial harm to the significance of a designated heritage asset (including a Conservation Area).
- 5.12 The NPPF does not define “*substantial harm*” but it is widely accepted as including the total loss of a heritage asset, or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. Such an impact can only be justified on the grounds that the harm is necessary to deliver important public benefits that outweigh the value of the heritage asset. In these terms it is absolutely clear that the application proposal will not result in “*substantial harm*” to the Conservation Area. Moreover, it must be pointed out that even the Council do not state within the reason for refusal that the proposal would lead to substantial harm to the historic significance of the Conservation Area.
- 5.13 Paragraph 134 of the NPPF sets out that “*less than substantial harm*” arises from proposals which include physical alterations or development within the setting, which on balance retain the fabric-authenticity and integrity of the heritage asset. The NPPF

advises that such proposals should be “*weighed against the public benefits of the proposal*”. Such benefits include securing a sustainable future for the heritage asset.

#### Decision-taking

- 5.14 Paragraph 196 reiterates that the planning system is “*plan led*” stating that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 196 clarifies that the NPPF is a material consideration in planning decisions. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

#### Camden Local Plan 2017

- 5.15 The Camden Local Plan sets out the council’s planning policies and replaces the Core Strategy and Development Policies planning documents (adopted in 2010). It ensures that Camden continues to have robust, effective and up to-date planning policies that respond to changing circumstances and the borough’s unique characteristics and contribute to delivering the Camden Plan and other local priorities. The Local Plan will cover the period from 2016-2031. Policies D1 (Design) and D2 (Heritage) were referred to within the decision.

#### Policy D1: Design

- 5.16 The council will seek to secure high quality design in development, ensuring amongst other things that it respects local context and character, preserves or enhances the historic environment and heritage assets in accordance with policy D2 Heritage and comprises details and materials that are of high quality and complement the local character.

#### Policy D2: Heritage

- 5.17 The council will preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.

#### Fortune Green & West Hampstead Neighbourhood Plan 2015

- 5.18 This Neighbourhood Development Plan (NDP, the Plan) has been drawn up using the powers in the Localism Act 2011. The Plan was written by the Fortune Green & West Hampstead Neighbourhood Development Forum (NDF, the Forum) which was established in January 2012. The Forum was recognised by Camden Council in May 2013. The Plan has been written to conform with the policies and objectives of the National Planning Policy Framework (NPPF), March 2012. It has been prepared with the aim of contributing to the achievement of sustainable development and is prepared in accordance with the presumption in favour of sustainable development. Policies 2 and 3 are referred to within the reason for refusal.

### Policy 2 (Design & Character)

5.19 All development shall be of a high quality of design, which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead. This shall be achieved by:

- i. Development which positively interfaces with the street and streetscape in which it is located.
- ii. Development which maintains the positive contributions to character of existing buildings and structures.
- iii. Development which is human in scale, in order to maintain and create a positive relationship between buildings and street level activity.
- iv. Development which has regard to the form, function, structure and heritage of its context – including the scale, mass, orientation, pattern and grain of surrounding buildings, streets and spaces.
- v. A presumption in favour of a colour palate which reflects, or is in harmony with, the materials of its context.
- vi. New buildings and extensions that respect and are sensitive to the height of existing buildings in their vicinity and setting. Tall buildings in the Growth Area will need to have regard to their impact on the setting of the two immediately adjacent conservation areas, in order to avoid any negative impact on them.
- vii. Extensions - and infill development - being in character and proportion with its context and setting, including the relationship to any adjoining properties.
- viii. The provision of associated high quality public realm.
- ix. Having regard to the impact on local views across the Area and the streetscapes within the Area (as identified in A11 and Map 2).
- x. Development which aims to fulfil the criteria set out in Building for Life 12.

### Policy 3 (Safeguarding and enhancing Conservation Areas and Heritage Assets)

5.20 Policy 3 states that:

- (i) development that enhances or preserves Conservations Areas and heritage assets in the Area, as well as their distinct character, appearance, and setting will be supported.
- (ii) Proposals which detract from the special character, and/or, architectural and/or historic significance, and setting of Conservation Areas and heritage assets in the Area will not be supported.
- (iii) In West end Lane, development will be expected to deliver improvements to the street environment and public realm of West End Lane, where appropriate. Such improvements shall be of a high standard and shall preserve or enhance the character of the West End Green and South Hampstead Conservation Areas.



## 6.0 THE APPELLANT'S CASE

### Introduction

6.1 The appellant's case will focus on the central concerns of the reason for refusal, notably whether the replacement windows and patio doors, by reason of their inappropriate uPVC materials and detailed design, are detrimental to the appearance of the host building and the character and appearance of the West End Green Conservation Area.

6.2 The main material planning considerations in the determination of this case are:

- Design
- Impact on the conservation area

### Background

6.3 The initial application in regards to the replacement windows was submitted prior to the commencement of the building works in relation to the approved planning application reference 2016/3435/P, for the 'Erection of single rear extension and internal alterations'. This application was to facilitate the renovation of the property and to gain a HMO licence, with the property now containing six self-contained units and two further units with shared facilities.

6.4 However, planning application reference 2016/5872/P, 'To replace the existing metal, timber and UPVC windows (sash and casement) with UPVC sash windows' was refused on 22<sup>nd</sup> February 2017.

6.5 As the appellant had been assured by the builder and his architect that gaining permission for the windows and doors would not be an issue, these works were carried out at the same time as the other property renovations. The appellant was therefore shocked and extremely dismayed when the application was refused.

6.6 When the refusal was received, the works to the property were at an advanced stage of completion, therefore the appellant contacted the Council without delay in order to discuss the situation. The Planning Officers advised the appellant to make a retrospective application to retain the windows and doors, instead of making an appeal, however despite following the Planning Officer's advice, this application was subsequently refused just before the Case Officer left her job, and the appellant now wishes to appeal this decision. Please see the email correspondence within **Appendix A** in which the Council seek to distance themselves from the advice given to the appellant.

### Design

6.7 Policy D1 of the Camden Local Plan seeks to secure high quality design in development, ensuring, amongst other things, that works respect local context and character, preserves or enhances the historic environment and heritage assets, and comprises details and materials that are of high quality and complement the local character.

- 6.8 The Council's reason for refusal states that the replacement windows and patio doors, by reason of their inappropriate uPVC materials and detailed design, are detrimental to the appearance of the host building and the character and appearance of the West End Green Conservation Area.
- 6.9 In response to this assessment, it is pointed out that although the appeal dwelling is located within a Conservation Area it was not contributing positively to the visual amenity of the locality prior to the renovations and improvements made by the appellant.
- 6.10 The pre-existing windows that were visible within the street scene to the front of No. 7 Lyncroft Gardens consisted mainly of unpainted metal-framed sash style units, and were not in a serviceable condition. To the rear of the property there was a mixture of timber framed and metal-framed sash and casement units, and some more modern uPVC fixed windows with horizontally hinged casement elements.
- 6.11 The following images show the appearance of the property before and after the remedial works and illustrate the vast improvements made to the external appearance of the house, which now complements rather than detracts from the Conservation Area.



**Appeal Property – Prior to Renovation**



**Appeal Property – Renovated**

- 6.12 The windows that have been replaced were not original to the property and were not the traditional timber sliding sash style that the Council seek to retain or reinstate. The metal framed units that have been removed had been in place upon the front elevation of the house for many years and were in an unserviceable condition and in urgent need of replacement.

- 6.13 As shown below, the previous windows were unsightly with one of the first floor upper panes even featuring a plastic air vent, therefore together with the general unkempt appearance of the property, the appeal dwelling detracted from the host terrace and the wider Conservation Area.



**Previous Front Ground Floor Window**



**Previous Front First Floor Window**



**New Front Ground Floor Window**



**New Front First Floor Window**

- 6.14 It is therefore clear to see that the new windows are a vast improvement to the house, with the units installed representing the highest standard of uPVC window fittings that accurately reflect the appearance of the windows that were original to the architectural style and age of the properties along Lyncroft Gardens.

- 6.15 As previously described, the rear of the appeal property had a varied mix of timber framed and metal-framed sash and casement style windows, together with some examples of more recent uPVC units.
- 6.16 Once again, the vast majority of the window frames to the rear of the house were in a poor condition, due to the general neglect of the property and lack of upkeep in regards to the metal and timber framed units. As detailed within the appellant's Design and Access Statement and shown within the images below, the level of decay had compromised their ability to remain watertight and serviceable, with the whole property being in desperate need of refurbishment to prevent further deterioration when the appellant purchased the building.



**Old Timber French Doors**



**New Timber French Doors**

- 6.17 As shown within the adjacent images, all the windows to the rear of the property required either urgent replacement due to disrepair or exchanging for windows of a style that is more in keeping with the age of the property.



**Old Timber Frame Window**



**Old uPVC Window**



- 6.18 As illustrated by the images below, the appeal property has been vastly improved by the thorough refurbishment of the interior of the house, which is complemented by the high quality window fitments that provide an aesthetically pleasing appearance to the exterior, whilst also providing excellent energy efficiency within the property.



**New Windows to the Rear Elevation**



**Door to the Rear of the Existing Extension**

- 6.19 The decision notice has also raised concerns in regards to the use of uPVC materials, however in response to this, it is asserted that the replacement windows appear as a very close match to the windows that would have been original to the property, and their high quality finish does in fact improve the overall appearance of the property.
- 6.20 Timber windows are extremely difficult to maintain, especially to the upper floors, therefore the use of uPVC units in this case present a practical solution that ensures the visual amenity to the front and rear of the property will be maintained for years to come.
- 6.21 The new window units, especially to the front of the property, make a positive contribution to the West End Green Conservation Area and together with the other external improvements to the house, have a positive impact upon the setting. Whilst it is acknowledged that older style uPVC window frames were obtrusive and bulky additions and did detract from the appearance of period properties, it is strongly argued that more up to date window fitments are now very close reproductions of the original window units, and that it is now quite difficult to distinguish between white painted timber and uPVC frames.

6.22 The window units to be retained are of the highest standard, with narrow frames and a design which mimics the original design of the windows seen upon neighbouring properties, and as shown within these images, the difference is negligible between the use of timber upon No. 5 and the uPVC frames fitted at the appeal property. It is therefore questioned what is to be gained by forcing the removal of the perfectly acceptable windows already installed.



**Windows to the Front of No. 5 & No. 7**



**Existing Front Elevations of No. 5 & No. 7**

6.23 The remedial works carried out at the property represent a sustainable form of development in accordance with the aims of the National Planning Policy Framework, which requires new development to make a positive contribution to local character and distinctiveness; and Policies 2 and 3 of the Fortune Green and West Hampstead Neighbourhood Plan 2015, which supports improvements that are of a high standard and that will preserve or enhance the character of the West End Green Conservation Area.



### Impact on the Conservation Area

- 6.24 Policy D2 (Heritage) of the Camden Local Plan seeks to preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas.
- 6.25 It is acknowledged that the appeal site is located within the West End Green Conservation Area; however this in itself does not mean that the replacement windows are unacceptable in principle or that they would be of detriment to the appearance of the Conservation Area setting. As shown within the previous images, it is absolutely clear that the appeal proposal does not result in substantial harm or even less than substantial harm to the Conservation Area.
- 6.26 In this instance, the replacement windows that are visible within the public realm replicate the timber framed units that would have been originally fitted to the house, and therefore do not appear visually intrusive within the street scene and, as they so closely resemble other similar installations along Lyncroft Gardens, consequently, they have little impact on the setting of the Conservation Area.
- 6.27 The alterations do not affect, to any substantial degree, the front or rear elevations of the building and have not led to any demonstrable harm to the character and appearance of the dwelling so as to warrant a refusal. In fact, the new windows have greatly improved the overall appearance of the building when viewed from the public realm and, therefore, comply with the aims of policy D2 (Heritage) of the Camden Local Plan which seeks to enhance Camden's rich and diverse heritage assets.
- 6.28 As such, the replacement windows clearly sustain the significance of the Conservation Area and people's experience of it and it is strongly asserted that the significance and appreciate of the Conservation Area within the zone of influence would not be compromised by the retention of the fitted window units. It is therefore questioned as to what actual effect the works have on the Conservation Area, when the alterations have such a limited visual impact upon it.
- 6.29 Although it is recognised that the street frontages and the public realm within a Conservation Area provide the main features and characteristics, the appellant asserts that in this case the windows cause no actual or demonstrable harm to the character and appearance of the Conservation Area setting.
- 6.30 In summary, the retention of the alterations at the appeal site would not have a detrimental impact on the visual amenities of the building, the surrounding properties or its sensitive setting. The windows make a positive contribution to the appearance of the dwelling, reflecting the surrounding built environment and would be of no substantial harm to the host property, the street scene or the conservation area. The proposal is, therefore, considered to comply with the aims of policy D2 (Heritage).

## 7.0 CONCLUSION

- 7.1 As set out above, the NPPF states that planning permission should be refused only if a proposed development would lead to substantial harm to the significance of a designated heritage asset (including a conservation area). The NPPF does not define “*substantial harm*” but it is widely accepted as including the total loss of a heritage asset or fundamental compromise of its significance by means of extensive physical alterations, or inappropriate development within its setting. In this case, it is absolutely clear that the retention of the appeal scheme will not result in substantial harm, or even less than substantial harm to the setting of the Conservation Area.
- 7.2 It is acknowledged that the Local Plan policies seek to conserve and enhance heritage assets including the character, appearance and setting of conservation areas. However, the National Planning Policy Framework states that heritage assets should be conserved in a manner appropriate to their significance. It is therefore asserted that the works, by virtue of their limited impact on the street scene and the public realm, would at the very least conserve the character and appearance of the Conservation Area, as they represent a significant improvement to the dwelling and have no discernible negative impact upon the setting.
- 7.3 The appellant understands why the council may have concerns; however it is considered that the Planning Officers have adopted an overly cautious approach in appraising the development, dismissing the use of uPVC as a negative form of development without fully assessing the high standard of design and finish to the windows which ensures that they complement the appeal property, the host terrace and the Conservation Area setting. The appellant has no desire to gain permission for alterations that are not worthy of the existing building and feels strongly that the substantial financial investment put into the renovation of the property ought to be appreciated, as it has resulted in alterations that have made a positive improvement to the appearance of the property whilst improving the living conditions and health and well-being of existing and future occupants of the property.
- 7.4 It should also be noted that the appellant was encouraged to submit the appeal application and led to believe that a compromise could be reached; however, the Case Officer subsequently refused the application just before leaving her post, as detailed within the email correspondence contained within **Appendix A**.
- 7.5 The National Planning Policy Framework (NPPF) states that decision-takers at every level should seek to approve applications for sustainable development where possible and that applications should be considered in the context of the presumption in favour of sustainable development. The development to be retained would not be contrary to national or local planning policy, and for the above reasons, it is politely requested that this appeal is allowed.