

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	28/03/2017
		N/A		<b>Consultation Expiry Date:</b>	30/03/2017
<b>Officer</b>			<b>Application Number(s)</b>		
David Peres Da Costa			2017/0579/P		
<b>Application Address</b>			<b>Drawing Numbers</b>		
26 Netherhall Gardens London NW3 5TL			See decision notice		
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
Erection of a four storey (plus basement and sub-basement) detached property to provide 5 flats (4 x 2 bedroom and 1 x 3 bedroom), including front and rear roof terraces, hard and soft landscaping, boundary treatment and 3 car parking spaces, following demolition of the existing building (Class C3).					
<b>Recommendation(s):</b>		Refuse planning permission			
<b>Application Type:</b>		Full planning permission			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	21	No. of objections	20
			No. electronic	00		
Summary of consultation responses:	<p>A site notice was erected from 8/3/17 to 30/3/17 and the application was advertised in the local paper 9/3/17. Twenty objections (and 1 comment) were received from occupiers of properties in Netherhall Gardens, Maresfield Gardens, Briardale Gardens as well as two interested parties from Bournemouth. The following issues were raised:</p> <p>Demolition of positive contributor</p> <ul style="list-style-type: none"><li>- Further erodes CA; Loss of another original building in this area of the Conservation Area</li><li>- Could be restored / modified</li><li>- Is structurally stable, the fabric is sound and it is in a habitable condition; there is no justification to demolish the building</li><li>- Removal of an Important House within a Grouping</li><li>- This house is 'locally listed'</li></ul> <p>Design of replacement building</p> <ul style="list-style-type: none"><li>- Height and Volume; the additional height of the roof will block and detract from neighbouring properties.</li><li>- Width of the building; The ratio of width to height in the proposed building is out of keeping with the proportions of the original buildings on the East side of Netherhall Gardens</li><li>- Ugly modern monstrosity, which looks set to dominate the entire section of Nethrthall Gardens</li><li>- Complete loss of Green Open Space</li><li>- Loss of visual connection between Street and rear Gardens; will infill a substantial part of the gap between nos 24 and 24a and the current building</li><li>- Size of basement; basement excavation that does not comply with Camden policy; the basements are very deep and extensive and clearly breach the new development policy that basements should be confined to a single storey.</li><li>- Fenestration is not sympathetic</li><li>- The footprint of the proposed building is too large</li><li>- The height of the proposed building in the new application has returned to that outlined in a preapplication, which was not approved by Camden.</li><li>- The proposed development is aggressive, too large in masse</li></ul> <p>Basement</p> <ul style="list-style-type: none"><li>- Serious risk to the ground stability of the surrounding properties</li><li>- Sits on a hillside in an area which is already very prone to subsidence</li><li>- the site is within 100m of the tributaries of the former River Westbourne</li><li>- No Supporting Documents are available on the Camden to confirm or</li></ul>					

detail surface water mitigation proposals

- The altered water flow would naturally flow south to the properties at lower altitudes from no 26, and hence impact directly the ground stability of properties 24 and 24a.
- I demand maximum protection of my property and foundations to Burland Category 0 before any application is approved.
- I demand that a full analysis of the impact of the established depth or the assumed depth of foundations (whichever is the biggest) is provided to Camden and all parties concerned
- Possible structural affect this could potentially have on my own property
- I understand that the proposed basement may cause Burland level 2 damage. Camden cannot allow basements which risk any damage whatever to neighbouring properties; it is unethical as well as opposed to your new stated policy.

#### Quality of accommodation

- A massive basement is proposed on sloping terrain, which I believe is unacceptable and makes for poor housing.

#### Amenity

- Serious overlooking / loss of privacy from terraces; overlooking 28 and 24a as a result of 3rd floor terrace.
- massive reduction in daylight and sunlight on neighbouring properties
- Overshadowing to garden space: the garden OF 28 will see a massive loss of sunlight whereby previously 100% of the space received at least 2 hours of sunlight and post development , this will be only 62% , a big loss of 38% ! and a ratio of 0.62 breaching the BRE guideline OF 0.8X; The impact of overshadowing the garden space of 24a Netherhall has been missed from the daylight and sunlight report
- Inaccurate daylight and sunlight report as there is a missing window near window 61. Also the report calls window 62 of 28 netherhall secondary and it is a primary and habitable eating space
- NSL measurements have been left out of the daylight and sunlight report
- Despite the reduction of size in the proposed development, there is still a loss of light for 28 Netherhall -in windows 60, 61 and -62; The developer describes these as secondary windows and that is false . 2 other windows have also been left out so the report is inaccurate. window 62 sees the VSC go from 32% TO 26% . Window 60 from 7% to 5.9% so barely any sunlight.
- On daylight distribution, window 78 for 24a netherhall goes from 54% to 12% , a 42% loss and a ratio of 0..22 breaching the guidelines.
- My property is just next door (24A) and such a massive development is going to greatly reduce the amount of sunlight which comes into a number of my rooms.
- Endless noise and traffics tie ups
- Overlooking of 24A child's bedroom (window 76) and a habitable room linking the living areas at 24A

#### Trees

- Loss of trees

	<ul style="list-style-type: none"> <li>- Proposed scheme and demolition will choke the substantial foilage of trees and plant in gardens of 24 and 28.</li> <li>- The proposal plans to remove all the trees on the border of 24a and 26 - whether they are category B or C TREES , that is irrelevant . The trees belong to 24a , has a value / residential amenity to its owner and provides 24a with screening from their neighbours.</li> <li>- Gifford Tree Report dated 31/03/2017: The Lime T2 is not positioned in the right location on the plan. The measurement from the corner fence to the trunk of Lime T2 is 2732mm. The tree plan presented shows the position to be 6000mm; The existing canopy is over hanging the fence. The plan shows the canopy to be within the garden of 24a; There has not been proper consideration of the group amenity value of trees T7 Holly (Ilex aquafolium), T8 Lime (Tilia sp.), T9 Yew (Taxus baccata), T10 Holly (Ilex aquafolium). As group in this position they afford high amenity value to the local area. The topography of this location means that this group is predominately in the landscape at a higher level above the garden of 24a and other properties to the south. These trees are an important feature and should be maintained.</li> </ul> <p>SUDS</p> <ul style="list-style-type: none"> <li>- The deep lightwells will cause concentrated rainwater drainage into the ground or the sewerage system.</li> </ul> <p>Bats</p> <ul style="list-style-type: none"> <li>- A bat population lives in the rafters of the building</li> </ul> <p>Other</p> <ul style="list-style-type: none"> <li>- 26 Netherhall Gardens provides affordable housing for 17 young Londoners, with professions ranging from Artists, Entrepreneurs, Engineers, Doctors, Research Scientists and students etc. The proposed building would not provide affordable accomodation</li> </ul>
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<p><b>CAAC/Local groups* comments:</b> *Please Specify</p>	<p><b>Heath and Hampstead Society</b></p> <p>You were right to have refused the previous application for development of this site: a virtually identical proposal for demolition of the existing locally listed building, and its replacement by a new block of 5 flats with deep basement (2015/3314/P).</p> <p>The subsequent Appeal was dismissed, but on grounds which omitted the major issues. This current application appears to take advantage of the weakness and limited scope of the Appeal decision.</p> <p>We are aware of the weight normally attached to Appeal decisions, but in this case we are so disturbed that the decision disregards Camden policies, and displays so great a bias, that we must challenge it. This is the least that overwhelming local opinion expects.</p> <ol style="list-style-type: none"> <li>1. Demolition of the existing building. This is a locally listed building: that is to say, it is listed by you in the Fitzjohns/Netherhall Conservation Area Statement as making a positive contribution character and appearance of the CA. The Inspector accepts this, but says nevertheless that its loss would not damage the CA. We believe he is wrong to make such a judgement, especially as he couples it with an opinion that the replacement building is of higher quality. In this he is fundamentally wrong.</li> <li>2. Basement. Little is said in the Appeal statement on this, but we are astonished and extremely concerned that the Inspector appears to think that an excavation of up to 12 metres depth can possibly comply with Camden policy DP27 and Guidance Note CPG/4</li> <li>3. New building Content. We are of course aware of the current obsession with the subject of housing provision. We support all reasonable attempts to maximise new housing, especially affordable housing, at a time of national shortage. This proposal is for a new building of 5 flats, not in the affordable category. The existing building it is designed to replace contains 4 flats.</li> <li>4. Architecture The design of the proposed new building can only be described as banal, without architectural merit, and we doubt if the applicants think it is anything but a standard developers' response to a given need.</li> </ol> <p><b>Netherhall Neighbourhood Association:</b> strongly objects</p> <p>There are certain issues which Historic England may wish to be aware of. The original site in fact has been reduced from its original size by the extension into it in the past of the rear gardens of 47 Maresfield Gardens for the erection of garages. The original grounds were larger. Have you brought this to Historic England's attention?</p> <p>In addition they may wish to be aware that the loss of this house will further reduce the number of remaining original buildings in this corner of the Fitzjohn's/Netherhall Conservation Area. In the last quarter of the 20th</p>
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Century up to present time has seen the demolition of a considerable number of No 26's neighbouring buildings or subject to change of use from Residential to Educational Use. This has created a critical imbalance between the original residential buildings and new which has placed this area into a very fragile state where the loss of more original buildings will have a fundamental effect on the Character of this part of the Conservation Area and place it at serious risk.

No 26 is a positive contributor where the general presumption should be in favour of retaining.

There is no justification for the demolition of the building where sensitive restoration, modification to the interior and sensitive remodelling of inappropriate extensions can be made.

The building is structurally stable, the fabric is sound and it is in a habitable condition. There is no physical reason to demolish it other than the wish of the applicant to build a bigger building and avoid the cost of underpinning to construct a deep basement together with the additional cost of renovation rather than new build. These are not acceptable planning reasons for demolition.

In addition, the area in which this building sits has since the 1970's and is still encountering a substantial amount of past, recent and possible future demolition of the old original buildings with the introduction of larger new buildings to such an extent that it is losing a substantial proportion of its original mid-late 19th Century buildings which the Conservation area is designed to preserve. If not addressed, the original buildings will form a minority of buildings in the area. The loss of a further original building will cause a further diminution to an extent where its Architectural Character will begin severe danger of being lost.

Removal of an Important House within a Grouping: The application to demolish and rebuild should be rejected, as not only does it do nothing to enhance the Conservation Area as is required by Camden but seriously harms the last continuous grouping of original Victorian buildings on the eastern side of Netherhall Gardens.

Loss of another original building in this area of the Conservation Area: We believe the Inspector in his refusal could not have been fully aware at the time of his comments of the extent of development that has, is and is proposed to be carried out in the area of the Conservation Area, and this should be taken into account in any consideration of this Application. How many original buildings can be demolished and replaced within a Conservation area before it no longer retains its justification to remain a Conservation Area?

Height and Volume: We see no justification in terms of planning in lowering and widening the frontage of the building. The existing envelope should be retained. To change the massing alters the character of the original building and its relationship with adjacent houses.

Width of the building: The extending of the building out to the southern

border at the upper floors would create a building with a horizontal proportion much wider than its height and create a building alien to the proportions of the current house and its neighbouring houses. It should not be extended beyond the limits of its current volume so as to maintain a coherent relationship with its neighbours with which it forms a pleasing grouping. An increase in width and volume will risk No 26 visually dominating its neighbouring properties.

**Green Open Space:** The proposals show the building and deep light-well extending fully into the rear garden resulting in the complete loss of Green Open Space. 26 Netherhall Gardens has already lost a significant area of rear garden, which has in the past been transferred to 47 Maresfield Gardens and garages constructed.

**Loss of visual connection between Street and rear Gardens:** The proposed development shows the building extending south to the southern edge of the site with the resulting loss of view between Nos 24 and 26 and resultant loss of the visual connection between the street and the large mature trees in the rear gardens of Netherhall Gardens and Maresfield Gardens.

**Basement:** The submitted plans and sections do not show the large garages at the rear of 45 Maresfield Gardens, which are within a few feet of the rear boundary of 28 Netherhall Gardens. Drawings should be amended to show them. These garages will further add to the cavernous aspect from the rear windows of the proposal. The design is inappropriate for its location on a steeply sloping site and creates poor accommodation. Virtually the whole site, apart from a small quarter of the remaining rear garden, is excavated back from the frontage of the building to the rear boundary for the complete width of the site.

**The Design:** The proposals are for a contemporary building whose fenestration is not sympathetic to the neighbouring Victorian buildings in detailing and proportion.

**Roof Terraces:** The design proposes a series of large roof terraces at various floor levels on the south and rear of the building, which will give rise to serious overlooking of the adjacent property and garden at 24a Netherhall Gardens and a diminution of their privacy. The design is therefore unacceptable.

### **Redington Frognal Association**

Redington Frognal Association is greatly concerned by this proposal to destroy another of the Fitzjohns / Netherhall Conservation Area's locally listed buildings, which forms a positive contribution to Sub Area One. The area has been designated a Conservation Area on account of its late Victorian buildings, and its gardens and mature trees and vegetation. These features are absolutely central to the streetscape and to the Area's history.

### **Replacement building**

The planned replacement building is a very banal pastiche, which will form a negative contribution to the conservation area and streetscape and also

result in a substantial loss of garden space and the felling of as many as five mature trees (contrary to Fitzjohns / Netherhall Conservation Area Guidelines F/N27, F/N28 and F/N30

The replacement building also fails to incorporate a front garden and appropriate front boundary treatment, thereby further damaging the streetscape and in contravention of Fitzjohns / Netherhall Conservation Area Guideline F/N31.

#### Car parking

Any replacement development should be car-free, particularly as the postcode NW3 5TL has a PTAL rating of 6A and is in close proximity to the bus routes on Finchley Road, Finchley Road and Swiss Cottage underground stations, Finchley Road and Frognal Overground and the planned CS11 Cycle Superhighway.

#### **Redington Frognal Neighbourhood Forum**

We cannot understand why anyone would want to demolish a locally-listed building, which makes a positive contribution to the Fitzjohn's and Netherhall Conservation Area, only to replace it with an architecturally inferior building which will cause harm to the streetscape and the consistency of the buildings, thereby materially weakening the Conservation Area.

The existing house is currently divided to provide five apartments. The proposed replacement building would also provide five flats, so there is no housing gain resulting from the building's demolition. That the existing building has some more recent unsympathetic minor additions, are not sufficient grounds for demolition.

We also note the application to demolish this building is contrary to national legislation, to Camden policies, to Camden's Conservation Area management strategies and to Historic England's Conservation Principles, which are attached to this letter. The Conservation Area Appraisal specifically notes that number 26 makes "a positive contribution to the special character and appearance of the area."

Indeed, it seems likely that the previous appeal decision to grant consent for the demolition of this positive contributor was incorrect.

It has not been established that retaining and developing the existing building is incapable of achieving the objective of creating flats.

#### **Hampstead CAAC**

The 2014 application was lost on appeal due, in part, to the loss of the gaps between the proposed building and its neighbours, and tree felling. The new building now proposed has no character and takes up too much garden. The plan to replace an original building, which makes a positive contribution, by a building which lacks in character and would form a negative contribution, is not acceptable in a Conservation Area. Demolition consent should not be granted.

	<p>It is perfectly feasible for the developer to propose an acceptable, carefully-studied extension to the existing building to use site area appropriately and to complement not just the existing building but also the area's character. The problem is that developers see no benefit in careful design, producing, as in this case, relatively featureless flat-faced buildings 'keeping-in-keeping' as they see it but lacking anything of the innovative and idiosyncratic design investment of the CA assets.</p> <p>Many of the buildings have valuable connections with the area's history in their having been built and lived in by worthy luminaries themselves contributing to the great social resource of Hampstead and further afield. We advise demolition must be against Camden policy and the CA statement and any replacement building if allowed according to the Appeal Decision must be carefully designed as an equal asset to the area. We prefer retention and a carefully-designed extension or separate building.</p>
English Heritage	<p>Thank you for your letter of 2 March 2017 notifying Historic England of the application for planning permission relating to the above site. On the basis of the information provided, we do not consider that it is necessary for this application to be notified to Historic England under the relevant statutory provisions, details of which are enclosed.</p>

## Site Description

The site is located on the east-side of Netherhall Gardens and comprises a three storey building, with additional accommodation located within the roof space. This includes a lower ground floor level of accommodation which originally would have been concealed by the sloping front garden, however during the 20th century this has been excavated, with associated hard standing created at the front of the building. There is currently a single storey garage, with a half storey extension erected on the flat roof of the garage located to the side of the main building.

The site is not listed but is located within the Fitzjohns/Netherhall Conservation Area and is identified as making a positive contribution to its character and appearance.

## Relevant History

**13774:** Erection of a basement garage and ground and first floor extension to be used in connection with the residential occupation of the existing building. Granted 20/12/1957

**2012/4478/P:** Use as 5 x self-contained residential units (Class C3). Certificate of lawfulness for existing use granted 12/11/2012

**2014/6224/P:** Erection of a four-storey plus basement detached building to provide 5 self-contained residential units comprising 4 x 2 bedroom and 1 x 3 bedroom units, including hard and soft landscaping, new boundary treatment and the provision of off street car parking, following demolition of the existing building (Class C3). Refused 19/01/2015

**2015/3314/P:** Erection of 4 storey plus basement detached building to provide 5 flats (4 x 2-bed and 1 x 3-bed) including front and rear roof terraces, hard and soft landscaping, boundary treatment and 3 car parking spaces, following demolition of the existing building (Class C3). Non-determination would have refused 06/05/2016 Appeal dismissed 07/10/2016

There were 4 substantive reasons for refusal for the above application (2015/3314/P).

- 1) The proposed demolition would result in the loss of a building which makes a positive contribution to the Fitzjohns Netherhall Conservation Area to the detriment of the character and appearance of this part of the Fitzjohns Netherhall Conservation Area, contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.
- 2) The proposed basement, by reason of its site coverage and proximity to the boundaries of adjacent sites/buildings would undermine the ability of the rear garden to contribute to the biodiversity function and landscape character of the site, harming the wider conservation area, contrary to policies CS14 (Promoting High Quality Places and Conserving Our Heritage) and 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.
- 3) The proposed residential unit '1', by reason of the overhanging ground floor bay obstructing the lightwell, would provide poor outlook and reduced natural light resulting in sub-standard accommodation that would fail to provide an acceptable level of residential amenity to future occupants, contrary to policies CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy

DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 4) In the absence of sufficient information, the applicant has not demonstrated that trees along the side boundary at 24A Netherhall Gardens would not be harmed by the development contrary to policy 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.

There were a further 6 reasons for refusal related to the lack of legal agreement securing various necessary requirements: Basement Construction Plan; sustainability measures; energy efficiency plan; highways contribution; Construction Management Plan; and 'car-capped' housing.

Although the appeal was dismissed, the inspector did not support the Council's main reasons for refusal. The inspector concluded:

*I have found that the proposed development would enhance the character of the Fitzjohns / Netherhall Conservation Area and would not be contrary to biodiversity objectives or landscape character. In addition I have found that future occupiers of the proposed development would be likely to experience acceptable living conditions. However, these benefits are not outweighed by the harm which I have identified to the living conditions of occupiers of 24a Netherhall Gardens in respect of the loss of daylight and to habitable rooms and no. 28 in respect of loss of daylight and sunlight. In addition that lack of justification for the removal of trees between nos. 26 and 24a also weighs against the scheme.*

## **Relevant policies**

### **National and regional policy**

NPPF 2012

The London Plan March 2015, consolidated with alterations since 2011

### **Camden Local Plan 2017**

G1 Delivery and location of growth

H1 Maximising housing supply

H4 Maximising the supply of affordable housing

H6 Housing choice and mix

H7 Large and small homes

C1 Health and wellbeing

C5 Safety and security

C6 Access for all

A1 Managing the impact of development

A3 Biodiversity

A5

D1 Design

D2 Heritage

CC1 Climate change mitigation

CC2 Adapting to climate change

CC3 Water and flooding

CC4 Air quality

CC5 Waste

T1 Prioritising walking, cycling and public transport

T2 Parking and car-free development

T4 Sustainable movement of goods and materials

## DM1 Delivery and monitoring

### Camden Planning Guidance

Housing CPG2 May 2016 (as amended March 2018)

CPG7 Transport

Planning Obligations CPG8 July 2015 (updated March 2018)

Basements March 2018

Interim Housing CPG March 2018

### Fitzjohns and Netherhall conservation area statement 2001

#### Assessment

#### Proposal

- 1.1. The applicant seeks planning permission to erect a four-storey building with basement and sub-basement following demolition of the existing building. The building would provide 5 flats (4 x 2-bed and 1 x 3-bed) with front and rear roof terraces and 3 car parking spaces. The scheme is broadly similar to the application which was the subject of an appeal for non-determination (2015/3314/P). The Council's decision (dated 6/05/2016) was non-determination would have refused planning permission.
- 1.2. Although the appeal was dismissed, the inspector did not support the Council's main reasons for refusal. The inspector concluded:  
  
*I have found that the proposed development would enhance the character of the Fitzjohns / Netherhall Conservation Area and would not be contrary to biodiversity objectives or landscape character. In addition I have found that future occupiers of the proposed development would be likely to experience acceptable living conditions. However, these benefits are not outweighed by the harm which I have identified to the living conditions of occupiers of 24a Netherhall Gardens in respect of the loss of daylight and to habitable rooms and no. 28 in respect of loss of daylight and sunlight. In addition that lack of justification for the removal of trees between nos. 26 and 24a also weighs against the scheme.*
- 1.3. This scheme has responded to the issues raised by the inspector and differs from the original scheme in the following ways.
  - The proposed development has been cut back on the side adjacent to 24A Netherhall Gardens and at the rear adjacent to 28 Netherhall Gardens in response to the appeal inspector's decision with regard to daylight / sunlight impacts.
  - Further investigation in regards to trees has been carried out and is documented in revised tree reports.
- 1.4. **Revision**
- 1.5. The application was submitted before the adoption of the Local Plan. The applicant therefore asked to amend their application in view of the policies in the Local Plan. The size of the basement was reduced so that it no longer extended to the rear of the garden and the 112sqm sub-basement for plant and storage was omitted.

#### Principle of demolition and impact on the conservation area

- 1.6. The principle of demolition was accepted by the inspector. The inspector's report included the following paragraphs of relevance.

- 1.7. *By virtue of its use, scale, roof form and use of materials which are characteristic of the locality, 26 Netherhall Gardens makes a positive contribution to the character of the conservation area.*
- 1.8. *However, this contribution is limited by virtue of the setting of the original building within its plot being compromised by the later alterations including the excavation of the basement level, flat roofed extension at ground level and the unsatisfactory arrangement of steps to the front elevation, the effect of which has been to detract from the grand appearance which is characteristic of neighbouring properties. The ridge height of no. 26 being slightly higher than its immediate neighbours also detracts to a limited degree from the prevailing scale.*
- 1.9. *The later alterations to no. 26 do not contribute positively to the conservation area and significantly detract from the positive contributor status of the original building and the wider conservation area. Whilst it may be possible to reverse the nature of these changes with a more sympathetic scheme to enhance the host building as suggested by the Council, that is not the scheme before me for consideration. The fact that unsympathetic changes to the building were made prior to the designation of the conservation area does not mean that they were not harmful and they continue to be harmful to the appearance of the conservation area.*
- 1.10. *I find that whilst making a positive contribution to the significance of the conservation area the existing building's contribution is more limited than that of other buildings in the area and makes a limited contribution to the character and appearance of the conservation area. I therefore find that the harm to the significance of the conservation area as a designated heritage asset as a result of the loss of the existing building would be less than substantial.*
- 1.11. *Paragraph 134 of the National Planning Policy Framework (the Framework) requires that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case I have found that the public benefits arising from the development of a high quality residential building which responds positively to the site and its neighbours would outweigh the less than substantial harm to the character and appearance of the conservation area. In doing so it would also address the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area and to which I attach significant weight.*
- 1.12. The proposal seeks to demolish the existing building and to replace it with one which would imitate the character and appearance of those in the CA. It would not be an historic building of the period characteristic of the CA and as such would have none of the heritage interest associated with the existing building. Nevertheless, given the inspector's decision, it would be unreasonable for the Council to maintain its former position and the loss of the positive contributor is accepted. The proposed development would result in less than substantial harm to the Fitzjohns Netherhall conservation area. That harm has been accorded considerable importance and weight in the overall balance.
- 1.13. Replacement building
- 1.14. The proposed replacement building would consist of a large detached building, nominally designed as a house but sub-divided into 5 residential units. The replacement building is wider than the existing, largely filling the gap to the south. A relatively traditional approach has been taken, albeit expressed in a contemporary manner. The building is of three storeys including accommodation within the roof. A large gable and adjacent dormers reflect the pattern of many other buildings within the conservation area. The front building line accords with that of no.24a and no.28 Netherhall Gardens allowing the building to sit comfortably within the streetscene. To the rear, the building line is more stepped, taking account of the neighbouring properties

and the wider character of this side of Netherhall Gardens.

- 1.15. The proposed building is lower than the existing building with a ridge height broadly comparable to that of no.24 and no.28 Netherhall Gardens. The building consists of three main storeys of accommodation which is more than the two storeys of the properties located to the north. However, the existing building is also of three storeys, when taking into account the visibility of the exposed basement accommodation.
- 1.16. Whilst the existing building already has accommodation at lower ground floor, a further storey of habitable accommodation is to be incorporated beneath this. Lightwells would be introduced to the front of the building but these would be shallow and well setback from the road behind a relatively tall front boundary treatment. To the rear the additional basement accommodation is expressed. However, given the steeply sloping land this element would not be visible in public views of the building and is considered to have a very minimal visual impact on the character and appearance of the conservation area.
- 1.17. The building would be of red brick, with stone mullions to the windows (although these are mostly painted on other neighbouring buildings), a prominent chimney stack and finer detailing such as ridge tiles, stone banding and brickwork infill panels. Given that the predominant roof material on this side of Netherhall Gardens is clay tiles, it is considered that a matching material would be appropriate. A condition would be included requiring details of the roof tiles.
- 1.18. In general terms, the scale, styling and detailed design of the proposed building are considered acceptable (subject to the points above). The use of forms such as a prominent gable, dormers and projecting bays, as well as features such as red brick, stone mullions and banding are considered acceptable and contextual within the conservation area.
- 1.19. The inspector's report found *'the proposed development would overcome a number of the negative features of the existing development and its contribution to the conservation area including the various alterations made to the original building. It would therefore enhance the conservation area and make a positive contribution to local character and distinctiveness'*.
- 1.20. The Council considered the massing, scale and detailed design of the previous proposal was acceptable and thus the design of the proposed building was not a reason for refusal. Given this context and the planning inspector's conclusion set out above, the proposed building is considered to accord with policy D1 and D2 of the Local Plan.
- 1.21. **Basement**
- 1.22. The previous application submitted a Basement Impact Assessment (BIA) which was audited by Campbell Reith. The audit confirms that a Ground Movement Assessment (GMA) has been undertaken and a damage Category 0 (Negligible) to Category 2 (Slight) has been predicted for the neighbouring properties. The audit accepts that there are no slope stability concerns, no hydrogeological concerns and no hydrological concerns with respect to the development proposals. Campbell Reith have confirmed that the based on the reduced size, the previous assessment represents a worse case there would be no merit in repeating the audit. However because a number of conclusions are based on necessary assumptions at present, Campbell Reith recommended that a Basement Construction Plan is provided and approved prior to commencement on site and should include:
  - trial pits to confirm assumptions regarding the depths of adjacent foundations or the greatest differential depth assumed between the basement and the neighbouring properties
  - Justification for the approach used in the GMA
  - design calculations for the rear garden L-shaped retaining walls

- assessment of the lateral movements of the front retaining walls to form lightwells and the effect of the construction activities on the adjacent highway
- an assessment of heave as a result of demolition and excavation
- measures to control heave arising from basement excavation
- mitigation measures to reduce potential movements down to a maximum of Burland Category 1 (very slight)
- results of condition surveys of potentially affected structures
- detailed monitoring scheme for potentially affected structures.

1.23. The BCP would be secured by legal agreement if permission were to be granted

#### 1.24. **Size of basement**

1.25. The previous application was refused due to the size of the basement. Reason for refusal 2 stated “the proposed basement, by reason of its site coverage and proximity to the boundaries of adjacent sites/buildings would undermine the ability of the rear garden to contribute to the biodiversity function and landscape character of the site, harming the wider conservation area, contrary to policy”. The inspectors comments on biodiversity and landscape character are provided below:

1.26. *The proposed basement would extend under the majority of the garden, and to within less than a metre of the southern boundary. The Council’s concern is that the margin between the site boundary and basement construction would be insufficient to support the characteristic tree species and vegetation of the area.*

1.27. *Policy DP27 of the LDF Development Policies sets out the policy requirement to provide satisfactory landscaping including adequate soil depth. The supporting text states that it is expected that a minimum of 0.5 metres of soil will be provided above the basement development where it extends beyond the footprint of the building, to enable garden planting.*

1.28. *With regard to the provision of landscaping I have no evidence that the extent of the garden above the basement, or the distance between the site boundary and basement construction would prevent satisfactory landscaping. Furthermore, given the area of the garden and the ability to address landscaping through a condition it has not been demonstrated that the basement construction would be in conflict with the requirements of Policy DP27 in respect of landscaping.*

1.29. *I also consider that the proposed basement development would not conflict with Policy CS14 in respect of preserving and enhancing the Fitzjohns / Netherhall Conservation Area because harm to the biodiversity function and landscape character of the site has not been demonstrated. For the same reasons I find no conflict with policies DP24 and DP25 of the LDF Development Policies which seek to achieve high quality design and the conservation of Camden’s heritage, respectively. The Council also made reference to Policy CS15 of the LDF Core Strategy which seeks to protect open spaces and encourage biodiversity but as this policy applies to parks and open spaces rather than private gardens I do not see its relevance in this situation.*

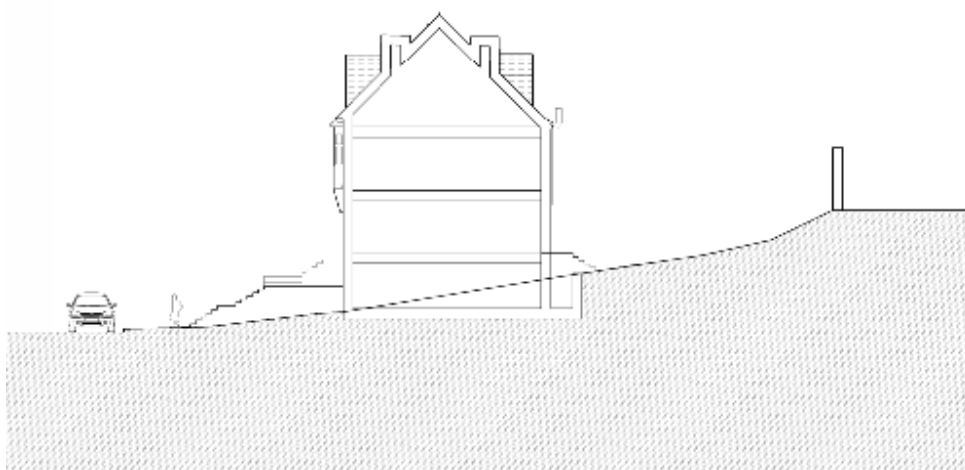
1.30. Since the planning inspector’s decision (which found no issue with the size of the basement), the Local Plan has been adopted (3 July 2017). The Local Plan includes policy A5 basements which provides detailed criteria for the acceptable size of basements. This policy is therefore more demanding than Policy DP27 from the previous Development Plan (LDF).

1.31. Policy A5 states the siting, location, scale and design of basements must have minimal impact

on, and be subordinate to, the host building and property. In addition to protecting against flooding, ground instability and damage to neighbouring buildings, the Council seeks to control the overall size of basement development to protect the character and amenity of the area, the quality of gardens and vegetation and to minimise the impacts of construction on neighbouring properties. Larger excavations cause greater construction impacts and can have greater risks and complexity in construction. Basement development should:

- f. not comprise of more than one storey;
- g. not be built under an existing basement;
- h. not exceed 50% of each garden within the property;
- i. be less than 1.5 times the footprint of the host building in area;
- j. extend into the garden no further than 50% of the depth of the host building measured from the principal rear elevation;
- k. not extend into or underneath the garden further than 50% of the depth of the garden;
- l. be set back from neighbouring property boundaries where it extends beyond the footprint of the host building; and
- m. avoid the loss of garden space or trees of townscape or amenity value.

- 1.32. The proposed ground floor level would involve excavating a significant part of the existing garden right up to the boundary with 24A Netherhall Gardens (to the south) and 47 Maresfield Gardens (to the east). This is illustrated in the existing section AA and proposed section AA below. While it is unclear exactly where existing section AA is drawn through the site (as there is no accompanying plan to illustrate this), comparison of the existing section with proposed section AA is nevertheless informative.



Existing Section AA (above)



Proposed section AA (above)



Proposed Section AA with overlay of slope of land from existing section AA (above)

- 1.33. The existing rear garden has an area of approximately 333sqm. Approximately 175sqm of the existing garden would be excavated to create the ground floor of the proposed development including a garden for Duplex Apartment 2. Due to the slope of the land, the garden created would be substantially below the existing ground level. The rear garden at ground floor level appears to require excavation of approximately 6.89m depth of soil. The ground floor and excavation of the private garden for Duplex Apartment 2 does not comply with policy A5. In particular it is contrary to policy A5h, A5k, Akl and A5m. Camden Planning Guidance (November 2017) states “the lowering of the natural ground level to the rear of the property should be minimised as much as is practicable” (paragraph 2.22).
- 1.34. Criterion h. states that basements should not exceed 50% of each garden within the property. This criterion applies to gardens as they currently exist and not the gardens of the proposed development. The unaffected garden must be in a single area and where relevant should form a continuous area with other neighbouring gardens. Sufficient margins should be left between the site boundaries and any basement construction to sustain growth of vegetation and trees.
- 1.35. The ground floor excavation would:
  - exceed 50% of the existing garden (A5h);

- extend into or underneath the garden further than 50% of the depth of the garden (A5k);
- would not be set back from neighbouring property boundaries where it extends beyond the footprint of the host building (A5l); and
- not avoid the loss of garden space of townscape or amenity value

- 1.36. Larger basement developments require more extensive excavation resulting in longer construction periods, and greater numbers of vehicle movements to remove spoil. These extended construction impacts can have a significant impact on adjoining neighbours through disturbance through noise, vibration, dust, and traffic, and parking issues.
- 1.37. It is therefore considered that the ground floor excavation would not be subordinate to the host building and would harm neighbouring amenity and the established character of the surrounding area contrary to Policy A5.
- 1.38. The basement floor below the ground floor is considered to fall within the limits and conditions of Policy A5. It is not considered to constitute a double basement (not comprise of more than one storey) as the ground floor is visible at the front of the site. Excavation of the ground floor is only required at the rear of the site as the site slopes. Therefore, a storey below this would not be contrary to policy.
- 1.39. **Residential Mix**
- 1.40. The proposed development would provide 5 flats (4 x 2-bed and 1 x 3-bed). The Use as 5 x self-contained residential units (Class C3) was granted a Certificate of lawfulness for Existing Use 12/11/2012. The Council's Dwelling Size Priority table states that both 2-bedroom and 3-bedroom flats are a high priority for market housing. Given the provision of units which are identified as a high priority the mix of units is considered acceptable.
- 1.41. **Quality of residential accommodation**

Dwelling	Arrangement	Floorspace (GIA)	Bedrooms	Min floorspace required by London Plan
1	Duplex at basement and ground	180sqm	2	79sqm
2	Duplex at basement and ground	274sqm	3	102sqm
3	Duplex at 1st & 2nd floor	123sqm	2	79sqm
4	1st Floor	131sqm	2	70sqm
5	Duplex at 2nd & 3rd floor	203sqm	2	79sqm

- 1.42. The proposed building is considered to provide a satisfactory level of residential amenity, in terms of its overall floorspace and room sizes and therefore the development complies with the requirements of CPG2-residential development standards and London Plan standards.
- 1.43. The floor to ceiling heights are considered to be acceptable ranging from 3m high at ground

floor level and at ranges between 2.9 and 4.1m high on the upper floors. The floor to ceiling heights in the basement is 2.9m high. The scheme also has the potential to provide dedicated storage spaces and provides private outdoor amenity spaces in the form of rear gardens, roof terraces and balconies. While it is noted that no amenity space has been provided for unit 4 the lack of private amenity space for this unit would not sustain a reason for refusal. All habitable rooms have access to natural light and ventilation. Most of the units in the flats are proposed to be dual aspect at ground floor level and above with views looking out to the front and rear or lightwells, thus providing some level of outlook.

- 1.44. The applicant has provided a daylight and sunlight study which demonstrates that the lower ground floor rooms would all meet or surpass the BRE Average Daylight Factor targets (1% for bedrooms).

1.45. **Affordable housing**

- 1.46. The Local Plan includes Policy H4 'Maximising the supply of affordable housing'. We will expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more. Targets are based on an assessment of development capacity whereby 100sqm (GIA) of housing floorspace is generally considered to create capacity for one home. Targets are applied to additional housing floorspace proposed, not to existing housing floorspace or replacement floorspace. A sliding scale target applies to developments that provide one or more additional homes and have capacity for fewer than 25 additional homes starting at 2% for one home and increasing by 2% for each home added to capacity. Where developments have capacity for fewer than 10 additional dwellings, the Council will accept a payment-in-lieu of affordable housing. The existing building provides 732sqm (GIA) of residential floorspace. The proposed building would provide 1087sqm (GIA) of residential floorspace. The proposed development would therefore provide 355sqm of additional floorspace. This results in an 8% affordable housing target. The payment in lieu would be £2650 per sqm. This figure is the payment level for affordable housing in market residential schemes. The payment in lieu for affordable housing would be £79,248.78 (355 x 0.08 x 1.053 [to convert to GEA] x £2650).

1.47. **Trees**

- 1.48. An arboricultural report has been submitted to support the application. A revised report was submitted during the course of the application. The landscaping of the front garden has been designed around the root system of the lime tree, T4 (the existing ground levels within the retained ground around this tree are to be maintained). The alterations to the rear garden have been designed to minimise the impact on T1 by largely avoiding any incursion into its Root Protection Area. Where excavation is proposed close to the edge of the Root Protection Area, contiguous piling has been proposed to ensure soils beyond the footprint remain undisturbed. The proposed basement has also been amended to avoid impacting upon the RPA of T2.
- 1.49. The scheme involves the removal of T6 (lime), T7 (holly), T8 (lime), T9 (yew), T10 (holly) from the rear garden of the property close to the boundary of the site with no. 24a Netherhall Gardens to the south. The trees are growing in close proximity to each other in a row and form one cohesive unit which is considered to have adversely affected their form. The trees are between 3m and 5m in height and are not considered to be noteworthy examples of their species or to significantly contribute to the character of this part of the conservation area. The upper part of the crown of T6 and T10 are just visible from the public realm on Netherhall Gardens but not to any great extent. It is accepted that the trees proposed for removal should be classified as cat. C in line with BS5837 – "Trees in relation to design, demolition and construction."

- 1.50. It is acknowledged that T6-T10 collectively provide some degree of screening, however this is not considered to justify objecting to the removal of the trees. If a section 211 conservation area trees works notification were to be submitted to removal T6-T10 it is highly unlikely the council would serve a TPO in order to object. The loss of canopy cover and visual amenity that would result from the proposed tree removal could be mitigated against through replacement planting elsewhere on the site.
- 1.51. The revised arboricultural report is considered to addresses the points raised by the arboricultural report submitted in objection to the scheme.
- 1.52. The arboricultural method statement and tree protection plan are considered sufficient to demonstrate that the trees to be retained both on site and on neighbouring sites (excluding T3, see below) will be adequately protected throughout development.
- 1.53. T3, a council owned and managed cherry tree on the highway immediately adjacent to the application site, is considered potentially at risk through secondary site activity. Should the scheme be recommended for approval details of how T3 will be protected from mechanical damage should be submitted for approval. Landscaping details to include replacement trees are also recommended to be secured by condition.
- 1.54. **Amenity**
- 1.55. Daylight
- 1.56. A daylight and sunlight report has been submitted to support the application.
- 1.57. The percentage of the sky visible from the centre of a window is known as the Vertical Sky Component (VSC). Diffuse daylight may be adversely affected if after a development the VSC is both less than 27% and less than 0.8 times its former value. All the neighbouring windows pass the VSC test.
- 1.58. Specific concerns have been raised about the impact on the ground floor windows (60, 61 and 62) of 28 Netherhall Gardens. An objector raises the issue that the application describes these windows as secondary windows. The submitted daylight and sunlight does not describe these windows as secondary and these windows (60, 61 and 62) are clearly described as serving a lounge. While there would be a reduction in VSC for these windows it would not be greater than 20% (the VSC would not be less than 0.8 times its former value). The design and access statement states “we have undertaken sunlight/ daylight testing to significantly mitigate the impact on the secondary windows to No. 24 A and No. 28 Netherhall Gardens”. The use of the term “secondary” in this context (the design and access statement’s response to comments raised by the planning appeal inspector) is not considered significant as the neighbouring windows at No.24A and No.28 all pass the VSC test.
- 1.59. An objector raises the issue that the daylight and sunlight report is inaccurate and there is a missing window near window 61. This window appears to be labelled as window 60 and has been assessed. It is also noted that windows 60, 61 and 62 all serve the same room (lounge / sitting room) and that window 62 is a bay window which predominantly faces the garden.
- 1.60. All of the windows with the exception of window 78 at 24 Netherhall Gardens would also pass the daylight distribution test (No Sky Line). BRE guidance states daylight may be adversely affected if after the development the area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value. In this case the reduction in

the daylight distribution to window 78 would fail this test. However, taking into account that this window serves a hall with stairs leading to the first floor and is a space between the larger living rooms at the front and rear of the house, the reduction in daylight to this room is considered acceptable. It is also noted that the BRE guidance states the guidelines need to be applied sensible and flexibly.

1.61. Sunlight

1.62. The BRE sunlight tests should be applied to all main living rooms and conservatories which have a window which faces within 90 degrees of due south. The guide states that kitchens and bedrooms are less important, although care should be taken not to block too much sunlight.

1.63. The BRE guide states that sunlight availability may be adversely affected if the centre of the window:

- receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours between 21 September and 21 March and
- receives less than 0.8 times its former sunlight hours during either period and
- has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours

1.64. All living room windows which face within 90 degrees of due south have been tested for direct sunlight. All windows pass both the total annual sunlight hours test and the winter sunlight hours test. The proposed development therefore satisfies the BRE direct sunlight to windows requirements. There would be no loss of sunlight to the windows of 24A as this property is to the south of the site.

1.65. Overshadowing to gardens

1.66. The BRE guide recommends that at least 50% of the area of each amenity space listed above should receive at least two hours of sunlight on 21st March. If as a result of new development an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21st March is less than 0.8 times its former value, then the loss of light is likely to be noticeable. The results in the daylight and sunlight report show that 62% of the garden of 28 Netherhall Gardens would receive at least two hours of sunlight on 21st March. This meets BRE guidance. The garden of 24A Netherhall Gardens is to the south of the site and therefore the development would have no impact on the sunlight reaching the garden of this property.

1.67. Overlooking / Loss of privacy

1.68. Terraces are proposed on the front elevation and the side facing 24A Netherhall Gardens at 2<sup>nd</sup> floor level and at the rear at 3<sup>rd</sup> floor level. The terraces at the front and side would not result in harmful overlooking. The balustrade of the 2<sup>nd</sup> floor terrace would be set in from the edge of the terrace and oblique angles between the terrace and the neighbouring windows at 24A would result in minimal overlooking. The 3<sup>rd</sup> floor terrace would not result in any direct overlooking of the side bedroom window of 24A Netherhall Gardens (which is angled towards the garden of No. 26) as this window is at 1<sup>st</sup> floor level. The 3<sup>rd</sup> floor terrace would not result in any harmful overlooking of neighbouring gardens due to its location at 3<sup>rd</sup> floor level and the resulting distance to neighbouring gardens.

1.69. **Sustainability**

1.70. Resource efficiency and demolition

- 1.71. Policy CC1 'Climate change mitigation' requires all proposals that involve substantial demolition to demonstrate that it is not possible to retain and improve the existing building. This is a new requirement which was not included in the Council's previous Development Policies or Core Strategy under which the assessment of the previous application and appeal was made.
- 1.72. The supporting text emphasizes the importance of resource efficiency in relation to demolition. Given the significant contribution existing buildings make to Camden's CO2 emissions, the Council will support proposals that seek to sensitively improve the energy efficiency of existing buildings (para 8.15). "The construction process and new materials employed in developing buildings are major consumers of resources and can produce large quantities of waste and carbon emissions. The possibility of sensitively altering or retrofitting buildings should always be strongly considered before demolition is proposed. Many historic buildings display qualities that are environmentally sustainable and have directly contributed to their survival, for example the use of durable, natural, locally sourced materials, 'soft' construction methods, good room proportions, natural light and ventilation and ease of alteration" (para 8.16). "All proposals for substantial demolition and reconstruction should be fully justified in terms of the optimisation of resources and energy use, in comparison with the existing building" (para 8.17).
- 1.73. The applicant has provided a statement prepared by Mecserve addressing this aspect of policy CC1. The statement addresses internal and external wall insulation for the existing property.
- "26 Netherhall Gardens will need solid wall insulation and in accordance with Energy efficiency planning guidance for conservation areas issued by Camden Council, the wall cannot be insulated externally. Internal insulation of walls is possible, however, given the current status of the building, the thickness of the insulation may need to be limited in some areas. In addition, according to BRE guidance on solid wall insulation, this needs to be done very carefully as it may have risk of internal moisture, introduction of cold bridges, reduced daylight quality and reduced floor area."
- 1.74. The existing building benefits from large windows and the plan form of the building is considered to allow solid wall insulation without reducing daylight quality or significantly reducing floor area. The submitted justification provided only general references to solid insulation and provides no detailed consideration for solid wall insulation, floor insulation to lower ground floor, draught proofing, chimney sealing, low energy lighting, new boiler, heating controls, heat recovery in bathroom, draught sealed, double vacuum glazing windows, new doors to front and rear or insulation within the roofspace.
- 1.75. The submitted justification for accordance with policy CC1 also states "the new building can achieve approximately 30% less operational carbon emissions than the refurbishment option" but no evidence has been provided to substantiate this claim.
- 1.76. Overall it is not considered that the application demonstrates that it would not be possible to retain and improve the existing building.
- 1.77. Energy and sustainability
- 1.78. The Council will require all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation.
- 1.79. The Council promotes zero carbon development and requires all development to reduce carbon dioxide emissions through following the steps in the energy hierarchy. The energy

hierarchy is a sequence of steps that minimise the energy consumption of a building. Buildings designed in line with the energy hierarchy prioritise lower cost passive design measures, such as improved fabric performance over higher cost active systems such as renewable energy technologies.

- 1.80. All developments involving five or more dwellings and/or more than 500 sqm of (gross internal) any floorspace will be required to submit an energy statement demonstrating how the energy hierarchy has been applied to make the fullest contribution to CO2 reduction. Policy CC1 expects developments of five or more dwellings to achieve a 20% reduction in carbon dioxide emissions from on-site renewable energy generation, unless it can be demonstrated that such provision is not feasible. All new residential development will also be required to demonstrate a 19% CO2 reduction below Part L 2013 Building Regulations (in addition to any requirements for renewable energy).
- 1.81. Any development involving 5 or more residential units or 500 sqm or more of any additional floorspace is required to demonstrate climate change adaptation measures in a Sustainability Statement. The Council encourages conversions and extensions of 500 sqm of residential floorspace or above or five or more dwellings to achieve “excellent” in BREEAM domestic refurbishment.
- 1.82. The following ‘be lean’ measures are proposed in the submitted Energy and Sustainability Statement.
  - High performance building fabric of low U-values that exceed Part L minimum standards;
  - BFRC-accredited double-glazed windows of low U-values will help reduce the heating demand further;
  - All junctions will conform to Accredited Construction Details thus eliminating thermal bridging;
  - Individual gas-fired condensing boilers of high efficiency with well insulated hot water cylinders will provide heating and domestic hot water to flats;
  - All apartments will feature Mechanical Ventilation with Heat Recovery to make use of wasted heat of exhaust air by preheat incoming air;
  - Light fittings will be of low energy types.
  - An instantaneous waste water heat recovery system will be installed in each bathroom to recover heat from waste warm water as it flows through the waste plumbing system to preheat the cold-water feed of a shower.
- 1.83. Following the proposed energy strategy, the new flats achieve significant carbon savings that exceed both the Target Emission Rate (TER) set by Part L of current Building Regulations and the Code for Sustainable Homes (CSH) Level 4 Target in terms of CO2 emissions i.e. 20% reduction over 2013 TER. An overall 22.9% reduction in carbon emissions would be achieved over Part L 2013 TER when applying the proposed strategy, which exceeds the 20% reduction required for CSH Level 4.
- 1.84. The feasibility of renewable energy technologies has been assessed and none are recommended for this development. Therefore there would be no reduction through renewables. It is unclear why air source heat pumps would not be feasible for this development. The comments regarding ASHPs are generic and not site specific and therefore the feasibility has not been properly tested. If planning permission were to be granted a condition would be included to provide a 20% reduction from renewables unless it can be demonstrated that such provision is not feasible. In addition, if planning permission were to be granted the sustainability and energy (CO2 reductions) would be secured by condition.

- 1.85. Low water use will be specified to reduce daily water consumption beyond 105 litres per person. This should be secured by condition.
- 1.86. **Nature conservation**
- 1.87. There are mature trees in the garden, recorded sitings of bats and it is close to a railway which is a strategic wildlife corridor. The nature conservation officer has therefore confirmed that a protected species survey for bats and breeding birds should be submitted to support the application.
- 1.88. Three bat emergence and re-entry surveys were undertaken between May and July 2017. An internal inspection of the lost space found no evidence of a bat roost within the building. The emergence and re-entry surveys confirmed the presence of a common pipistrelle roost under lead flashing around the chimney breast of the south-east corner of the building. A further roost is suspected by the south-east dormer window. There is roof void inside the building which could not be accessed, however it is possible that bats are able to enter this void. Proposals seek to demolish the existing building which would result in the destruction of a roost. All bats are protected by UK legislation, therefore a European Protected Species Licence would be required prior to any demolition or site clearance. In addition, a full bat inspection of the Internal void space by a licensed bat ecologist and a method statement detailing features to be retained and added to site to maintain and replace roost and foraging features on the site would be required. The License, bat inspection and method statement would be secured by condition if planning permission were to be granted.
- 1.89. The application has also submitted a bird survey to inspect and observe the building and vegetation on the site for signs of nesting birds. The survey was undertaken between 14:00 and 15:00 hours on the 20<sup>th</sup> April 2017. The report states no nests or evidence of nesting was found on site, however many potential nesting places were observed on the flat roofed extension building to the south and in the vegetation around the garden.
- 1.90. This report has been reviewed by the Council's Nature Conservation officer and is considered inadequate. Should a breeding bird survey be required (if demolition or clearance works of any type are proposed to be undertaken between March and August, then it would be), it would be necessary to include a condition that it should be of sufficient quality and either observes the site over an entire breeding season (typically 6-8 visits between April-July) and is valid for 2 breeding seasons (inc. the surveyed season) or is undertaken immediately prior (no more than 48 hours) to demolition and clearance works. In either case the survey should observe, record and map all bird activity that is related to breeding including singing birds and male-female interactions as well as nesting activities and behaviours.
- 1.91. **Transport**
- 1.92. Car Parking
- 1.93. The proposal seeks to demolish the existing residential building and erect a new building consisting of 5 flats (C3). The site is located in the Fitzjohns Netherhall conservation area and the Belsize controlled parking zone (CA-B) which operates between 0900 and 1830 hours on Monday to Friday and 0930 and 1330 on Saturday. Our records indicate that the CPZ suffers from parking stress with a ratio of parking permits to parking spaces of 1.10 (i.e. 110 parking permits issued per 100 parking spaces). In addition, the site has a Public Transport Accessibility Level (PTAL) of 6a (excellent) which means it is highly accessible by public transport.

- 1.94. The proposal seeks to retain 3 car parking spaces previously associated with the existing residential dwellings. There are no existing permits associated to the address at present, however the applicant has proposed in the Transport Statement that on-street permits are to be available to new residents following the completion of the development.
- 1.95. Policy T2 of the new Camden Local Plan states that the Council seeks to ensure that new developments in the borough are car-free. In redevelopment schemes, the Council will consider retaining or re-providing existing parking provision where it can be demonstrated that the existing occupiers are to return to the address when the development is completed. If a development is to have new occupiers, this should be car-free. Car-free means that no car parking spaces are provided within the site and current and future occupiers are not issued with on-street parking permits. In order to comply with policy T2 of the Camden Local Plan, the development is required to be car-free. The application is recommended for refusal due to the inclusion of off-street parking spaces and the on-street parking permits.
- 1.96. Cycle Parking
- 1.97. Policy T1 of the new Camden Local Plan requires development to provide cycle parking facilities in accordance with the minimum requirements of the London Plan and the design requirements outlined in CPG7. The development is required to provide 10 cycle parking spaces for the residential units.
- 1.98. The proposed plans shows 5 Sheffield cycle parking stands (10 spaces) would be provided in the basement, accessed via the lift. The proposed amount of cycle parking spaces and the type of cycle parking facilities proposed are acceptable and comply with CPG7 and policy T1.
- 1.99. Management of Construction Impacts on the Public Highway in the local area
- 1.100. This site is located in the Fitzjohns Netherhall Conservation Area and located on a quietway cycle route. This street is likely to have cyclists using it throughout the day, and it is important to ensure the cyclists' safety, while vehicle access to and from the site from a Strategic Road Network is not particularly easy. The site is located next to South Hampstead Junior School, Southbridge International School and Northbridge House School.
- 1.101. Policy A1 of the new Camden Local Plan states that Construction Management Plans should be secured to demonstrate how a development will minimise impacts from the movement of goods and materials during the construction process (including any demolition works). Our primary concern is public safety but we also need to ensure that construction traffic does not create (or add to existing) traffic congestion in the local area. In addition, the proposal is also likely to lead to a variety of amenity issues for local people (e.g. noise, vibration, air quality). The Council needs to ensure that the development can be implemented without being detrimental to amenity or the safe and efficient operation of the highway network in the local area. A CMP must therefore be secured as a Section 106 planning obligation.
- 1.102. In order to minimise traffic congestion and road safety issues during development works, construction vehicle movements would generally be acceptable between 9.30am and 3.00pm on Monday to Friday and between 8.00am and 1.00pm on Saturdays during school term time.
- 1.103. The Council has a CMP pro-forma which must be used once a Principal Contractor has been appointed. The CMP, in the form of the pro-forma, would need to be approved by the Council prior to any works commencing on site.

1.104. A CMP Implementation Support Contribution of £3,136 would also need to be secured as a Section 106 planning obligation if planning permission is granted.

1.105. Highway and Public Realm Improvements directly adjacent to the site

1.106. Paragraph 6.11 of the new Camden Local Plan states that the Council will repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces. The footway and highway directly adjacent to the site could be damaged as a direct result of the proposed works. We would therefore need to secure a financial contribution for highway works as a section 106 planning obligation if planning permission is granted. This will include the cost of removing the redundant crossover and reinstating the footway. This would allow the proposal to comply with policy A1 of the Local Plan. A cost estimate for highway works of £9951.80 has been provided by the councils Highways Delivery Team.

1.107. Summary of transport Section 106 Planning Obligations

- Car Free development
- Construction management plan (CMP)
- CMP Implementation Support Contribution - £3,136
- Financial contribution for highway works - £9951.80

1.108. Refuse and recycling

1.109. The proposed development provides a refuse and recycling storage area at the front of the site along the boundary with 28 Netherhall Gardens. This is considered acceptable.

1.110. Recommendation:

1.111. Refuse planning permission on the following grounds:

- Size of basement is contrary to Policy A5
- Inclusion of car parking on site is contrary to Policy T2
- The proposal has not demonstrated the existing building could not be retained and improved contrary to Policy CC1
- In the absence of a legal agreement for Car free; CMP; Highway works; BCP and affordable housing