



JANUARY 2018

Appeal Statement

6 Albert Terrace, London, NW1 7SU

Iceni Projects Limited on behalf of
Mr. Mark Golinsky

January 2018

ICENI PROJECTS LIMITED
ON BEHALF OF MR. MARK
GOLINSKY

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APPENDICES

- A1. COUNSEL OPINION FROM MR CHARLES STREETEN
- A2. EMAIL CORRESPONDENCE WITH MR ROB TULLOCH FROM THE LONDON BOROUGH OF CAMDEN DATED 6TH OCTOBER 2017
- A3. DRAFT S106 LEGAL AGREEMENT

1. QUALIFICATIONS

- 1.1 My name is Kieron Hodgson. I am a qualified town planner, having obtained a Bachelor of Arts degree in Town and Country Planning and a Master's degree in Town Planning from the University of the West of England (UWE). I have been a full member of the Royal Town Planning Institute since January 2004. I am a Director in the firm of Icen Projects Ltd (Icen), 114-116 Charing Cross Road, London WC2H.
- 1.2 I have been involved in advising on planning matters in London and elsewhere throughout my professional career.
- 1.3 I have advised landowners, developers and occupiers of commercial, residential, educational and other property on all aspects of the plan making and development management processes and have given evidence on planning matters at appeal and Examination. I have held planning posts within the public and private sector.
- 1.4 I am familiar with the appeal site and the surrounding area.
- 1.5 I understand my professional duty regarding the conduct of this appeal and have complied, and will continue to comply, with that duty. I confirm that the information provided within this Appeal Statement identifies all facts which I regard as being relevant to the opinion that I have expressed. I believe that the facts stated within this Appeal Statement are true and that the opinions expressed are correct.

2. SUBJECT MATTER OF THE APPEAL

- 2.1 Icen Projects Ltd are instructed to submit a planning appeal on behalf of Mr Mark Golinsky ('the Appellant').
- 2.2 This Householder Appeal is pursued against a refusal of full planning permission by the London Borough of Camden ('the Council') for works of extension and alteration to the existing single family dwelling house at 6 Albert Terrace, London NW1 7SU in accordance with decision notice reference 2017/2819/P dated 13 October 2017.
- 2.3 The appeal is proposed to be determined by the Public Inquiry route.

3. DESCRIPTION OF DEVELOPMENT AND APPEAL SUBMISSION

- 3.1 This Appeal is submitted on behalf of Mr. Mark Golinsky in support of a householder planning appeal, including demolition within a conservation area for the site at 6 Albert Terrace, London, NW1 7SU.
- 3.2 The appeal proposal relates to the extension and alteration of the existing single family dwelling house at 6 Albert Terrace, London, NW1 7SU to create an enlarged lower ground floor and a new basement level. To enable this development, the existing side extension and some of the boundary wall will need to be demolished but will be re-built on a like for like basis i.e. in facsimile.
- 3.3 The description of development for these appeal proposals is therefore:

“Rebuilding of side extension and boundary wall, extension to existing lower ground level and creation of basement level with 2 No. sky lights to residential dwelling, including associated plant, landscaping and other alterations”

- 3.4 For clarity, this description of development is the correct description of development as set out on the submitted application forms and as proposed originally by the applicant and appellant.
- 3.5 The Council in their determination of the application sought to amend this description of development. The Councils description of development is set out on their decision notice reference 2017/2819/P dated 13 October 2017. The Appellant disagrees with the councils description of the proposed development for the reasons which are set out in this Statement.

The Appeal Submission

- 3.6 The Planning and Heritage Appeal Statement provides a description of the proposed development and an assessment against relevant national, regional and local planning policy in accordance with the requirements of Section 38(6) of the Act.
- 3.7 It additionally and specifically addresses the council reasons for refusal.
- 3.8 This Appeal Statement should be read in conjunction with the following technical reports, drawings and supporting documents all of which formed part of the original application submission.
- Householder Application Form (including demolition in a conservation area) and Certification of Ownership;
 - CIL Determination Form;
 - Existing and Proposed Drawings, prepared by Mitzman Architects LLP;

- Design and Access Statement, prepared by Mitzman Architects LLP;
- Sustainability and Energy Statement, prepared by Icen Projects;
- Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan, prepared by Martin Dobson Associates;
- Draft Construction Management Plan, prepared by Blue Sky Building;
- Basement Impact Assessment, prepared by Alan Baxter Ltd;
- Noise Impact Assessment, prepared by Clement Acoustics.

3.9 In addition, the Inspector is asked to consider the following additional evidence submitted as part of this Appeal.

- Counsel Opinion provided by Mr Charles Streeten (Francis Taylor Buildings) (**Appendix 1**)

4. THE APPEAL SITE AND SURROUNDING AREA

- 4.1 The subject site comprises the building at 6 Albert Terrace, London, NW1 7SU. It is located in the Camden Town with Primrose Hill ward in the administrative boundary of the London Borough of Camden.
- 4.2 The Site has an approximate area of 0.045 hectares and comprises a semi-detached five storey property (including lower ground level) that is used as a single-family dwelling house (Class C3). The building did comprise 6 self-contained flats until permission was granted in 2003 to reinstate it back into a single house. Further details on the site's recent relevant planning history is provided in Section 5.
- 4.3 The Site is situated on the corner of Albert Terrace and Regent's Park Road. It is therefore bound to the west by residential properties along Regent's Park Road, and fronts onto Albert Terrace, facing Primrose Hill. The rear of the Site backs onto the rear of the properties along Albert Terrace Mews.
- 4.4 With the exception of three small planted trees and some box planted hedges/shrubs, the front of the building is primarily hard-surfaced and is formed of a private driveway and lightwell that is used as a lower-ground terrace area. The rear of the site is formed of a garden with numerous trees, a lawn, patio and sunken trampoline.
- 4.5 As well as the vehicular access along Albert Terrace there is a side gate for pedestrian access along Regent's Park Road.
- 4.6 The Environment Agency identifies the Site as falling within Flood Risk Zone 1.

Heritage Context

- 4.7 The Site does not comprise a statutorily listed building. It does, however, fall within the setting of the following:
- Drinking Fountain at Junction with Albert Terrace (Grade II Listed) – this is located opposite the site on the west side of Albert Terrace;
 - Primrose Hill (Grade II Listed Park) – this is located opposite the site to the west of Albert Terrace;
 - K2 Telephone Kiosk at Junction with Prince Albert Road (Grade II Listed) – this is located at the southern end of Albert Terrace;
 - 36 Regents Park Road (Grade II Listed) – this is located to the east of the site on the north side of Regents Park Road.

- 4.8 The Site is also located within Primrose Hill Conservation Area (Sub-Area 1). Within the Conservation Area Statement, all the buildings at 1-6 Albert Terrace (including the Site) are identified as unlisted buildings that make a positive contribution to the special character and appearance of the area. To the north of the site is a terrace of buildings along Regent's Park Road, which are also highlighted as making a positive contribution to the special character and appearance of the area.
- 4.9 The Site is an Italianate Villa, which is a form of building typology that dominates the principal and secondary roads within Sun-Area 1 of the Conservation Area. It is decorated with stucco plasterwork, which again is a characteristic of the villas within the area.
- 4.10 Albert Terrace and Regent's Park Road are identified as principal roads and together with Gloucester Avenue form part of the planned suburban 19th century Southampton Estate. They are of a consistently generous width with wide pavements and gently curving forms.

5. RELEVANT PLANNING HISTORY

5.1 In reviewing LB Camden's online planning application database, Table 2.1 provides a summary of the site's planning history considered relevant to this application.

Table 5.1 Relevant Site Planning History

Reference	Description	Decision/ Date	Comments
2011/3948/P	Excavation and extension of an existing basement to encompass the front garden area of a single dwelling house (Class C3) with associated plunge pool, lantern and domed ground lights	Refused (21/10/2011)	Application was refused for the following reasons: <ol style="list-style-type: none"> 1) Insufficient information submitted to demonstrate that the proposed basement would not have an adverse impact on the structural stability of the building and adjacent properties, flooding or the water environment; 2) The proposed development, in the absence of a construction management plan, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally; 3) The proposed development, in the absence of a legal agreement securing necessary highway works, would fail to secure adequate provision for and safety of pedestrians.
2008/1301/P	Amendments to planning permission granted 27/10/07 (Ref. 2007/1294/P), namely for excavation of a sub-basement with the provision of three rooflights in front garden adjacent to Albert Terrace.	Approved 03/06/2008	
2007/1294/P	Extension and conversion of basement including works of excavation to create an indoor swimming pool and	Approved 29/10/2007	This permission was not implemented. A repeat submission was made in 2011 but was refused as planning policy had changed

	associated alterations to single family dwelling house.		since permission was originally granted in 2007
2004/2579/P	The erection of a side extension at second floor level.	Refused	Was refused as it was considered that the second-floor side extension, by reason of its scale, form, bulk and design, would be detrimental to the character and appearance of the building and to the Primrose Hill Conservation Area.
PEX0300139 /P	The change of use and works of conversion from six self-contained flats to a single-family dwelling house.	Approved 22/08/2003	This was implemented and the building is now occupied as a single-family dwelling.

5.2 The planning history demonstrates that the principle of basement development has previously been considered acceptable by the Council, with the granting of permission being given in 2007. This permission was not implemented and the 2011 application that followed was made after planning policy had recently changed and therefore was refused for not providing the details necessary to address new local requirements, including a basement impact assessment.

6. THE PROPOSED DEVELOPMENT

6.1 Planning permission is sought for:

“Rebuilding of side extension and boundary wall, extension to existing lower ground level and creation of basement level to residential dwelling with 2No. sky lights, including associated plant, landscaping and other alterations ”

6.2 The scheme provides 264.2sqm additional floorspace across an extended lower ground level and new basement level to provide ancillary space for the enjoyment of the existing single family dwelling. The lower ground level is proposed to be extended under the front drive and the new basement level is proposed beneath the footprint of the existing building and the extended lower ground level. No extension works are proposed to the rear of the property into the garden area.

Table 6.1 Proposed Floorspace and Use of Lower Ground and Basement

Floor	Existing Floorspace (sqm)		Proposed Floorspace (sqm)		Net Change (sqm)		Proposed Use
	GEA	GIA	GEA	GIA	GEA	GIA	
Lower Ground	166.6	136.3	203	167.4	+36.4	+31.1	Living space, utility room, ancillary plant and storage (including cycle spaces)
Basement	N/A	N/A	229.5	192	+229.5	+192	Swimming pool, jacuzzi, gym and ancillary storage space.

6.3 The basement level will be single storey, with a floor to ceiling height of 2.7m. The proposed swimming pool will be an additional depth of 1.5m to 3m.

6.4 To enable the underground excavation and development, the existing two storey side extension and part of the boundary wall would need to be demolished, but would be rebuilt on a like for like basis. Mouldings would be taken of the existing decorative elements to ensure no detail is lost during the works. Bricks and any other salvageable materials from the demolition would be reused where possible in the rebuild.

6.5 The proposed development would include the installation of new condensing units (to replace existing) an air handling unit (AHU) and a heat recovery unit (HRU). The condenser units would be located at the rear of property. The AHU and HRU would be located in the extended lower ground floor, but would discharge to the rear of the property.

- 6.6 The Applicant has sought to use best practice for sustainability where possible as part of the proposed development. As such, the proposed development comprises numerous passive, good design measures and photovoltaic (PVs) on the flat part of the roof, where they will not be visible. The sustainability benefits of the proposals are set out within the original application submission documents.
- 6.7 The proposed development results in no loss of planted garden space and all trees in the back garden, which are of greatest quality and amenity value, will be protected. Three Grade C young fruit trees in the front drive area will need to be removed to enable the proposed development, but these will be replaced with three new trees of a species appropriate for the surrounding area. A 1m soil depth has been allowed above the extended lower ground floor to ensure planting can occur and be sustained.
- 6.8 For further details of the proposed development, please refer to the submitted Design and Access Statement as well as the relevant application drawings.

7. PLANNING POLICY FRAMEWORK

7.1 This section provides an overview of the Development Plan and other planning policy and guidance relevant to the consideration of this proposal.

Policy Framework

7.2 Planning policy operates at three levels.

7.3 At national level, Central Government sets out national planning policy in the form of the National Planning Policy Framework (NPPF). The NPPF focuses on a presumption in favour of sustainable development.

7.4 The NPPF is supplemented by the National Planning Practice Guidance. This has since been revised and updated and replaces a number of older guidance notes and complements the NPPF.

7.5 At regional level, the Mayor's London Plan, consolidated with alterations since 2011 (March 2016) represents the regional spatial strategy for London. The Mayor has prepared a New London Plan. This was published for first stage consultation in November 2017 with the consultation period due to expire in March 2018. Given the New London Plan is at the earliest stages of its statutory preparation process it is considered that the draft policies within can only be given very limited weight.

7.6 At a local level the development plan is the Camden Local Plan (2017).

The 'Development Plan'

7.7 Section 38(6) of the Planning and Compulsory Purchase Act requires planning applications to be determined in accordance with the statutory Development Plan unless material considerations indicate otherwise.

7.8 The statutory Development Plan for the purposes of Section 38 (6) of the Planning and Compulsory Purchase Act (2004) is therefore the Mayor's London Plan, consolidated with alterations since 2011 (March 2016) and the Camden Local Plan (2017).

7.9 The NPPF and the NPPG also form a material consideration in the determination of planning applications.

7.10 The LB Camden also have the Camden Planning Guidance's (CPGs) that provide additional guidance to support the relevant policies. These SPDs also form a material consideration in the

determination of planning application. The most relevant of these for this application is the Basement SPD (2015).

- 7.11 The relevant planning policies and guidance are detailed and considered on a topic basis within this Statement alongside the analysis of the relevant planning and heritage issues.

Listed Building and Conservation Areas Act

- 7.12 The site is located within the Primrose Hill Conservation Area and is within the setting of nearby statutorily listed structures, buildings and a park. Consequently, it will be necessary to '*pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area*' as required by Section 72 (1) of the Planning (Listed Building and Conservation Areas) Act 1990. As the site falls within the visual catchment of these assets, appropriate consideration of potential impact to setting is required.

8. PLANNING AND HERITAGE ASSESSMENT

- 8.1 This section of the Statement provides a detailed assessment of the proposals against relevant policy objectives together with other material objectives. Each planning consideration is assessed in turn and are listed as follows:

Principle of basement development, including:

- Size and Parameters of Basement;
- Trees / Landscaping;
- Structural Stability;
- Flood Risk, Drainage and Contamination;
- Archaeology;
- Design and Heritage;
- Noise;
- Sustainability;

Principle of Basement Development

- 8.2 The proposed development is for the extension of a lower ground level and the excavation of a basement level to create additional residential floorspace for the enjoyment of an existing family dwelling house. Such forms of development are often appropriate in such locations as this, where above ground extensions are often more likely to impact the setting of heritage assets and the sensitive character of the surrounding area. It is considered therefore to be an acceptable form of development in principle, subject to meeting the specific requirements set within local policy, which the following section assesses.

Size and Parameters of Basement

- 8.3 The proposed development has been designed to accord with the requirements of Policy A5 (Basements) of the Camden Local Plan (2017), demonstrated as follows:

Part f – Basements to not comprise of more than one storey (considered to be approximately 3m-4m, with some exception for swimming pools)

- 8.4 The proposed development is for a single storey basement level that will primarily have a 2.7m floor to ceiling height. An area of the proposed basement is to accommodate a swimming pool, which will have a depth ranging from 1.5m to 3m. This is considered to accord with the requirements set under the policy.

Part g – Basements to not be built under an existing basement

- 8.5 No basement currently exists on site. The proposed basement will be situated under an existing lower ground level and therefore accords with the policy.

Part h – Basements to not exceed 50% of each garden within the property

- 8.6 The front drive area is circa 141sqm in size. The proposed basement level will extend circa 71sqm within of this area; representing 50% of the front drive area, which is in accordance with the policy. No basement development will impede into the rear garden area.

Part i – Basements to be less than 1.5 times the footprint of the host building in area

- 8.7 The area of the existing footprint of the building is 166.6sqm (GEA) and the extent of the proposed basement is 229.5sqm (GEA), which is the equivalent of 1.4 times larger in size and in accordance with the policy.

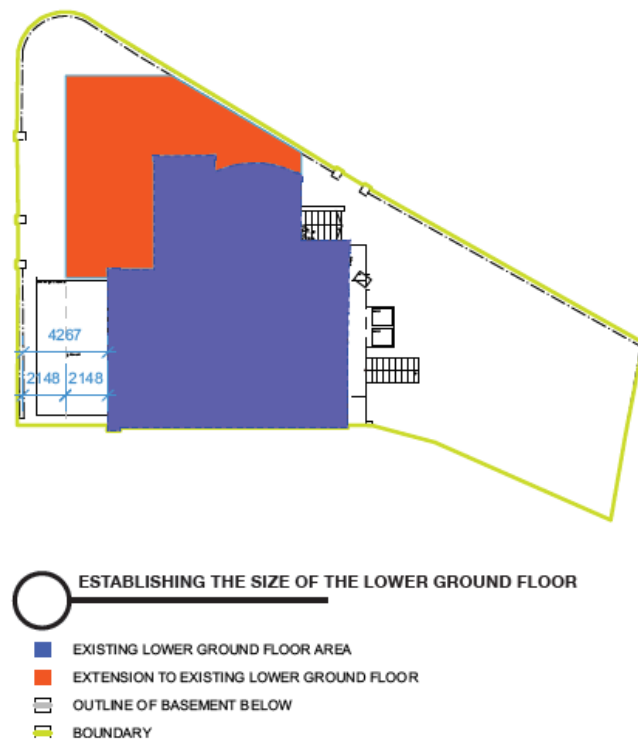
Part j – Basements to extend no further than 50% of the depth of the host building measured from the principal rear elevation

- 8.8 The full depth of the host building from principal front elevation to principal rear elevation is 12.2m. The maximum depth of the proposed basement from any elevation is 6m (measured diagonally from the north west corner of the building to the north west corner of the front drive area). This equates to 49% of the depth of the host building and so is in accordance with the policy.

Part k – Basements to not extend into or under the garden further than 50% of the depth of the garden

- 8.9 The proposed basement level extends 2.148m from the principal front elevation of the existing building, which is 50% of the depth from this elevation to the front boundary of the site and therefore is in accordance with the policy (see figure 5.1).

Figure 5.1: Diagram demonstrating extent of basement in regards to parts j. and k. of emerging planning policy



Part I – Basements to be set back from neighbouring property boundaries where it extends beyond the footprint of the host building

8.10 The property is semi-detached with another property and currently includes a lower ground level that runs along the shared party wall. Where the proposed development is in proximity to the neighbouring property, it is primarily situated below the existing lower ground floor. The exception is the 2.15 metres that the basement extends beyond the front elevation, but is proven within the submitted Basement Impact Assessment to not harm the structural stability of the neighbouring property (scoring a 1 on the Burland Scale). On balance, therefore, the proposed development is considered to accord with the policy.

Part M - Trees and Landscaping

8.11 Policy A5 seeks for basement developments to avoid loss of open space or trees of amenity value and to not prejudice the ability of garden areas to support trees where they are part of the character of the area.

8.12 The majority of the trees on the Site are located in the rear garden where a basement level is not proposed. Five of the trees in the rear are category B and one of the trees is category C. In the front drive area there are three young fruit trees (Category C: two Prunus trees and one Magnolia) that need to be removed to enable development, however, these are proposed to be replaced with three new trees of a suitable species.

- 8.13 An Arboricultural Impact Assessment (AIA) has been prepared in support of the planning application to assess the quality of the trees on-site, their root and crown spread and identify mitigation measures to protect these trees during construction works. All of the trees in the rear garden, which are considered to hold the greatest amenity value by being predominantly Category B, will be retained and protected as part of the proposed development, including during construction. The AIA recommends suitable species to replace the loss of the three Category C trees in the front drive area and confirms that the 25sqm of protected tree planting area, as well as the 1m top soil depth above the extended lower ground floor, will allow for the replacement trees to survive and grow. Currently the replacement planting is proposed to be two Cherry trees and one Magnolia.

Structural Stability

- 8.14 Adopted policy A5 requires developers to demonstrate that proposed below ground development will maintain the structural stability of the host building and neighbouring properties.
- 8.15 A comprehensive Basement Impact Assessment (BIA) has been prepared in support of this planning application. The document determines the existing geotechnical ground conditions and recommends an excavation and construction sequence to minimise impacts to both the natural and built environment. It concludes that all potential impacts associated with the basement can be mitigated through appropriate design and standard construction practice.
- 8.16 Most importantly, the submitted BIA shows that the scheme poses a risk of damage to neighbouring properties no higher than Burland Scale 1 'very slight', in accordance with part n) of planning policy A5.

Flood Risk, Drainage and Contamination

- 8.17 Adopted policy A5 requires developers to demonstrate that proposed basements will not adversely affect drainage and run-off or cause other damage to the water environment.
- 8.18 The lower ground extension and new basement will extend beyond the footprint of the existing dwelling underneath the front area of the site. This area is primarily utilised for off-street parking and as a lightwell terrace, and therefore is predominantly paved. The proposed development will as such not increase the extent of non-permeable surface on the site and, by association, surface water runoff. Nonetheless, the proposed development includes for Sustainable Urban Drainage (SUDs) measures to improve the site's current drainage, including the use of permeable paving and the installation of a large water butt in the rear garden.
- 8.19 Survey results, provided in the BIA, demonstrates that the site does not lie within a zone at risk of flooding from rivers and seas or contamination. Furthermore, it confirms that the proposed development will not adversely affect drainage or damage the water environment.

Archaeology

- 8.20 The Site is not located within an archaeological priority area and therefore the findings of archaeological remains is considered to be highly unlikely.

Basement Summary

- 8.21 In light of the above assessment, the proposed basement is considered to be an efficient way to maximise the usage of the site and, subject to following the recommendations within the BIA, will not impact neighbourhood amenity, the structural integrity of adjoining buildings, subsurface hydrology and drainage patterns. As such, the basement level is considered to be in accordance with relevant adopted Policies.

Design and Heritage

- 8.22 The proposed development is primarily isolated to below ground works, the two basement roof lights situated within the existing lower ground light being the only external manifestation of the proposed basement. This minor form of alteration will not harm the character or appearance of the locally listed building, the nearby statutorily listed assets or the surrounding conservation area. This was also the position of the Council when determining the 2007 and 2011 planning applications.
- 8.23 To enable the underground excavation and development, the existing two storey side extension and some of the boundary wall will need to be demolished, but will be rebuilt on a like for like basis. Mouldings will be taken of the existing decorative elements to ensure no detail is lost during the works. Bricks and any other salvageable materials from the demolition will be reused where possible in the rebuild. Once complete, the building and boundary treatment will appear unchanged from before and as such will not cause any harm to the character or appearance of the existing building or surrounding conservation area.
- 8.24 Separately, photovoltaics are proposed on a small area of the roof. However, these will be situated on a flat part of the roof and will sit at an erect angle and so will not be visible from the surrounding streetscapes and properties. These too, therefore, are not considered to cause any harm in terms of overall character, appearance and heritage assets.
- 8.25 As such, the proposals are in accordance with the statutory tests of legislation and in accordance with the development plan policy, including paragraph 126 of the NPPF, and policies D1 and D2 of the Camden Local Plan.

Noise

- 8.26 An Acoustic Assessment has been prepared for the proposed development to consider the noise impacts of the proposed ancillary plant.

- 8.27 Adopted Local Plan policies seek to ensure the amenity of residential areas are not unduly impacted upon by development, particularly in relation to noise generated by new development. Policy DP28 states that development will not be permitted if it exceeds Camden's Noise and Vibration thresholds.
- 8.28 The assessment included the sourcing of background noise data through monitoring on site to appropriately consider how the noise generating activities of the proposals, including entertainment uses / activities and plant and machinery noise, would impact on surrounding residential areas, as well as future occupier of the development.
- 8.29 The assessment found that the noise generated from the proposals would be within the noise parameters set by the LB Camden and concluded that the scheme would not have a detrimental impact on the amenity of adjoining properties, subject to the inclusion of an acoustic enclosure around the condenser units.
- 8.30 Overall, subject to the mitigation measures identified above, the proposals would protect residential amenity in accordance with relevant adopted Policies.

Sustainability

- 8.31 The NPPF sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. Specifically, Section 10 identifies the role that planning plays in helping shape places to secure radical reductions in greenhouse emissions, minimising vulnerability and providing resilience to the impact of climate change, as well as supporting the delivery of renewable and low carbon energy and associated infrastructure.
- 8.32 The vision of the London Plan is to ensure London becomes an exemplary sustainable world city whilst growing in a responsible and considered socio-economic manner.
- 8.33 The Local Plan notes that the Council will require all developments to take measures to minimise the effects of and adapt to climate change, requiring sustainable design and construction measures for new development.
- 8.34 A Sustainability Statement have been prepared in support of this application, considering all relevant policies. It confirms that the proposed development will be constructed to maximise energy efficiency and minimise heat loss; targeting a 13.5% improvement on Building Regulations Part L1A 2013.
- 8.35 A number of low carbon and renewable energy options were carefully considered, including combined heat and power (CHP), biomass, an air source heat pump (ASHP), a ground source heat pump (GSHP), solar thermal and wind. However, it was found that these options were not appropriate for this site and for a development of this nature. It was, therefore, concluded that the use of

photovoltaics (PVs) was the most appropriate form of renewable energy resources to utilise, particularly as they could be situated on the roof in a way that would render them effectively invisible at street level.

- 8.36 In terms of water efficiency, water saving fittings and appliance shall be installed to target the 'best practice' levels of the Association of Environment Conscious Building water standards. The water consumption of the swimming pool will be minimised by the use of a pool cover, which will limit the amount of evaporation when the pool is not in use. In addition, the development will incorporate the installation of a rainwater butt in the rear garden, which will reduce water consumption required for garden irrigation.
- 8.37 These energy and sustainability outcomes are considered to be consistent with the NPPF, London Plan and LB Camden policy for a proposed development of this domestic scale and nature.

Construction Management Plan

- 8.38 A draft Construction Management Plan (CMP) was prepared and submitted in support of the planning application and is included as part of the appeal submission. It considers the construction impacts throughout the excavation and construction phases, with a number of mitigation measures identified. These include times where works can take place, noise, vibration, dust and air quality control measures, the appointment of 'good neighbour' policies, and the appropriate collection and disposal of waste products associated with the excavation works. Managing the impact on the amenity of surrounding areas in this manner, ensures the proposals will accord with the objectives of relevant policy.
- 8.39 Additionally, consideration of vehicle and traffic movements has also been covered in the CMP and provides the selected routes and times that vehicles associated with the demolition and construction of the facility will follow, ensuring the impact to the surrounding area is minimised as much as practicable.
- 8.40 The CMP will be finalised prior to the commencement of works on site to ensure its adequacy. It is normal for CMP's, their implementation and monitoring to be secured through legal agreement. A draft legal agreement to secure the necessary benefits and provisions of the CMP is included as part of this appeal.

9. APPELLANTS RESPONSE TO THE REASONS FOR REFUSAL

9.1 The appellant's case seeks to refute the Council's reasons for refusal.

9.2 We present the appellants case in response to each of the Councils reasons for refusal in turn.

Reasons for refusal 1

9.3 The Councils first reason for refusal is as follows:

9.4 *'The proposed basement extensions would consist of more than one storey, be under an existing basement, and not be subordinate to the host building contrary to Policy A5 (Basements) of the Camden Local Plan 2017'.*

9.5 This is considered by the appellant to be the principal reason for refusal.

9.6 We address each element of this reason for refusal in turn:

9.7 *'The proposed basement extensions would consist of more than one storey'*

9.8 The proposed basement extension would not consist of more than one storey.

9.9 This point relates specifically to Part f of Policy A5, which states that basements 'should not comprise of more than one storey'.

9.10 The proposed basement extension would not comprise of more than one storey.

9.11 Paragraph 6.131 of the supporting text to policy A5 defines what is considered to be one storey and states that *'The Council considers a single storey for a basement to be approximately 3 to 4 metres in height. Where appropriate we will allow a proportion of the basement to be deeper to allow development of swimming pools'*

9.12 The proposed development is for a single storey basement level that will primarily have a 2.7m floor to ceiling height. An area of the proposed basement is proposed to accommodate a swimming pool, which will have a depth ranging from 1.5m to 3m.

9.13 As such, it is considered that the proposed basement extension would not consist of more than one storey and would accord fully with the requirements set within Policy A5 Part f as well as the supporting text to policy A5 set out in paragraph 6.131.

- 9.14 *The proposed basement 'would be under an existing basement'*
- 9.15 The proposed basement would not be under an existing basement.
- 9.16 This relates to Part g of Policy A5 which states that – Basements should not *'be built under an existing basement'*
- 9.17 The proposed basement would not be built under an existing basement.
- 9.18 No basement currently exists on site. The proposed basement would be situated under an existing lower ground level and therefore accords with policy A5.
- 9.19 It is the view of the appellant that a key point for the determination of the appeal is whether or not the lowest ground floor level of the existing property can be considered to be an existing basement.
- 9.20 It is the appellants view that the existing lowest floor level of the existing single family dwelling house is a lower ground floor and not a basement.
- 9.21 We draw the Inspectors attention to submitted application drawing reference **265-DWG-012-CC Revision P1 – Existing Section CC**. This is an existing section drawing through the property from Albert Terrace to the rear garden.
- 9.22 We draw the Inspectors attention to submitted application drawing reference **265-DWG-112-CC Revision P3 – Proposed Section CC**, which is the equivalent section showing the proposed basement excavation.
- 9.23 As the Inspector shall note from this drawing, the existing property is considered to have an existing lower ground floor level (and in this respect, is the same as many other properties within this locality and this part of the Primose Hill Conservation Area). However, it is not considered that it is reasonable to consider the existing lower ground floor level to be an existing basement for the purpose of the specific wording of Policy A5 part g.
- 9.24 There are many examples of properties within the locality, surrounding Primose Hill Conservation Area and indeed with the London Borough of Camden generally, which have existing lower ground floor levels. While it could be understood as reasonable as a matter of writing policy to ban basements under existing basements (as properties within Camden with existing basements when compared to properties within Camden with existing lower ground floor levels are comparatively rare), it is not reasonable to consider that the intention of the policy was to remove the ability of residential householders to undertake basement excavations on all properties with existing lower ground floors.

9.25 We draw the Inspector attention to the **Appendix 1** of this Statement. This contains the counsel opinion of Mr Charles Streeten from Francis Taylor buildings.

9.26 Mr Streeten opinion sets out the relevant statutory provisions and legal interpretation of Policy A5 including its specific wording in the context of relevant case law and his professional opinion. It concludes that the existing lowest ground floor level of the existing single family dwelling house is not a basement.

9.27 We agree with the opinion of Mr Streeten and trust that this evidence shall be given due consideration by the Inspector.

9.28 On the basis of the above, the appellant contends that the proposed basement would not be under an existing basement. The appeal proposals would therefore present no conflict with Policy A5.

9.29 The proposed basement extensions would *'not be subordinate to the host building'*

9.30 The proposed basement would be subordinate to the host building.

9.31 We draw the Inspectors attention to Paragraph 3.8 of the Councils officer delegated report. This states that *'The section (of Policy A5) (parts f-m) deals with the siting, location, scale and design of basements and seeks to ensure that they are subordinate to and have minimal impact on the host building'*.

9.32 The appellant would agree with the Councils statement in Paragraph 3.8 of the officers delegate report and similarly consider that parts f-m of Policy A5 are the most relevant sections of the Policy A5 when it comes to the assessment of subordination.

9.33 We provide our assessment of the proposed basement in the context of Policy A5 parts f-m below.

Part f – Basements to not comprise of more than one storey (considered to be approximately 3m-4m, with some exception for swimming pools)

9.34 The proposed development is for a single storey basement level that will primarily have a 2.7m floor to ceiling height. An area of the proposed basement is to accommodate a swimming pool, which will have a depth ranging from 1.5m to 3m. This is considered to accord with the requirements set under the policy.

Part g – Basements to not be built under an existing basement

9.35 No basement currently exists on site. The proposed basement will be situated under an existing lower ground level and therefore accords with the policy.

Part h – Basements to not exceed 50% of each garden within the property

- 9.36 The front drive area is circa 141sqm in size. The proposed basement level will extend circa 71sqm within of this area; representing 50% of the front drive area, which is in accordance with the policy. No basement development will impede into the rear garden area.

Part i – Basements to be less than 1.5 times the footprint of the host building in area

- 9.37 The area of the existing footprint of the building is 166.6sqm (GEA) and the extent of the proposed basement is 229.5sqm (GEA), which is the equivalent of 1.4 times larger in size and in accordance with the policy.

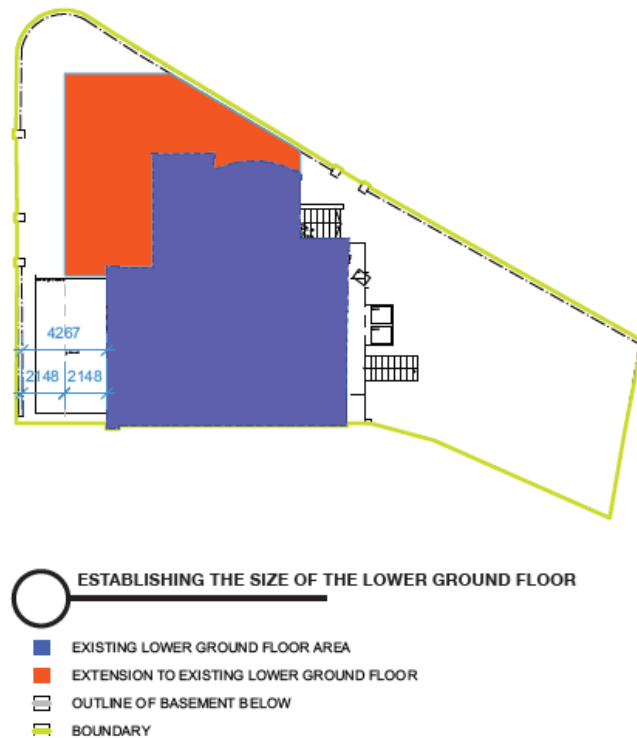
Part j – Basements to extend no further than 50% of the depth of the host building measured from the principal rear elevation

- 9.38 The full depth of the host building from principal front elevation to principal rear elevation is 12.2m. The maximum depth of the proposed basement from any elevation is 6m (measured diagonally from the north west corner of the building to the north west corner of the front drive area). This equates to 49% of the depth of the host building and so is in accordance with the policy.

Part k – Basements to not extend into or under the garden further than 50% of the depth of the garden

- 9.39 The proposed basement level extends 2.148m from the principal front elevation of the existing building, which is 50% of the depth from this elevation to the front boundary of the site and therefore is in accordance with the policy (see figure 5.1).

Figure 5.1: Diagram demonstrating extent of basement in regards to parts j. and k. of emerging planning policy



Part I – Basements to be set back from neighbouring property boundaries where it extends beyond the footprint of the host building

9.40 The property is semi-detached with another property and currently includes a lower ground level that runs along the shared party wall. Where the proposed development is in proximity to the neighbouring property, it is primarily situated below the existing lower ground floor. The exception is the 2.15 metres that the basement extends beyond the front elevation, but is proven within the submitted Basement Impact Assessment to not harm the structural stability of the neighbouring property (scoring a 1 on the Burland Scale). On balance, therefore, the proposed development is considered to accord with the policy.

Part M - Trees and Landscaping

9.41 Adopted policy seeks for basement developments to avoid loss of open space or trees of amenity value and to not prejudice the ability of garden areas to support trees where they are part of the character of the area.

9.42 The majority of the trees on the Site are located in the rear garden where a basement level is not proposed. Five of the trees in the rear are category B and one of the trees is category C. In the front drive area there are three young fruit trees (Category C: two Prunus trees and one Magnolia) that need to be removed to enable development, however, these are proposed to be replaced with three new trees of a suitable species.

- 9.43 An Arboricultural Impact Assessment (AIA) has been prepared in support of the planning application to assess the quality of the trees on-site, their root and crown spread and identify mitigation measures to protect these trees during construction works. All of the trees in the rear garden, which are considered to hold the greatest amenity value by being predominantly Category B, will be retained and protected as part of the proposed development, including during construction. The AIA recommends suitable species to replace the loss of the three Category C trees in the front drive area and confirms that the 25sqm of protected tree planting area, as well as the 1m top soil depth above the extended lower ground floor, will allow for the replacement trees to survive and grow. Currently the replacement planting is proposed to be two Cherry trees and one Magnolia.
- 9.44 It is therefore considered that given the proposed basement completism in full with all elements of Policy A5 (criteria f-m) it must be considered to be subordinate to the existing building.

Reason for refusal 2

- 9.45 Reason for refusal number 2 states:
- 9.46 *'The proposal has failed to demonstrate that the proposed basement development would maintain the structural stability of the building and neighbouring properties and avoid adversely affecting drainage and run-off or causing other damage to the water environment avoid cumulative impacts upon structural stability or the water environment in the local area contrary to policies A1 (Managing the impact of development), A5 (Basements) and CC3 (Water and flooding) of the Camden Local Plan 2017'.*
- 9.47 A full Basement Impact Assessment (BIA) was prepared and submitted with the application. This demonstrates how the proposed basement development would maintain the structural stability of the building and neighbouring properties and avoid adversely affecting drainage and run-off or causing other damage to the water environment avoid cumulative impacts upon structural stability or the water environment in the local area.

Structural Stability

- 9.48 Adopted policy requires developers to demonstrate that proposed below ground development will maintain the structural stability of the host building and neighbouring properties.
- 9.49 A comprehensive Basement Impact Assessment (BIA) has been prepared in support of the planning application and this appeal. The document determines the existing geotechnical ground conditions and recommends an excavation and construction sequence to minimise impacts to both the natural and built environment. It concludes that all potential impacts associated with the basement can be mitigated through appropriate design and standard construction practice.

- 9.50 Most importantly, the submitted BIA shows that the scheme poses a risk of damage to neighbouring properties no higher than Burland Scale 1 'very slight', in accordance with part n) of policy A5.

Flood Risk, Drainage and Contamination

- 9.51 Adopted policy requires developers to demonstrate that proposed basements will not adversely affect drainage and run-off or cause other damage to the water environment.
- 9.52 The lower ground extension and new basement will extend beyond the footprint of the existing dwelling underneath the front area of the site. This area is primarily utilised for off-street parking and as a lightwell terrace, and therefore is predominantly paved. The proposed development will as such not increase the extent of non-permeable surface on the site and, by association, surface water runoff. Nonetheless, the proposed development includes for Sustainable Urban Drainage (SUDs) measures to improve the site's current drainage, including the use of permeable paving and the installation of a large water butt in the rear garden.
- 9.53 Survey results, provided in the BIA, demonstrates that the site does not lie within a zone at risk of flooding from rivers and seas or contamination. Furthermore, it confirms that the proposed development will not adversely affect drainage or damage the water environment.

Archaeology

- 9.54 The Site is not located within an archaeological priority area and therefore the findings of archaeological remains is considered to be highly unlikely.

Basement Summary

- 9.55 In light of the above assessment, the proposed basement is considered to be an efficient way to maximise the usage of the site and, subject to following the recommendations within the BIA, will not impact neighbourhood amenity, the structural integrity of adjoining buildings, subsurface hydrology and drainage patterns. As such, the basement level is considered to be in accordance with adopted Policy.

External validation of Basement Impact Assessment (BIA)

- 9.56 We consider that the key issue in the council reasoning and writing of reason for refusal 2 was that the council could not assess whether or not the submitted BIA complied with the requirement of the relevant policies. This is because the council did not have the in-house skills necessary to make such an assessment. The London Borough of Camden typically process submitted BIA's for external validation via appointed structural surveyors (normally Campbell Reith). An external validation of the

BIA would typically cost the applicant several thousand pounds and given the applicants were aware that the planning application was going to be refused anyway (owing to reasons for refusal 1), could see no benefit in paying for external validation of the BIA. Notwithstanding, the appellants basement engineers given their extensive experience of working within the Borough of Camden are confident that the submitted basement impact assessment would comply fully with any external validation process.

- 9.57 We draw the Inspector's attention to **Appendix 2** of this Statement which is email correspondence with Mr Rob Tulloch from the London Borough of Camden dated 6th October 2017, which we hope is helpful to the Inspector by way of background.
- 9.58 Given the applicants BIA fully addresses the relevant matters of policy and the council have presented no evidence to the contrary (except for the failure of the applicant to pay for the external validation of the BIA) and there is no planning policy or legal reason to require an applicant to pay for external validation, we consider that proposed development complies fully with the requirements of Policies A1, A5 and CC3 of the Camden Local Plan 2017.

Reason for refusal 3

- 9.59 Reason for refusal number 3 states:
- 9.60 *'The proposal, in the absence of a legal agreement securing a Construction Management Plan would be likely to harm the local transport network and give rise to conflicts with other road users, and be detrimental to the amenity of the area generally contrary to policies A1 (Managing the impact of development), A5 (Basements) and T4 (Sustainable movement of goods and materials).'*
- 9.61 We draw the Inspectors attention to the Informative on the refusal decision notice ref: 2017/2819/P which states that the council considers *'that reasons for refusal numbers 3 and 4 could be overcome with the necessary legal agreement'*.
- 9.62 We provide at **Appendix 3** a draft legal agreement to secure a Construction Management Plan. This agreement follows the London Borough of Camden normal template and wording for this standard obligation.
- 9.63 On this basis, the appeal proposals would comply with policies A1 (Managing the impact of development), A5 (Basements) and T4 (Sustainable movement of goods and materials).

Reason for refusal 4

- 9.64 Reason for refusal number 4 states:

- 9.65 *'The proposal, in the absence of a legal agreement securing necessary contributions towards highway works would fail to make provision to restore the public highway to an acceptable condition contrary to policy A1 (Managing the impact of development).'*
- 9.66 We draw the Inspectors attention to the Informative on the refusal decision notice ref: 2017/2819/P which states that the council considers *'that reasons for refusal numbers 3 and 4 could be overcome with the necessary legal agreement'*.
- 9.67 We provide at **Appendix 3** a draft legal agreement to secure a contribution towards highway works. This agreement follows the London Borough of Camden normal template and wording for this standard obligation.
- 9.68 On this basis, the appeal proposals would comply policy A1 (Managing the impact of development).

10. DRAFT HEADS OF TERMS FOR S106 AGREEMENT

- 10.1 As set out above in Section 9 of this Statement, we provide at **Appendix 3** a draft legal agreement to secure a secure a Construction Management Plan and contribution towards highway works and in order to respond to the council's reasons for refusal number 3 and 4.
- 10.2 This agreement follows the London Borough of Camden normal template and wording for these standard obligations.

11. CONCLUSION

- 11.1 This Planning and Heritage Appeal Statement has been prepared on behalf of the appellant in support of a planning appeal for the extension of a lower ground level and creation of a basement level to an existing family dwelling located at 6 Albert Terrace, London.
- 11.2 The design of the lower ground and basement level has been carefully considered in the context of LB Camden's adopted planning policies to ensure its complete compliance with local requirements.
- 11.3 The application is also supported by a robust Basement Impact Assessment and Construction Management Plan to ensure the structural integrity of the existing building and neighbouring properties is maintained and that disturbance during construction of the development limited as much as possible for the amenity of local residents.
- 11.4 This Statement has also demonstrated that the nature of the proposed development will not result in any harm or detrimental impact to the heritage value, character or appearance of the building, surrounding Conservation Area or nearby statutorily listed assets.
- 11.5 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act, the application proposals comply with the Development Plan.
- 11.6 Overall, the proposed scheme presents an excellent opportunity to provide additional floorspace to an existing family dwelling that has minimal impact to the character and appearance of the building and local area, whilst also ensuring the protection of all trees considered to hold the most amenity value and maximising sustainability benefits wherever feasible.
- 11.7 We trust that this Statement and its appendices shall be given due consideration by the Inspector.

A1. COUNSEL OPINION FROM MR CHARLES STREETEN

**A2. EMAIL CORRESPONDENCE WITH MR ROB TULLOCH FROM THE
LONDON BOROUGH OF CAMDEN DATED 6TH OCTOBER 2017**

A3. DRAFT S106 LEGAL AGREEMENT