

35 Pratt Street, Camden, London, NW1 0BG

Heritage Note

REF: P18-0743

DATE: 13.08.2018

1. INTRODUCTION

- 1.1 The following Heritage Note has been prepared by Pegasus Group on behalf of Domino's Pizza Group in relation to the proposed external alterations to No. 35 Pratt Street, Camden, NW1 0BG.
- 1.2 No. 35 Pratt Street is not a statutory Listed Buildings, nor is located within a Conservation Area. It is, however, classified as a 'Locally Listed Building' by Camden Council, and thus represents a 'non-designated heritage asset' in the terms of the NPPF.

2. METHODOLOGY

- 2.1 The following assessment has been informed by *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment*¹ (henceforth referred to as *GPA 2: Managing Significance*) and *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Second Edition)*.² Full details as to the methodology utilised are appended to this Note (**Appendix 1**).
- 2.2 The following levels of harm may potentially be identified when assessing potential impacts of development on heritage assets, including harm resulting from a change in setting:
 - **Substantial harm or total loss.** It has been clarified in a High Court Judgement of 2013³ that this would be harm that would '*have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced*'; and
 - **Less than substantial harm.** Harm of a lesser level than that defined above.
- 2.3 It is also possible that development proposals will cause no harm or preserve the significance of heritage assets.

¹ Historic England, 2015, *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment*

² Historic England, 2017, *Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (Second Edition)*

³ EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council

- 2.4 Within this context, preservation does not mean no change; it specifically means no harm. *GPA 2: Managing Significance* states that “*Change to heritage assets is inevitable but it is only harmful when significance is damaged*”. Thus, change is accepted in Historic England’s guidance as part of the evolution of the landscape and environment, it is whether such change is neutral, harmful or beneficial to the significance of an asset that matters.

3. PLANNING POLICY CONTEXT

- 3.1 Legislation relating to the Historic Environment is primarily set out within the Planning (Listed Buildings and Conservation Areas) Act 1990 which provides statutory protection for Listed Buildings and Conservation Areas. **Section 66 (1)** of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

“In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

- 3.2 National policy and guidance is set out in the Government’s National Planning Policy Framework (NPPF) published in July 2018. This replaced and updated the previous National Planning Policy Framework 2012.
- 3.3 **Paragraph 197** of the NPPF states that when considering the impact of a proposed development on the significance of a non-designated heritage asset, ‘*a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*’
- 3.4 Planning applications within the London Borough of Camden are currently determined in accordance with the Camden Local Plan, adopted in July 2017.
- 3.5 **Policy D1 ‘Design’** states that the Council will require development to preserve or enhance the historic environment and heritage assets in accordance with Policy D2 ‘Heritage.’
- 3.6 **Policy D2 ‘Heritage’** states that: “*The Council will preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.*”
- 3.7 With specific regard to non-designated heritage assets, Policy D2 sets out that: “*The Council will seek to protect other heritage assets including non-designated heritage assets (including those on and off the local list), Registered Parks and Gardens and London Squares. The effect of a proposal on the significance of a non-designated heritage asset will be weighed against the public benefits of the proposal, balancing the scale of any harm or loss and the significance of the heritage asset.*”
- 3.8 Full details as to relevant planning policy is appended to this Note (**Appendix 2**).

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4. NO. 35 PRATT STREET

4.1 No 35. Pratt Street is described on the Camden Local List as follows:

"Early 19th century Public House. Pale brick to front elevation and red-brown brick to side and rear elevations. Panel with relief decoration at pediment level above a heavy dentiled cornice which continues on east elevation along path to St Martins Gardens but shallow returns only to west and north (rear) elevations. Contributes to the visual quality and architectural variety of the street scene and also visible from St Martin's Garden - rear elevation altered and extended but still contributes to historic setting of gardens. Historic iron lantern brackets on front elevation."

- 4.2 The south, principal elevation of the building fronts directly onto Pratt Street. The elevation is constructed of buff/pale brick, with rendered stone detailed on the upper floors. It is the upper floors which are of most architectural interest, with rendered stone arched headers to the windows, a rendered stone band and large dentiled cornice. Two iron lantern brackets on the first floor are also considered to be of interest.
- 4.3 The ground floor is dominated by a modern shop frontage, comprising of panelled timber frames and a series of side-hung doors. Whilst responding to the overall dimensions of the elevation, and having a 'traditional' character, it is not considered to be of any particular architectural and historic merit in its own right.
- 4.4 With regard to the contribution that the building makes to the surrounding street scene, as mentioned within the Local List description, this is considered to principally be derived from the overall composition of the south elevation, and the architectural detailing of the upper floors.
- 4.5 The east elevation faces onto a routeway into to St Martin's Gardens, located to the north of Pratt Street. Elements of the architectural detailing of the principal elevation wrap around onto the east elevation, including the rendered banding, dentiled cornice and one section of wooden panelling on the ground floor. At the northern end of the ground floor, the brickwork has been rendered and painted grey in order for 'shop frontage' to visually continue onto the late 20th century extension of the building in this location (see Planning History). A single window opening is present at first floor of the late 20th century extension; prior to the construction of this, the elevation would have been blank.
- 4.6 The north, rear elevation of the building, is ancillary in its character. The elevation is construction of a darker brick than the principal elevation and features a variety of openings, the majority of which have brick headers. Two extensions are visible to the rear: the two storey, late 20th century extension at eastern end, and a full height, earlier extension to the west. At ground floor, running from left to the right, openings comprise a large, double door opening and three window openings, the central of which is particularly narrow. The door opening and left-hand window are located on the late 20th century extension.

- 4.7 The north elevation also features a variety of extraction and ventilation equipment at ground floor, including: a wall mounted compressor; noise attenuation ducting; and two ventilation grills. The majority of these are located on late 20th century extension.
- 4.8 The altered appearance of the rear elevation is noted by Camden Council within the Local List description of the asset; however, they state that it still contributes to the 'setting' of St Martin's Gardens.

Recent Planning History

- 4.9 A review of the recent planning history records held online by Camden Council has identified a series of recent approved planning applications, the majority of which are associated with alterations to north elevation.
- 4.10 2010/0952/P | *Installation of flue, duct work and attenuator to the rear elevation of existing restaurant (use class A3)* | Granted 13th April 2010.
- 4.11 PE9800346 | *Renewal of planning permission granted on 07/12/93 for the construction of a single storey ground floor extension and part first floor extension for use by the public house. Change of use of the first floor from residential to function room, construction of a roof extension to provide a self contained maisonette on the second and third floors* | Granted 7th May 1998.
- 4.12 8701322 | *(1) Erection of a single storey ground floor extension and part 1st floor extension for public house. (2) Change of use of 1st floor from residential to function room in connection with a public house on the ground floor. (3) Erection of a roof extension to provide a maisonette on the 2nd and 3rd floors as shown on drawing no`s. 8718/1 2 3b 4 5b 6a 8A 9A and 2 un-numbered drawings as revise* | Granted 8th September 1987.

5. THE SURROUNDING HISTORIC ENVIRONMENT

- 5.1 As set out above, No. 35 Pratt Street is not located within a Conservation Area. However, a pair of Grade II Listed, 19th century wrought-iron gates are located immediately adjacent to No. 35 Pratt Street, marking the entrance to St Martin's Gardens from Pratt Street. St Martin's Gardens, formerly St Martin-in-the-Fields Burial Ground, was consecrated in 1805 with burials ceasing in 1856. The area was opened as a public garden in 1889. The wrought iron gates at the Pratt Street entrance were originally mounted on posts topped with Greek Urns. The earlier posts were removed in the 1970s.
- 5.2 With regard to important elements of the setting of this asset which contributes to its overall heritage significance, this is considered to be principally associated with the position of the gates at the entrance to St Martin's Gardens from Pratt Street. This will not be altered by the proposed works to No. 35 Pratt Street.
- 5.3 No further heritage assets are considered to be sensitive to the proposed works.

6. DEVELOPMENT PROPOSALS

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6.1 The development proposals, as covered by this Heritage Note, comprise:

South Elevation

- Removal of the existing doors on the central and eastern bays of the ground floor, and their replacement with a new aluminium shop front; and
- Removal of the existing signage and trough lighting on the ground floor fascia.

East Elevation

- Installation of a fresh air supply duct on the late 20th century extension; and
- Replacement of wooden panel, associated with the modern shopfront, with an aluminium panel.

North Elevation

- Removal of existing ventilation and extraction equipment;
- Alteration to the width of the door opening on the late 20th century extension;
- Installation of new oven duct; and
- Installation of one A/C and one cold room compressor, mounted at a low level.

7. IMPACT ASSESSMENT

South Elevation

- 7.1 No works are proposed to the upper floors of the building, and thus the contribution that the architectural detailing present on these floors make to the overall architectural and historic interest of the south elevation will remain. The contribution that this makes to the surrounding street scene will also remain unaltered.
- 7.2 The most noteworthy works to the south elevation comprise the removal of the existing side hung doors in the central and eastern bays, and their replacement with a new aluminium framed, glazed shop front, painted in RAL 7043 Traffic Grey Light.
- 7.3 As discussed above, the existing shop front is a modern insertion and is not considered to be of any particular architectural and historic merit in its own right. Thus, the removal of the proposed areas will not see the removal of any historic fabric of heritage significance. The proposed aluminium glazed shop frontage and chosen colour is considered to be an appropriate replacement for the existing side hung doors, based upon the overall composition of the ground floor and the existing

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colour scheme. The timber panelled timber frames would be retained, and thus the overall change in appearance, in the context of the ground floor and elevation as a whole, would be minimal and would be intelligible as part of the evolution of this modern shop front.

- 7.4 The proposals also see the removal of the existing signage and trough lighting on the ground floor fascia. Such features are not considered to be of heritage interest, nor make any particular contribution to the overall architectural and historic interest of the south elevation.
- 7.5 In summary, it is not considered that the proposed works would result in a change to the overall composition of the south elevation and would not impact upon the appreciation and experience of the more interesting elements of architectural detailing on the upper floors.

East Elevation

- 7.6 Works to the east elevation comprise the installation of a fresh air supply duct on the late 20th century extension, and a slight alteration to the shop front as it wraps round the elevation.
- 7.7 With regard to the latter, this comprises the removal of an element of the existing wooden panelling and its replacement with an aluminium panel painted in RAL 7043 Traffic Grey Light. As discussed above, the current shop frontage is a modern insertion and is not considered to be of any particular architectural and historic merit in its own right. Thus, the removal of the panel will not see the removal of any historic fabric of heritage significance.
- 7.8 As the proposed fresh air supply duct is located on a modern addition to the building there will be no loss of historic fabric, and the minor change resulting from the installation of the duct is not considered to impact upon the overall composition and appearance of the elevation.

North Elevation

- 7.9 The proposed works to the north elevation see the removal of the existing ventilation and extraction equipment, including the large noise attenuation duct, and the installation of new equipment associated with the change in occupier. Compared to the existing, the proposed ventilation and extraction equipment is minimal, comprising the installation of a new oven duct, one A/C and one cold room compressor (both of which will be mounted at a low level).
- 7.10 Such works will result in a reduction in ventilation and extraction equipment on the elevation, and where present the new equipment will be located in a less dominate position than the existing arrangement. The elevation will also appear less visually cluttered than existing. This is considered to result in an improvement to the overall appearance of the elevation, and its experience from St Martin's Gardens, and thus the contribution that the elevation makes to the 'setting' of the Gardens.
- 7.11 It is also proposed to decrease the width of the door opening on the late 20th century extension, with the redundant area infilled with brick to match the

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remainder of the elevation. As the opening is located on a modern addition to the building there will be no loss of historic fabric, and the change in width of the opening is not considered to impact upon the overall composition and appearance of the elevation or its significance.

8. SUMMARY CONCLUSIONS

- 8.1 In summary, it is not considered that the proposed works would result in a substantial change to the overall appearance of the south elevation, and that such changes would not impact upon the overall architectural and historic interest of the elevation, nor the contribution which it makes to the surrounding street scene.
- 8.2 Works to the rear of the building are considered to result in an improvement to the overall appearance of the elevation, and its experience from St Martin's Gardens.
- 8.3 Alterations to the side elevation are not considered to impact upon the overall architectural and historic interest of the building.
- 8.4 The proposed works, as a whole, are thus considered to preserve the overall architectural and historic interest of the non-designated heritage asset, and thus responds to the obligations of Policies D1 and D2 of the Camden Local Plan. Paragraph 197 of the NPPF is not engaged due to the lack of harm identified.

Appendix 1 – Methodology

Assessment of significance

In the NPPF, heritage significance is defined as:

"The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance"⁴

Historic England's *Historic Environment Good Practice advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment*⁵ (henceforth referred to as '*GPA 2: Managing Significance*') gives advice on the assessment of significance as part of the application process. It advises understanding the nature, extent, and level of significance of a heritage asset. In order to do this, *GPA 2: Managing Significance* also advocates considering the four types of heritage value an asset may hold, as identified in Historic England's Conservation Principles⁶; **evidential**, **historical**, **aesthetic** and **communal**. These essentially cover the heritage 'interests' given in the glossary of the NPPF, which comprise archaeological, architectural, artistic and historic interest.

Conservation Principles provides further information on the heritage values it identifies:

Evidential value: the potential of a place to yield evidence about past human activity. This value is derived from physical remains, such as archaeological remains, and genetic lines.

Historical value: the ways in which past people, events and aspects of life can be connected through a place to the present - it tends to be illustrative or associative. Illustrative value is the perception of a place as a link between past and present people and depends on visibility. It has the power to aid interpretation of the past through making connections with and providing insights into past communities and their activities through shared experience of a place. By contrast, associative

⁴ NPPF, DCLG, 2018

⁵ Historic England, 2015, *Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision Taking in the Historic Environment*

⁶ English Heritage 2008 *Conservation Principles, Policies and Guidance for the Sustainable Management of the Historic Environment*

value need not necessarily be legible at an asset, but gives a particular resonance through association with a notable family, person, event or movement.

Aesthetic value: the ways in which people draw sensory and intellectual stimulation from a place. Aesthetic values can be the result of conscious design or fortuitous outcome or a combination of the two aspects. The latter can result from the enhancement of the appearance of a place through the passage of time.

Communal value: the meanings of a place for the people who relate to it, or for whom it figures in their collective experience or memory. This can be through widely acknowledged commemorative or symbolic value that reflects the meaning of the place, or through more informal social value as a source of identity, distinctiveness, social interaction and coherence. Spiritual value may also be part of communal value.

Significance results from a combination of any, some or all of the values described above.

Listed Buildings and Conservation Areas are generally designated for their special architectural and historic interest. Scheduling is predominantly, although not exclusively, associated with archaeological interest.

Setting and significance

As defined in the NPPF:

*"Significance derives not only from a heritage asset's physical presence, but also from its setting."*⁷

Setting is defined as:

*"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."*⁸

Therefore, setting can contribute to, affect an appreciation of significance or be neutral with regards to heritage values.

It is also important to note that whilst a physical or visual connection between a heritage asset and its setting will often exist, it is not essential or determinative. This was recently

⁷ NPPF Annex 2, DCLG, 2018

⁸ Ibid

considered in a High Court Judgement⁹ where it was concluded that:

"The term setting is not defined in purely visual terms in the NPPF which refers to the "surroundings in which a heritage asset is experienced". The word "experienced" has a broad meaning, which is capable of extending beyond the purely visual".

Assessing change through alteration to setting

How setting might contribute to these values has been assessed within this report with reference to *Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets*¹⁰ (henceforth referred to as *GPA 3: The Setting of Heritage Assets*), particularly the checklist given on page 11. This advocates the clear articulation of 'what matters and why'.

In *GPA 3: The Setting of Heritage Assets*, a stepped approach is recommended, of which Step 1 is to identify which heritage assets and their settings are affected. Step 2 is to assess 'whether, how and to what degree settings make a contribution to the significance of the heritage asset(s) or allow significance to be appreciated'. The guidance includes a (non-exhaustive) check-list of elements of the physical surroundings of an asset that might be considered when undertaking the assessment including, among other things: topography, other heritage assets, green space, functional relationships and degree of change over time. It also lists points associated with the experience of the asset which might be considered, including: views, intentional intervisibility, tranquillity, sense of enclosure, accessibility, rarity and land use.

Step 3 is to assess the effect of the proposed development on the significance of the asset(s). Step 4 is to explore ways to 'maximise enhancement and minimise harm'. Step 5 is to 'make and document the decision and monitor outcomes'.

Descriptions of significance will naturally anticipate the ways in which impacts will be considered. Hence descriptions of the significance of Conservation Areas will make reference to their special interest and character and appearance, and the significance of Listed Buildings will be discussed with reference to the building, its setting and any features of special architectural or historic interest which it possesses.

⁹ EWHC 1456, *Steer v. Secretary of State for Communities and Local Government, Catesby Estates Limited, Amber Valley Borough Council*, 2017.

¹⁰ Historic England, 2017, *Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets*

Levels of significance

In accordance with the levels of significance articulated in the NPPF, three levels of significance are identified:

- **Designated heritage** assets of the highest significance, as identified in paragraph 194 of the NPPF comprising Grade I and II* Listed buildings, Grade I and II* Registered Parks and Gardens, Scheduled Monuments, Protected Wreck Sites, World Heritage Sites and Registered Battlefields (and also including some Conservation Areas) and heritage assets of archaeological interest demonstrably of equivalent significance to Scheduled Monuments, as identified in footnote 63 of the NPPF;
- **Designated heritage assets of less than the highest significance**, as identified in paragraph 194 of the NPPF, comprising Grade II Listed buildings and Grade II Registered Parks and Gardens (and also some Conservation Areas); and
- **Non-designated heritage assets.** Non-designated heritage assets are defined within the Government's Planning Practice Guidance as "*buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions but which are not formally designated heritage assets*¹¹".

Additionally, it is of course possible that sites, buildings or areas have **no heritage significance**.

Assessment of harm

Assessment of any harm will be articulated in terms of the policy and law that the proposed development will be assessed against, such as whether a proposed development preserves or enhances the character or appearance of a Conservation Area, and articulating the scale of any harm in order to inform a balanced judgement/weighting exercise as required by the NPPF.

In order to relate to key policy, the following levels of harm may potentially be identified:

- **Substantial harm or total loss.** It has been clarified in a High Court Judgement of 2013¹² that this would be harm that would '*have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced*'; and
- **Less than substantial harm.** Harm of a lesser level than that defined

¹¹ DCLG, Planning Practice Guidance, Paragraph: 039 (ID: 18a-039-20140306, Revision date: 06 03 2014)

¹² EWHC 2847, R DCLG and Nuon UK Ltd v. Bedford Borough Council

above.

It is also possible that development proposals will cause **no harm or preserve** the significance of heritage assets. A High Court Judgement of 2014 is relevant to this¹³. This concluded that with regard to preserving the setting of a Listed building or preserving the character and appearance of a Conservation Area, 'preserving' means doing 'no harm'.

Preservation does not mean no change; it specifically means no harm. *GPA 2: Managing Significance* states that "*Change to heritage assets is inevitable but it is only harmful when significance is damaged*". Thus, change is accepted in Historic England's guidance as part of the evolution of the landscape and environment. It is whether such change is neutral, harmful or beneficial to the significance of an asset that matters.

As part of this, setting may be a key consideration. For an evaluation of any harm to significance through changes to setting, this assessment follows the methodology given in *GPA 3: The Setting of Heritage Assets*, described above. Again, fundamental to the methodology set out in this document is stating '*what matters and why*'. Of particular relevance is the checklist given on page 13 of *GPA 3: The Setting of Heritage Assets*.

It should be noted that this key document states that:

*"setting is not itself a heritage asset, nor a heritage designation"*¹⁴

Hence any impacts are described in terms of how they affect the significance of a heritage asset, and heritage values that contribute to this significance, through changes to setting.

With regards to changes in setting, *GPA 3: The Setting of Heritage Assets* states that "*conserving or enhancing heritage assets by taking their settings into account need not prevent change*".

Additionally, it is also important to note that, as clarified in the Court of Appeal¹⁵, whilst the statutory duty requires that special regard should be paid to the desirability of not harming the setting of a Listed Building, that cannot mean that any harm, however minor, would necessarily require planning permission to be refused.

¹³ EWHC 1895, R (Forge Field Society, Barraud and Rees) v. Sevenoaks DC, West Kent Housing Association and Viscount De L'Isle

¹⁴ Historic England, 2017, *Historic Environment Good Practice Advice in Planning Note 3 (Second Edition): The Setting of Heritage Assets*

¹⁵ *Palmer v Herefordshire Council & Anor* [2016] EWCA Civ 1061 (4th November 2016)

Benefits

Proposed development may also result in benefits to heritage assets, and these are articulated in terms of how they enhance the heritage values and hence the significance of the assets concerned.

Appendix 2 – Planning Policy

This section of the Statement sets out the legislation and planning policy considerations and guidance contained within both national and local planning guidance which specifically relate to the application site, with a focus on those policies relating to the protection of the historic environment.

Legislation

Legislation relating to the Built Historic Environment is primarily set out within the Planning (Listed Buildings and Conservation Areas) Act 1990 which provides statutory protection for Listed Buildings and Conservation Areas.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

"In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

In the 2014 Court of Appeal judgement in relation to the Barnwell Manor case¹⁶, Sullivan LJ held that:

"Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise."

Recent judgement in the Court of Appeal¹⁷ ('Mordue') has clarified that, with regards to the setting of Listed Buildings, where the principles of the NPPF are applied (in particular paragraph 196, see below), this is in keeping with the requirements of the 1990 Act.

With regards to development within Conservation Areas, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

¹⁶ East Northamptonshire District Council v SSCLG (2015) EWCA Civ 137

¹⁷ Jones v Mordue Anor (2015) EWCA Civ 1243

"In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Notwithstanding the statutory presumption set out within the Planning (Listed Buildings and Conservations Area) Act 1990, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

National Policy Guidance

The National Planning Policy Framework (July 2018)

National policy and guidance is set out in the Government's National Planning Policy Framework (NPPF) published in July 2018. This replaced and updated the previous National Planning Policy Framework 2012. The NPPF needs to be read as a whole and is intended to promote the concept of delivering sustainable development.

The NPPF sets out the Government's economic, environmental and social planning policies for England. Taken together, these policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. The NPPF continues to recognise that the planning system is plan-led and that therefore Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application, including those which relate to the historic environment.

The overarching policy change applicable to the proposed development is the presumption in favour of sustainable development. This presumption in favour of sustainable development (the 'presumption') sets out the tone of the Government's overall stance and operates with and through the other policies of the NPPF. Its purpose is to send a strong signal to all those involved in the planning process about the need to plan positively for appropriate new development; so that both plan making and development management are proactive and driven by a search for opportunities to deliver sustainable development, rather than barriers. Conserving historic assets in a manner appropriate to their significance forms part of this drive towards sustainable development.

The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF sets out three 'objectives' to facilitate sustainable development:

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an economic objective, a social objective, and an environmental objective. The presumption is key to delivering these ambitions, by creating a positive pro-development framework which is underpinned by the wider economic, environmental and social provisions of the NPPF. The presumption is set out in full at paragraph 11 of the NPPF and reads as follows:

"Plans and decisions should apply a presumption in favour of sustainable development.

For plan-making this means that:

- plans should positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change;*
- strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless:*
- the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area; or*
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

For decision-taking this means:

- approving development proposals that accord with and up-to-date development plan without delay; or*
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date granting permission unless:*
- the application policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*

However, it is important to note that footnote 6 of the NPPF applies in relation to the final bullet of paragraph 11. This provides a context for paragraph 11 and reads as follows:

"The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change." (our emphasis)

The NPPF continues to recognise that the planning system is plan-led and that therefore, Local Plans, incorporating Neighbourhood Plans, where relevant, are the starting point for the determination of any planning application.

Heritage Assets are defined in Annex 2 of the NPPF as:

"A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the Local Planning Authority (including Local Listing)"

The NPPF goes on to define a Designated Heritage Asset as a:

"World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under relevant legislation¹⁸" (our emphasis)

As set out above, significance is also defined as:

"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance¹⁹"

Section 16 of the NPPF relates to 'Conserving and enhancing the historic environment' and states at paragraph 190 that:

"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a

¹⁸ NPPF Annex 2, DCLG, 2018

¹⁹ IBID

proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal"

Paragraph 192 goes on to state that:

"In determining planning applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness"*

With regard to the impact of proposals on the significance of a heritage asset, paragraphs 193 and 194 are relevant and read as follows:

"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional"*

In the context of the above, it should be noted that paragraph 195 reads as follows:

"Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that

the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use"*

Paragraph 196 goes on to state:

"Where a development proposal will 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, where appropriate, securing its optimum viable use"

The NPPF also provides specific guidance in relation to development within Conservation Areas, stating at paragraph 200 that:

"Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably."

Paragraph 201 goes on to recognise that *"not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance"* and with regard to the potential harm from a proposed development states:

"Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole" (our emphasis)

With regards to non-designated heritage assets, paragraph 197 of NPPF states that:

"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

Overall, the NPPF confirms that the primary objective of development management is to foster the delivery of sustainable development, not to hinder or prevent it. Local Authorities should approach development management decisions positively, looking for solutions rather than problems so that applications can be approved wherever it is practical to do so. Additionally, securing the optimum viable use of sites and achieving public benefits are also key material considerations for application proposals.

As set out later in this statement, it can be demonstrated that the proposals would serve to preserve the overall character and appearance of the Conservation Area. Thus, planning permission should be granted as per the requirements of paragraph 38 which state that:

"Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decisions-makers at every level should seek to approve applications for sustainable development where possible."

National Planning Guidance

The Department for Communities and Local Government (DCLG) launched the planning practice web based resource in March 2014, accompanied by a ministerial statement which confirmed that a number of previous planning practice guidance documents were cancelled.

This also introduced the national Planning Practice Guidance (PPG) which comprised a full and consolidated review of planning practice guidance documents to be read alongside the NPPF.

The PPG has a discrete section on the subject of 'Conserving and enhancing the historic environment' which confirms that the consideration of 'significance' in decision taking is important and states:

"Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the

contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals²⁰

In terms of assessment of substantial harm, the PPG confirms that whether a proposal causes substantial harm will be a judgement for the individual decision taker having regard to the individual circumstances and the policy set out within the NPPF. It goes on to state:

"In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting²¹.

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm" (our emphasis)

With regard to design, the PPG states at paragraph 02 that:

"Good design should:

- a) ensure that development can deliver a wide range of planning objectives*
- b) enhance the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on well being*
- c) address the need for different uses sympathetically²²."*

Paragraph 23 goes on to explain how to consider buildings and the spaces between them and reads as follows:

"Plans, policies and decisions can effectively manage physical form at a variety of scales. This is how planning can help achieve good design and connected objectives. Where appropriate the following should be considered:

²⁰ PPG, paragraph 009 (ID: 18a-009/20140306 revision date 06.03.2014)

²¹ PPG, paragraph 017 (ID: 18a-017-20140306 revision date 06.03.2014)

²² PPG, paragraph 02 (ID: 26-002-20140306 revision date 06.03.2014)

- a) *layout – the way in which buildings and spaces relate to each other*
- b) *form – the shape of buildings*
- c) *scale – the size of buildings*
- d) *detailing – the important smaller elements of buildings and spaces.*²³

²³ PPG, Paragraph 23 (ID: 26/023/20140306 revision date 06.03.2014)