

**STATEMENT OF CASE
IN SUPPORT
OF THE APPELLANT**

MR SHRAGA MICHELSON

3 KIDDERPORE AVENUE

LPA REF: 2016/2499/P

MONTAGU EVANS REF: PD11706

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1.0 INTRODUCTION

- 1.1 This Statement of Case has been prepared by Montagu Evans LLP in relation to the appeal against the refusal of planning permission by Camden Council, under application reference 2016/2499/P. The decision letter is attached at **Appendix 1.0** and the delegated officer report for the application at **Appendix 2.0**. This report focusses on Conditions 1, 2 and 3 on the decision letter, relating to heritage and amenity matters.

Staff Involved

- 1.2 This appeal statement has been prepared by Dr Chris Miele, Senior Partner at Montagu Evans' central London office, and Associate Mr Paul Kessler-Lyne of the same office. CVs are attached at **Appendix 3.0**.

Our Practice

- 1.3 Montagu Evans is a leading firm of chartered surveyors, one of the largest in independent ownership. See **Appendix 4.0** for details. We were involved in three nearby consents at:

- 38 Heath Drive, achieved on appeal
- Kings College Site, Kidderpore Avenue
- Barratt West London Site, Kidderpore Avenue

- 1.4 We therefore know the 'RedFrog' Conservation Area and local area very well, and using that knowledge to bear on the matter of this Appeal.

Background

- 1.5 We are instructed by Mr Shraga Michelson, the appellant. Montagu Evans visited the Site on 12 March 2018 and have reviewed the documentation associated with application 2016/2499/P.
- 1.6 The appeal proposals are for the demolition of the existing dwelling and its replacement with a new dwelling.

2.0 THE APPEAL SITE AND PROPOSALS

The Appeal Site

- 2.1 The appeal site is a rendered two-storey dwelling house with attic accommodation. It is painted white and in part has a tiled hipped roof. A side extension to the northeast is also faced in white painted render and has a flat roof. Fronting the street is a white painted rendered boundary wall with metal vehicular and pedestrian gates. There is a hard surfaced parking area to the front of the appeal site and a large rear garden to the rear, with a swimming pool. Images of the front and rear elevations of the appeal site are provided in **Figures 1 and 2**.
- 2.2 The properties to either side are dwelling houses. They have red tile hipped and pitched roofs with red brick chimney stacks. The prevailing material to the elevations is red brick. Images of the neighbouring properties (1, 1A, 5 and 7 Kidderpore Avenue) are provided in **Figures 3 and 4**.



Figure 1 – front elevation of appeal site



Figure 2 – rear elevation of appeal site



Figure 3 – view towards 5 and 7 Kidderpore Avenue



Figure 4 – view towards 1 and 1A Kidderpore Avenue

- 2.3 The delegated report for the appeal application (**Appendix 2.0**) describes the appeal site as having Art Deco and Edwardian characteristics, stating:

'The composition of the house and its elements is largely balanced with a distinctly art deco character that also acknowledges the Edwardian period. The palette is white render with black joinery and with a fairly traditional slate roof.'

- 2.4 The following additional comments are made with regard to the development of the appeal site, including alterations made in the 1970s by the architect Patrick Gwynne. Paragraph 5.2 states in part:

'Research has shown that the building was originally constructed in the late 19th century but was altered in the 1970s by Patrick Gwynne, a twentieth century architect who has had many of his works listed (most notably the Grade II listed Homewood in Esher) but more locally 4 Beechwood Close and the Firs in Barnet. The side extension and garage were also by Gwynne and were built slightly later. Comparing the plans of the 1970s alterations with the existing condition of the building it can be seen that the exterior of the building has been altered again. The louvers shown on Gwynne's plan are no longer there, and the panelling above the entrance door is altered. At a site visit it appears that the windows are modern double glazed replacements. Although

the internal floor plan remains largely unaltered since the 1970s it appears to have been modernised.'

- 2.5 Paragraph 5.4 of the delegated report indicates that the local planning authority would agree to the demolition of the existing building if it was supportive of the replacement building. The paragraph states in part:

'On balance, using the NPPF as the main test for the following recommendation the proposed demolition would not be acceptable unless it were to be replaced by a building which respects both the historical and architectural character of the conservation area and furthermore seeks to redress the loss of the current building by a very fine period style house using the vernacular language. Alternatively it may be acceptable to design a very good quality contemporary replacement but this would possibly need to address itself to the architectural language of the extant 1970's alteration as well as architectural reference to the historical development of the property.'

Redington/Frogna Conservation Area

- 2.6 The appeal site is located in the Redington/Frogna Conservation Area. A copy of the Council's 2003 Redington/Frogna Conservation Area Statement is provided at **Appendix 5.0**. The document provides an overview of the historical development of the area, which can be summarised as:

- Up until the 1870s the area now comprising the Redington/Frogna Conservation Area was undeveloped fields separating Hampstead Village and Frogna Lane.
- By the mid-19th century the majority of the area was in the ownership of the Maryon Wilson family. Sir Thomas Maryon Wilson tried unsuccessfully to develop his landholding on Hampstead Heath. After this death in 1869 his brother, Sir John, gave this up and focused on the development of the fields to the west of Hampstead Village. Areas of land were sold off with covenants made by the Maryon Wilson family to control the appearance, materials and size of buildings.
- Early development was concentrated within the southern and north-western parts of the area.

- 2.7 The Conservation Area Statement notes that the Conservation Area includes buildings by Philip Webb and Norman Shaw, and that the architectural character of a large amount of the Conservation Area is the result of a partnership between the architectural Charles H.B. Quennell and the development George Washington Hart. This partnership accounted for the development of roughly one hundred houses over a period of sixteen years. Page 8 of the Conservation Area Statement describes Quennell's architecture:

'Quennell adopted a variety of styles for his houses ranging from restrained Arts and Crafts to more formal Neo-Georgian. He used rich red and soft orange brickwork, clay tile roofs, occasional areas of tile hanging and render, gables, and bay and dormer windows.'

- 2.8 Page 9 of the Conservation Area Statement provides the following summary of the character and appearance of the Conservation Area:

'The Redington/Frogna Conservation Area occupies an area of sloping land to the west and south west of the historic centre of Hampstead Village. It forms a well-preserved example of a prosperous late 19th century and Edwardian residential suburb. The houses are predominantly large detached and semi-detached and display a variety of formal and free architectural styles typical of the last years of the 19th and early years of the 20th centuries. On the whole these are built in red brick with clay tiled roofs, occasional areas of tile hanging and render and many of them have white painted small paned windows. Mature trees and dense vegetation form the dominant features of the street scene in many of the "Avenues" and "Gardens" of the Conservation Area. In addition the rear gardens, many of which are sizable, make a contribution of their own to the area's verdant quality. The gardens also contribute to the ecological balance of the area.'

- 2.9 The Conservation Area Statement divides the Conservation Area into eight sub areas. The appeal site is located in sub area five 'Heath Drive and Environs (including Oakhill Avenue, Kidderpore Gardens and the lower part of Kidderpore Avenue)'. This sets out that Kidderpore Avenue was formed relatively early in the 1870s and 1880s, and includes at page 17 the following description of 3 Kidderpore Avenue:

'...No. 3, The Studio, is a modestly sized former outbuilding which features an impressive large bay window to its street frontage...'

- 2.10 It is clear that this is *not* a description of the appeal site at 3 Kidderpore Avenue. This is acknowledged in the delegated report for the appeal proposal (**Appendix 2.0 – see paragraph 5.2**), which sets out that this appears to be an error as it more accurately describes the neighbouring building (number 5). Notwithstanding this a map a schedule within the Conservation Area Statement identify the appeal site as a positive contributor to the Conservation Area. We consider this in more detail in **Section 4.0** below. We know from experience of other irregularities in this Conservation Area in relation to the identification of 'positive contributors'.

The Appeal Proposals

- 2.11 The appeal proposals are for the demolition of the existing dwelling and its replacement with a new dwelling. The appeal proposals have been the subject of discussions with the local planning authority for a number of years, as set out in detail in the Narrative Chronology enclosed with the appeal submission.

- 2.12 The proposed new dwelling is 2 storeys in height with accommodation in the roof. Dormers and chimney stacks are present at roof level. Chimney stacks are absent from the site currently.
- 2.13 It is faced in red brick and clay roof tiles, and had a traditional fenestration pattern. A gabled element is present adjacent to 1 and 1A Kidderpore Avenue, running from the front to the rear of the appeal site, with an adjacent hipped roofed element at a lower height. The principal elevation includes recessed and projecting elements.
- 2.14 It should be noted that a basement and associated features are shown on the submitted as proposed section drawings, and some of the plan drawings. The basement shown was approved previously at appeal. It is shown for information only and does not form part of the current appeal. A revised set of drawings has been provided with the appeal submission with any reference to the basement omitted. The Planning Inspector could choose to consider these drawings without prejudicing any third party. Alternatively, a condition could be used to confirm that if the appeal is allowed, the basement shown on the submitted drawings does not form part of the planning permission. We have included a suggested condition in the proposed conditions set out in **Appendix 14.0**.
- 2.15 The proposed conditions in **Appendix 14.0** also include a condition requiring the windows to the Proposed Development to be white painted timber, rather than the aluminium frames specified on the planning application form. This addresses one of the concerns raised by officers in response to the appeal proposals, as discussed in **Section 3.0** below.

3.0 REASONS FOR REFUSAL

3.1 The decision letter for the appeal application is attached at **Appendix 1.0**. This report considers the first, second and third reasons. The other reasons are discussed elsewhere in the appeal submission.

3.2 The first reason states:

“The proposed demolition, by reason of the loss of the existing building which makes a positive contribution to the Redington Frognal Conservation Area, would cause harm to the character and appearance of the conservation area, contrary to policy D2 (Heritage) of the Camden Local Plan 2017.”

3.3 The second reason states:

“The proposed replacement dwelling, by virtue of its scale, massing, form and detailed design, would cause harm to the character and appearance of the street scene and the wider area and would fail to preserve or enhance the character and appearance of the Redington/Frognal Conservation Area, contrary to Policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.”

3.4 The third reason states:

“The proposed replacement dwelling would result in the loss of daylight, outlook and an increased sense of enclosure to the neighbouring property at no 5 Kidderpore Avenue, contrary to policy A1 (Managing the impact of development) of the Camden Local Plan 2017.”

3.5 The reasons for refusal advise that the proposal would be contrary to Policies A1, D1 and D2 of the Camden Local Plan 2017.

3.6 The delegated report for the appeal application is provided at **Appendix 2.0**. Paragraph 5.4 of the delegated report indicates that the local planning authority would agree to the demolition of the existing building if it was supportive of the replacement building. This is reiterated in Paragraph 6.7 of the report, which sets out that the existing house has some architectural merit, and therefore the demolition of the building could only be considered acceptable if the proposed replacement were to be of high quality.

3.7 Below we provide a summary of the comments made on the design of the replacement building:

- The proposed footprint of the replacement house is almost 1/3 larger than the footprint of the existing house and by its near square form bears no relationship to that of either the existing house or to those of the neighbouring

properties which also tend towards the rectangular. This together with its height and bulk results in the house being noticeably larger than neighbouring buildings in the street and would have a negative impact on the setting of the adjacent properties that are also identified as positive contributors.

- The extension to the existing house has a subservient character and provides a visual gap at roof level. The proposed house has a larger footprint and the area occupied by the current extension is expressed differently as part of the overall composition rather than a subservient element. The result is an overly large building which sits uncomfortably on the site and in the context of neighbouring buildings.
- The unacceptable bulk and form of the building is emphasised by the treatment of facing materials which comprises heavy treatment of stone adjacent to brickwork.
- The submitted drawings show a pattern of fenestration which appears to be clumsy in its detail and does not pick up on the fine detail of surrounding buildings, providing an architectural hierarchy which fails to comprehend the prevailing style of the area. It is proposed to install white aluminium framed windows. This material would not relate to the character and appearance of conservation area.
- The proposed development would cover one third more of the application site than the existing property. Furthermore the grain of the surrounding area is that of semi-detached and detached houses that are set within generous plots. It is stated in the conservation area statement that the sizeable gardens make a contribution of their own to the area's verdant quality. The proposed development would result in a dwelling that is significantly larger than those surrounding it (except for no. 4 on the adjacent side of Kidderpore Avenue). The proposal would result in one significantly large property within the context of this row of 6 properties (nos. 1-9 (odds)).
- The proposed front boundary wall is considered to include the use of too many different types of materials and should be simplified to reflect the main materials used in the replacement dwelling – mainly red brick.
- The proposed external staircase on the front elevation would introduce an uncharacteristic feature within the frontage of Kidderpore Avenue that does not respect the historic form and integrity of the surrounding properties and would be considered unacceptable.

3.8 The following is a summary of the comments made in the delegated report with regard to amenity matters:

- The main properties that are likely to be most affected by the proposal are the immediate neighbours at no. 1a and no. 5 Kidderpore Avenue. All other nearby properties are considered to be at a sufficient distance away from the application site so as not to be affected.

Overlooking

- There would be no additional overlooking from upper floor windows into the neighbouring properties at no. 1a and no.5. There would be no overlooking from the proposed external stair into any habitable windows in the neighbouring property at no. 5. A glazed screen to the proposed first floor balcony would prevent direct views into the neighbouring garden of no. 1a. Although no glazed screen is proposed on the western elevation of the balcony to protect the amenity of the neighbouring occupier at no.5, a condition could be attached to any permission requiring the installation of an obscure glazed privacy screen to ensure that there would be no direct overlooking into the rear garden of this property.

Daylight and Sunlight

- Although the replacement dwelling would be closer, longer and higher than the existing dwelling along this boundary with no. 1a it is not considered to have an adverse impact on the daylight of the windows in this property and would be considered acceptable.
- It is considered there would be some impact on the level of daylight received into these habitable rooms at no.5. In light of the absence of a BRE daylight and sunlight assessment the applicant has not sufficiently demonstrated whether the proposal would ensure an adequate provision of daylight and sunlight would continue to be received to this property.
- Given the separation distance between the application building and no. 4 it is not considered that the front elevation of this property would incur a harmful loss of light and would be considered acceptable.

Outlook

- The appeal proposal would be considered an imposing building when viewed from the rear windows and garden area of no. 5 would have a detrimental impact on the visual amenity enjoyed by no.5 both from the windows on the rear elevation, the terrace area, and rear garden. It is considered that it would result in harm to the outlook enjoyed by this neighbour. The material increase in built form (up to 2m) along the boundary for a length of 6m would result in a significant loss of outlook and a material impact by way of overbearing and increased sense of enclosure to the occupiers at no. 5.

- The proposal would not be considered to harm the outlook of no. 1a.

Noise

- The sub-text to Policy A1 notes that disturbance from development can occur during the construction phase, and measures to reduce the impact of demolition, excavation and construction works should be outlined in a Construction Management Plan (CMP). A CMP could be secured by legal agreement. However In the absence of such a legal agreement this forms a further reason for the refusal of the application. An informative would be attached to advise that without prejudice to any future application or appeal, this reason for refusal could be overcome by entering into a legal agreement in the context of a scheme acceptable in all other respects.
- After the construction period has finished, it is not considered that the proposal would cause undue harm to neighbouring properties in terms of noise, vibration, odour, fumes or dust. Neither is it considered that the proposal would cause microclimate, contamination of water related issues to neighbouring properties.

Comments on delegated report

- 3.9 The delegated report accepts that the existing building could be demolished should an acceptable replacement building be proposed (Paragraphs 5.4 and 6.7). The key heritage consideration is therefore whether or not the replacement building would make the same or a greater contribution to the character and appearance of the Conservation Area.
- 3.10 The report does not acknowledge that the proposed replacement building, through the use of red brick and clay tile, reflects the prevailing materials used within the Conservation Area, as set out in the Redington/Frogna Conservation Area Statement.
- 3.11 Amenity matters are discussed in more detail in **Section 6.0** of this report. We note here that a Daylight and Sunlight report has been prepared and is provided in **Appendix 13.0**. The report concludes that the amenity values of daylight and sunlight to neighbouring residential properties would be retained to a level that satisfies BRE criteria, and satisfies Camden's relevant planning policies (see paragraphs 1.2 and 1.3 of the report).
- 3.12 We consider that it is also relevant that the occupier of no. 5 has not submitted an objection to the appeal proposals.
- 3.13 Finally, the Construction Management Plan (CMP) requirement is discussed elsewhere in the appeal submission.

4.0 THIRD PARTY COMMENTS

4.1 The delegated report attached at **Appendix 2.0** includes a summary of the third parties responses to appeal application submission. The heritage-related issues raised by third parties included:

- The historic interest of the existing building, including that it was built by Laurence Harvey, film star;
- The size and scale of the replacement dwelling; and
- The detailed design of the replacement dwelling.

4.2 The following amenity matters were also raised by third parties:

- Overlooking of no. 1a and no. 9; and
- Loss of light to no. 1a and no. 4.

4.3 The delegated report also summarises objections received to the appeal application received from The Redington and Frognal Neighbourhood Forum, and the Heath and Hampstead Society. Both objections set out that the existing building makes an important contribution to the character and appearance of the Conservation Area and raises concerns with regard to the design of the replacement building.

4.4 The Heath and Hampstead Society states in its response that the appeal site is locally listed. Attached at **Appendix 15.0** is an extract from Camden's 2015 Local List (available on the LPA's website). The extract provides details of locally listed buildings with Frognal and Fitzjohns and does not include the appeal site.

4.5 The heritage-related concerns set out in the third party objections summarised in the delegated report are broadly reflected in reasons for refusal 1 and 2 on the decision letter for the appeal application (**Appendix 1.0**).

5.0 STATUTORY PROVISIONS, PLANNING POLICY AND MATERIAL CONSIDERATIONS

Statutory Provisions: Planning and Compulsory Purchase Act 2004

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the policies of the statutory development plan, unless material considerations indicate otherwise. The current development plan for WCC comprises:

- The London Plan (2016)
- Camden Local Plan (2017)

Statutory Provisions: Planning (Listed Buildings and Conservation Areas) Act 1990

- 5.2 Section 72(1) is relevant to the determination of the appeal. This requires the appeal proposal to pay special attention to the desirability of preserving or enhancing the character or appearance of the Redington/Frogna Conservation Area.

National Planning Policy Framework (The Framework)

- 5.3 Paragraphs 128 and 129 emphasise the importance of understanding the significance of a heritage asset when considering development proposals. The delegated reports do not provide any detailed assessment of the significance of the listed building and conservation area and the specific harm to these heritage assets.
- 5.4 Paragraph 131 highlights the desirability of sustaining and enhancing the significance of heritage assets, and Paragraph 132 sets out that 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.
- 5.5 NPPF Paragraph 137 encourages local planning authorities to look for opportunities for new development within Conservation Areas to enhance or better reveal their significance.
- 5.6 Paragraph 138 notes that not all elements of a Conservation Area will necessarily contribute to its significance, and sets out that the 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 133 or less than substantial harm under paragraph 134, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole. The Council accepts that any harm to the Conservation Area from demolition is capable of being outweighed by a new building, and the basis for that judgement must be Section 72 (1) as interpreted by the House

of Lords in its decision in *South Lakeland DC v Secretary of State* [1992] 2 WLR 204, most notably.

London Plan Policy 7.8

- 5.7 Policy 7.8 sets out that developments should conserve the significance of heritage assets and their settings. The policy is provided in **Appendix 6.0**.

Camden Local Plan Policies A1, D1 and D2

- 5.8 Policy A1 sets out that the Council will grant permission for development unless this causes unacceptable harm to amenity. The Council will seek to ensure that the amenity of communities, occupiers and neighbours is protected. The factors the Council will consider include visual privacy, outlook, sunlight, daylight and overshadowing.
- 5.9 Policy D1 provides criteria that the Council will use secure high quality design in development. These include that the Council will require that development:
- respects local context and character;
 - comprises details and materials that are of high quality and complement the local character;
 - integrates well with the surrounding streets and open space, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contraindicates positive to the street frontage;
 - preserves strategic and local views.
- 5.10 The policy also notes that the Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 5.11 Policy D2 sets out that the Council will:
- require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;
 - resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area.
- 5.12 The policies are provided in **Appendix 7.0**.

Draft New London Plan

- 5.13 The Draft New London Plan was recently subject to a public consultation that ended on 2 March 2018. Chapter 7 within the draft document focuses on Heritage and Culture, and includes Draft Policy HC1 (Heritage Conservation and Growth). The draft policy is provided at **Appendix 8.0**.

Redington/Frogna Conservation Area Statement

5.14 This is provided at **Appendix 5.0** and has been discussed above.

6.0 DISCUSSION OF ISSUES ARISING FROM REASONS FOR REFUSAL

- 6.1 Reasons 1 and 2 divide what should be a continuous decision making process, since section 72 (1) requires the decision maker to determine the impact of a development on the end state of a conservation area. It is accepted that demolition may cause harm to the character or appearance of an area, but that in itself is not decisive; hence we question whether Reason for Refusal 1 is, read on its own, even a valid reason capable of being sustained in its own right.
- 6.2 If the Council, in discharging its statutory functions, conceived of reason for refusal no. 1 as a standalone one, capable of independent defence, then they have erred not just in law but also in policy, since paragraph 134 effects the statutory test in section 72 (1).
- 6.3 Practically, for the Inspector, the two reasons are the necessary parts in a seamless process.

Reason for refusal 1

- 6.4 Underpinning the first reason for refusal is the allegation that the existing dwelling makes a positive contribution to the Redington/Frogna Conservation Area. A map and schedule provided in the Redington/Frogna Conservation Area Statement identifies the appeal site as a building that makes a positive contribution. However, as noted in the delegated report, the description of the appeal site within the report is incorrect and actually describes 5 Kidderpore Avenue. This may indicate that the extent of analysis undertaken for the preparation of the Statement was limited. In our view this error significantly limits the weight that can be given to the view in the Statement that the appeal site building makes a positive contribution to the Conservation Area.
- 6.5 Nevertheless, as a matter of policy application, it is right to ask the question of whether the building does make the contended contribution because that goes to whether any weight may be given to its demolition at all in the planning balance.
- 6.6 In addition, comments made by the Design and Conservation Officer, provided in an email dated 31 July 2017 and provided in **Appendix 10.0**, state:

'...There have been discussions as to the heritage value of the existing building on the site, and reference has been made to the architect Patrick Gwynne who reworked/extended the building. Although he was a renowned architect, this is one of his lesser known works and arguably one of his less distinguished. In its current condition the existing building bears little resemblance to the original modelling of the house and the extension on its north side is somewhat incongruous in its form despite being of a modest height. For these reasons, the building is considered to make a neutral rather than a positive contribution to the conservation area, although overall it follows

the pattern of historic development found in the neighbourhood.' [Our emphasis]

- 6.7 Clearly, these comments are at odds with the LPA's first reason for refusal. It is a matter of fine judgment whether the site, as a whole, in its current condition is really so benign. The form of the building is incongruous, an unhappy marriage of a traditional building with a contemporary extension, and the combination is neither fish nor fowl.
- 6.8 Nevertheless, and moving away from that over-arching judgment, we will consider the property as it stands with reference to criteria set out the Historic England publication "Conservation Area Designation, Appraisal and Management Historic England Advice Note 1 (2016, 16)." (2016, 16). This document is attached at **Appendix 9.0** and sets out a number of questions which should be address to identify if an element of a conservation area contributes to its special interest.
- 6.9 This list is reproduced below for the appeal site with responses in italics. As the appeal site has been identified as a 'positive contributor' in the Redington/Frogna Conservation Area Statement there is a higher level of scrutiny/consideration required of any decision maker. However, as the NPPF makes clear, there can be no absolute in principle benchmark for demolition subject to proper assessment and justification. This is because such buildings are undesignated heritage assets, which have a lesser degree of statutory protection than listed buildings. The object of conservation area regulation, by contrast, is the character and appearance of the area as a whole.

Is it the work of a particular architect or designer of regional or local note?

The architect of the original house is not known and we are not aware that it was designed by a notable architect such as Charles H.B. Quennell. In any event the building has been significantly altered and extended and does not reflect its original appearance.

The delegated report for the appeal application notes that alterations undertaken in the 1970s were by Patrick Gwynne, but that some of his alterations do not survive intact. As noted above, the Design and Conservation Officer in comments provided on 31 July 2017 acknowledged that Gwynne was a renowned architect but concluded that the appeal site is one of his lesser known works and arguably one of his less distinguished. The comments also set out that in its current condition the existing building bears little resemblance to the original modelling of the house and the extension on its north side is somewhat incongruous in its form despite being of a modest height. On balance we conclude the answer to be 'no'.

Does it have landmark quality?

The building is two storeys in height located within a townscape comprising buildings of a similar height and scale. It does not have landmark quality.

Does it reflect a substantial number of other elements of the conservation area in age, style, materials, form or other characteristics?

The buildings in the conservation area are generally 2-storey in height with additional accommodation in an attic storey, and faced built in red brick or with tile hanging. They have traditional pitched or hipped roofs, with chimney stacks and the majority clad in clay tiles. The appeal site reflects some of these characteristics, as it is 2-storey in height and in part has a tiled roof. However, it has been faced in white painted render, has a large flat roofed side extension, and any original chimney stacks have been removed. The alterations have eroded the historic/original character of the building.

Does it relate to adjacent designated heritage assets in age, materials or any other historically significant way?

The nearest listed buildings are located on Heath Drive to the south east. Listed institutional buildings are also located on Kidderpore Avenue, to the north west of the appeal site. There are no designated heritage assets adjacent to the appeal site.

Does it contribute positively to the setting of adjacent designated heritage assets?

No.

Does it contribute to the quality of recognisable spaces including exteriors or open spaces with a complex of public buildings?

No.

Is it associated with a designed landscape e.g. a significant wall, terracing or a garden building?

No.

Does it individually, or as part of a group, illustrate the development of the settlement in which it stands?

Yes, but this answer would be given to any building or any age in any conservation area.

Does it have significant historic association with features such as the historic road layout, burgage plots, a town park or a landscape feature?

It is associated with the road layout, which applies to all buildings in the conservation area.

Does it have historic associations with local people or past events?

One of the third party responses to the appeal application states that the existing building was built by Laurence Harvey, a film star. However, we understand that the actor was born in 1928, after the appeal site had been built. In addition, it has not been verified that he lived at the property.

Does it reflect the traditional functional character or former uses in the area?
The building is likely to have been built originally as a house, which reflects the prevailing residential use of the Conservation Area.

Does its use contribute to the character or appearance of the area?
The existing residential use reflects the prevailing residential use of the Conservation Area, retained under the appeal proposals.

- 6.10 In Historic England's view, a positive response to one or more of these criteria may indicate that a particular element within a conservation area makes a positive contribution, provided that its historic form and values have not been eroded.
- 6.11 It will be clear that many buildings will satisfy at least one of the criteria, which are intended to aid discussion and analysis. Although positive responses to the criteria have been noted above, there have also been negative responses.
- 6.12 The relationship between the 1970s extension and later modifications and the original building have resulted in an incongruous form of development which undermines both the original and 1970s parts. For example, the earlier element one element has a hipped and pitched roof with dormer windows, and the later extension a flat roof, creating an awkward junction. In addition the fenestration pattern varies between the earlier element and the extension. This conclusion was also reached by the Design and Conservation Officer. Consequently the existing building is an unsatisfactory architectural composition. In addition, the use of render to the main house and boundary wall diminishes the contribution the appeal site makes to the Conservation Area, as this is an alien material that does not reflect the prevailing materials used within the Conservation Area.
- 6.13 On balance, therefore, we conclude the property actually undermines the appearance of the Conservation Area and its special interest because a) the original building has been significantly altered and b) the extension is not characteristic generally of the area and c) the amalgam of the two is ungainly and poorly resolved, having neither the quality of an original Quennell period property nor the full bodied conviction of an assured work of contemporary design.
- 6.14 Therefore we conclude that the appeal site provides an opportunity under NPPF Paragraph 137 to enhance the conservation area through new development. This reflects the conclusion in the delegated report that the appeal site could be demolished should an acceptable replacement building be proposed.

Reason for refusal 2

- 6.15 The reason for refusal refers to the scale, massing, form and detailed design of the proposed replacement dwelling, and alleges consequent harm to the character and appearance of the Redington/Frogna Conservation Area.

Scale

- 6.16 The proposed dwelling is comparable in width to the existing house on the appeal site. In views from Kidderpore Avenue the appeal proposals would not reduce the existing gap between the appeal site and 1 and 1A Kidderpore Avenue.
- 6.17 The ridge height of the main roof to the proposed building is comparable to the height of the existing hipped roof to the property. Additional height is proposed above the existing flat roofed side extension. However, although additional height is proposed a roof form is introduced that better reflects the character and appearance of the Conservation Area when compared to the existing uncharacteristic flat roof. Overall, then, the proposed roof is more in keeping and not out of scale generally with the area.
- 6.18 The depth of the main part of the proposed building is also comparable with the depth of the existing building.
- 6.19 In addition, there are a number of similarly-scaled dwellings within the Redington/Frognaal Conservation Area. 1 Kidderpore Avenue, near to the appeal site, is an example of a large dwelling. The appellant has also provided the photographs of neighbouring properties within the Conservation Area that are included at **Appendix 12.0**. A larger new dwelling accords with the character and appearance of the Conservation Area.
- 6.20 We therefore conclude that the scale of the appeal proposal is acceptable.

Massing

- 6.21 The massing of the proposed development comprises two main elements. A gabled element is present adjacent to 1 and 1A Kidderpore Avenue, running from the front to the rear of the appeal site, with an adjacent hipped roofed element at a lower height.
- 6.22 The use of varying roof heights reflects roofs found to existing buildings within the conservation area. This approach successfully breaks up the massing of the proposed dwelling in views from Kidderpore Avenue.

Form

- 6.23 The overall form of the appeal proposal comprises a 2-storey dwelling with attic accommodation within hipped and pitched roofs. Dormers and chimney stacks are present at roof level. The principal elevation includes recessed and projecting elements.
- 6.24 All of these key elements of the proposed building's form reflect local architectural characteristics.

Detailed design

6.25 As set out in the Design and Access Statement enclosed with the appeal application, the architecture of the proposed building respects the character of the surrounding area with a red brick façade, clay roof tiles, and traditional fenestration. The detailed design includes chimney stacks, which are absent from the site currently. Following advice from officers a roof is proposed of varying heights. We are advised that 1:50 drawings showing these details were submitted to the local planning authority during pre-application discussions and agreed.

6.26 As noted in **Section 2.0** above, the Redington/Frognal Conservation Area Statement sets out that houses within the Conservation Area:

‘...are predominantly large detached and semi-detached and display a variety of formal and free architectural styles typical of the last years of the 19th and early years of the 20th centuries. On the whole these are built in red brick with clay tiled roofs, occasional areas of tile hanging and render and many of them have white painted small paned windows

6.27 The materials and details proposed reflect the prevailing character and appearance of the Conservation Area as described in the Redington/Frognal Conservation Area Statement. Overall the proposals reflect the general detailing, form and disposition of early c20 suburban developments which are characteristic in this conservation area, and it does so by using characteristic facing materials. It is on any analysis contextual by virtue of its several features which comprise varied roof heights, leaded flat roofed dormer windows, traditional window details, and prominent chimney stacks.

6.28 And on that same basis more contextual than the current building.

6.29 An external stair is proposed to the front elevation of the property, adjacent to 5 Kidderpore Avenue. The appellant has advised that no concerns were raised by officers with regard to this proposals during pre-application discussions. The stair is located discreetly to the side of the property and is a minor element of the elevation as a whole, and as a result of this location the feature will not be discordant particularly when set in the context of the development overall.

6.30 The proposed conditions set out in **Appendix 14.0** include a condition requiring the windows to the proposed development to be constructed of white painted timber.

Summary

6.31 We conclude that the proposed development will reflect local architectural character and make a positive contribution to the Redington/Frognal Conservation Area.

Reason for refusal 3

- 6.32 This reason sets out that proposed replacement dwelling would result in the loss of daylight, outlook and an increased sense of enclosure to the neighbouring property at no 5 Kidderpore Avenue.
- 6.33 Attached at **Appendix 13.0** is a September 2016 Daylight and Sunlight Assessment prepared by Brooke Vincent + Partners. The report concludes that the amenity values of daylight and sunlight to neighbouring residential properties would be retained to a level that satisfies BRE criteria, and satisfies Camden's relevant planning policies (see paragraphs 1.2 and 1.3 of the report).
- 6.34 With regard to outlook and enclosure, **Figures 5 and 6** below provide photographs of the existing boundary between the appeal site and 5 Kidderpore Avenue. These images show that there is an existing substantial boundary in the location of the flank wall proposed under the appeal scheme. Taking this into account, and the openness provided by the existing rear garden to No. 5, we conclude that the appeal proposal would not result in an acceptable impact on the outlook and sense of enclosure to the rear of the neighbouring property.
- 6.35 As noted in **Section 3.0** above the occupier of no. 5 has not submitted an objection to the appeal proposals.



Figure 5 – boundary between the appeal site and 5 Kidderpore Avenue



Figure 6 – boundary between the appeal site and 5 Kidderpore Avenue

Development Plan

6.36 For the reasons set out above, we conclude that the appeal proposal would not cause unacceptable harm to amenity. This accords with Local Plan Policy A1.

6.37 With regard to Local Plan Policy D1:

- The roof arrangement, height and scale, overall form, and residential use of the appeal proposal will respect local context and character.
- The use of red brick, clay tiles, chimney stacks, dormers, and hipped and pitched roofs ensure that the details and materials proposed are of high quality and complement local character.
- The appeal proposal replaces the existing dwelling and has a comparable height, width and depth. This ensures that it would integrate well with the surrounding streets.
- No harm would be caused to local views.

6.38 With regard to Local Plan Policy D2:

- The existing building on the appeal site detracts from the Conservation Area.
- As noted above, the proposed building has a red brick façade, used clay roof tiles, and traditional fenestration. The detailed design includes chimney

stacks, which are absent from the site currently. Following advice from officers a roof is proposed of varying heights.

- The proposed development will reflect local architectural character and make a positive contribution to the Redington/Frognal Conservation Area.

6.39 The appeal proposals would conserve the significance, character and appearance of the Redington/Frognal Conservation Area, complying with London Plan Policy 7.8.

The Framework

6.40 The appeal site provides an opportunity under Paragraph 137 of the Framework to enhance the conservation area through new development. With reference to Paragraph 138 of the Framework the appeal site does not make a positive contribution to the Conservation Area and therefore neither Paragraph 133 or 134 of the Framework are engaged by the appeal proposals.

6.41 The appeal proposals would conserve the significance of the Redington/Frognal Conservation Area, complying with Paragraphs 131 and 132 of the Framework.

7.0 SUMMARY AND CONCLUSIONS

- 7.1 In summary we consider that the proposal would introduce an appropriately designed new house that would conserve and enhance the significance and character and appearance of the Redington/Froggnal Conservation Area. No harm would be caused to this or any other heritage assets.
- 7.2 Overall, and in relation to the section 72 (1) we have this observation pertinent to the exercise of the statutory duty.
- 7.3 The decision before the Inspector is, clearly, whether the proposals cause no harm to the conservation area and, where appropriate, enhance the area. That is the policy test. The statutory test is something different. Thus, for the Appeal to be dismissed, the Inspector would have to judge the proposed design more harmful to the character or appearance of the area than the existing building. If the Inspector finds parity, then consent should be forthcoming under the terms of section 72 (1). This closing remark is offered without prejudice to the conclusions set out in this statement, which are entirely positive.
- 7.4 We conclude that the proposals would comply with relevant legislation, as well as national, regional and local development plan policy and guidance. Therefore the appeal should be allowed subject to the conditions suggested at **Appendix 14.0**. These conditions cover topics discussed within this Statement of Case and also other topics discussed elsewhere in the appeal submission.

