



# Grounds of Appeal Statement

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87-93 Kingsgate Road, London, NW6 4JY

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**Planning & Development Associates**  
120 Pall Mall, London, SW1Y 5EA  
T: 020 7101 0789 | E: [info@plandev.co.uk](mailto:info@plandev.co.uk)

**[plandev.co.uk](http://plandev.co.uk)**

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## Contents

1	Introduction, Purpose and Development Proposals	2
	1.1 Introduction	2
	1.2 Purpose	3
	1.3 Development Proposals	3
2	Site Location, Description and Planning History	5
	2.1 Site Location	5
	2.2 Site Description	5
	2.3 Planning History	6
3	Development Plan Context and Designations	8
	3.1 Development Plan Context and Designation	8
	3.2 Relevant Development Plan Policies	8
	3.3 Material Considerations – NPPF	9
	3.4 Material Considerations – London Plan Supplementary Planning Guidance	11
	3.5 Material Considerations – Camden Planning Guidance	11
	3.6 Material Considerations – Draft London Plan	11
4	Grounds of Appeal	12
	4.1 Introduction	12
	4.2 Common Ground	12
	4.3 Design / impact on the character of the area	14
	4.4 Highways, access and parking	19
	4.5 Construction management	20
	4.6 Affordable Housing	21
5	Summary and Conclusion	23
	5.1 Summary	23
	5.2 Conclusion	23

## 1 Introduction, Purpose and Development Proposals

### 1.1 Introduction

1.1.1 This statement comprises the Ground of Appeal Statement submitted in support of a planning appeal against the refusal of planning permission by London Borough of Camden (the 'Council') for the erection of a third floor roof extension to provide 1x2 bedroom and 1x 1bedroom self-contained flat (Class C3) and erection of three storey rear extension to No. 91 to enlarge existing office (Class B1a) and flats (Class C3) at ground, first and second floor level, following demolition of existing two storey closet wing to include associated hard landscaping and new entrance to Messina Avenue (the proposed 'development') at 87-93 Kingsgate Road, London, NW6 4JY (the 'site').

1.1.2 The application (Ref: 2017/6543/P) was submitted on 20<sup>th</sup> November 2017 and was refused by delegated decision on 21<sup>st</sup> March 2018.

1.1.3 The Council's six reasons for refusal are given as:

1. The proposed roof extension, by reason of its height, bulk, detailed design and location within a terrace of properties with a largely unaltered roofline, would be harmful to the character and appearance of the host buildings, the terrace to which they belong and the streetscene, contrary to policy D1 of the London Borough of Camden Local Plan 2017.
2. The proposed rear extension, by reason of its height, scale and detailed design, would be detrimental to the character and appearance of the host building and surrounding area, contrary to policy D1 of the London Borough of Camden Local Plan 2017.
3. The proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and would fail to promote more sustainable and efficient forms of transport, contrary to policies T1 and T2 of the London Borough of Camden Local Plan 2017.
4. The proposed development, in the absence of a legal agreement securing necessary highway works, would fail to secure adequate provision for and safety of pedestrians, cyclists and vehicles, contrary to policies A1 and T1 of the London Borough of Camden Local Plan 2017.
5. The proposed development, in the absence of a legal agreement securing a Construction Management Plan (CMP) and associated CMP Implementation Support Contribution, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally, contrary to policies A1 and T4 of the London Borough of Camden Local Plan 2017.
6. The proposed development, in the absence of a legal agreement to secure an affordable housing contribution, would not contribute to maximising the supply of affordable housing with an appropriate mix of housing, contrary to policy H4 of the London Borough of Camden Local Plan

1.1.4 In addition, the decision notice confirms that without prejudice to any future application or appeal, the applicant is advised that reasons for refusal numbered 3, 4, 5, 6 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.

1.1.5 This is discussed in more detail below.

## 1.2 Purpose

1.2.1 Planning law<sup>1</sup> requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

1.2.2 The Courts<sup>2</sup> have determined that it is enough that a proposal accords with the Development Plan when considered as a whole. It is not necessary to accord with each and every policy contained within the development plan. Indeed, it is not at all unusual for development plan policies to pull in different directions.

1.2.3 The position was also endorsed by Patterson J in his judgement in *Tiviot Way Investments Ltd v Secretary of State for Communities and Local Government and Stockton-on-Tees BC [2015] EWHC 2489 Admin*) at paragraph 31:

“I do not accept, lest it be thought to establish the proposition, that the case of Hampton Bishop (supra) establishes that a breach of one key policy was sufficient to find conflict with the development plan as a whole.”

1.2.4 The Planning & Compulsory Purchase Act 2004 defines the development plan for the purposes of this assessment process as the strategy for the region in which the site is located and development plan documents, taken as a whole, which have been approved or adopted for the area.

1.2.5 The purpose of this statement is therefore to identify development plan policies that are relevant in the assessment of the development proposals. Then to determine if the proposals conflict with their provisions and if they do, to determine whether there are material considerations which outweigh such conflict.

## 1.3 Development Proposals

1.3.1 The proposal seeks the erection of 3<sup>rd</sup> floor roof extension to provide 2 residential flats (Class C3) and erection of a 3-storey rear extension to no. 91 to enlarge an existing office and flats on 1<sup>st</sup> and 2<sup>nd</sup> floors, following demolition of the existing 2 storey closet wing, plus associated hard landscaping and new entrance facing Messina Avenue.

1.3.2 The proposed development will provide the following mix of additional residential units:

FLAT	GROSS INTERNAL AREA   TYPE   SPACE REQUIREMENTS <sup>3</sup>
A	55.8 m <sup>2</sup>   1 bed 2 person   50 m <sup>2</sup>
D	73 m <sup>2</sup>   2 bed 4 person   70 m <sup>2</sup>

<sup>1</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

<sup>2</sup> See for example *Laura Cummins and London Borough of Camden, SSETR and Barrett Homes Limited [2001]*; *R. v Rochdale MBC ex parte Milne [2000]* & *City of Edinburgh Council v. Secretary of State for Scotland [1997]*

<sup>3</sup> Based on GLA Housing SPG (March 2016) & National Described Space Standards (March 2015)

- 1.3.3 The proposed development will also provide external areas for cycle storage and for refuse and recycling within the new entrance area.
- 1.3.4 Due to the highly sustainable location of the site it is not proposed to include any off-street parking.
- 1.3.5 The proposals are discussed in more detail in the Design and Access Statement which accompanied the planning application and is submitted as part of the appeal submission.

## 2 Site Location, Description and Planning History

### 2.1 Site Location

- 2.1.1 The site is located on the eastern side of Kingsgate Road at the junction of Messina Avenue. The location is highlighted on the following map extract.



- 2.1.2 The site is approximately 650 metres from West Hampstead Underground station, 650 metres from Brondesbury Overground station, 750 metres from West Hampstead Overground station, and 850 metres from West Hampstead railway station. The site is also within walking distance of Kilburn and Kilburn High Road stations.
- 2.1.3 In addition, a number of bus routes pass close to the site with stops on West End Lane (250 metres) and Kilburn High Road (350 metres).
- 2.1.4 As a consequence, the site has a Public Transport Accessibility Level (PTAL) of 5 (Very Good).

### 2.2 Site Description

- 2.2.1 The site comprises 4 terraced properties with offices at ground floor and two storeys of residential uses above.
- 2.2.2 Three of the properties front Kingsgate Road whilst the fourth wraps around the corner into Messina Avenue.

- 2.2.3 The property is not listed or in a Conservation Area or in close proximity to any such designations where impact on setting would be a consideration. The property is located within the Kilburn Neighbourhood Area.



Application site in street scene

- 2.2.4 Messina Avenue rises quite sharply from the corner of the application site and is lined with significant 4 storey villa style residential properties with traditional detailing and flat roofs concealed by parapet walls.
- 2.2.5 Kingsgate Road runs parallel to Kilburn High Street with dwellings of differing heights up to 4 storeys and constructed in a varied palette of materials but predominantly brick and stucco detailing. Roofs are inverted butterfly types concealed by parapet walls.
- 2.2.6 The ground floors of the properties on Kingsgate Road in this location are mostly commercial uses, shops and offices. The properties all appear to have residential apartments on upper levels.

## 2.3 Planning History

- 2.3.1 From a review of the Council's online planning register the planning history of the application site shows only one application which was refused in July 2017 (Ref: 2017/1435/P).
- 2.3.2 The application sought the erection of 3rd floor roof extension to provide 3 residential flats (Class C3) and erection of 3 storey rear extension to no. 91 to enlarge existing office and flats on ground, 1st and 2nd floors, following demolition of the existing 2 storey closet wing, plus associated hard landscaping and new entrance facing Messina Avenue.
- 2.3.3 The application was refused for the following 6 reasons:

1. The proposed roof extension, by reason of its height, bulk, detailed design and location within a terrace of properties with a largely unaltered roofline, would be harmful to the character and appearance of the host buildings, the terrace to which they belong and the streetscene, contrary to policy D1 (Design) of the Camden Local Plan 2017



2. The proposed rear extension, by reason of its height, scale and detailed design, would be detrimental to the character and appearance of the host building and surrounding area, contrary to policy D1 (Design) of the Camden Local Plan 2017
3. Two of the proposed 3rd floor units (the 1 person studio and 1 person one bedroom flat) would not meet the minimum gross internal floorspace requirements for 1 bedroom units as set out in national standards, and therefore would create substandard habitable accommodation, contrary to policy H6 (Housing choice and mix) of the Camden Local Plan 2017
4. The proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and would fail to promote more sustainable and efficient forms of transport, contrary to policies T1 (Prioritising walking, cycling and public transport) and T2 (Car-free development and limiting the availability of parking) of the Camden Local Plan 2017
5. The proposed development, in the absence of a legal agreement securing necessary highway works, would fail to secure adequate provision for and safety of pedestrians, cyclists and vehicles, contrary to policies A1 (Managing the impact of development) and T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017
6. The proposed development, in the absence of a legal agreement securing a Construction Management Plan (CMP) and associated CMP Implementation Support Contribution, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally, contrary to policies A1 (Managing the impact of development) and T4 (Promoting the sustainable movement of goods and materials) of the Camden Local Plan 2017

- 2.3.4 In addition, the decision confirmed that without prejudice to any future application or appeal, the applicant is advised that reasons for refusal numbered 4, 5, 6 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.
- 2.3.5 This is discussed in more detail below and the proposed development seeks to overcome the other reasons for refusal.
- 2.3.6 It is also worth noting that planning permission was granted in 2005 at 92 Kingsgate Road for the erection of a roof extension to create a new third floor to provide additional accommodation for existing maisonette, erection of a rear/side extension at first floor level, creation of two roof terraces at second and third floor levels and alterations to the fenestration at rear second floor level (Ref: 2005/3476/P).

### 3 Development Plan Context and Designations

#### 3.1 Development Plan Context and Designation

- 3.1.1 The Development Plan context in Kilburn is provided by the London Plan (2016) and the Camden Local Plan (2017).
- 3.1.2 The Proposals Map confirms that the site has no specific land use designation. However, the site is located within the Kilburn Neighbourhood Area.
- 3.1.3 In addition, the site falls within Flood Zone 1 and is therefore at the lowest risk of flooding.

#### 3.2 Relevant Development Plan Policies

- 3.2.1 As a result of the above designations, the current use of the premises and the proposed use the following Development Plan policies are considered to be relevant in the assessment of any development proposals.

- London Plan
  - Policy 3.3 Increasing Housing Supply;
  - Policy 3.4 Optimising Housing Potential;
  - Policy 3.5 Quality and Design of Housing Developments;
  - Policy 3.8 Housing Choice;
  - Policy 5.2 Minimising Carbon Dioxide Emissions;
  - Policy 5.3 Sustainable Design and Construction;
  - Policy 6.3 Assessing effects of development on transport capacity;
  - Policy 6.9 Cycling;
  - Policy 7.3 Designing out Crime
  - Policy 7.4 Local Character
  - Policy 7.6 Architecture
- Camden Local Plan
  - Policy G1 Delivery and location of growth
  - Policy H1 Maximising housing supply
  - Policy H4 Maximising the supply of affordable housing
  - Policy H6 Housing choice and mix
  - Policy H7 Large and small homes
  - Policy A1 Managing the impact of development
  - Policy D1 Design
  - Policy C5 Access for all
  - Policy CC1 Climate change mitigation
  - Policy T1 Prioritising walking, cycling and public transport
  - Policy T2 Car-free development and limiting the availability of parking
  - Policy T4 Promoting the sustainable movement of goods and materials

- 3.2.2 However, it is clear from the refusal notice that there is no conflict with the London Plan. In addition, it is clear that the Council have only cited conflict with policies H4, A1, D1, T1, T2 and T4 of the Local Plan (highlighted above).

- 3.2.3 In this respect it is clear that there is no conflict with any of the other policies.

### 3.3 Material Considerations – NPPF

3.3.1 The Government's National Planning Policy Framework (July 2018) (the 'Framework') is a material consideration in the assessment of development proposals. The Framework confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.

3.3.2 The Framework confirms that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways:

- an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

3.3.3 The Framework emphasises that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged.

3.3.4 The Framework confirms that at its heart is a presumption in favour of sustainable development and that for decision taking this means approving development proposals that accord with an up-to-date development plan without delay.

3.3.5 In respect of housing paragraph 59 confirms that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

3.3.6 Paragraph 60 recognises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly and confirms that local planning authorities should support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes

3.3.7 In terms of design, the Framework confirms that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities

3.3.8 Planning decisions are required to ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 3.3.9 Paragraph 130 advises that permission should be refused for 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. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.
- 3.3.10 Paragraph 131 confirms that in determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
- 3.3.11 No local distinctiveness has been identified to dictate that a specific design typology should be adopted and the pre-application consultation established that the overall bulk and form was, in principle, acceptable.
- 3.3.12 The design process is explained in the Design and Access Statement with emphasis on the various influences on the design solution – the end user and key stakeholders. The end product is a distillation of these influences with the needs and aspirations of the end user paramount.
- 3.3.13 The Framework also provides policy guidance on promoting sustainable transport and in paragraph 109 confirms that ‘Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’.
- 3.3.14 An assessment of the Framework in terms of design, transport and housing confirms that the proposed development is consistent with national planning policies and this provides further support for the proposed development.

### **3.4 Material Considerations - London Plan Supplementary Planning Guidance**

- 3.4.1 The Mayor's SPG 'Housing' (November 2012) contains the residential design, density and space standards that will apply to new residential developments. These reflect the space and density standards set out in the London Plan, but also provide more detailed guidance on individual room sizes and internal layouts.
- 3.4.2 The proposed development has been assessed against the individual room and amenity spaces standards contained within the SPG and Nationally Described Space Standard and is compliant. This is discussed in more detail below. The Council have not cited any conflict with the above.

### **3.5 Material Considerations – Camden Planning Guidance**

- 3.5.1 The following Supplementary Planning Documents have been identified as potentially relevant to the proposal:
- CPG1 Design (2015)
  - CPG2 Housing (2015)
  - CPG3 Sustainability
  - CPG6 Amenity (2011)
  - CPG7 Transport (2011)
  - CPG8 Planning Obligations (2015)
- 3.5.2 These are discussed in more detail below where relevant. However, the Council have not cited any conflict with the above.

### **3.6 Material Considerations – Draft London Plan**

- 3.6.1 The draft New London Plan showing Minor Suggested Changes was published on 13<sup>th</sup> August 2018 and is therefore at the early stages of consultation.
- 3.6.2 In this respect its weight is limited but is discussed below where relevant to the proposed development as the Mayor has confirmed that the Draft New London Plan is a material consideration in planning decisions.

## 4 Grounds of Appeal

### 4.1 Introduction

- 4.1.1 The key issues in the determination of the planning appeal are considered against the test of reasonableness in planning terms and against planning policy compliance and any other material considerations where relevant and in particular against the Council's reasons for refusal.
- 4.1.2 It is clear from a review of the cited Development Plan policies, the decision notice and the Council's Delegated Report that the key issues in the determination of the appeal are:
- 4.1.3 The principal considerations in the assessment of the development proposals for the property are considered to be as follows:
- Design / impact on the character of the area
  - Highways, access and parking;
  - Construction management; and
  - Affordable Housing
- 4.1.4 These considerations are summarised in turn below.
- 4.1.5 It is also relevant to consider the common ground.

### 4.2 Common Ground

- 4.2.1 It is first important to note that the Planning Officer's Delegated Report cites no objection to the following considerations:
- Principle of development
  - Standard of accommodation;
  - Impact on neighbouring amenity; or
  - Sustainability

#### Principle of development

- 4.2.2 The National Planning Policy Framework (NPPF) seeks to increase the housing supply and introduces a presumption in favour of sustainable development. The proposed development clearly falls into the category of sustainable development providing much needed housing within the urban area on brownfield land and there is good connectivity to the public transport network (as demonstrated by the Public Transport Accessibility Level (PTAL) of 5 – Very Good.
- 4.2.3 In addition, the development of housing will help to meet the targets as set out in Policy 3.3 of the London Plan which seeks to increase the housing supply. The aim is also outlined in Policies G1 and H1 of the Local Plan.
- 4.2.4 The principle of development is accepted by the Council in the Planning Officer's Delegated Report for which confirms that:

There it is considered that the retention and spatial extension of the existing uses within the site is acceptable.

4.2.5 In addition, the proposal is supported by the draft London Plan which states at policy H2(d) that boroughs should apply a presumption in favour of the following types of small housing development which provide between one and 25 homes:

1. infill development on vacant or underused brownfield sites
2. proposals to increase the density of existing residential homes within PTALs 3-6 or within 800m of a station or town centre boundary through:
  - a. residential conversions (subdivision of houses into flats)
  - b. residential extensions (upward, rear and side)
  - c. the demolition and/or redevelopment of existing buildings houses and/or ancillary buildings
  - d. infill development within the curtilage of a house
3. the redevelopment or upward extension of flats, and non-residential buildings and residential garages to provide additional housing.

4.2.6 In this respect it is clear that the proposed development meets the above criteria and falls under this presumption.

#### Standard of accommodation

4.2.7 Policy 3.5 of the London Plan states that the design of all new housing developments should enhance the quality of local places, taking into account physical context; local character; density; tenure and land use mix; and relationships with, and provision of, public, communal and open spaces, taking particular account of the needs of children and older people. LDFs should incorporate minimum space standards that generally conform to Table 3.3 (now superseded by the Nationally Described Space Standards).

4.2.8 In addition, Policy H6 of the Local Plan requires new development to provide an acceptable standard of accommodation in terms of internal arrangements, dwelling and room sizes and amenity space; facilities for storage, recycling and disposal of waste; facilities for bicycle storage and private amenity space.

4.2.9 As discussed above the proposed flats now comply with the Nationally Described Space Standards and therefore the revised scheme has overcome the Council's 3<sup>rd</sup> reason for refusal in the July 2017 decision.

4.2.10 In addition, the roof terraces will be in excess of the minimum standards as set out in the London Plan Housing SPG. It is noted that the Council did not object on this basis previously.

4.2.11 In this respect, it is clear that the standard of accommodation now meets the relevant standards and there can be no objections in this regard and the Council have not raised any objection.

#### Impact on neighbouring amenity

4.2.12 The London Plan Policy 7.6 states that development must not cause unacceptable harm to the amenity of surrounding land and buildings.

4.2.13 In addition, Policy A1 of the Local Plan seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. Permission should only be granted for development that would not harm the amenity of neighbouring residents.

4.2.14 It is noted that the Council have not objected on this basis with the Planning Officer's Delegated Report stating that:

Although the separation distance is less than the required standard, a similar relationship between buildings in the street already exists, thus there is unlikely to be a harmful increased level of overlooking. In a narrow urban setting such as this, some degree of overlooking between facing units would be expected by future occupiers.

It is considered that the proposed roof and rear extension would not impact upon the daylight and sunlight upon adjoining residential occupiers as there are no habitable windows at No. 95 Messina Avenue or No. 91 Kingsgate Road (which is part of the application buildings) which would face the rear extension. Furthermore, by virtue of its position upon the roof, the roof extension would not affect daylight, sunlight and outlook of neighbouring occupiers.

#### Sustainability

- 4.2.15 A core planning principle of the NPPF is to support the transition to a low carbon future. The proposed development wholeheartedly achieves this in the promotion of highly sustainable dwellings and office space.
- 4.2.16 London Plan Policy 5.2 states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:
- i. Be lean: use less energy
  - ii. Be clean: supply energy efficiently
  - iii. Be green: use renewable energy.
- 4.2.17 In addition, Policy 5.3 of the London Plan states that development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process.
- 4.2.18 Furthermore, Policy CC1 of the Local Plan notes that the Council will require all development to take measures to minimise the effects of, and adapt to, climate change and the policy encourages all development to meet the highest feasible environmental standards that are financially viable during construction and occupation.
- 4.2.19 The proposed development will seek to achieve these environmental standards, and this can be reasonably secured by condition and this is confirmed by the Council in the Delegated Report.

### **4.3 Design / impact on the character of the area**

- 4.3.1 The Council's first reason for refusal states that the proposed roof extension, by reason of its height, bulk, detailed design and location within a terrace of properties with a largely unaltered roofline, would be harmful to the character and appearance of the host buildings, the terrace to which they belong and the streetscene.
- 4.3.2 Similarly the second reason for refusal states that the proposed rear extension, by reason of its height, scale and detailed design, would be detrimental to the character and appearance of the host building and surrounding area.
- 4.3.3 In this respect the Council consider that the proposed development is contrary to policy D1 of the London Borough of Camden Local Plan 2017.



4.3.4 Policy D1 states that the Council will seek to secure high quality design in development. The Council will require that development:

- a. respects local context and character;*

The proposed development will respect the character of the area and other similar extensions exist in the local area. This is discussed in more detail below.

- b. preserves or enhances the historic environment and heritage assets in accordance with “Policy D2 Heritage”;*

There are no nearby heritage assets which are affected by the proposal. No objections were received in this regard previously

- c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*

The proposed design and construction is sustainable. No objections were received in this regard previously.

- d. is of sustainable and durable construction and adaptable to different activities and land uses;*

The proposal will be sustainable and adaptable. No objections were received in this regard previously.

- e. comprises details and materials that are of high quality and complement the local character;*

As discussed below, the proposed materials will complement the existing building and the character of the area.

- f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*

The proposed development will integrate with the surrounding area. This is discussed below.

- g. is inclusive and accessible for all;*

The proposal will be inclusive in accordance with Policy C5 of the Local Plan subject to the existing constraints of the site. No objections were received in this regard previously. This is discussed in more detail in the Design and Access Statement.

- h. promotes health;*

No objections were received in this regard previously.

- i. is secure and designed to minimise crime and antisocial behaviour;*

The proposed development seeks to reduce crime in accordance with the relevant standards in accordance with Policy 7.3 of the London Plan.

- j. responds to natural features and preserves gardens and other open space;*

This is not relevant to the proposed development. No objections were received in this regard previously.

- k. incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*

The proposal seeks to enhance the boundary landscaping. No objections were received in this regard previously.

- l. incorporates outdoor amenity space;*

The amenity space is in accordance with the relevant standards.

- m. preserves strategic and local views;*

This is not relevant to the proposed development.

- n. for housing, provides a high standard of accommodation; and*

This is discussed in detail below and the proposal complies with all relevant standards.

- o. carefully integrates building services equipment.*

Any services are carefully integrated into the building.

*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.*

- 4.3.5 As discussed in more detail below, the proposed development is a high quality design and is therefore in accordance with the above policy.

- 4.3.6 The Planning Officer's Delegated Report outlines two principle objections in respect of design relating to the roof extension and rear extension respectively.

- 4.3.7 In respect of the proposed roof extension the Delegated Report confirms that:

7.5 The proposed roof extension is considered to add excessive bulk and height to an unaltered roofline and would be out of keeping with the unaltered character of the terrace as a whole. In public views, the proposed roof extension would appear highly prominent and incongruous and would act to erode the otherwise highly uniform appearance of the host terrace and local area. As the proposed extensions would only extend half way down the terrace, the resulting unbalancing affect caused upon the row would exacerbate these impacts. As such, the proposal is considered unacceptable in principle.

7.6 The proposal has sought to address the loss of the valley profile within the roofs by setting the proposal back slightly in order to retain the integrity of the existing roofline. Although it does maintain the valley roof profile of the application buildings, when viewed as a terrace as a whole, it is considered that the proposal disrupts the rhythm and form of the rear of the entire terrace which has been unaltered. It is noted that these rear valley roofs are an important part of the roofscape and clearly visible from the public realm in Messina Avenue.

7.7 The shape and massing of the proposed extension does not relate to the proportions of the existing building, particularly when viewed from the side elevation. The detailed design, in particular the windows arrangement, is in uniform with the fenestration of the existing buildings below and is carried through. The choice of materials are considered contemporary and appropriate. However, this does not mitigate the principle concerns of a roof addition as explained previously.

- 4.3.8 However, as shown on the photograph below the building opposite has a roof addition of similar scale and appearance and therefore this proposal seeks to enhance the character of the terrace by providing matching ends of the terrace on each side of the road.
- 4.3.9 This approach is supported by the Camden Planning Guidance (CPG1) which states that additional storeys and roof alterations are likely to be acceptable where there is an established form of roof addition or alteration to a terrace or group of similar buildings and where continuing the pattern of development would help to re-unite a group of buildings and townscape.



- 4.3.10 In this respect, the proposed development will re-unite the ends of the terrace on either side of the road.
- 4.3.11 The application site is not within a Conservation Area and therefore there is no statutory requirement to preserve the character of appearance of the terrace and although there is a row of valley roofs the surrounding streets contain a number of different roof forms and the other end of the terrace contains a different roof form going around the corner to Gascony Avenue.
- 4.3.12 In this respect, a varied roofscape is an important contributor to the character of the area.
- 4.3.13 In addition, the roof extension will be formed by the addition of a single storey set out at the existing low point of the inverted roofs.
- 4.3.14 This will mean that approximately one third of the new storey will be concealed by the existing parapet. The new storey will also be set back from the parapet to reduce its impact on the street below.
- 4.3.15 As a result of being set back from the existing building façade the roof extension will not be visible from the pavement below.
- 4.3.16 In addition, to respect the inverted roof pattern to the rear of the properties this new revised scheme is now inset from the rear façade to express the former inverted roof pattern.

4.3.17 In addition, the proposed fenestration now aligns with the buildings below and this is acknowledged by the Planning Officer who also confirms that there are no objections in respect of materials.

4.3.18 In respect of the rear extension the Planning Officer's Delegated Report states that:

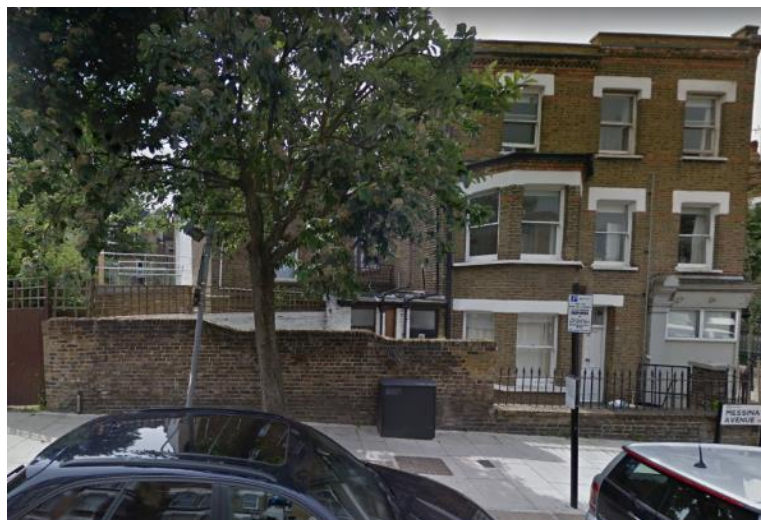
7.8 The proposal also seeks to demolish the existing closet wing of No. 93 Kingsgate Road and to construct a three-storey rear extension to eaves level, incorporating a flat roof, to provide access to the new units and to enable the reconfiguring of the existing residential units.

7.9 CPG1 indicates that unsympathetic rear/side extensions can alter the harmony and balance of a group of buildings, and that rear extensions would not be acceptable where they would diverge significantly from the historic pattern. Rear extensions that are higher than one full storey below roof eaves/parapet level, or that rise above the general height of neighbouring projections and nearby extensions, will be strongly discouraged.

7.10 The closet wings to the rear of Nos. 77-93 Kingsgate Road are uniform in scale and design. They are all set below the main eaves level and feature a clear rhythm and this appears as a characteristic feature of the rear elevations on the houses, including when seen from Messina Avenue.

7.11 In this case, and in light of the general uniformity in the basic design and scale of the exiting rear closet extensions, it is considered that the proposed rear extension would be detrimental to the harmony of the group of buildings, which are visible in part from Messina Avenue. As such, the proposal would result in harm to the character and appearance of the row of dwellings and the area generally.

4.3.19 However, as demonstrated in the photograph below the rear / side elevations of No. 91 and 93 are unsightly and the new extension will remove and conceal this.



4.3.20 The new proposal will therefore create a positive frontage onto Messina Avenue rather than the residual view onto the rear of the properties as a result of the terrace not flowing around the corner.

4.3.21 This approach would be consistent with the other corner plots in the area and in this respect this proposal will be a significant improvement on the streetscape and road junction.

4.3.22 In addition, new primary windows will provide surveillance and therefore additional security benefits.

- 4.3.23 The proposed rear extension will read as one property constructed at the same time in the same style.
- 4.3.24 The existing brickwork parapet with its dentil course and brickwork details will be replicated across the new extension and will maintain a constant parapet height.
- 4.3.25 In this respect, there are no conflicts with any Development Plan policies in respect of the proposed design and the Council's first two reasons for refusal are unsustainable.

#### 4.4 Highways, access and parking

- 4.4.1 The Council's third reason for refusal states that the proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and would fail to promote more sustainable and efficient forms of transport, contrary to policies T1 and T2 of the London Borough of Camden Local Plan 2017.
- 4.4.2 In addition, the Council's fourth reason for refusal states that the proposed development, in the absence of a legal agreement securing necessary highway works, would fail to secure adequate provision for and safety of pedestrians, cyclists and vehicles, contrary to policies A1 and T1 of the London Borough of Camden Local Plan 2017.
- 4.4.3 In this respect Policy T1 seeks to promote sustainable transport by prioritising walking, cycling and public transport in the borough.
- 4.4.4 In addition, Policy T2 confirms that the Council will not issue on-street or on-site parking permits in connection with new developments and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits.
- 4.4.5 Policy A1 seeks to manage the impact of development.
- 4.4.6 In respect of car free development the Appellant is happy to enter into a s106 agreement to restrict the occupiers from obtaining a parking permit and the following covenants can be entered into in accordance with other recent planning permissions in the Borough:

##### 4.1 Car Free

- 4.1.1 To ensure that prior to occupying any residential unit (being part of the Development) each new occupier of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to:
  - (i) be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay; and
  - (ii) buy a contract to park within any car park owned, controlled or licensed by the Council.

4.1.2 Not to occupy or use (or permit the occupation or use of) any residential unit (being part of the Development) at any time during which the occupier of the residential unit holds a Residents Parking Permit to park a vehicle in a Residents Parking Bay or is permitted to park a vehicle in any car park owned, controlled or licensed by the Council unless the occupier is the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970.

4.1.3 The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 and 4.1.2 in this Agreement shall continue to have effect in perpetuity.

4.1.4 On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1.1 and 4.1.2 of this Agreement.

4.4.7 In this respect the Council's second reason for refusal can be easily overcome.

4.4.8 Similarly, a covenant can be entered into to secure a highways contribution. However, the Planning Officer's Delegated Report does not specify the contribution required – stating that:

Additionally, in line with policy T4 of the Camden Local Plan, it is necessary to secure a financial contribution for highways works (repaving the footway) directly adjacent to the site on Messina Avenue to allow for any damage caused during the construction of the proposed development to be repaired. This should also be secured by a S106 legal agreement. In the absence of a legal securing the highways contribution, there could be no guarantee that potential damage to the public highway as result of the construction works would be repaired, contrary to policy A1 of the Camden Local Plan.

4.4.9 However, it is clear from the above that the Council's objections can easily be overcome via the completion of a s106 Planning Obligation.

## 4.5 Construction management

4.5.1 The Council's fifth reason for refusal states that the proposed development, in the absence of a legal agreement securing a Construction Management Plan (CMP) and associated CMP Implementation Support Contribution, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally.

4.5.2 In this respect the Council consider that the proposal is contrary to policies A1 and T4 of the London Borough of Camden Local Plan 2017.

4.5.3 As discussed above, Policy A1 seeks to manage the impact of development.



4.5.4 In addition, Policy T4 of the Local Plan states that Construction Management Plans should be secured to demonstrate how a development will minimise impacts from the movement of goods and materials during the construction process (including any demolition works). For some developments this may require control over how the development is implemented (including demolition and construction) through a Construction Management Plan (CMP).

4.5.5 The Planning Officer's Delegated Report confirms that:

In line with policy T4 of the Camden Local Plan, a construction management plan (CMP) should be secured to demonstrate how a development will minimise impacts from the movement of goods and materials during the construction process. This is due to the construction required and the proximity of the site to Kingsgate Primary School and to ensure that construction traffic does not create or add to existing traffic congestion in the local area. The Council needs to ensure that the development can be implemented without being detrimental to amenity or the safe and efficient operation of the highway network in the local area.

The CMP also occurs an associated implementation support contribution of £3,136. It should be noted that the contribution fee has increased since the previous refusal. In the absence of a legal agreement securing the submission, contribution fee and implementation of a CMP, the development would be likely to contribute unacceptably to traffic disruption and road safety measures and would be detrimental to the amenities of the area generally, contrary to policies A1 and T4 of the Camden Local Plan.

4.5.6 In this respect the Appellant is willing to enter into such an agreement, if necessary as part of any planning permission and can submit a draft s106 as part of the appeal submission.

4.5.7 However, it is considered that this could also be secured by condition and therefore the Council's reason for refusal can easily be overcome.

## 4.6 Affordable Housing

4.6.1 The Council's sixth reason for refusal states that the proposed development, in the absence of a legal agreement to secure an affordable housing contribution, would not contribute to maximising the supply of affordable housing with an appropriate mix of housing, contrary to policy H4 of the London Borough of Camden Local Plan.

4.6.2 Policy H4 of the Local Plan states that the Council will expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more.

4.6.3 The Planning Officer's Delegated Report outlines the Council's justification for affordable housing as follows:

The affordable housing target as detailed in policy H4 and its supporting text is based on a sliding scale with the target starting at 2% for each additional home (at 100sqm) and is increased by 2% for each home added to the capacity. The residential floorspace provided is 157.8sqm (including the extensions to the existing residential units); therefore rounded up to 200sqm for this purpose resulting in the affordable housing target being 4% for this scheme.

As outlined in CPGs 2 and 8, payments in lieu are calculated based on the gross external area (GEA) of the residential uplift floorspace concerned (see CPG8 paragraph 6.11, p.35). The GEA of the uplift floorspace is calculated at 166.16sqm. Also stated in CPG8 (figure 1, p.35), the level of payment in lieu for a market residential scheme is calculated based upon the adopted multiplier of £2,650 per sqm.

Therefore, the contribution in lieu of affordable housing provision for this proposal would equate to £16,721.50. This is calculated by 4% (the affordable housing target) of 166.16sqm (the GEA) which results in 6.31sqm. The value for this is then multiplied by £2,650 to get the payment figure of £16,721.50.

- 4.6.4 The Appellant is willing to enter into such an agreement, if necessary as part of any planning permission and can submit a draft s106 as part of the appeal submission and therefore the Council's reason for refusal can easily be overcome if necessary.
- 4.6.5 However, paragraph 63 of the NPPF (July 2018) confirms that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.
- 4.6.6 In this respect it is clear that the proposed development is not a major development and is not within a designated rural area and therefore should not be subject to affordable housing. In this respect it is clear that the Council's objection is unsustainable and Policy H4 does no longer conform to the National policy guidance.
- 4.6.7 Paragraph 212 confirms that the policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made. This should be progressed as quickly as possible, either through a partial revision or by preparing a new plan.
- 4.6.8 Paragraph 213 confirms that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
- 4.6.9 However, in the context of the above it is clear that paragraph 63 of the NPPF2 is inconsistent with the Local Plan and therefore the Council's affordable housing policy should be considered to be out of date and afforded little weight.
- 4.6.10 Therefore it is considered that the Council's suggested s106 would not meet the tests set out in paragraph 56 of the NPPF2.



## 5 Summary and Conclusion

### 5.1 Summary

- 5.1.1 In summary, the purpose of this statement is to identify Development Plan policies that maybe relevant in the assessment of the development proposal; and to consider whether the proposal conflicts with their provisions and, if so, whether there are material considerations that outweigh any conflict with the Development Plan.
- 5.1.2 An assessment of the relevant planning policies in the adopted Development Plans confirms that there is no significant conflict with their provisions and that the statutory test imposed by Section 70(2) of the Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004 is met.
- 5.1.3 The National Planning Policy Framework is a material consideration in the assessment of the development proposal. An assessment of the Framework in terms of design and housing confirms that the proposed development is consistent with national planning policies and provides further support for the application.
- 5.1.4 Supplementary Planning Guidance has also been considered and the proposed development is compliant with this guidance.
- 5.1.5 The above confirms that:
- The principle of development is acceptable
  - The proposed height, scale and design is acceptable.
  - The site has excellent public transport accessibility and car parking is not required.
  - The proposed development will not have any impact on the amenity of neighbours.
  - There are no technical impediments to the granting of planning permission.
  - A Planning Obligation will be provided to secure car free development, a construction management plan and contribution (£3,136), Affordable Housing (£16,721.50 – if required) and any highway works required.

### 5.2 Conclusion

- 5.2.1 In conclusion, this assessment confirms that the development proposal accords with the provisions of the Development Plan and as a consequence a presumption in favour of a grant of planning permission is derived.
- 5.2.2 Material considerations in the form of the NPPF and SPDs provide further support to a grant of planning permission.