



Statement of Case for Planning Appeal

Appellant: Mr & Mrs Hauser

Site: 9-11 Mansfield Road, London, NW3 2JD

Date: September 2019

London Borough of Camden, Ref: 2018/1872/P



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1. Introduction

- 1.1 This Statement of Case has been prepared by WYG Planning as part of an Appeal on behalf of Mr & Mrs Hauser ('the Appellants').
- 1.2 The Appeal is in relation to the Decision by the London Borough of Camden ('the Local Planning Authority') to refuse planning permission for the "*Variation of condition 3 (approved plans) of planning permission 2013/7934/P dated 27/10/2014 for the erection of a part 2 storey, part 3 storey building with rear roof terrace at 1st floor level, to accommodate 3 x 2 bed and 1 x 1 bed flats, following the demolition of existing house. Namely, extending the height of the roof and depth of the side (west) parapet wall; replacement of the roof lights; replacement of the glazed roof slope to the side (west) elevations; installation of new roof light, re-location of the bin stores to the front (side) elevations; and alterations fenestration to the front and rear elevation. (Retrospective)*". The Council's reference number for the application is 2018/1872/P.
- 1.3 The application was submitted in accordance with the provisions of Section 73A of the Town and Country Planning Act 1990.
- 1.4 The Planning Application was subsequently refused, and the Decision Notice, dated 11th July 2019 contains three reasons for refusal as follows:
- 1. The proposed building by reason its height, mass, bulk and design, creates a unduly prominent and incongruous building that is out of scale and harmony with its surroundings and thereby has a detrimental impact on the character and appearance of the streetscene and the setting of the Mansfield Road Conservation area contrary to policies A1, D1 and D2 of the Council's Local Plan (2017).*
 - 2. The first floor rear balconies, first and second floor terrace result in an unreasonable level of overlooking to the detriment of the neighbouring occupiers contrary to policies A1, D1 of the Council's Local Plan (2017).*
 - 3. The proposed development, in the absence of a deed of variation to the S106 legal agreement securing the head of terms as set out in planning permission ref 2013/7934/P dated 27/10/2014, would fail to be sustainable in its use of resources, contrary to policies CC1 (Climate change mitigation), CC2 (Adapting to climate change), CC3 (Water and flooding), C1 (Health and wellbeing) and DM1 (Delivery and monitoring of the London Borough of Camden Local Plan 2017 and securing the development as car free, would be likely to contribute unacceptably to parking congestion in the surrounding area and promote the use of non-sustainable modes of transport, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking) and A1 (Managing the*



impact of development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

- 1.5 Following the refusal of permission, a Breach of Condition Notice was then issued dated 31st July 2019, citing the failure to comply with approved plans and requiring compliance within six months from the date of the notice. This notice is included at Appendix 1.
- 1.6 The Appellant is seeking to Appeal the Decision using the Hearings procedure. A hearing will allow the Inspector to examine the issues in depth.
- 1.7 This Statement of Case is prepared in accordance with the Planning Inspectorate's *Procedural Guide: Planning Appeals – England* (2019).
- 1.8 The Statement is supported by additional drawings showing the approved and the as-built schemes side by side for ease of reference.
- 1.9 This statement is also supported by site photos demonstrating existing views and by photos showing the as-built scheme in comparison to how the as-approved scheme would look.
- 1.10 This Statement comprises the following sections:
 - Section 2 describes the site and planning history;
 - Section 3 describes the Appeal Proposal;
 - Section 4 identifies the relevant national and local planning policy documents;
 - Section 5 provides a planning assessment of the Appeal Proposal, focusing on the reasons for refusal; and
 - Section 6 provides a review of other relevant matters;
 - Section 7 provides an overview of the responses from third parties;
 - Section 8 provides the conclusion to this Statement of Case.

2. Site and Surroundings

The Site

- 2.1 The Appeal Site lies within the London Borough of Camden.
- 2.2 The Site is occupied by a part two, part three storey building accommodating four residential flats. Development was undertaken following the approval of a full planning application on 27th October 2014 (Ref: 2013/7934/P). Prior to this development, the site had been occupied by a vacant, two storey 1950s residential dwelling of poor design quality, which was subsequently demolished.
- 2.3 The Site is in close proximity to Gospel Oak overground station (c. 50m). To the east is a row of three retail units, which adjoin the Old Oak Public House. To the west are two semi-detached, three storey residential buildings. Gospel Oak Primary School lies north of the Site, occupying a long, two storey modern building. To the south is Oak Village, a collection of cottage-style residential properties, some of which are locally listed. To the south of Oak Village is the Kiln Place Estate, with existing buildings being contemporary styled and around five storeys high. The estate is being regenerated, as part of which there is new build, four storey development adjoining the south of Oak Village (Ref: 2014/6697/P).
- 2.4 Mansfield Road Conservation Area covers a large area to the north of the site, bounded by Mansfield Road. While the boundary of this Conservation Area lies to the north of the site, this part of the Conservation Area is occupied by the modern Gospel Oak Primary School building which covers a large area directly across opposite the Site.

Relevant Planning History

- 2.5 Development has been implemented at 9-11 Mansfield Road following approval for redevelopment to create a part 2, part 3 storey building to accommodate 4 flats (Ref: 2013/2970/P). Due to a number of unforeseen issues, the implemented design is not in accordance with the approved plans, primarily with respect the height of the development. A Section 73A application to retrospectively vary the approved plans was therefore submitted. This was refused on 11th July 2019 (Ref: 2018/1872/P), which is the application subject to this appeal.
- 2.6 The site has been the subject of multiple planning applications, generally variations on the implemented scheme. To assist the Insepctor, these applications have been set out in the table below.

Reference	Description	Comment
2011/6317/P	Erection of 2x three storey dwellings following the demolition of existing dwelling house (Class C3).	Refused 8 th May 2012 – reasons relating to height and scale and the lack of a legal agreement.
2012/3271/P	Erection of 2 three storey dwellinghouses following the demolition of existing house (Class C3)	Approved 14 th March 2013 – similar height to the refused 2011 scheme.
2013/2970/P	Erection of a part two storey, part three storey plus basement building to accommodate 4 flats, comprising 3 x 2 bed units and 1 x 4 bed unit following the demolition of existing house (Class C3).	Refused 12 th February 2014 in relation to mass, bulk, height, basement.
2013/7934/P	Erection of a part 2 storey, part 3 storey building with rear roof terrace at 1st floor level, to accommodate 3 x 2 bed and 1 x 1 bed flats, following the demolition of existing house.	Approved 27th October 2014 – the “Implemented Scheme”
2014/1495/P	Erection of a part two storey, part three storey plus basement building to accommodate 4 x 2 bedroom flats, following the demolition of existing house (Class C3). (reconsultation following new ownership certificate submitted).	Approved 31st March 2015 – identical to the 2013 application, except inclusion of basement
2015/2647/P	Alterations to northern front elevation fenestration and lightwells, to erection of a part two storey, part three storey plus basement building approved under planning permission 2014/1495/P dated 31/03/2015.	Approved 22 nd May 2015 – Related to the 2014 application, not the implemented scheme.
2015/6666/P	Details required by conditions 2a (section of all windows, external doors, chimneys), 2b (facing materials) and 8 (hard and soft landscaping) of planning permission 2013/7934/P	Approved 27 th October 2015
2018/1872/P	Variation of condition 3 (approved plans) of planning permission 2013/7934/P dated 27/10/2014 for the erection of a part 2 storey, part 3 storey building with rear roof terrace at 1st floor level, to accommodate 3 x 2 bed and 1 x 1 bed flats, following the demolition of existing house. Namely, extending the height of the roof and depth of the side (west) parapet wall; replacement of the roof lights; replacement of the glazed roof slope to the side (west) elevations; installation of new roof light, re-location of the bin stores to the front (side) elevations; and alterations fenestration to the front and rear elevation. (Retrospective)	Refused 11th July 2019 (warning of enforcement action). Subject of this appeal.
2018/1264/P	Details required by conditions 2a (windows, external doors, chimneys and other architectural features), 5 (privacy screens) and 8 (hard and soft landscaping and means of enclosure of all un-built,) associated with planning permission 2013/7934/P dated 27.10.2014	Withdrawn

Surrounding Development

- 2.7 As set out above in the site description section, there has also been development in the wider area surrounding the site. As part of ongoing estate regeneration, planning permission was granted on 31st March 2015 for the development of 15 residential units on 6 sites across Kiln



Place estate, following demolition of foyer entrances and refuse storage area for blocks (Ref: 2014/6697/P). This contemporary development is under construction and is visible from the Site.

- 2.8 Development has also been undertaken at Vicar's Road to the south of the Site as part of a wider strategic project to provide buildings ranging from 2-8 storeys in height and a total of 290 residential units (Ref: 2012/6338/P). This is also visible from the Site.

3. The development subject to this appeal

3.1 The Appeal relates to the refusal of a Section 73A application which sought to retrospectively vary the approved plans (Condition 3) relating to planning permission reference: 2013/2970/P dated 27th October 2014 for the erection of a part 2 storey, part 3 storey building with rear roof terrace at 1st floor level, to accommodate 3 x 2 bed and 1 x 1 bed flats, following the demolition of existing house. Namely, extending the height of the roof and depth of the side (west) parapet wall; replacement of the roof lights; replacement of the glazed roof slope to the side (west) elevations; installation of new roof light, re-location of the bin stores to the front (side) elevations; and alterations fenestration to the front and rear elevation. This Section 73 application was refused on 11th July 2019 (Ref: 2018/1872/P).

3.2 Due to unforeseen issues, the implemented design is not in accordance with the approved plans, primarily with respect the height and depth of the development. Other minor amendments were also sought, in order to regularise the development.

3.3 The Appellant is seeking approval for the following:

- Increased building envelope as follows:
 - Increase the overall height of the main roof by 651mm from 10,476mm (as approved) to 11,127mm (as built) and reduction in width by 250mm from 9450mm to 9200mm to the main section of the front elevation¹.
 - Increase the height of the side extension by 813mm from 7150mm to 7963mm.
 - Extension of the line of the rear wall by approximately 250mm at first floor level; 390mm at second floor level and 0mm at mezzanine level².
 - Increase in the overall floorspace by 103sqmm.
- Additional minor amendments:
 - Reduction in the depth of the roof terrace by 472mm from 2424mm to 1952mm.
 - Replacing the glazed roof slope to the side (west) elevation with solid material and a new roof light.
 - Enlargement of the 4 x roof lights (2 x front and 2 x rear elevations) by 350mm x 350mm;

¹ Note the latter measurement differs from the Officer's report and is the correct measurement.

² Note these measurements differ from the Officer's report and are the correct measurements.

- Relocation of the bin stores to the front elevation and;
- Minor alteration of the fenestration on the front and rear elevations.

3.4 The increased building height was identified by the officer as a reason for refusal of the application. The other minor amendments and extension to the rear building line were accepted by the Council and not identified as reasons for refusal in the planning officers report. This is set out in the supporting Draft Statement of Common Ground.

3.5 The table below provides the drawing reference numbers for the approved drawings and where relevant, the revised drawing number picking up the amendments:

Title	Approved Drawing Reference	New Drawing Reference
Existing Site Plan	1110 -BA-101	N/A
Existing Ground Floor Plan	1110 -BA-102	N/A
Existing First Floor Plan	1110 -BA-103	N/A
Existing Roof Plan	1110 -BA-104	N/A
Existing North Elevation	1110 -BA-105	N/A
Existing East Elevation	1110 -BA-106	N/A
Existing South Elevation	1110 -BA-107	N/A
Existing West Elevation	1110 -BA-108	N/A
Existing Section A-A	1110 -BA-109	N/A
Existing North Elevation / Section B-B through Front Yard	1110 -BA-110	N/A
Existing Section C-C	1110 -BA-111	N/A
Proposed site plan	1110 -BA-112 B	1110 -BA-112 C
Proposed ground floor plan	1110 -BA-113 B	1110 -BA-113 C
Proposed first floor plan	1110 -BA-114 A	1110 -BA-114 B
Proposed second floor plan	1110 -BA-115 A	1110 -BA-115 B
Proposed mezzanine plan	1110 -BA-116 A	1110 -BA-116 B
Proposed roof plan	1110 -BA-117 A	1110 -BA-117 B
Proposed north elevation	1110 -BA-118 A	1110 -BA-118 B
Proposed east elevation	1110 -BA-119 A	1110 -BA-119 B
Proposed south elevation	1110 -BA-120 A	1110 -BA-120 B
Proposed west elevation	1110 -BA-121 A	1110 -BA-121 B
Proposed section AA	1110 -BA-122 A	1110 -BA-122 B
Proposed section BB	1110 -BA-123 A	1110 -BA-123 B
Proposed section CC	1110 -BA-124 A	1110 -BA-124 B
Proposed section AA (sight lines)	1110 -BA-125 A	1110 -BA-125 B
Proposed north elevation (illustration)	1110 -BA-126 A	1110 -BA-126 B
Proposed east elevation (illustration)	1110 -BA-127 A	1110 -BA-127 B
Proposed south elevation (illustration)	1110 -BA-128 A	1110 -BA-128 B
Proposed west elevation (illustration)	1110 -BA-129 A	1110 -BA-129 B
Proposed North Elevation / Section B-B through front yard Illustration	1110 -BA-130 A	1110 -BA-130 B

Drivers behind the amendments

- 3.6 There were a number of issues that arose during the construction process that led to the alterations in the building envelope. The appellants accept that these amendments do not accord with the approved plans and therefore must be demonstrated to be acceptable as minor material amendments to the approved development. The information below sets out the drivers behind the altered building envelope, and the way in which this is an improvement on the approved plans.

1. Unknown foundations

- 3.7 Historically, the site had been occupied by a pair of semi-detached three storey houses, contemporaneous with numbers 13 and 15 adjacent. After being bombed in World War II, the site was occupied by a large water tank used to fight fires during air raids. A concrete reinforced slab 400mm deep formed the bottom of the tank and occupied the whole site. A 1950s residential dwelling was then constructed on top of the concrete slab. The slab was not discovered until the 1950s dwelling was demolished as part of the construction of the implemented scheme.
- 3.8 Peter Dann Structural Engineers were instructed to assess the issue and recommended the retention of the existing 400mm raft, as detailed in their letter of 30th May 2018 (see Appendix 2). They stated that the *"removal of the slab may undermine the neighbouring foundations"* and *"vibrations from using heavy machinery so close to neighbouring properties may cause damage."* A decision was therefore taken to construct the new building on top of the retained slab, as the previous dwelling on site had been. Drains and their falls had to be accommodated above the slab which, together with the ground floor structure, raised the latter by some 150mm from the approved drawings. The letter was provided to support the Section 73A application but, unfortunately, was not sent to Camden Council as part of the application.
- 3.9 It should also be noted that Mansfield Road is known as an area prone to local flooding and has flooded on several occasions. By raising the ground floor slab, the risks of flooding are much reduced.

2. Sustainability

- 3.10 Planning having been approved, a Section 106 Agreement was then negotiated with Camden Council. The Section 106 Agreement (S106) for the implemented scheme includes a requirement to meet Level 4 of Code for Sustainable Homes in respect of both Energy and Water. Acknowledged to be difficult to achieve without renewable energy installations, it became

apparent that few options were available other than the provision of increased insulation and whole house energy recovery (WHER).

3.11 Both require additional space for insulation, with increased wall and roof thickness and increased floor to floor heights to accommodate ductwork and equipment for the WHER. The letter from SRE Energy Consultants dated 17th May 2018 (see Appendix 3) fully explains these issues. Again, the letter was provided to support the Section 73A application but, unfortunately, was not sent to Camden Council as part of the application.

3.12 It should also be noted that the S106 requirement for achieving written approval in relation to the sustainability of the development has been fulfilled and has been confirmed as so by the London Borough of Camden (see Appendix 4).

3.13 It was not possible to accommodate the increased floor thickness within the internal envelope of the building. This is because all of the floor zones were too shallow, the floor to ceiling heights as approved were already partly below the recommended London Plan (2016) standards and also below the Nationally Described Space Standards (2015) of 2.3m. The London Plan Policy also 3.5 strongly recommends a floor to ceiling height of *"2.5m for at least 75% of the gross internal area so that new housing is of adequate quality, especially in terms of light, ventilation and sense of space"*. The heights shown in the approved plans were as follows:

- Ground Floor: 2.50m
- 1st floor: 2.35m (Below London Plan guidance)
- 2nd Floor: 2.20m (Below both National and London Plan Standards)

3.14 The 'as built' building meets of minimum standard of 2.3m floor to ceiling heights:

- Ground Floor: 2.45m
- 1st floor: 2.35m
- 2nd Floor: 2.30m

4. Planning policy

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, in the determination of planning applications, decisions are made in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.2 The Development Plan applicable to the Site is The London Plan (2016) and the Camden Local Plan (2017). The National Planning Policy Framework (NPPF 2019) and relevant Supplementary Planning Guidance also form material considerations.
- 4.3 The draft new London Plan was published in December 2017 and is currently going through the examination in public process. Limited weight is attached to these policies.
- 4.4 The policies relevant to this application are noted below.

London Plan:

- 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 5.15: Water Use and Supplies
- Policy 7.4: Local Context
- Policy 7.6: Architecture

Camden Local Plan:

- G1 (Delivery and location of growth)
- H2 (Maximising the supply of self-contained housing from mixed-use schemes)
- C6 (Access for all)
- A1 (Managing the impact of development)
- A4 (Noise and vibration)
- D1 (Design)
- D2 (Heritage)
- CC1 (Climate change mitigation)



- CC2 (Adapting to climate change)
- CC3 (Water and flooding)
- CC5 (Waste)
- H1 (Maximising housing supply)
- H2 (Maximising housing supply of self-contained housing from mix use scheme)
- H6 (Housing choice and mix)
- T1 (Prioritising walking, cycling and public transport)
- T2 (Parking and car-free development)
- T3 (Transport infrastructure)
- T4 (Promoting the sustainable movement of goods and materials)
- DM1 (Delivery and monitoring)

Camden Supplementary Planning Guidance:

- Camden Planning Guidance 1 Design (July 2015 updated March 2018) Sections 1, 2, 3, 5 & 6
- Camden Planning Guidance 3 Sustainability (July 2015 updated March 2018) Sections 1 & 4
- Camden Planning Guidance Amenity (2018) Section 2
- Mansfield Road Conservation Area Statement

5. Assessment of the Reasons for Refusal

Reason for refusal 1: The proposed building by reason of its height, mass, bulk and design, creates a unduly prominent and incongruous building that is out of scale and harmony with its surroundings and thereby has a detrimental impact on the character and appearance of the streetscene and the setting of the Mansfield Road Conservation area contrary to policies A1, D1 and D2 of the Council's Local Plan (2017).

- 5.1 This reason for refusal can be split into two parts – firstly the scale of the building and impact on the character and appearance of the streetscene; secondly the impact on the setting of the Mansfield Road Conservation Area.
- 5.2 While the reason for refusal relates to the overall 'height, mass, bulk and design' of the building, the Officer's Report makes it clear that it is the impact on the street-facing façade (north elevation) where the local planning authority feels there is most impact.
- 5.3 To the rear, the thicker walls mean that the line of the rear wall has extended by approximately 250mm at first floor level; 390mm at second floor level and 0mm at mezzanine level. However, the depth of the first floor terrace and second floor flat roof continues to match the line of the extension to the rear of the neighbouring No. 13 Mansfield Road. The Officer has commented that *"Given the scale of the increase [to the rear], the position of neighbouring properties and location of the neighbouring windows it is not anticipated that the impact would be detrimental in comparison to the approved scheme"*(para 4.3).
- 5.4 The bulk and massing to the rear was deemed acceptable under the approved application – with the 2013 Officer Report stating that *"An attempt has been made to soften their impact by introducing planting and a slight set back at the rear in order to reduce its visual impact. The second floor flat roof would be at the same depth as the rear extension at number 13 Mansfield Road. Although it comes out slightly further than the line of 13-15 and 7 Mansfield Road this is minimal and would not result in a building which would be overly dominant. The bulk and massing at the rear is considered to be appropriate in the location."* The focus of this section of the Appeal Statement is therefore the impact on the street-facing façade.
- 5.5 This section is the Statement is supported by the comparison drawings at Appendix 6 and comparison photos at Appendix 7, both of which show the as-built scheme compared against the as-approved scheme.

Character and Streetscene

- 5.6 The impact on the streetscene should be judged in comparison to the approved plans.

- 5.7 The Appellant strongly disagrees with the statement in the Officer's report that *"the increase in bulk and scale has a clear impact on existing rhythms, symmetries and uniformities in the townscape"*.
- 5.8 Photos 2 to 5 to Appendix 5 show the Site in the context of the wider streetscene and shows that there is very little uniformity to the existing streetscape. The dwellings at No. 13-15 are of a different style and height to the flat-roofed retail terrace on the other side of the Site (Nos. 1-7), which themselves have a varying roofscape. The previous building on Site had a roofline that was set considerably lower than adjoining properties – as shown in photos 1A and 1B at Appendix 5. The approved plans show a parapet wall and chimney height that is visibly above those of the adjoining properties. In summary, neither the previous nor the approved roofline and character of this row of properties was in any way uniform.
- 5.9 This is typical of the surrounding streetscape, where properties also vary in height and style. The modern Primary School building opposite the site occupies a large two storey building. The two storey cottages of Oak Village (to the south of the Site) lie adjacent to the four to five storey estate and new development at Kiln Place along Lambie Street (see photos 6 to 8). Further along Mansfield Road to the west there are attractive three storey terraces facing a modern three storey housing estate.
- 5.10 While taller than the immediately neighbouring properties, this does not imply that the building is overly prominent. Particularly when viewed from street level, and from surrounding properties, the relative increase in height compared to approved plans cannot be reasonably described as significant. This is shown clearly on the submitted photos i to viii at Appendix 7 showing the wireline of the approved roofline compared to the as-built property and showing how the as-approved building would look. As shown in the photos, the parapet walls, which are increased by a smaller amount than the roof itself (580mm), shield the roof almost entirely from view at street level. From Mansfield Road therefore, there is in our view a minimal difference in terms of impact on the streetscape compared to the approved plans. From wider views to the east and west along Mansfield Road, the roofline is again shielded for the most part by the parapet wall and chimneys, as shown in photo 9. The two chimneys have also increased in height by a small amount (150mm).
- 5.11 The building line on the northern elevation sits forward when compared to those directly to the east, which places it generally in line with Nos. 13-15 and is as per the approved plans. This building line makes the variation in height most prominent from the east, and the Case Officer commented that the building *"is prominent when viewed from the west of Gospel Oak Station"*. The view from Gospel Oak Station is shown in photos 2 and 12. However, it should be noted that the approved plans were for a building that would step up in height from these smaller two

storey terraces, and would sit well forward from the eastern terraces. This view is therefore little changed in relation to the prominence of the building. The additional height of the implemented scheme when viewed from this angle is not overbearing and is not considered to have an additional impact when compared to the approved scheme. This is clearly shown in photos i to viii at Appendix 7, which show the as built scheme compared to the approved scheme.

- 5.12 Therefore it is the Appellant's strong opinion that it is erroneous to state that this will impact on the existing rhythms and uniformities of the townscape. As described above, there is little uniformity in the existing townscape and indeed the approved plans would not have given uniformity to this streetscape. There are however design details such as the street-facing fenestration which have been amended in order to strengthen the rhythm across adjoining properties. This is an improvement when compared to the approved plans, as accepted by the Case Officer.
- 5.13 When viewed within the surrounding townscape, the appeal scheme's roof element is predominately obscured beneath the roof parapet and only glimpsed views of the overall massing is achievable in such a limited area. Experiencing the appeal scheme from Lamble Street to the south is confined to only a glimpsed view above the garage associated with no. 21 Oak Village. The appeal scheme is not viewed in isolation and is instead appreciated within a townscape of similar scale properties. Such an appreciation causes no detrimental impact to this street scene. In the wider townscape, the appeal scheme can be experienced from Grafton Road located to the south. However, this view of the appeal scheme's rear elevation is sufficiently set below the treeline that lies beyond to the north ensuring that it does not create a dominating presence in this view.

The Side Element

- 5.14 The subsidiary element to the west of the main building (adjacent to No. 13) is referred to here as the 'side element'. The officer has referred to this in their report as an "*extension*"; however as a part of a whole new development, this side element does not fit the definition of an extension. There are specific policies relating to extensions to existing buildings, and it would be erroneous to apply these here.
- 5.15 The height of the side element is identified in the Officer's report as a key concern in relation to the height and scale of the implemented building, stating that "*there is a noticeable increase in the bulk and scale of the proposal, due to the finishing height of the extension along the boundary with no.13 Mansfield Road*".
- 5.16 The overall increase in height of this side element is 810mm. While this has increased in height, this side element continues to be subsidiary to the main building and to the neighbouring

properties due to the overall small scale (2100mm in width) and considerable set back (3100mm from the front façade). The depth of the set back of this element remains as per the approved plans.

- 5.17 Due to this set back, the side element is not at all visible from street level when viewed from the east (towards the station), as shown in photo 10. It is also not visible when viewed from the west, if the viewpoint is taken from the junction between Oak Village and Mansfield Road (approx. 20 metres from the Site), as shown in photo 11. The most noticeable angle is the view from directly across the street, from the Primary School, shown in photo 9. Where it is visible, the parapet wall is now in alignment with the roofline neighbouring properties which improves the rhythm of the streetscape. This is evidenced in the comparative drawings at Appendix 6.
- 5.18 The materials to be used for the roof of the side element have also been amended. Where previously a glazed roof was proposed, this has now been replaced to match the main roof materials, reducing the visual impact. No objections were raised by the Officer in relation to this.

Views and Skyline

- 5.19 The Officer state in their report that *"The increase in massing dominates the skyline when viewed from Oak Village and is dominating and overbearing in the wider streetscene."*
- 5.20 Photos 13 and 14 to Appendix 5 demonstrate the points at which the Site is visible from Oak Village. It has not been possible to enter the rear gardens of these properties.
- 5.21 The streets to the south of the Site at Oak Village are set on a declining gradient, which therefore makes the properties along Mansfield Road more prominent along the skyline. Nonetheless, as the photos demonstrate, and as will be visible from the site visit, there are exceptionally few points from the surrounding streets where the implemented building is visible at all. This is partly due to the density of trees and shrubs in the gardens to the rear of the Site, and also the way in which the surrounding properties screen Mansfield Road from view from the streets of Oak Village.
- 5.22 Where the roofline and upper floor is visible, it does not appear overbearing in comparison to the adjacent properties at No. 13-15. The clearest view from Oak Village is across the single storey garage adjoining No. 15 Oak Village. From this angle, the roofline and rear façade are mostly obscured by the rear projection of No.13 Mansfield Road. The site is also visible from Lambie Street across rear garden fences. However, dense screening prevents a clear line of site.
- 5.23 Regarding views from the gardens of adjacent properties, additional drawing 1401-BA-128 at Appendix 7 has been prepared which shows that the building and rear terrace/ flat roofs will not be overly dominant where viewed from a 25 degree angle at the boundary line of these

properties. There is no strict policy guidance on this issue, therefore the 25 degree angle has been used as a proxy. This angle is typically used to determine whether there is likely to be any impact on sunlight/ daylight for existing properties located opposite a new development, as set out in the Camden CPG Amenity paragraph 3.14.

5.24 Again, the Appellants assert that the impact of the built scheme be considered in relation to what would have been the impact resulting from the approved plans. The difference in relation to this skyline is not significant.

5.25 Additionally, we note that taller buildings have been approved in this general location more recently, such as those at the new development at Kiln Place. In that instance, the Council has accepted a modern design which sets these taller elements apart from the surrounding Oak Village.

Comparison with the Previously Refused Application

5.26 The Officer's statement in their report that the property as built is "*much larger*" than the previously refused 2011 application (Ref: 2011/6317P) is misleading. The Council later approved numerous similar applications on this site that included a parapet at roof level rather than eaves that were considerably taller than the refused 2011 application, but which overcame previous objections. The approved 2012 (Ref: 2012/3271/P) and 2013 (implemented scheme – Ref: 2013/7934/P) and 2014 (Ref: 2014/1495/P) applications were all for buildings significantly taller than the refused 2011 application. The evolution of the design overcame these previous reasons for refusal through the addition of elements which have been continued across into the Appeal Scheme. Below is a list set out by the Officer's report in 2012 identifying features which overcame previous objections to the scheme's scale, alongside commentary showing how these features have been retained in the approved and implemented design:

- Reduction of the bulk and massing at the rear: The bulk and massing to the rear has not significantly changed. The depth of the first floor terrace and second floor flat roof remain in line with that of the neighbouring property at 13 Mansfield Road, as per the approved plans. The parapet wall is now increased in height by 580mm.
- Re-design of the windows/doors located at rear 1st and 2nd floors: The rear fenestration has now been further reduced compared to the approved plans. The Officer concluded that this would be acceptable.
- Redesign of first floor roof balconies: The balcony arrangement at first floor level remains as per the approved plans – set out in more detail under Reason for Refusal 2. The only amendment has been a reduction in the amount of fenestration, which should be considered a benefit.

- Removal of balconies at second floor levels: At second floor level there is a Juliet balcony (now installed). The flat roof at second floor level is in line with approved plans and is to be used for maintenance only.
- More lightweight screening at first floor level: The soft planting screens as approved at first floor level have been implemented.
- Bringing the building line forward at the front building at north-east corner: The front building line remains in line with approved plans.
- Reduction in height of the proposed side element and setting it back from the front building lines (North-west): The setback of the side element remains in line with the approved plans. However, the height of the side element has increased, which is discussed in further detail elsewhere.
- Reduction in the width of the first floor balconies by inseting them 1m away from no. 13 Mansfield Road and 4.5m away from rear addition at no 7 Mansfield Road: The balconies at first floor retain this inset.
- Introduction of chimneys: The chimneys have been implemented as per the approved plans, with a small increase in height of 150mm.
- The overhanging roof of the house set back from the boundary with no. 7 Mansfield Road and eaves replaced by a parapet wall: This parapet wall has been implemented although the height has increased by 580mm.

5.27 As set out above therefore, the implemented scheme continues to incorporate the elements agreed with the Council to overcome objections to the scale and massing of proposals. Comparison with the previously refused 2011 application is therefore considered misleading.

Impact on the Conservation Area

5.28 While the impact on the Mansfield Road Conservation Area is an important consideration, the amended proposals do not result in a negative impact on the conservation area. A separate Heritage Statement has been prepared and can be found at Appendix 8, and is summarised here.

5.29 The submitted Heritage Statement identifies what constitutes the character and appearance of the Mansfield Conservation Area, and what contribution that development in its setting, including that of the appeal scheme, has to that character and appearance. This character and appearance is primarily defined by three-storey houses in Classical/Venetian Gothic and Queen Anne Revival styles with a high quality and unified architectural style and form. These are typically laid out on a loose grid pattern, with long sweeping roads orientated east-west and shorter roads orientated north-south. Whilst the roads are relatively quiet, busy traffic is present along Constantine,

Agincourt and Mansfield Roads. This ensures that the houses are understood within a busy urban environment. Besides the residential character, the conservation area also contains the Gospel Oak Primary School, which has a two-storey building set back away from Mansfield Road and is located opposite the appeal site. The school is characteristic of post-war construction and is not considered to make a particular contribution to the conservation area's overall character and appearance.

- 5.30 It is clear that, in the opinion of the Officer's Report, the design rationale of the appeal scheme is stated as being detrimental to the conservation area's character and appearance through impacts to the street scene and its setting. Given that the appeal site does not fall within the conservation area and there is no statutorily listed building identified in the locality, the statutory duties under Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 do not apply with the appeal scheme.
- 5.31 Whilst it is acknowledged that the appeal scheme lies in the setting of the conservation area, this appreciation is confined to a short stretch of Mansfield Road, which defines the southern boundary of the conservation area. This immediate setting primarily encompasses properties on Mansfield Road and Oak Village and so the appeal scheme is not experienced in isolation.
- 5.32 The post-war building that was demolished at the appeal site was of inherently poor architectural quality that did not correspond with the townscape character of adjacent properties. The appeal site was rebuilt after the second world war together with the Gospel Oak School, parts of Gospel Oak Station and the commercial building opposite. Compared to the appeal site's post-war building the appeal scheme is a remarkable improvement that will see a return of a more traditional, bespoke and high-quality domestic vernacular with the existing elevations finished in high quality render, a fine Tuscan columned stone porch with, and the fenestration featuring timber-framed windows. The front boundary is finished with high quality brickwork and cast-iron railings, a boundary treatment reflecting the boundary treatment locally. The ancillary addition to the west is appropriately set back away from the front building line and its eaves level matches the height of the adjacent properties at nos. 13-15 Mansfield Road.
- 5.33 To east of the appeal site are the adjacent properties of nos. 13-15 Mansfield Road which comprise semi-detached dwellings of three-storeys with rendered elevations and shallow-pitched hipped roof. To the west of the Site nos. 3-7 Mansfield Road are of two-storeys with modern shopfronts with either a single or 2-bay windows above and painted brick. Experience of the appeal site from the conservation area is therefore within a townscape of varying quality, age and style.

- 5.34 Critically, the appeal scheme does not disrupt experiencing and understanding the residential character of the conservation area. The Late Victorian and Edwardian period houses along the loose grid pattern of streets that define the primary character and appearance are concentrated away from the appeal site. The overall significance of the conservation area has therefore been preserved.
- 5.35 Further, the appeal site's development is not identified within any key outward-facing views as set out in the Mansfield Conservation Area Character Appraisal and Management Strategy (2009). As such, the appeal scheme in no way disrupts nor hinders distant south-facing views directed towards the Royal Free Hospital Street and the residential estate tower blocks located beyond the appeal site.
- 5.36 It is concluded that the appeal scheme has been sensitively designed to be in keeping with the immediate townscape, thereby presenting a higher quality and bespoke development compared to the previous post-war building to suitably enhance the appeal site's townscape character when appreciated in the street scene. The appeal scheme also causes no harm to the character and appearance of the Mansfield Road Conservation Area, thereby preserving this heritage asset's significance. This conclusion is supported within the submitted Heritage Statement.
- 5.37 The building continues to represent a considerable improvement over the previous building on site and represents a positive contribution to the character and setting of the conservation area. The amendments to the scheme applied for retrospectively do not result in a negative impact on the Conservation Area.

Reason for Refusal 2: The first floor rear balconies, first and second floor terrace result in an unreasonable level of overlooking to the detriment of the neighbouring occupiers contrary to policies A1, D1 of the Council's Local Plan (2017).

- 5.38 The Officer agreed in their report that there is no additional potential for overlooking at the front of the property. The amenity impacts in question relate solely to the potential for overlooking from the rear balconies.
- 5.39 As detailed here, the Appeal scheme includes design features that will adequately prevent overlooking, all of which are also in line with the details approved or conditioned as part of the approved scheme. In relation to the impacts of the additional height and scale on neighbouring amenity to the rear the Officer has concluded that *"it is not anticipated that the impact would be detrimental in comparison to the approved scheme"* (para 4.3). It is therefore unclear why this has now been included as a reason for refusal.
- 5.40 As stated in the Officer's report, the appeal scheme includes details of a 1.4m high frameless balustrade at first floor level that is designed to be obscurely glazed. This screen has been



implemented and will serve as a privacy screen between the balconies and the gardens and houses to the rear at Oak Village. The Officer stated that no objection would be raised with regard to the design and appearance of this (para 2.8). It is noted that these details would effectively discharge Condition 5 (Details of privacy screens at first floor level). Therefore, should this appeal be allowed, we ask that Condition 5 be re-worded to a compliance condition.

- 5.41 In line with Condition 6, planters have also been installed at first floor level to further prevent potential for overlooking.
- 5.42 With regard to the first floor balconies, the Officer's report concludes that the if privacy screens were in place and if planters were installed, then no direct overlooking would result. Therefore it is concluded that no overlooking impacts result from development at first floor level – in line with the Officer's report. The appended photos 18 to 22 demonstrate the views from this level and highlight that there is not significant overlooking between properties at this level, and considerably less than from the previous house on the site.
- 5.43 At second floor level, the Officer recommended that a permanent structure to prevent the use of the flat terrace would also prevent overlooking. A glass Juliet balcony has now been installed at second floor level, as shown on the refused plans and also in line with the approved scheme. Condition 7 also prevents use of the flat roofs other than for maintenance, which is enforceable by the Council. The appended photos 15 to 17 demonstrate the views from this level and highlight that there is not significant overlooking between properties at this level.
- 5.44 These solutions to prevent overlooking were deemed acceptable by the Council and have been implemented. Conditions already applied to the application secure these in perpetuity. No additional measures have been suggested by the Council nor are any such measures considered to be required.
- 5.45 It is therefore concluded that this reason for refusal is not justified.

Reason for Refusal 3: The proposed development, in the absence of a deed of variation to the S106 legal agreement securing the head of terms as set out in planning permission ref 2013/7934/P dated 27/10/2014, would fail to be sustainable in its use of resources, contrary to policies CC1 (Climate change mitigation), CC2 (Adapting to climate change), CC3 (Water and flooding), C1 (Health and wellbeing) and DM1 (Delivery and monitoring of the London Borough of Camden Local Plan 2017 and securing the development as car free, would be likely to contribute unacceptably to parking congestion in the surrounding area and promote the use of non-sustainable modes of transport, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking) and A1



(Managing the impact of development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

5.46 The existing s106 agreement was signed on 27th October 2014 and set out requirements for the following obligations to be placed on the Owner:

- 1) That the development be 'car-capped' (Section 4.1) – prohibiting the residents of the nominated units from obtaining a residents parking permit in perpetuity;
- 2) An approved Construction Management Plan (CMP) (Section 4.2); and
- 3) An approved Sustainability Plan (Section 4.3).

5.47 The CMP was submitted to the Council and was approved, as confirmed in the letter from the Council, dated 1st March 2017 at Appendix 4.

5.48 The Sustainability Plan was submitted to the Council and approved, as confirmed in the letter from the Council, dated 25th February 2016 at Appendix 4.

5.49 The obligation for certain residents to be prevented from having residents parking permits therefore remains the only outstanding Owner obligation to be fulfilled and must be maintained in perpetuity. A Unilateral Undertaking has been prepared and will be submitted in the course of this appeal, continuing the car capping agreement as applicable to the nominated units in perpetuity. This has not been submitted with the Statement of Case in order to allow scope for any reasonable requests made by the Council in their comments to be incorporated. The final Unilateral Undertaking will then be submitted at Final Comments stage or pre-hearing stage, in line with the PINS Procedural Guidance.

Summary

5.50 The issues raised have been adequately addressed by the Appellant and none are justified reasons for refusal, according to relevant planning policy and material considerations.

5.51 In line with the approved plans, the implemented scheme integrates well with the surrounding streets and contributes positively to the street frontage – in line with Local Plan Policy D1.

5.52 The implemented development does not cause harm to the adjacent Conservation Area, in line with Local Plan Policy D2.

5.53 The scheme includes design tools as recommended by the Council under the approved planning application that will prevent any overlooking between the new development and existing dwellings. These measures are now in place and are enforceable as part of the planning application.



5.54 The Appellant is committed to providing a Unilateral Undertaking that will secure the scheme as 'car capped' in line with the original permission.

6. Other Relevant Matters

- 6.1 It is also material to this Appeal to discuss other matters relevant to the Appeal Proposal and to note those issues that were not drawn on as reasons for refusal, thus being deemed acceptable.

Proposed mix of uses

- 6.2 Overall, the proposed mix of uses on site is unchanged in line with planning guidance and has not been identified as a reason for refusal.
- 6.3 Noted that Flat 1 is now a one bedroom flat, where previously it was a two bed. Flat 4 has been changed into a 2 bed from a one bed. This means that the overall unit mix is unchanged. Flat 1 (previously Flat 2) is now 65 sqm where previously it was 70 sqm. Noted though that it is still large enough to be a 2 bed 3 person apartment.
- 6.4 No reasons for refusal were raised in relation to the unit mix.

Quality of Accommodation

- 6.5 The Officer has suggested that compliance with Part M4 (2) of the Building Regulations (1 October 2015) would be required under a condition. The Appellant refutes this, as the scheme complies with the relevant guidance that was in place at the time of the original planning permission was granted and was considered acceptable as such. The nature of this application is for minor material amendments under a retrospective S.73A application. It is not therefore justified to apply updated policy standards to elements of the scheme that continue to comply with the approved plans.
- 6.6 No reasons for refusal were raised in relation to the quality of accommodation.

Energy and Sustainability

- 6.7 The development meets and exceeds the requirements of the original planning permission for Code for Sustainable Homes Level 4. The development achieves and exceeds the required CO2 saving when compared to a Building Regulations Compliant design.
- 6.8 The Officer states that *"there is no supporting evidence, which demonstrate the level of energy efficiency that the proposal would achieve"*. This is incorrect, as a Sustainability Plan has been approved by the Council as part of the S106 obligations confirming that the development meets CfSH Level 4.
- 6.9 Indeed, a key driver of the amendments to the as-built scheme were the requirements for additional wall thickness in order to meet the necessary level of sustainability as set out in the letter written by SRE on 17 May 2018 at Appendix 3.

6.10 The Officer has weighed the "*sustainability benefit*" of the increased insulation and subsequently wall thickness, against the amendments. However, the material planning consideration at hand is whether the amendments will result in additional significant impacts compared to the approved plans – ie. if they are satisfactorily minor material in nature. The information regarding sustainability should be read as part of the explanation for why plans were amended retrospectively.

6.11 Ultimately, sustainability was not raised as a reason for refusal by the Council.

Refuse

6.12 The bin stores have been relocated to the front elevation. The Officer agrees that the bin store has been sufficiently set away from any residential windows and would be enclosed, so as not to impact on amenity.

6.13 The boundary wall and soft planting would also mitigate any impact on the appearance of the building or wider street scene, as agreed by the Officer in their report.

6.14 No reason for refusal was raised in relation to this amendment.

Transport

6.15 The requirements for the scheme to be car capped will be secured via the attached UU and will therefore remain in line with policy.

6.16 The Officer has commented on the lack of detail regarding cycle parking provision. The proposal does not include details with regard to the type of cycle parking, the layout of the proposed cycle stores nor the amount of cycle units being proposed. Cycle parking was not included as a condition of the approved planning application, other than as a compliance with the approved floorplans. The cycle storage indicated on the approved ground floor plan shows space for 6 bicycles. The amended plans show the location of cycle parking but not the detail. We therefore propose that a new condition is added to the planning permission to require submission of details relating to cycle parking.

6.17 No reasons for refusal were raised in relation to cycle parking.

Other Design Considerations

Amended fenestration and rooflights

6.18 The amended fenestration design and layout serves to give continuity to the rhythm of the streetscape. The style of window is similar to that used in the adjacent retail units and the layout and spacing is also in line with neighbouring properties. Overall the amount of glazing will be reduced on both the front and the rear façades.

- 6.19 Changes to the front (north facing) façade reduce the number of windows from 14 to 8 windows and reduce the scale of the ground floor window of the side element. The front façade appears more elegant and in line with the neighbouring buildings when compared to the approved elevations (see drawing 1401-BA-124 As Approved & as Built North Elevation).
- 6.20 To the rear, the amount of glazing has also been reduced and simplified, giving a more structured appearance to this façade (see drawing 1401-BA-126 As Approved & as Built South Elevation).
- 6.21 The changes are also in line with the approved Non-Material Amendment application (Ref: 2015/2647/P) under which these amendment to the fenestration were approved for the alternative scheme with basement (Ref: 2014/1495/P). This is shown in Appendix 6, drawings 1401-BA-133 Approved NMA & as Built North Street Elevation; 1401-BA-134 Approved NMA & as Built North Elevation).
- 6.22 The four rooflights (two to the front and two to the rear) have also been enlarged to comply with fire regulations.
- 6.23 Overall, the Officer has concluded that *"The proposed fenestration alterations to the front and rear are considered acceptable in design and appearance."*

Roller shutter

- 6.24 Roller shutters have been added to the east (rear) elevation at first floor level. The Officer states that *"the use of a roller shutter on residential dwellings is highly inappropriate"* and would *"be unsympathetic to the overall appearance of host building and detract from the appearance of the neighbouring properties."* The roller shutters are not shown on the amended plans and does not form part of the retrospective planning application or the appeal scheme. There is no absolute requirement for planning permission for an integrated roller shutter, and we note that the new office building at 8-9 Oak Village has extensive roller shutters. As the shutters are to the rear, it is unlikely to be prominent. Nonetheless, we propose that if required, a separate planning application for permission to retain the roller shutter be submitted to the Council. Permission for the roller shutter is not being sought as part of this appeal.

7. Response to Third Party Objections

- 7.1 A total of 8 objections were received in response to the application, four of which were from the same people objecting multiple times. One of these was a letter submitted by the Elaine Grove and Oak Village Residents Association requesting that the required planters to the rear be installed.
- 7.2 A review of the key reasons given for objecting to the Planning Application is set out below.

Area of concern	Comment
Potential for overlooking from the rear terrace and Juliette balcony.	The measures included in the approved plans have been implemented and, as agreed by the officer, will prevent any potential overlooking.
Height and appearance of the building	The increased height compared to the as approved building is not significant. This has been demonstrated in some detail in the earlier part of this statement and in the submitted drawings and photographs.
Planters to rear not yet installed	These have now been installed.

Summary

- 7.3 Concerns relating to potential for overlooking have already been adequately mitigated through the final installation of mitigation measures as agreed under the approved planning application. Concerns relating to the overall height of the building should be considered against the height of the approved building, whereby there is little to no visible change in the streetscene or visible skyline. The earlier sections of this statement explore this in further detail.



8. Concluding Statement

8.1 This Appeal Statement, together with the documentation submitted in support of the original Planning Application, confirms that the proposed development complies with the relevant planning policy framework and is acceptable having regard to the material planning considerations. The key points made in this Statement are summarised as follows:

- The proposed amendments are acceptable as minor material amendments to the approved scheme;
- There is no detrimental impact on the character of the streetscene;
- There is no adverse impact on the nearby Conservation Area;
- There are no additional amenity impacts as a result of the amendments;
- The outstanding requirements of the previous 106 agreement will be secured through a new Unilateral Undertaking;
- Overall, the building is an elegant addition to the street frontage and presents a significant improvement when compared to the previous building on this site.

8.2 For the reasons set out within this Statement, we respectfully request that this appeal is allowed, and permission granted for these proposals. The Appellant would accept the imposition of any appropriate and reasonable conditions which the Inspector deems necessary. Suggested conditions have been set out in the supporting Statement of Common Ground.



Appendix 1. Breach of Conditions Notice



**Appendix 2. Letter from Peter Dann Engineers dated
30th May 2018**



**Appendix 3. Letter from SRE Energy Consultants dated
17th May 2018**



Appendix 4. Section 106 Discharge Notices and Supporting Information



Appendix 5. Photos of Existing Streetscene



Appendix 6. Comparison drawings showing as built against the as approved scheme



Appendix 7. Photos of as built and as approved building



Appendix 8. Heritage Statement