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Grounds of Appeal

Section 39 of the Listed Buildings Act 1990

Listed Building Enforcement Appeal

**48 Mornington Terrace, Camden, London,
NW1 7RT**

November 2020



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Project Name: 48 Mornington Terrace

Location 48 Mornington Terrace, Camden, London NW1 7RT

Client: Undercover Architecture Ltd and JL Center Holdings LLP

File Reference: P1742

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1. Introduction

- 1.1. This statement has been prepared by ECE Planning Ltd on behalf of **Undercover Architecture Ltd** and **JL Center Holdings LLP** (“the Appellants”) in support of their Appeal against the issue of a Listed Building Enforcement Notice under s38 of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended) (“the Act”) by the London Borough of Camden (“the Council”) reference EN20/0163 (“the Notice”) (copy at **Appendix A**) in relation to 48 Mornington Terrace, Camden, London, NW1 7RT (“the Property”).
- 1.2. At the time of issue of the Notice the Property was in the ownership of Luke and Estelle Chandresinghe and the basement of the Property was occupied by their architecture practice; Undercover Architecture Ltd. On 21 October 2020 the freehold ownership of the Property was transferred to JL Center Holdings LLP, which is an LLP set up by a business partner of Luke and Estelle Chandresinghe. Undercover Architecture Ltd remain in occupation of the basement of the Property.
- 1.3. The Appeal is lodged jointly by JL Center Holdings LLP as freeholder and person with an interest in the Property and Undercover Architecture Ltd as relevant occupier.
- 1.4. The Notice was issued on 12 October 2020 alleging the following listed building contraventions which all relate to the basement of the premises at 48 Mornington Terrace, Camden, London NW1 7RT:

“Without listed building consent: Unauthorised internal and external alterations at basement level of this grade II listed building, including:

- 1. Enlargement of the sash window at basement level on the front elevation*
- 2. Enlargement of the sash window at basement level on the rear elevation*
- 3. Removal of the spine wall, and alterations to the internal floor layout at basement level*
- 4. Removal of the rear wall on the main building*
- 5. Alterations to the internal staircase at basement level*
- 6. Lower of the floor throughout basement level*
- 7. Erection of a full width glazed rear extension at basement level which is not in accordance with the planning permission and listed building consent granted on 8th April 2014 under refs: 2013/6592/P & 2013/6747/L*
- 8. Rendering/altering the vaults located on the front elevation to create a bathroom*
- 9. Removal of the front garden steps at basement level, replacing them with rendered steps”*

- 1.5. The following Statement sets out the Appellants’ grounds of appeal under section 39 of the Act. It is intended to submit further representations and evidence within the requisite 6 weeks of the start date of this appeal, in accordance with The Planning Inspectorate’s Procedural Guide: Enforcement notice appeals – England (July 2020) (“July 2020 guidance”). The Appellants have so far been denied access to the officer’s report which informed the decision to issue the Notice.
- 1.6. The Appellants appeal under grounds (b), (c), (e), (g), (h), (i) and (j) of section 39(1) of the Act.

2. Mode of Appeal

- 2.1. The Appellants wish to appeal against the Notice by means of Informal Hearing procedure. The appeal should be heard and conjoined with the Appellants' appeal under section 174(2) of the Town and Country Planning Act 1990 against a planning enforcement notice issued in respect of an alleged unauthorised material change of use of the basement from residential to offices.
- 2.2. It is considered that this procedure is the appropriate mode, in line with Annexe G to the July 2020 guidance. This mode will ensure the Inspector can test the evidence by questioning participants in the appeal proceedings, including heritage experts, or to seek clarification of matters.
- 2.3. This mode of appeal is considered to be proportionate to the alleged listed building contraventions. Furthermore, this mode will allow for further discussion to take place on an accompanied site visit, where the alleged listed building contraventions can be examined and discussed on site as there are a number of factual issues which need to be considered and questions about the allegations and requirements of the Notice which are not straightforward. It is envisaged that an advocate will represent the Appellants at the hearing.

3. The Site

- 3.1. The Property, 48 Mornington Terrace, forms part of a Grade II Listed terrace within the Camden Town Conservation Area.
- 3.2. The Grade II Listed Mornington Terrace forms 27 residential properties, including the Property. Coupled with a handful of recent properties to the south, the Grade II Listed terrace forms the eastern side of Mornington Terrace, whilst (with the exception of the Edinboro Castle Public House, and the adjacent two storey property) those properties that once formed the western flank of Mornington Terrace have long since been demolished to accommodate the railway line that serves London Euston Railway Station. The Property's context is illustrated in Figure 1 below.



Figure 1 - Site Location (Source: Google, 2018)

- 3.3. The Grade II Listed Mornington Terrace was constructed in the first half of the 19th Century and is Georgian in character. The terrace is subdivided equally, with each of the residential properties, benefiting from a generous step-back from the street, as well as private amenity space to the rear.
- 3.4. Further reflecting the Georgian character of the Grade II Listed terrace, each property is predominantly constructed from London stock bricks with a stucco ground floor and stucco fluted ionic pilasters marking the division of the terrace. The properties also benefit from cast-iron railings flanking those steps to the entrance and marking the private amenity space to the front.
- 3.5. Whereas the front elevation of the Grade II Listed terrace is uniform in appearance, the rear elevation of the terrace reflects the variety of historic extensions and alterations made to each of those properties that form the terrace, together with the terrace within Albert Street (to the east) and Delancey Street (to the north) which form the rear enclosure of gardens.

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- 3.6. The statutory List describes the Terrace in the following terms: “Terrace of 27 houses. Mid C19. Yellow stock brick with rusticated stucco ground floors. Slate mansard roofs and dormers. Formerly symmetrical terrace; projecting central houses (Nos. 33-38) and northern end houses (Nos 50-52), southern projection missing. 3 storeys, attics and semi-basements; central and end houses 4 storeys and semi basements. 2 windows each. Stucco porticoes with pilasters carrying entablature; fanlights and panelled doors, some with nail-head ornament. Entrance to No.52 in side portico. Ground floor sashes of Nos 26, 27, 29, 31, 32 & 40 with margin glazing. Stucco fluted Ionic pilasters mark division of houses rising through 1st and 2nd floors to carry entablature at 3rd floor level (except Nos 46 & 49), formerly with balustraded parapet. Recessed, architraved sashes to upper floors; 1st floor with console bracketed cornices and continuous cast-iron balcony. INTERIORS: not inspected. SUBSIDIARY FEATURES: attached cast-iron railings flanking steps to doorways and geometrical railings to areas.’
- 3.7. The uniform appearance of the front elevation is the primary reason for the statutory listing, and this is illustrated in Figure 2 below. The eclectic mix of historic extensions and alterations are typically to the rear at lower and upper ground floors, and within the roof slope as illustrated in the images 3-4 below. The significance of the asset therefore pertains to the public face of these terraced properties. This was accepted by the Planning Inspector under APP/X5210/C/17/3191981, 3191982 & 3191983 (**Appendix B**) noting:

“The Appellants say that the uniform appearance of the front elevation of the terrace is the primary reason for the statutory listing and, having reviewed the list description, I agree. It records that the interiors were not inspected and, on the balance of probability, it would appear to follow that the rear of the terrace was not inspected either. In these circumstances I find that the significance of this designated heritage asset, both the listed building and the wider terrace, derives from the public face of these properties”.



Figure 2 - Front uniform elevation (Source: Google 2018)

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Figure 3 - Typical Roof Alterations (rear elevations of Albert Street)



Figure 4 - Typical Rear Extensions and Garden Rooms (Mornington Terrace, Delancey Street and Albert Street)

4. Planning History

4.1. Introduction

- 4.1.1. The following planning history pertains to the Property and includes relevant applications, appeals, and enforcement cases.

34063(R1) & HB2891(R1) - The Change of Use of the basement to a self-contained dwelling unit, including works of conversion.

- 4.1.2. This application, made on 16 April 1982, sought permission for the use of the lower ground floor as a self-contained residential apartment, an accompanying Listed Building Consent application was also submitted to the Council. Permitted 17 September 1984.

- 4.1.3. It is not known whether this was completed and whether self containment took place. In 2013 when Luke and Estelle Chandresinghe bought the Property it was not self contained and it is not self contained now. The basement remains internally connected to the upper floors of the Property.

L9601081 & L9601081R1 - Removal of chimney and rebuilding part rear wall below parapet level without replacing attached flue below parapet level.

- 4.1.4. This application sought Full Planning Permission and Listed Building Consent for the scheduled works. Permitted 2 August 1996.

2008/3295/L - Mass concrete underpinning to the single storey rear extension.

- 4.1.5. This application sought Listed Building Consent for the underpinning of a single storey rear extension due to subsidence. Permitted 9 October 2008.

2013/2343/L & 2013/2239/P - Erection of basement and ground floor rear extension with first floor rear extension above, new rear lightwell with associated landscaping and glass canopy over front lightwell to existing dwelling (Class C3).

- 4.1.6. These applications sought Full Planning Permission and Listed Building Consent for alterations and extensions to the existing property including the erection of basement level, ground floor and first floor rear extensions.

- 4.1.7. Planning Permission and Listed Building Consent was refused by Camden Borough Council. Refused 26 April 2013.

2013/4379/L & 2013/4286/P - Erection of rear extension at lower ground floor of existing dwelling (Class C3) and associated landscaping.

- 4.1.8. These applications sought Full Planning Permission and Listed Building Consent for a rear extension to the existing property at lower ground floor level. The applications represented revisions to the previously refused applications (2013/2343/L & 2013/2239/P). Those revisions sought to address the concerns raised by the Council in relation to the previous application, however despite those alterations, the applications were again refused by the Council. Refused 18 July 2013.

2013/6592/P Erection of single storey rear extension on basement level, new rear lightwell with balustrade and alterations to rear ground floor windows of rear extension to dwellinghouse (Class C3).

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4.1.9. This application, which sought Full Planning Permission, represented further revisions to those previously refused applications noted above, for the erection of a replacement ground floor rear extension and alterations to the existing property.

4.1.10. The Council determined that the revisions incorporated within the application adequately addressed those concerns previously raised, concluding that the proposals would not harm the special architectural and historic interest of the listed terrace and the character and appearance of the wider Conservation Area. It was also concluded that the proposals would have no adverse impact on the amenities of the neighbouring properties. Permitted 11 November 2013 (**Appendix C and D**).

2013/6742/L - External and internal alterations for erection of single storey rear extension on basement level, new rear lightwell with balustrade and replacement of rear ground floor windows of rear extension to dwellinghouse and associated internal alterations (Class C3).

4.1.11. This application for Listed Building Consent accompanied the above application for Full Planning Permission (2013/6592/P) and sought associated internal alterations. Permitted 8 April 2014 (**Appendix C and D**).

2014/7506/L and 2014/7441/P Erection of full width rear extension at lower and ground floors (retrospective).

4.1.12. These applications for Listed Building Consent and Householder Planning Permission were refused on 21 July 2015.

2014/7447/L and 2014/7412/P Erection of a garden room in the rear garden (retrospective).

4.1.13. These Listed Building and Full Planning applications sought to regularise the construction of a single storey flat roofed and partially sunken garden room measuring approximately 20sqm.

4.1.14. The Council determined the development to be unacceptable in terms of the scale, size and design and permission was refused on 21 July 2015.

4.1.15. Following the refusal of the application, an Enforcement Notice (reference EN14/0974), was issued on 10 November 2017. The breach of planning control as alleged in the notice was 'Without planning permission the unauthorised erection of a black metal and glass outbuilding in the rear garden'.

4.1.16. The Enforcement Notice was subsequently quashed at Appeal and planning permission was granted by the Planning Inspectorate on 29 June 2018 (**Appendix B**).

5. Policy

5.1. Introduction

- 5.1.1. There is no statutory duty to determine applications for Listed Building Consent in accordance with the statutory development plan. However, where the Development Plan contains relevant policies, they are likely to be material.
- 5.1.2. The Act refers to the general duty in respect of Listed Buildings and Conservation Areas. Section 16 of the Act requires that *'in considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'*.
- 5.1.3. In this case, the Development Plan comprises the London Borough of Camden Local Plan which was adopted on 3 July 2017. The Camden Local Plan sets out the Council's planning policies and replaces the Core Strategy and Development Policies planning documents (adopted in 2010).
- 5.1.4. The National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG), the London Plan, and Supplementary Planning Guidance are also material considerations.
- 5.1.5. The Council has cited two Local Plan policies within in the Enforcement Notice: policy D1 (Design), and D2 (Heritage). Extracts of these policies are set out below.

Policy D1 Design

The Council will seek to secure high quality design in development. The Council will require that development:

- a. respects local context and character;
- b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;
- c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;
- d. is of sustainable and durable construction and adaptable to different activities and land uses;
- e. comprises details and materials that are of high quality and complement the local character;
- 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;
- g. is inclusive and accessible for all;
- h. promotes health;
- i. is secure and designed to minimise crime and antisocial behaviour;
- j. responds to natural features and preserves gardens and other open space;
- 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,
- l. incorporates outdoor amenity space;
- m. preserves strategic and local views;
- n. for housing, provides a high standard of accommodation; and
- o. carefully integrates building services equipment.

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.

Policy D2 Heritage

The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.

Designated heritage assets

Designated heritage assets include conservation areas and listed buildings. The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

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

Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

Conservation areas

Conservation areas are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. In order to maintain the character of Camden's conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas.

The Council will:

- e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;
- f. resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;
- g. resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and
- h. preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage.

Listed Buildings

Listed buildings are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. To preserve or enhance the borough's listed buildings, the Council will:

- i. resist the total or substantial demolition of a listed building;
- j. resist proposals for a change of use or alterations and extensions to a listed building where this would cause harm to the special architectural and historic interest of the building; and
- k. resist development that would cause harm to significance of a listed building through an effect on its setting.

Archaeology

The Council will protect remains of archaeological importance by ensuring acceptable measures are taken proportionate to the significance of the heritage asset to preserve them and their setting, including physical preservation, where appropriate.

6. Grounds of Appeal

6.1. Introduction

- 6.1.1. This section seeks to address the Council's reason for service of the Notice, and which is scrutinised in detail below.
- 6.1.2. In accordance with Section 39(1) of the Act 1990 the Appellants wish to appeal on Grounds (b), (c), (e), (g), (h), (i) and (j).

Ground (b) – that the matters alleged to constitute a contravention of section 9(1) or (2) have not occurred;

Ground (c) – that the matters, (if they occurred) do not constitute a contravention of section (9) in that they do not cause harm to the significance of the heritage asset affecting the character as a building of special architectural or historic interest.

Ground (e) – that listed building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;

Ground (g) – except in relation to such a requirement as is mentioned in section 38(2) (b) or (c), that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;

Ground (h) – that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;

Ground (i) – that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;

Ground (j) - that the steps required to be taken by virtue of section 38(2)(b) exceed what is necessary to alleviate the effect of the works executed to the building;

6.2. Alleged Unauthorised Alterations

- 6.2.1. The Notice identifies nine alleged unauthorised alterations to the building at section 3 as follows:

1. *Enlargement of the sash window at basement level on the front elevation*
2. *Enlargement of the sash window at basement level on the rear elevation*
3. *Removal of the spine wall and alterations to the internal floor layout at basement level*
4. *Removal of the rear wall on the main building*
5. *Alterations to the internal staircase at basement level*
6. *Lowering the floor throughout basement level*
7. *Erection of a full width glazed extension at basement level which is not in accordance with the planning permission and listed building consent granted on 8 April 2014 under refs 2013/6592/P & 2013/6747/L*
8. *Rendering/altering the vaults located on the front elevation to create a bathroom*
9. *Removal of the front garden steps at basement level, replacing them with rendered steps.*

6.3. Reason for Issuing the Notice

- 6.3.1. The stated reasons for issuing the Notice are set out at section 4 of the Notice as follows:

- a) *The work outlined above have been carried out to this Grade II listed building without the benefit of Listed Building Consent*
- b) *The rear extension, by reason of its inappropriate detailed design & scale, on the rear elevation is an incongruous and obtrusive addition to the building and detracts from the appearance and special architectural and historic interest of this terrace Grade II listed building and the wider Conservation Area contrary to policies D1 (design) and D2 (Heritage) of Camden's Local Plan 2017;*
- c) *The change of use and resultant unauthorised works at lower ground floor level to this grade II listed building has resulted in the loss of historic fabric and the original plan form and is considered to have a detrimental impact on the special architectural and historic interest of the listed building, and that, if allowed would be harmful and set an unwelcome precedent for alterations to listed buildings within this terrace of buildings and is thereby contrary to policy D2 of Camden's Local Plan 2017.*

- 6.3.2. As to 4 (a) of the Notice, the Appellants acknowledge that the works identified in section 3 of the Notice have been carried out without Listed Building Consent, apart from the enlargement of the sash window at basement level on the rear elevation (set out at 3(2)) which has not occurred as a matter of fact and is the subject of the ground (b) appeal. It is the Appellants' case that all of the works are enhancements to the Property which do not cause harm to the significance of the heritage asset affecting its character as a building of special architectural or historic interest. If and insofar as they do affect its architectural or historic interest, they should be granted Listed Building Consent.
- 6.3.3. As to 4(b) of the Notice, the Appellants do not accept that the works are fairly described as incongruous and obtrusive. The extension has resulted in little or no loss of historic fabric and the works have not affected or harmed the significance of the heritage asset. Rather the extension has provided replacement for an earlier extension, which has been achieved in a contemporary style which permits the historic building to be read clearly. The extension is an elegant and attractive response to the heritage asset, which causes no harm to its historic and architectural interest or its setting.
- 6.3.4. The special architectural and historic interest of the terrace relates to the primary front façade and the uniformity of this façade within the terrace. This was accepted by the Planning Inspector in the appeal decision at **Appendix B**. The Planning Inspector further acknowledged that the list description "*records that the interiors were not inspected and, on the balance of probability, it would appear to follow that the rear of the terrace was not inspected either. In these circumstances I find that the significance of this designated heritage asset, both the listed building and the wider terrace, derives from the public face of these properties*".
- 6.3.5. In this respect the Appellants will demonstrate that the rear extension has not caused harm to the significance of the heritage asset and the Property continues to be an important contributor to the character and appearance and special architectural and historic interest of the terrace and wider Conservation Area. Indeed, the Appellants will assert that the works implemented represent a contemporary intervention of a high quality, and in the same way that was acknowledged by the previous Planning Inspector when determining the garden room appeal.
- 6.3.6. As to 4(c), the Council has further alleged that the change of use and resultant unauthorised works at basement level have resulted in the loss of historic fabric and the original plan form to the detriment of the special architectural and historic interest of the listed building. This is denied by the Appellants. There has been little or no loss to the historic fabric of the building and none which results in harm to the special historic and architectural interest of the Property or the wider Terrace.

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- 6.3.7. The Notice does not identify the relationship between each of the alleged unauthorised works and the alleged change of use. The change of use is the subject of a separate planning enforcement notice which is being appealed by the Appellants.
- 6.3.8. It should be noted that the change of use does not form part of the alleged contraventions listed by the Council at Section 3 of the Notice and is addressed by other legislation and a separate enforcement notice. The use of the Property, in and of itself, has not therefore resulted in any harm to the special interest of the listed building.

6.4. The Requirements of the Notice

- 6.4.1. The requirements of the Notice are set out at section 5 of the Notice as follows:

Within a period of SIX (6) months of the Notice taking effect:

1. *Totally remove the enlarged window at basement level on the front elevation and reinstate a 6 pane over 6 sash [sic] timber framed sliding sash window to replicate the window which was removed;*
2. *Totally remove the enlarged window at basement level on the rear elevation and reinstate a 6 pane over 6 timber framed sliding sash window to replicate the dimensions of the window which was removed;*
3. *Reinstate the spine wall removed at basement level and reinstate the internal floorplan of the principle [sic] walls with openings as shown on Lower ground floor plan as shown on drawing numbers A 101 Rev c and A 103 of the planning permission and listed building consent granted on 8th April 2014 under refs: 2013/6592/P and 2013/6747/L;*
4. *Reinstate the rear wall that has been removed at basement level in materials to match with regards to methods used and to material, colour, texture and profile;*
5. *Reinstate the internal staircase at basement level in its original position as shown on plan A 101 Rev C of the planning permission and listed building consent granted on 08/04/14, under refs: 2013/6592/P and 2013/6747/L in materials to match with regards to methods used and to material, colour, texture and profile;*
6. *Reinstate the floor level throughout to its original height as shown on Existing floor plan ref: A 102 Rev C of the planning permission and listed building consent granted on 08/04/14, under refs: 2013/6592/P and 2013/6747/L;*
7. *Make the rear extension at basement level comply with the planning permission and listed building consent granted on 08/04/14, under refs: 2013/6592/P and 2013/6747/L;*
8. *Totally remove the render on the front vaults and reinstate to its original state, making good any resulting damage; and*
9. *Reinstate the front garden steps to their original state*

6.5. Comments on Requirements of the Notice

- 6.5.1. Requirement 3 refers to plan ref A 103 which is a Proposed First Floor Plan and has no relevance to the floorplan at basement level. It is not clear what the Council means when it refers to “principle” [sic] walls. The requirement is ambiguous. The Appellants do not know what they have to do in order to comply with that aspect of the Notice.

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- 6.5.2. Requirement 4 is ambiguous. It is not clear what the Council means by “in materials to match with regards to methods used and to material, colour, texture and profile;”. The Appellants do not know what they have to do in order to comply with this aspect of the Notice. In any event this requirement appears to conflict with requirement 7. The two requirements are mutually contradictory.
- 6.5.3. Requirement 5 is ambiguous. It is not clear what the Council means by “in materials to match with regards to methods used and to material, colour, texture and profile;”. The Appellants do not know what they have to do in order to comply with the Notice.
- 6.5.4. Requirement 6 refers to plan ref A 102 Rev C as an Existing Floor Plan, it is in fact the Proposed Ground Floor Plan and has no relevance to the height of the floor in the basement.
- 6.5.5. Requirement 7 is ambiguous and impossible to comply with at basement level only.
- 6.5.6. Requirement 8 is ambiguous. The extent of the works the Council seeks to remedy this alleged breach is not clear.
- 6.5.7. The Notice requires works to be carried out in respect of items 3,5,6 and 7 accordance with plans approved under a previous planning permission and listed building consent which have now expired. Works carried out pursuant to permissions which have expired are unlawful and a notice which requires development to be carried out in breach of planning control and without the benefit of listed building consent is a legal nullity.
- 6.5.8. For all the reasons set out above, including each of the respects identified in section 5 of these Grounds, the Notice is without legal effect and is therefore a nullity. Accordingly, the Notice should be withdrawn.
- 6.6. Ground (b) – that the matters alleged to constitute a contravention of section 9(1) or (2) have not occurred**
- 6.6.1. This ground relates only to the allegation at section 3(2) of the Notice that enlargement of the sash window at basement level on the rear elevation has occurred. As a matter of fact, no such sash window existed on the rear elevation at this level, there were instead “French” doors which were not an original feature of the Property. The alterations do not cause harm to the significance of the heritage asset affecting its character as a building of special architectural or historic interest. Evidence of this will be provided by the Appellants in their further submissions.
- 6.6.2. The alleged contravention set out at 3(2) of the Notice has not occurred, and the Council is incorrect in their allegation. Accordingly, the appeal should be allowed on ground (b). If it has occurred, it has not affected the special architectural or historic interest of the building.
- 6.7. Grounds (c) and (e) – The alterations do not cause harm to the significance of the heritage asset affecting the character as a building of special architectural or historic interest; alternatively listed building consent ought to be granted for the works**
- 6.7.1. This ground relates to all nine alleged unauthorised alterations. Brief submissions in support are below and will be expanded on in the Appellants’ full submissions to follow.
- 6.7.2. *Enlargement of the sash window at basement level on the front elevation*
- The replacement window is of an appropriate form and style to the Property. The alteration does not cause harm to the significance of the heritage asset affecting the character as a building of special architectural or historic interest.

Enlargement of the sash window at basement level on the rear elevation

In the event that the appeal on ground (b) does not succeed in relation to this allegation it is considered that listed building consent is either not required or should be granted for works to the already much altered rear elevation. The works do not cause harm to the significance of the heritage asset affecting the character as a building of special architectural or historic interest.

Removal of the spine wall and alterations to the internal floor layout at basement level

Without prejudice to the Appellants' case that the Notice is ambiguous, insofar as the Appellants understand the allegation, the materials removed from internal walls of the building were largely non original. Opening up the basement by removal of internal walls allows more light and contributes towards the practical functioning of the Property. The nibs remain and provide evidence of former plan form. The works do not cause harm to the significance of the heritage asset affecting the character as a building of special architectural or historic interest.

Removal of the rear wall on the main building

The removal of a small part of the rear wall of the building, which had become an internal wall has no effect on the significance of the heritage asset. However, it facilitates the improved functioning and practical use of the basement. The retention of nibs allows full legibility of the former rear building line. The works do not cause harm to the significance of the heritage asset affecting the character as a building of special architectural or historic interest.

Alterations to the internal staircase at basement level

The previous staircase was a non original late 20th century intervention. There has been no loss of significance of the heritage asset as a result of the works. The design of the new staircase is a clear enhancement. The works do not cause harm to the significance of the heritage asset affecting the character as a building of special architectural or historic interest.

Lowering the floor throughout basement level

The work was necessary to deal with damp and water ingress and contributes towards the long term preservation of the Property. No harm to the significance of the heritage asset has been caused as a result of the works. The works do not affect the character as a building of special architectural or historic interest.

Erection of a full width glazed extension at basement level which is not in accordance with the planning permission and listed building consent granted on 8 April 2014 under refs 2013/6592/P & 2013/6747/L

The in principle acceptability of a rear extension has already been established. This is a high quality design which preserves the overall legibility of the Property. No harm to the significance of the heritage asset has been caused as a result of the works. The works do not affect the character as a building of special architectural or historic interest.

Rendering/altering the vaults located on the front elevation to create a bathroom

The vaults previously suffered from damp. The render applied is breathable lime based plaster. The works to create a bathroom are fixtures and fittings and ultimately reversible. The special interest of the vaults has been preserved. No harm to the significance of the heritage asset has been caused as a result of the works. The works do not affect the character as a building of special architectural or historic interest.

ECE Planning

Removal of the front garden steps at basement level, replacing them with rendered steps.

The previous steps were non original and concrete and therefore of no special interest. The replacement steps do not affect the special interest of the Property. No harm to the significance of the heritage asset has been caused as a result of the works. The works do not affect the character as a building of special architectural or historic interest.

- 6.7.3. For the reasons given at 6.3.3 to 6.3.8 and 6.7.2 above it is considered that the works listed at items 1 - 9 of the Notice do not harm the special interest of the Property and that either Listed Building Consent is not required or should be granted for each item. The significance of the heritage asset has been not been affected as a result of the works. The works do not affect the character as a building of special architectural or historic interest.

6.8. Ground (g) – except in relation to such a requirement as is mentioned in section 38 (2) (b) and (c), that the requirements of the Notice exceed what is necessary for restoring the building to its condition before the works were carried out

- 6.8.1. This ground applies to the requirement at 5(2) of the Notice only, which requires the reinstatement of a window on the rear elevation, in the event that the appeal on grounds (b) (c) or (e) is not successful. There was no window previously in the rear elevation at basement level therefore the requirements of the Notice exceed what is necessary. No harm to the significance of the heritage asset has been caused as a result of the works.

6.9. Ground (h) – that the period specified in the notice as the period within which any step required by the notice is to be taken falls short of what should reasonably be allowed;

- 6.9.1. This ground is relied on in the event that the appeal on grounds (b) (c) and (e) is not successful or partially successful.
- 6.9.2. The Council has imposed a timeframe of six months from the Notice taking effect to comply with the requirements of the Notice. The requirements include significant physical interventions to the listed building.
- 6.9.3. In order to undertake such significant works, it will be necessary for the Appellants to seek third party competitive quotes and instruction of contractors. Furthermore, any works to the Property should be undertaken in a well-managed and sensitive approach and should not be rushed. It is therefore considered that should the Inspector resolve to uphold the Notice, that an 18-month period for the requirement works, is a more reasonable period.

6.10. Ground (i) – that the steps required by the notice for the purpose of restoring the character of the building to its former state would not serve that purpose;

- 6.10.1. This ground is relied on in relation to the requirements set out at 5 (1), (3), (4), (5), (6), (8), and (9) of the Notice in the event that the appeal on grounds (c) and (e) is not successful.
- 6.10.2. It is the Appellants' case that the requirements of the Notice do not benefit the character or preservation of the heritage asset. The requirement to remove works which have by their very nature improved the asset through intervention measures such as damp proofing would be contrary to this objective.

ECE Planning

- 6.10.3. Furthermore, the requirement to reinstate non original fabric, or works which are not relevant to the special historic and architectural merit of the asset would undermine measures which have been undertaken to ensure the long-term preservation of the asset.
- 6.11. Ground (j) that the steps required to be taken by virtue of section 38 (2) (b) exceed what is necessary to alleviate the effect of the works executed to the building.**
- 6.11.1. This ground is relied on in relation to the requirement set out at 5 (7) of the Notice in the event that the appeal on grounds (c) and (e) is not successful.
- 6.11.2. It is not clear whether the Council has framed this requirement under section 38 (2) (b) but it is the Appellants' submission that as the planning permission and listed building consent referred to in this requirement have both expired through effluxion of time, it cannot be lawfully required under section 38 (2) (c) as such works would not be authorised.
- 6.11.3. It is also not clear what extent of works the Council requires to be done under this requirement as the existing extension affects both the basement and ground floor.
- 6.11.4. The requirement to "make the rear extension at basement level comply" with the previously granted but now expired consents exceeds what is necessary to alleviate the effect of the works. Carrying out works to the lower ground floor while leaving the upper part of the extension in place would be impossible and undesirable.

7. Conclusion

- 7.1. In conclusion, it is the Appellant's case that the works which have been undertaken to the basement have not affected the significance of the heritage asset. Rather they have been undertaken sensitively and carefully and have not resulted in development which harms the appearance and special architectural and historic interest of the Property or the listed Terrace.
- 7.2. Contrary to the Council's stated reasons for issuing the Notice, it is asserted that the works which have been undertaken will ensure the long-term enhancement and preservation of the heritage asset which local plan policy D2 seeks to protect, while causing no material harm to the character and architectural interest of the building. The Appellants' primary case therefore is that Listed Building Consent either was not required or should be granted for these works.

Appendix A – Enforcement Notice (reference EN20/0163)

Date: 12 October 2020
Our Reference: 1800.1715
Enquiries to: Hadiza Mohammed

Law and Governance
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP



1896334_01/6183/000/17/3/1-8

FIRST CLASS RECORDED POST
Ms L & Ms E Chandresinghe
48 Mornington Terrace
LONDON
NW1 7RT

Direct 020 7974 5680
e-mail: hadiza.mohammed@camden.gov.uk

www.camden.gov.uk

IMPORTANT- THIS COMMUNICATION AFFECTS YOUR LAND

Dear Ms L & Ms E Chandresinghe

**SECTION 38 PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990
LISTED BUILDING ENFORCEMENT NOTICE: EN20/0163
LAND AND PREMISES AT: 48 MORNINGTON TERRACE LONDON NW1 7RT**

The Council has issued a Listed Building Enforcement Notice relating to the above land and I now serve on you a copy of that Notice, in view of your (or your client's) interest in the land. (Copies of the Notice are also being served on others who, it is understood, have an interest in the land).

Unless an appeal is made to the Secretary of State, as described below, the Notice will take effect on **23 November 2020** and you (or your client) must ensure that the required steps are taken within the period specified in the Notice.

If you (or your client) wish to appeal against the Notice, you, or your agent, should complete an appeal form and send it, together with a copy of the listed building enforcement notice enclosed herewith, to the address shown on the appeal form. Your appeal (or your client's) must be received by the Planning Inspectorate before the date shown in paragraph 2 above as that is the date when the notice will otherwise take effect i.e. **23 November 2020**.

Finally, please forward a copy of any appeal form direct to Regeneration and Planning, Development Management, London Borough of Camden, Town Hall, Judd Street London WC1H 9JE.

If you have any queries regarding this notice or would like to discuss compliance please contact ANGELA RYAN of the Planning Enforcement team at Supporting Communities, Regeneration and Planning, Development Management, London Borough of Camden, Town Hall, Judd Street London WC1H 8JE or on **020 7974 3236** or angela.ryan@camden.gov.uk.

Yours sincerely



Hadiza Mohammed
Legal Assistant
For the Borough Solicitor

Borough Solicitor
Andrew Maughan

1896334_01/6183/000/17/3/1-8

1896334_01/6183/000/17/3/1-8

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (AS AMENDED)

ISSUED BY: THE LONDON BOROUGH OF CAMDEN

1. **THIS IS A FORMAL NOTICE:** which is issued by the Council being the Local Planning Authority for the purposes of Section 38 of the above Act because it appears to them that there has been a contravention of Section 8 of the Act, in respect of the building within a conservation area described below. The Council considers it necessary to issue this notice for the reasons set out in paragraph 4 below.
2. **THE LISTED BUILDING**
- Land at: 48 Mornington Terrace London NW1 7RT** as shown outlined in black on the attached plan ("the Property").
3. **THE CONTRAVENTION ALLEGED**
- Without listed building consent:** Unauthorised internal and external alterations at basement level of this grade II listed building, including:
1. Enlargement of the sash window at basement level on the front elevation
 2. Enlargement of the sash window at basement level on the rear elevation
 3. Removal of the spine wall, and alterations to the internal floor layout at basement level
 4. Removal of the rear wall on the main building
 5. Alterations to the internal staircase at basement level
 6. Lowering the floor throughout basement level
 7. Erection of a full width glazed rear extension at basement level which is not in accordance with the planning permission and listed building consent granted on 8th April 2014 under refs: 2013/6592/P & 2013/6747/L

8. Rendering/altering the vaults located on the front elevation to create a bathroom
9. Removal of the front garden steps at basement level, replacing them with rendered steps

4. REASONS FOR ISSUING THIS NOTICE

- a) The work outlined above have been carried out to this Grade II listed building without the benefit of Listed Building Consent;
- b) The rear extension, by reason of its inappropriate detailed design & scale, on the rear elevation is an incongruous and obtrusive addition to the building and detracts from the appearance and special architectural and historic interest of this terrace Grade II listed building and the wider Conservation Area contrary to policies D1 (Design) and D2 (Heritage) of Camden's Local Plan 2017;
- c) The change of use and resultant unauthorised works at lower ground floor level to this grade II listed building has resulted in the loss of historic fabric and the original plan form and is considered to have a detrimental impact on the special architectural and historic interest of the listed building, and that, if allowed would be harmful and set an unwelcome precedent for alterations to listed buildings within this terrace of buildings and is thereby contrary to policy D2 of Camden's Local Plan 2017

5. WHAT YOU ARE REQUIRED TO DO

Within a period of **SIX (6) months** of the Notice taking effect:

1. Totally remove the enlarged window at basement level on the front elevation and reinstate a 6 pane over 6 sash timber framed sliding sash window to replicate the window which was removed;
2. Totally remove the enlarged window that has been installed at basement level on the rear elevation and reinstate a 6 pane over 6 timber framed sliding sash window to replicate the dimensions of the window which was removed;
3. Reinstate the spine wall removed at basement level and reinstate the internal floor plan of the principle walls with openings as shown on Lower ground floor plan as shown on drawing numbers A101 Rev c and A103 of the planning permission and listed building consent granted on 8th April 2014 under refs: 2013/6592/P & 2013/6742/L;

896334 01/6183/000/19/3/3-8

- ## 6. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **23 NOVEMBER 2020** unless an appeal is made against it beforehand.

DRP

Chief Planning Officer, Supporting Communities on behalf of the London Borough of Camden, Town Hall, Judd Street, London WC1H 8JE

ANNEX

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State by **23 November 2020**.

(a) Send a copy of your appeal to the Secretary of State if you decide to appeal, together with a copy of this enforcement notice.

(b) Send a second copy of the appeal form and notice to the Council at:

Appeals and Enforcement
Supporting Communities
Regeneration and Planning
Development Management
London Borough of Camden
Town Hall
Judd Street
London
WC1H 9JE

Alternatively you can submit an appeal online at <http://www.planningportal.gov.uk/planning/appeals/online/makeanappeal>. Please note that a separate appeal form must be completed for each individual person or organisation.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this listed building enforcement notice, it will take effect on **23 November 2020** and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in the notice. Failure to comply with a listed building enforcement notice, which has taken effect, can result in prosecution and/or remedial action by the Council.

THIS LISTED BUILDING ENFORCEMENT NOTICE HAS BEEN SERVED ON:

1	Owner 48 Mornington Terrace London NW1 7RT
2	Occupier 48 Mornington Terrace London NW1 7RT
3	Lankendra Chandresinghe and Estelle Elise MARIE-EMMANUELLE CHANDRESINGHE 48 Mornington Terrace London NW17RT
4	ONESAVINGS BANK PLC Reliance House, Sun Pier, Chatham, Kent ME4 4ET, trading as Kent Reliance Banking Services, Kent Reliance and krbs

If you believe that there is someone else who should be served or any of those listed above has not received a copy of the notice or any other document please let that person and the Council know of this omission as soon as possible.

Council reference: EN20/0163



The Planning Inspectorate

CST Room 3/13
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line 0303-444 5000
Fax No 0117-372 8782

THIS IS IMPORTANT

If you want to appeal against this Listed Building enforcement notice you can do it:-

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>); or
- by getting Listed Building enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us at enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the Listed Building enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:- □ the name of the local planning authority;

- the site address;
- your address; and
- the effective date of the Listed Building enforcement notice.

We MUST receive this before the effective date on the Listed Building enforcement notice. This should **immediately** be followed by your completed appeal forms.

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Appendix B – Appeal Decision APP/X5210/C/17/3191981, 3191982 & 3191983 in respect of the garden room at 48 Mornington Terrace, Camden



Appeal Decision

Site visit made on 19 June 2018

by Pete Drew BSc (Hons) DipTP (Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2018

Appeals A, B & C Ref: APP/X5210/C/17/3191981, 3191982 & 3191983 Land at: 48 Mornington Terrace, London NW1 7RT ("the Property")

- The appeals are made under section 174 of the Town and Country Planning Act 1990 [hereinafter "the Act"] as amended by the Planning and Compensation Act 1991.
- The appeals are made by [A] Mr & Mrs Chandresinghe; [B] Mr L Chandresinghe; and, [C] Mrs E Chandresinghe, respectively, against an enforcement notice issued by the Council of the London Borough of Camden.
- The enforcement notice, reference EN14/0974, was issued on 10 November 2017.
- The breach of planning control as alleged in the notice is: *Without planning permission the unauthorised erection of a black metal and glass outbuilding in the rear garden.*
- The requirements of the notice are: (1) Totally removed [sic] the black metal and glass outbuilding from the rear garden; and (2) Make good any damage done as a result of the above works.
- The period for compliance with these requirements is 3 months.
- Appeals A, B & C are proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Act.

Appeals A, B & C: Formal Decision

1. The appeals are allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the unauthorised erection of a black metal and glass outbuilding in the rear garden on land at: 48 Mornington Terrace, London NW1 7RT, referred to in the enforcement notice, subject to the following condition:
 - i. Within 3 months of the date of this decision a record of the existing planting on the green roof and in the rear garden, together with a schedule of landscape maintenance for a period of 5 years, shall be submitted in writing to the local planning authority for its written approval. The planting on the green roof and in the rear garden shall be maintained in accordance with the approved schedule of maintenance and any plants which die, are removed or become seriously damaged or diseased within 5 years of its written approval shall be replaced in the next planting season with others of similar size and species. The planting shall be retained for the lifetime of the development.

Procedural matters

2. The Council relies in part on a delegated report on a retrospective application [No 2014/7412/P] for the structure. However the report also appears to relate to a refusal of listed building consent [No 2014/7447/L] for the same building. I have therefore considered whether there might be a need for listed building consent. However the fact is that the Council has only issued an enforcement notice under the Act, which suggests that it is of the view that listed building consent was not in fact required. My jurisdiction solely relates to the appeals against that notice and so I intend to proceed accordingly.

3. The assessment in the delegated report was undertaken in 2015 in the context of a materially different policy framework. As a result the reason for refusal of 2014/7412/P alleges a conflict with a series of different policies from plans that appear to have been superseded¹. So whilst the Council rely on the delegated report², when one takes account of the fact it relates, in part, to an application for listed building consent and the planning assessment is against a materially different policy framework, the Council's case does appear to have changed. However I will try to distil the underlying objection from the delegated report.

All Appeals: Ground (a), planning merits: *Main issue*

4. The main issue is whether the development would, at a minimum, preserve the character or appearance of Camden Town Conservation Area [CA] and the setting of the host building and the listed terrace of which it forms part.

Planning policy

5. The Development Plan [DP] includes the London Borough of Camden Local Plan ["LP"], which was adopted in 2017. The Council has also referred to the London Plan, but at no point has it claimed that there is a conflict with quoted policies 7.4, 7.6 and 7.8³, and I propose to deal with this appeal on that basis.
6. The Council relies on other policy documents that are not part of the DP. This includes Camden Planning Guidance, notably CPG1 Design, which was adopted as a Supplementary Planning Document [SPD] on 6 April 2011, following consultation, and updated in 2013 and 2015. Having regard to the date of adoption and the definition of SPD in the Glossary in the National Planning Policy Framework ["the Framework"], I attach the SPD substantial weight. The Council adopted the Camden Town Conservation Area Appraisal [CAA] and Management Strategy⁴ in October 2007 and I attach it substantial weight.

Reasons

7. The appeal site, No 48, forms part of a terrace of 27 residential properties that are Grade II Listed. The Appellants say that the uniform appearance of the front elevation of the terrace is the primary reason for the statutory listing and, having reviewed the list description⁵, I agree. It records that the interiors were not inspected and, on the balance of probability, it would appear to follow that the rear of the terrace was not inspected either⁶. In these circumstances I find that the significance⁷ of this designated heritage asset, both the listed building and the wider terrace, derives from the public face of these properties.
8. The Camden Town Conservation Area Townscape Appraisal Map⁸ shows that the entire block within which the appeal site lies is not only within the CA, but that the terrace within Albert Street, to the east, and Delancey Street, to the north, which surround the rear gardens within the block, are also listed⁹. In

¹ I make this assumption on the basis that none of the policies were relied on when issuing the notice.

² The Council's letter dated 2 May 2018 says its: "...case is largely set out in the Officer's delegated report".

³ Regulation 4 of The Town and Country Planning (Enforcement Notices and Appeals) (England) Regulations 2002, says: "An enforcement notice issued under section 172 of the Planning Act shall specify— (a) the reasons why the local planning authority consider it expedient to issue the notice; (b) *all* policies and proposals in the development plan which are relevant to the decision to issue an enforcement notice..." [*my emphasis*]. The word "shall" is mandatory, but the reason given on the face of the enforcement notice does not specify the London Plan Policies.

⁴ The Council's questionnaire provided selected Appendices from the CAA, but not Appendices 7-13, inclusive.

⁵ Submitted with the Council's questionnaire.

⁶ One could only gain access to the rear via the interior[s].

⁷ As defined in the Glossary in Annex 2 to the Framework.

⁸ Appendix 6 to the CAA.

⁹ I have not been given the list descriptions but anticipate their significance relates to the front of those properties.

contrast to the uniformity of the front of the listed terraces, the rear displays an eclectic mix of extensions and alterations that have been made over the years, typically at lower and upper ground floor levels, and within the roof slope. There are a number of outbuildings in rear gardens within the block.

9. The Appellants quote a passage from the CAA and submit that, as it contains no reference to the rear elevations and gardens, the significance of the CA derives exclusively from the public realm¹⁰. However, having reviewed the CAA, I disagree. In these circumstances I set out the passage that might have been overlooked¹¹: *"There is a greater sense of open space in the residential portions of the Conservation Area, in part due to the main Euston railway cutting immediately to the west but also the result of wide tree-lined streets and private front and back gardens, especially in Albert Street and Mornington Terrace. The trees and greenery of back gardens are only visible in occasional glimpses from the public realm but contribute to the nature of the western part of the Conservation Area. Views of back gardens are retained, especially where development has been kept single-storey or where gaps have been preserved. Gaps also occur at the end of terraces; these allow views to back gardens over high garden walls, introducing a welcome respite to an otherwise very urban environment and making a major contribution to the visual amenity and the character of the area. In an area lacking in open space and street trees these views into gardens with mature trees are an important element in the character and appearance of the Conservation Area"*¹² [my emphasis].
10. My reading is that the CAA is identifying the rear gardens within this block to be of significance in glimpsed views from the public realm principally, it would appear, from street level. What I take from this passage is that the trees and greenery, generically landscaping, in the back gardens does make a positive contribution to the character and appearance of the CA. In order to, at a minimum, preserve that characteristic, landscaping is a vital consideration.
11. The building appears to have replaced what is described as an 'off-the-peg'¹³ garden shed and perhaps the best that can be said is that it was very modest. I reject any inference that it was necessary to consider its retention and refurbishment, and the claim that it should have informed the design of the new building. In that context, turning to examine its replacement, the Council has identified 5 areas of concern, which I propose to deal with in turn.
12. In terms of design, it is an unashamedly modern creation. However, noting that it is not an extension, the Appellants refer to the examples of the British Museum and the Holbourne Museum to illustrate that it is not essential to adopt a neo-traditional approach to both design and materials. It appears to be deliberately contemporary in appearance in order to provide distinction from the host structure to enable its history to be read and understood by future generations. Paragraphs 60 and 63 of the Framework say decisions should not stifle innovation and that great weight should be given to innovative designs. Conceptually the building might not be ahead of the curve, but given the integration with the landscaping I consider the holistic design is innovative.

¹⁰ Paragraphs 5.6.3-5.6.5 of the grounds of appeal.

¹¹ Acknowledging that it is quoted in paragraph 3.3 of the heritage appeal statement, which has been prepared by another party, but I would still disagree with paragraph 6.5 thereof given the terms of this passage. The Council might also have overlooked it given what is said in paragraph 3.1 of its letter dated 2 May 2018.

¹² Source of quote: page 21 of 48 of the pdf version that was supplied with the Council's questionnaire, under a title "Sub Area 2: Residential".

¹³ Page 2 of the Appellants' final comments.

13. The test must be whether the design respects its context and the character and appearance of the area. In my view because landscaping is at the heart of its design, the building does sit comfortably in its sensitive, historic setting. In particular the sedum and wildflower roof¹⁴ not only has a visual link to a similar roof on the single storey rear extension, but softens the building when seen from the upper storeys of the host property and, I have no doubt, adjoining dwellings. It is clear the planting, including box balls and the exotic tree ferns, in the remainder of the rear garden was a conscious design choice which embraces the outbuilding and ensures it is successfully ground into its setting.
14. I acknowledge the Council's concern that: "*...as the plants appear to have been deliberately planted likewise they can deliberately be removed*"¹⁵. First I would regard it to be highly unlikely that the green roof would be removed because it is such an integral part of the design, adds to biodiversity, is likely to reduce run off and simply because it is an attractive feature of the building; it would be reasonable to impose a planning condition to ensure its retention. LP Policy D1 c) requires sustainable design that incorporates best practice in resource management and climate change mitigation and adaptation. To this extent the design of the building appears to exemplify best practice and be sustainable.
15. Turning to the landscaping in the remainder of the rear garden I accept that, despite its lush appearance, it is conceivable that a prospective occupier might wish to remove it in order to provide a more functional area. However, given the Appellants' holistic design approach I consider it would be appropriate to impose a condition to require its maintenance and retention too. The appeal statement acknowledges that the landscaping is part of a deeply considered approach in which the building and the planting: "*...are interlinked and were developed and evolved concurrently*"¹⁶. What is said to be an effective merging between building and planting is a key factor in its acceptability in this context. The condition that I propose is necessary to maintain that equilibrium and it would ensure that, contrary to the Council's claim, it would not be prominent.
16. Turning to materials, the Council describes it variously as being black steel [delegated report] and a glass and aluminium structure with a fully glazed frontage [May letter]. The materials schedule on the submitted plans record the facade to comprise a "*slim metal frame 'greenhouse' style glazing*" and the side elevation refers to a "*traditional lead capping*" above "*painted render with horizontal garden wire to enable creepers to grow over the exposed side elevation from the trellis*". The grounds of appeal otherwise refer to rolled steel and the scalloped edging above the glazed façade of the outbuilding, which mirrors that found on the conservatory of the host property.
17. LP Policy D1 e) requires development to incorporate details and materials that are of high quality and complement the local character. The materials appear to be of a high quality. The exception might be said to be the rendered side elevation, but my inspection, taken together with the submitted photographs and plans, would suggest that this is inconspicuous. Even when viewed from the gardens of the immediate neighbours it is likely that the combination of the brick wall, timber trellis and, over time, climbing plants, would ensure that this would preserve the character and appearance of the area. The use of metal and glazing is in keeping with the materials employed in the conservatory on

¹⁴ As per annotation on drawing No A 301.

¹⁵ Source of quote: paragraph 3.7 of the Council's letter dated 2 May 2018.

¹⁶ Source of quote: paragraph 7.5 of the appeal statement.

- the host building and similar structures that exist in rear gardens in the block. In compliance with LP Policy D1 d) it appears to be of a durable construction.
18. Turning to scale, the delegated report gives the measurements of the building to be 4.9 m in width and 4.1 m in depth. On this basis, it would appear to be common ground¹⁷ that the outbuilding has a footprint of approximately 20 m². It does however fill the width of the plot and the Council's estimate that it takes up about a third of the rear garden area has not been disputed. However the outbuilding that the Council permitted¹⁸ at No 50 appears to fill the width of that plot, albeit I acknowledge that it appears to taper such that it might be narrower¹⁹, and takes up a not dissimilar proportion of that rear garden²⁰. Its existence contradicts the Council's claim that this outbuilding is an anomaly. The Council has not referred to any provisions in the SPD with regard to this aspect of the scale of outbuildings and relevant LP Policies do not contain such provisions. In my view this aspect of the outbuilding would preserve the setting of the listed building and the character and appearance of the CA.
 19. The delegated report says the building is 4.5 m in height, but it was clear from my site inspection and the plans before me that it is partly sunken. Figures 8, 9 and 10 in the appeal statement show that it does protrude slightly above the wall and trellis that surround the rear garden of the property, but to a very modest extent. Submitted drawing No A 302, would suggest that the distance A-B, above the trellis, is less than 0.5 m by reference to the scale bar on that drawing. In terms of net height, above ground level, it appears to be broadly comparable to the building that the Council has permitted at No 50, the plans for which record its height to be 2.5 m²¹. There is also an extractor duct that protrudes above the northern rear corner of the green roof, but my inspection confirmed it is very modest and is only really seen if one is looking for it.
 20. In my view Figure 12 of the grounds of appeal, which shows a cross section relative to the host property, puts the net height of the building into its proper context. The listed building is a 5-storey dwelling and part of a terrace, set within a block, of similar scale. The cross section shows, amongst other things, that the highest part of the outbuilding is below the height of the upper ground floor²². That was confirmed during my site inspection. In my view this clearly demonstrates that the net height of the building is acceptable in its context.
 21. This brings me to bulk, which I take to mean the combined effect of the volume of the building in relation to other buildings and spaces. In my view it follows from my earlier findings that this is acceptable in the particular circumstances of this case. Amongst other things the fact that part of the building is sunken, together with the attractive, integrated landscaping scheme, leads me to find that the outbuilding does not appear bulky in its context.
 22. Turning to location, my inspection confirmed it is sited away from the public realm and screened from Mornington Terrace by the listed terrace itself. No

¹⁷ See figures for the area in the delegated report "Assessment" and paragraph 4.2.18 of the grounds of appeal, but contrast with the figure of 23.9 m² on the first page of the letter from the Council dated 2 May 2018.

¹⁸ Full planning permission granted for, amongst other things, a single storey rear outbuilding, under its reference 2015/1507/P, on 22 October 2015. In that context I fail to understand why paragraph 3.10 of the Council's letter dated 2 May 2018 refers to this as a "*permitted development scenario*". Amongst other things I note condition 5 of that planning permission with regard to the green roof on the permitted outbuilding.

¹⁹ Although Figure 7 in the grounds of appeal would suggest it is not that much narrower.

²⁰ See Appendix G to the grounds of appeal, specifically the upper ground floor plan on drawing No MOR200 Rev R.

²¹ See Figure 13 of grounds of appeal, together with Appendix G thereof, specifically the annotation "*2.5m high western red cedar clad garden room*" on drawing No MOR200 Rev R.

²² The lower ground floor being a basement.

public vantage-point was drawn to my attention during the site inspection and, taking account of the information provided, I think it most unlikely that there is a public vista in which any part of the building would be seen. Crucially, having regard to the quoted passage from the CAA, the landscaping makes a positive contribution to the character and appearance of the CA such that, taken holistically, the development would at a minimum preserve that characteristic. Viewed in the context of the CAA I find no conflict with LP Policy D1 f).

23. I have given reasons for finding that the significance of the host building and the listed terrace of which it forms part derives from the public realm. The development would have no effect on the significance of the listed building and terrace, and would therefore conserve the asset, in line with paragraph 132 of the Framework. Subject to the imposition of a landscaping condition I have also given reasons why it would conserve the identified significance of the CA.
24. In reaching this view I note the Council's claim that the outbuilding causes "...substantial harm to the setting of the designated heritage asset and to the character and appearance to the non-designated heritage asset" [sic]²³. With respect I believe there is a conflation of terminology here. Paragraph 133 of the Framework is concerned with substantial harm to significance and I entirely reject any inference that this paragraph would be engaged here. I anticipate that the reference to *non-designated heritage asset* is a reference to the CA but, having regard to the Glossary, that too is a designated heritage asset. Since I find no harm there is no need to identify or weigh the public benefits.
25. The only conflict with the SPD that has been alleged by the Council concerns paragraph 3.22 thereof. It says: "*In assessing applications for listed building consent...*", but I have explained why the deemed application does not involve such a judgment. I am however aware of the statutory duties that arise from section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ["the LBCA Act"]. For the reasons I have identified, I conclude that the outbuilding does preserve the setting of the listed building and the terrace of which it forms part and does preserve the character and appearance of the CA. Amongst other things, I disagree with the claim that "...if the structure can be seen from any [public or private] viewpoint then it is harmful"²⁴ and such an assertion is entirely inconsistent with the Council's decision at No 50.
26. On the main issue I conclude that the development preserves the character and appearance of the CA, the setting of the host building and the listed terrace of which it forms part. In my view, for the reasons I have given, the building is of a high quality contemporary design that respects its local context and, as such, I find no conflict with LP Policies D1 and D2, the SPD or the CAA.

Other matters

27. The delegated report discounts the effect of the development on neighbours' living conditions, including by reason of loss of privacy and overshadowing; I have no reason to disagree. Although I have noted the concerns expressed in that report in relation to light pollution I am unconvinced that this would cause harm to neighbours' living conditions. The planting in the rear garden would disrupt light dispersal from the glass façade and this adds to my reasons why it is necessary to impose a condition to ensure its maintenance and retention.

²³ Source of quote: paragraph 3.8 of the Council's letter dated 2 May 2018.

²⁴ Source of quote: paragraph 3.6 of the Council's letter dated 2 May 2018.

28. The Council alleges that, if permitted, this would set an unacceptable precedent but it is an established planning principle that each application or appeal should be determined on its own merits. For this reason, whilst I have referred to the developments that set the immediate context for the appeal site, I do not find great assistance from those further afield, including the quoted appeal²⁵. In any event, given that I have found this particular scheme to be acceptable in its specific context it cannot set an *unacceptable* precedent.

Planning condition

29. The Council did not suggest any conditions but, for the reasons set out in my substantive assessment, there is a need to impose a planning condition to ensure that the landscaping establishes, that any plants that die are replaced and that it is maintained. The conventional period is the first 5 years because past that point the planting will have either taken or failed, as the case may be, and whilst I acknowledge that it appears to have been in place for some time I consider that such a period would not be inappropriate in this case.
30. In framing the condition I shall require a record to be provided of the planting that exists and this could be in the form of a plan, photographs, or a mix. The objective is for there to be a record against which replacement planting or even potentially enforcement, if necessary, could take place. The maintenance might be as simple as watering in prolonged dry periods and protecting from snow and frosts, to ensure the building remains grounded in its landscape setting to address the Council's concern. I shall impose a retention clause in line with condition 5 of the planning permission at No 50 [Ref 2015/1507/P].
31. I acknowledge that this approach is unusual in relation to a private rear garden but I consider that it meets the tests for conditions in paragraph 206 of the Framework because the scheme has been expressly advanced on the basis that it is a holistic design. So, returning to the prospect that a prospective occupier might wish to remove the planting in order to provide a more functional area, the condition that I shall impose would ensure that a planning application would be required to amend the condition in order to remove the planting. This would ensure that the Council would retain control and that neighbours and other interested parties would be consulted about that application.

All Appeals: Ground (a): Overall conclusion

32. My finding on the main issue leads me to conclude that the ground (a) appeals, the deemed planning applications, should succeed. In those circumstances the appeals under grounds (f) and (g) do not fall to be considered.

All Appeals: Conclusion

33. For the reasons given, and having regard to all other matters raised, I conclude that the appeals should be allowed. I shall quash the enforcement notice and grant planning permission on the applications deemed to have been made under section 177(5) of the Act subject to the identified planning condition.

Pete Drew
INSPECTOR

²⁵ Appeal Ref. APP/X5210/W/15/3063786.

Appendix C – Householder Decision Notice, Listed Building Decision Notice and Officer's Report (references 2013/6592/P and 2013/6742/L)

Mr Chris Kennedy
Undercover Architecture Ltd
Studio 2
Regents Park Road
London
NW1 7TX

Application Ref: **2013/6592/P**
Please ask for: **Aysegul Olcar-Chamberlin**
Telephone: 020 7974 **6374**

8 April 2014

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) Order 2010
Town and Country Planning (Applications) Regulations 1988

Householder Application Granted

Address:
48 Mornington Terrace
London
NW1 7RT

Proposal:
Erection of single storey rear extension on basement level, new rear lightwell with balustrade and alterations to rear ground floor windows of rear extension to dwellinghouse (Class C3).

Drawing Nos: A 001 A (Site Location Plan); A101 C; A102 C; A103 C; A151 B; A152 B; A153 B; A201 C; A250 B; A301 C; and A 351 B.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.



Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: A 001 A (Site Location Plan); A101 C; A102 C; A103 C; A151 B; A152 B; A153 B; A201 C; A250 B; A301 C; and A 351 B.

Reason:

For the avoidance of doubt and in the interest of proper planning.

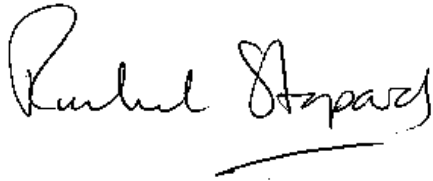
Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Rachel Stopard', with a horizontal line underneath.

Rachel Stopard
Director of Culture & Environment

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It is important to us to find out what our customers think about the service we provide. To help us in this respect, we would be very grateful if you could take a few moments to complete our [online planning applicants' survey](#). We will use the information you give us to monitor and improve our services.

Mr Chris Kennedy
Undercover Architecture Ltd
Studio 2
Regents Park Road
London
NW1 7TX

Application Ref: **2013/6742/L**
Please ask for: **Aysegul Olcar-Chamberlin**
Telephone: 020 7974 **6374**

8 April 2014

Dear Sir/Madam

DECISION

Planning (Listed Building and Conservation Areas) Act 1990
Planning (Listed Buildings and Conservation Areas) Regulations 1990

Listed Building Consent Granted

Address:
48 Mornington Terrace
London
NW1 7RT

Proposal:
External and internal alterations for erection of single storey rear extension on basement level, new rear lightwell with balustrade and replacement of rear ground floor windows of rear extension to dwellinghouse and associated internal alterations (Class C3).

Drawing Nos: A 001 A (Site Location Plan); A101 C; A102 C; A103 C; A151 B; A152 B; A153 B; A201 C; A250 B; A301 C; A 351 B; and Heritage Statement.

The Council has considered your application and decided to grant Listed Building Consent subject to the following condition(s):

Conditions And Reasons:

- 1 The works hereby permitted shall be begun not later than the end of three years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed



Buildings and Conservation Areas) Act 1990.

- 2 All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing adjacent work with regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the drawings or other documentation hereby approved or required by any condition(s) attached to this consent.

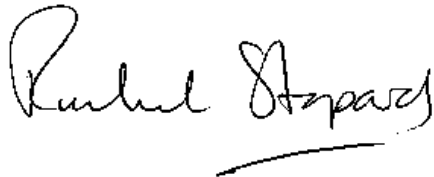
Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The works hereby approved are only those specifically indicated on the drawing(s) referred to above.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully

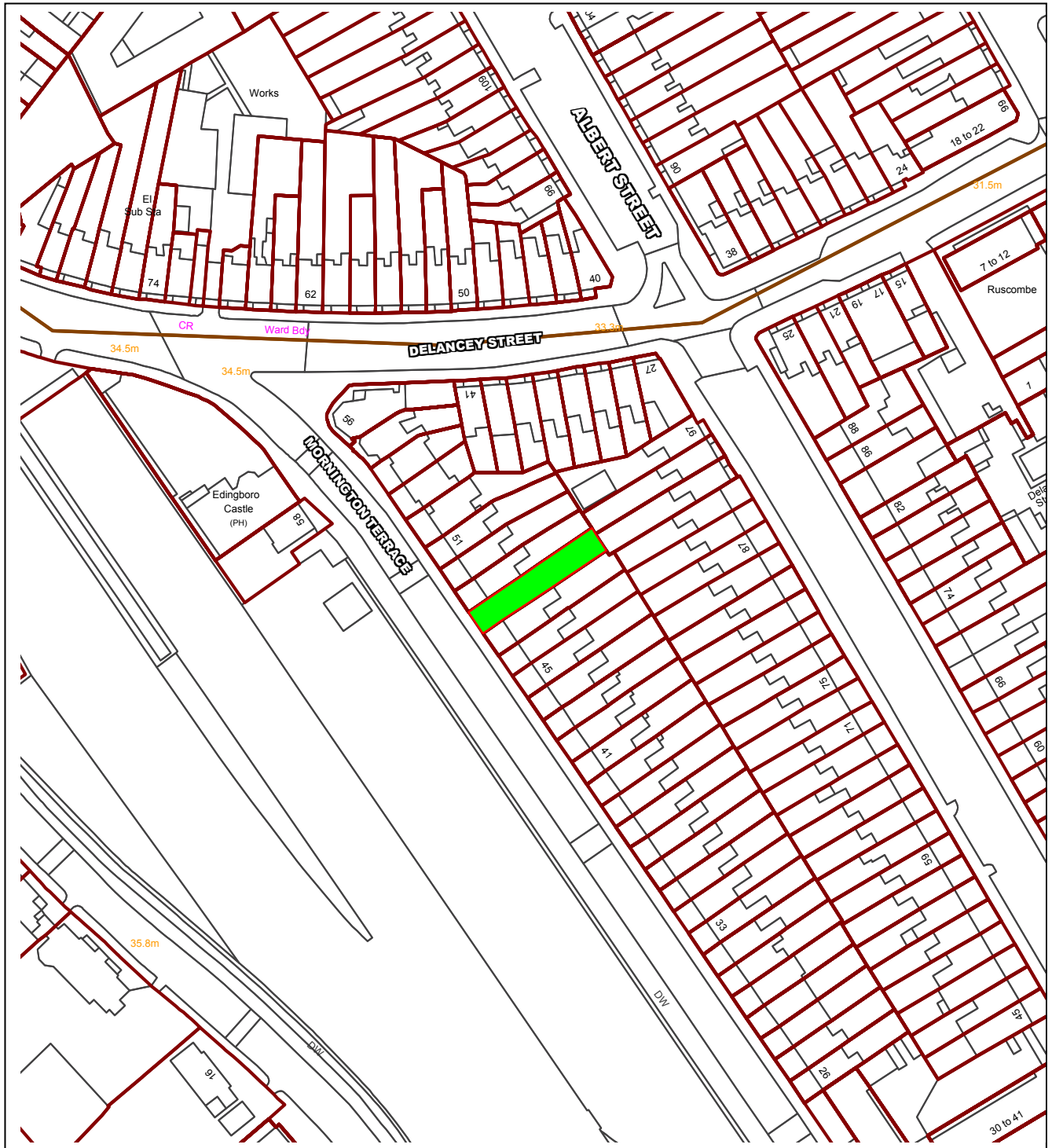


Rachel Stopard
Director of Culture & Environment

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48 MORNINGTON TERRACE



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Rear of application property



Rear of no. 47



Rear addition at the application property



Rear of basement level of application property



Rear addition at no. 49



Rear garden of application property

Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:	30/12/2013
		N/A		Consultation Expiry Date:	12/12/2013
Officer			Application Numbers		
Aysegul Olcar-Chamberlin			1) 2013/6592/P & 2) 2013/6742/L		
Application Address			Drawing Numbers		
48 Mornington Terrace London NW1 7RT			See decision notices		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature		
Proposals					
1) Erection of single storey rear extension on basement level, new rear lightwell with balustrade and alterations to rear ground floor windows of rear extension to dwellinghouse (Class C3). 2) External and internal alterations for erection of single storey rear extension on basement level, new rear lightwell with balustrade and replacement of rear ground floor windows of rear extension to dwellinghouse and associated internal alterations (Class C3).					
Recommendations:		1) Grant planning permission 2) Grant listed building consent			
Application Type:		Householder Application			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	23	No. of responses	00	No. of objections	00
			No. Electronic	00		
Summary of consultation responses:	<p>A site notice was displayed from 13/11/2013 to 04/12/2013. A press notice was advertised on 21/11/2013.</p> <p>No response form the adjoining occupiers has been received.</p>					
CAAC/Local groups comments:	<p>Camden Town CAAC objected to the proposal. In summary, the grounds of their objection are:</p> <ul style="list-style-type: none"> The proposed two storey rear extension despite glazing of the ground floor part would obscure a key feature of the rear elevation of this listed terrace. This key feature is the regular repeating projection outwards of the original rear additions from the main terrace and the strong visual counterplay between these two elements with the presence of the majority of the house's main rear wall extending to ground level. <p><i>Response: Please see assessment part of the report (paragraphs 1.1, 1.2, and 3.3-3.6).</i></p>					
Site Description						
<p>The application property is a four storey with basement level Grade II listed mid-terrace house on the east side of Mornington Terrace in the Camden Town Conservation Area. The property is constructed of yellow stock brick with rusticated stucco ground floors and forms part of a terrace of 27 houses dating from the mid 19th century. The general pattern to the rear of the terrace is that of relatively small, two storey closet wings.</p>						
Relevant History						
<p><u>Application property:</u></p> <p>2013/4286/P – Planning permission was refused on 02/09/2013 for the erection of rear extension at lower ground floor level of existing dwelling (Class C3) and associated landscaping. Reason for refusal:</p> <p><i>“The proposed extension, by reason of its bulk, mass, and inappropriate detailed design (including use of the roof as a terrace with the balustrade and steps), would be an uncharacteristic addition which would detract from the appearance and special architectural and historic interest of the grade II listed building, wider terrace and Conservation Area. This would be contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies.”</i></p> <p>The associated listed building consent (ref: 2013/4379/L) was refused on 02/09/2013.</p>						

2013/2239/P – Planning permission was refused on 13/06/2013 for the erection of basement and ground floor rear extension with first floor rear extension above, new rear lightwell with associated landscaping and glass canopy over front lightwell to existing dwelling (Class C3). Reasons for refusal:

- 1) *The proposed extensions, by reason of their inappropriate detailed design, scale, bulk and height on the rear elevation would be an incongruous and obtrusive addition to the building which would detract from the appearance and special architectural and historic interest of this terrace of Grade II listed buildings and the wider Conservation Area contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies.*
- 2) *The proposed glass canopy would be an uncharacteristic feature to the existing building and would have an adverse impact on the special architectural interest of the listed building, contrary to policy CS14 (Promote high quality places) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.*
- 3) *By virtue of their size and position the proposed rear extensions would have a detrimental impact on the daylight received by the residents at 49 Mornington Terrace. This would be contrary to policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and to policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Plan.*

2013/2343/L – Listed building consent was refused on 13/06/2013 for the erection of basement and ground floor rear extension with first floor rear extension above, new rear lightwell with associated landscaping, glass canopy over front lightwell and internal alterations to existing dwelling (Class C3). Reasons for refusal:

- 1) *The proposed extensions, by reason of their inappropriate detailed design, scale, bulk and height on the rear elevation would be an incongruous and obtrusive addition to the building which would detract from its appearance and special architectural and historic interest contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Development Policies.*
- 2) *The proposed glass canopy would be an uncharacteristic feature to the existing building and would have an adverse impact on the special architectural interest of the listed building, contrary to policy CS14 (Promote high quality places) of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 (conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.*
- 3) *The proposed internal alterations at second floor level would harm the historic plan form of the listed building and thereby detract from its special interest, contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy, and policy DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.*

28246 – Permission was refused on 06/06/1973 for the change of use of the first, second and third floors, including works of conversion, to provide three self-contained flats.

34063(R1) - Permission was granted on 17/09/1984 for the change of use of the basement to a self-contained dwelling unit, including works of conversion.

Neighbouring properties:

50 Mornington Terrace – An application for a two storey extension with access steps to the garden to rear of maisonette and associated landscaping was withdrawn on 26/04/2013 (refs: 2013/0841/P and 2013/0947/L).

46 Mornington Terrace - A similar proposal involving erection of a rear basement extension and a rear conservatory at ground-floor level with external steel staircase to the garden was refused on 20/08/2002 (ref: PEX0101054). The proposed extensions by virtue of their height and bulk were considered to dominate the rear elevation, detrimental to the character and appearance of the terrace.

37 Mornington Terrace - A similar first floor rear extension to the proposed one was refused on 08/09/2004 (refs: 2004/3039/P and 2004/3040/L) and dismissed at appeal on 22/04/2005. The inspector considered that the rear façade of the building would be badly affected by the first floor extension.

34 Mornington Terrace - A single storey conservatory type rear extension at lower ground floor level was approved on 01/09/2009 (ref: 2009/2679/P and 2009/2680/L).

Relevant policies

National Planning Policy Framework (NPPF) (2012)

London Plan (2011)

LDF Core Strategy and Development Policies (2010)

CS5 (Managing the impact of growth and development)

CS14 (Promoting high quality places and conserving our heritage)

DP24 (Securing high quality design)

DP25 (Conserving Camden's heritage)

DP26 (Managing the impact of development on occupiers and neighbours)

DP27 (Basements and light wells)

DP29 (Improving access)

Camden Planning Guidance (2011)

CPG1 (Design)

CPG4 (Basements and lightwells)

CPG6 (Amenity)

Camden Town Conservation Area and Appraisal and Management Plan (2007)

Assessment

1. Revisions

1.1 Originally, the proposed scheme included erection of a part two, part single storey infill rear extension, new rear lightwell secured by glass balustrade and new window to the existing ground floor extension. Following the officers' concerns over the scale of the proposed rear infill extension and its harmful impact to the internal special character and historic form of the existing listed building the proposed scheme has been revised.

1.2 The revisions included omission of the glass ground floor element of the rear extension, changing the solid roof form of the lower ground floor element of the extension into a glass roof and reconfiguring the rear lightwell.

2. Proposal

2.2 It is proposed to erect a single storey rear extension at lower ground floor level, new rear lightwell secured by glass balustrade, new steps from the existing ground floor rear extension to the garden level and replacement of the rear casement windows at the existing ground floor rear extension with new timber sash windows.

2.3 The proposed rear extension would infill the gap between the rear addition at the application property and the rear addition at 47 Mornington Crescent and would be set back by approximately 3m from the existing rear ground floor extension at the application property. It would have a depth of 4.9m, a width of 2.8m and a height of 2.3m with a flat glass roof. The rear elevation of the proposed extension would also be in glass.

2.4 The proposed rear lightwell would be 2m by 2.8m and 1.6m below the garden level and would serve the proposed rear extension.

3. Impact on Listed Building and Conservation Area:

3.1 Policy DP24 states that the Council will require all developments, including alterations and extensions to be of the highest standard of design and respect character, setting, form and scale of the neighbouring properties and character and proportions of the existing building. Policy DP25 aims to preserve and enhance the borough's listed buildings and states that the Council will only grant consent for a change of use or alterations and extensions to a listed building where it considers this would not cause harm to the special interest of the building.

3.2 The supporting text in paragraph 3.22 of CPG1 states that the Council will consider the impact of proposals on the historic significance of the building, including its features, such as:

- original and historic materials and architectural features;
- original layout of rooms;
- structural integrity; and
- character and appearance.

3.3 The proposed rear extension:

In terms of rear extensions section 4 of CPG1 advises that rear extensions should be secondary to the building being extended in terms of location, form, scale, proportions, dimensions and detailing.

To the rear of the building there is currently a deep half width addition at ground floor and lower ground floor levels, projecting around 8m from the rear of the house. This appears to date from the mid to late 20th century. This rear addition is already entirely out of proportion with the listed mid 19th century house. At basement level the projecting rear addition is shallower due to the rising ground level at the back of the house. There is a small open basement courtyard area accessed by steps from the upper garden level.

3.4 It is noted that the Council granted planning permission in 2009 for a glazed rear infill extension at basement level of 34 Mornington Terrace. The proposed rear extension would be similar to this recently approved extension its terms of its size, position and design except it would have a flat roof instead of a leaned mono-pitched roof.

3.5 The proposed infill extension would be approximately 0.6m below the garden level and would not significantly change the rear elevation of the existing building. Although it would create a deep plan on

the basement / lower ground floor level it would be lightweight and therefore would not harm the spatial characteristics of the lower ground floor level.

3.6 The proposed extension is considered to be acceptable in design terms as it would not harm the character and appearance of the listed building and the wider conservation area.

3.7 The proposed rear lightwell and new external steps:

The proposed balustrade would be 1.1m above the garden level and would be a modest addition therefore it would not significantly affect the rear elevation of the existing building.

3.8 The proposed external stairs from the existing rear ground floor extension would be appropriate to the setting of the listed building.

3.9 Internal alterations: The existing layout of the lower ground and ground floor levels would be retained. The existing fittings would be restored and all the existing joineries would be restored and maintained.

4. Excavation of garden

4.1 The proposal would result in excavation of the existing steps from the rear basement level to the garden and small proportion of the rear garden (approximately 6sqm) in association with the proposed lightwell. The maximum depth of the excavation would be 1.6 m (below the garden level) and the volume of the proposed excavation would be approximately 16 cubic metres. The excavation of rear garden by reason of its small scale is considered not to require full basement impact assessment and it is unlikely to impact the structural stability of the adjoining structures and ground water conditions.

5. Neighbouring Amenity

5.1 Policy DP26 aims to protect the quality of life of neighbours that might be affected by developments.

5.2 The proposed rear infill extension by reason of its location would not be likely to affect the residential amenities of the neighbouring properties any worse than the existing situation.

6. CIL

6.1 The proposed additional residential floorspace would be below 100sqm therefore the proposal would not be liable to MoL's CIL.

7. Conclusion

7.1 The proposal would not harm the special architectural and historic interest of the listed terrace and the character and appearance of the wider conservation area. The proposal would also not affect the amenities of the neighbouring properties.

8. Recommendation: Grant both planning permission and listed building consent

DISCLAIMER

Decision route to be decided by nominated members on Monday 24th March 2014. For further information please go to www.camden.gov.uk and search for 'members briefing'

Undercover Architecture Ltd
Studio 2
Regents Park Road
London
NW1 7TX

Application Ref: **2013/6592/P**
Please ask for: **Aysegul Olcar-Chamberlin**
Telephone: 020 7974 **6374**

20 March 2014

Dear Sir/Madam

DRAFT
DECISION

Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Development Management Procedure) Order 2010
Town and Country Planning (Applications) Regulations 1988

Householder Application Granted

Address:
48 Mornington Terrace
London
NW1 7RT

DECISION

Proposal:

Erection of single storey rear extension on basement level, new rear lightwell with balustrade and alterations to rear ground floor windows of rear extension to dwellinghouse (Class C3).

Drawing Nos: A 001 A (Site Location Plan); A101 C; A102 C; A103 C; A151 B; A152 B; A153 B; A201 C; A250 B; A301 C; and A 351 B.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Conditions and Reasons:

- 1 The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The development hereby permitted shall be carried out in accordance with the following approved plans: A 001 A (Site Location Plan); A101 C; A102 C; A103 C; A151 B; A152 B; A153 B; A201 C; A250 B; A301 C; and A 351 B.

Reason:

For the avoidance of doubt and in the interest of proper planning.

Informative(s):

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Compliance and Enforcement team [Regulatory Services], Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

Yours faithfully

Culture and Environment Directorate
(Duly authorised by the Council to sign this document)

DRAFT

DECISION

Undercover Architecture Ltd
Studio 2
Regents Park Road
London
NW1 7TX

Application Ref: **2013/6742/L**
Please ask for: **Aysegul Olcar-Chamberlin**
Telephone: 020 7974 **6374**

20 March 2014

Dear Sir/Madam

DRAFT
DECISION

Planning (Listed Building and Conservation Areas) Act 1990
Planning (Listed Buildings and Conservation Areas) Regulations 1990

Listed Building Consent Granted

Address:
48 Mornington Terrace
London
NW1 7RT

DECISION

Proposal:

External and internal alterations for erection of single storey rear extension on basement level, new rear lightwell with balustrade and replacement of rear ground floor windows of rear extension to dwellinghouse and associated internal alterations (Class C3).

Drawing Nos: A 001 A (Site Location Plan); A101 C; A102 C; A103 C; A151 B; A152 B; A153 B; A201 C; A250 B; A301 C; A 351 B; and Heritage Statement.

The Council has considered your application and decided to grant listed building consent subject to the following condition(s):

Conditions And Reasons:

- 1 The works hereby permitted shall be begun not later than the end of three years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed

Buildings and Conservation Areas) Act 1990.

- 2 All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing adjacent work with regard to the methods used and to material, colour, texture and profile, unless shown otherwise on the drawings or other documentation hereby approved or required by any condition(s) attached to this consent.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 3 The works hereby approved are only those specifically indicated on the drawing(s) referred to above.

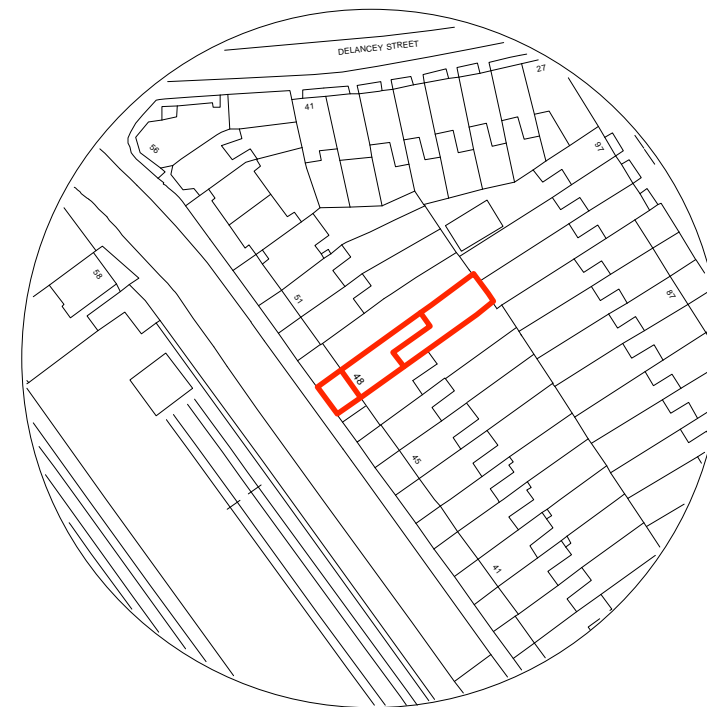
Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

Your attention is drawn to the notes attached to this notice which tell you about your Rights of Appeal and other information.

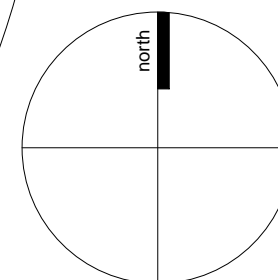
Yours faithfully

Culture and Environment Directorate
(Duly authorised by the Council to sign this document)

Appendix D – Approved Drawings for Householder and Listed Building Applications (reference 2013/6592/P and 2013/6742/L)



Site Location Plans
Scale 1:1250 @ A3
0 10 20 30 40 50 M
Scale Meters



Site Block Plan
Scale 1:500 @ A3
0 5 10 15 20 25 M
Scale Meters

UNDERCOVER
ARCHITECTURE LTD

Studio 2
6 Regents Park Road, NW1 7TX
T: +44 20 7209 9360
E: info@undercoverarchitecture.com

PROJECT TITLE 48 MORNINGTON TERRACE
LONDON, NW1 7RT
CLIENT **UNDERCOVER**
ARCHITECTURE LTD

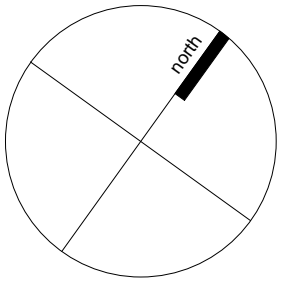
DATE 17TH APRIL 2013
SCALE AS SHOWN

DRAWING TITLE **SITE LOCATION AND BLOCK PLAN**
DRAWING N. A 001

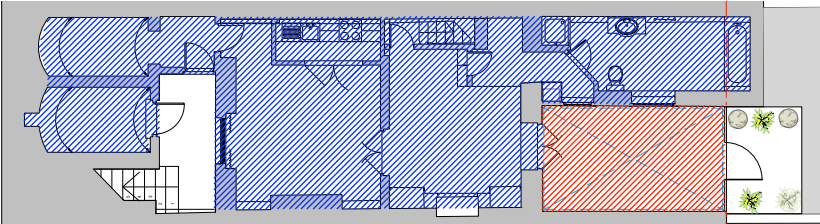
REVISION
A

PLANNING

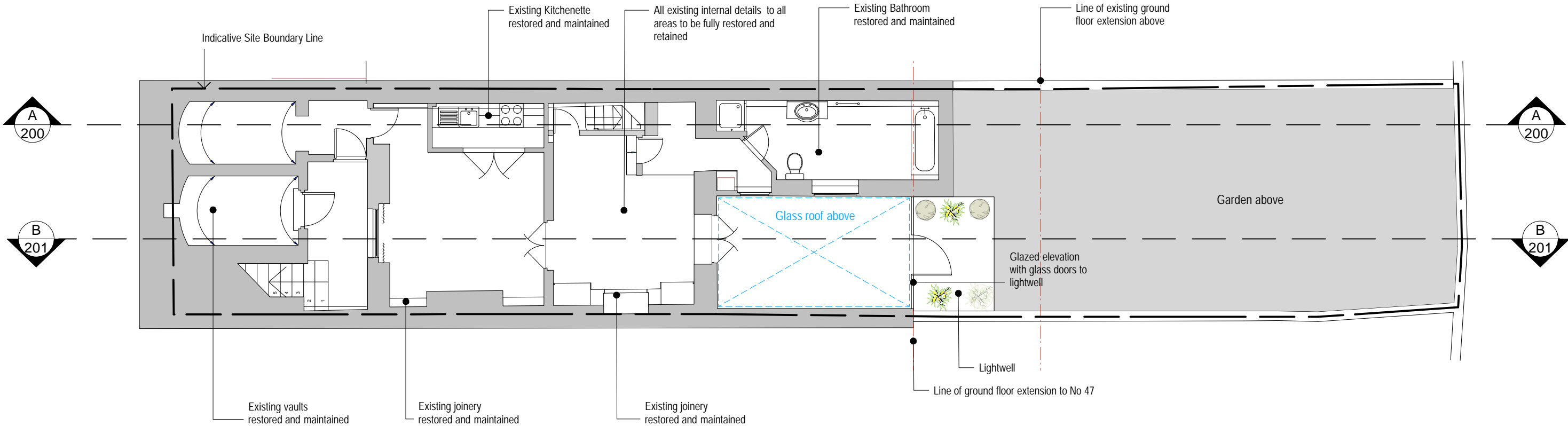
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Square metre areas of existing and proposed lower ground floor:



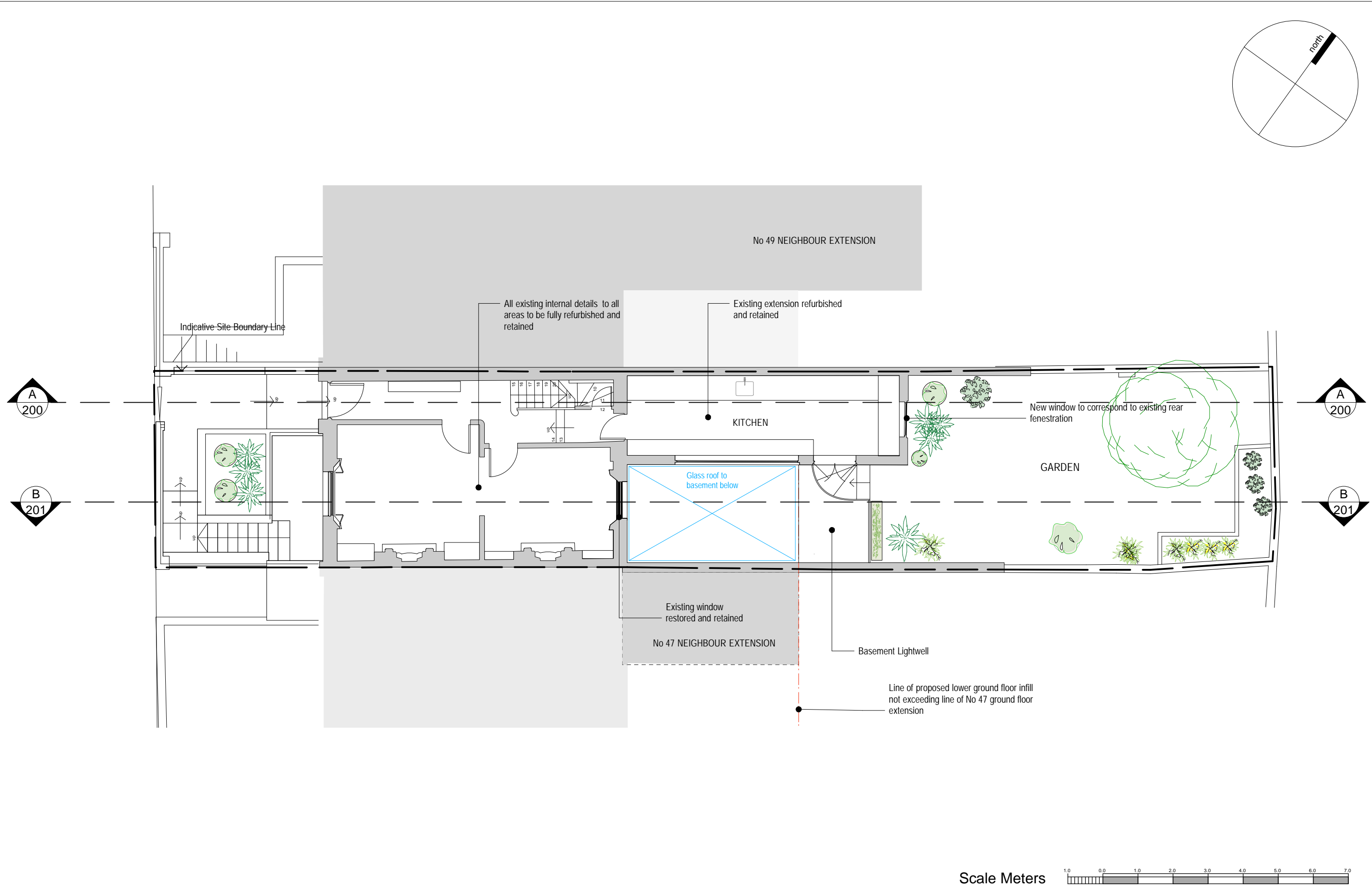
Existing Lower ground floor: 67 sq.m
Extension: 13.5 sq.m



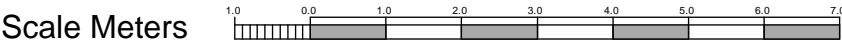
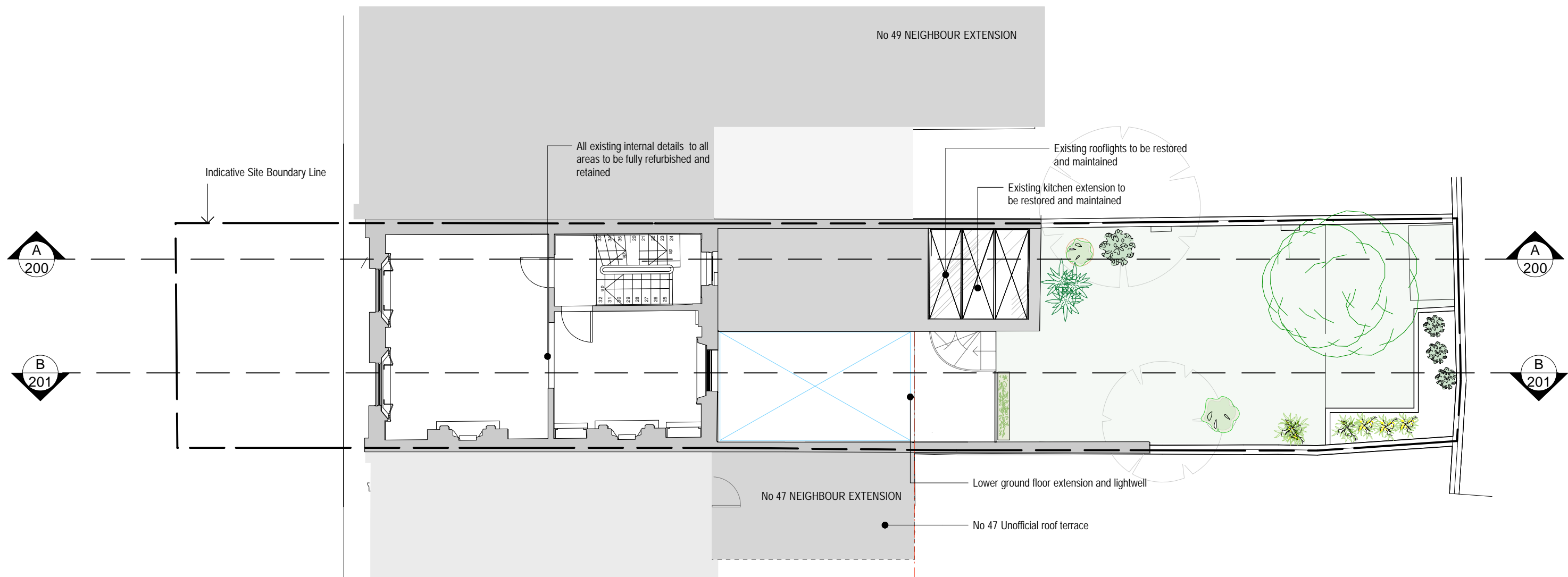
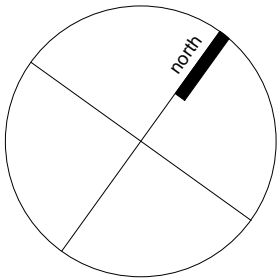
Scale Meters



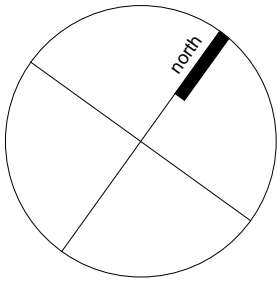
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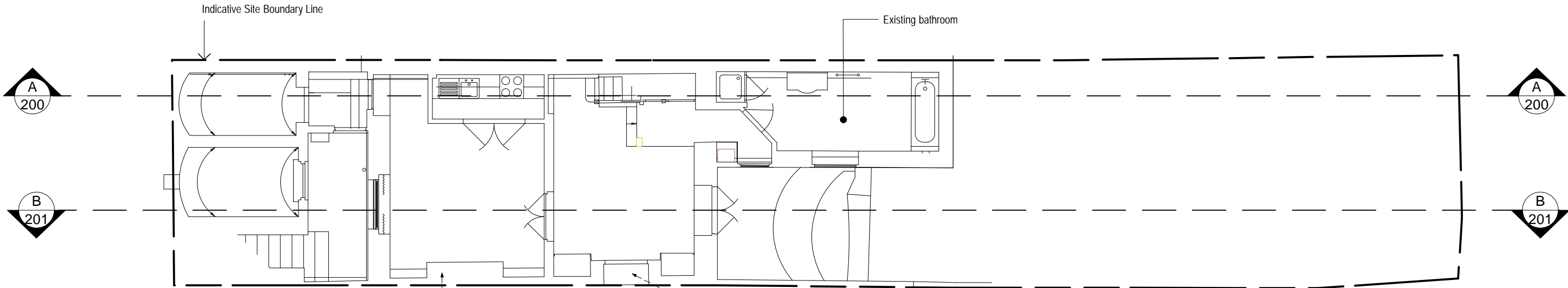
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KEY:



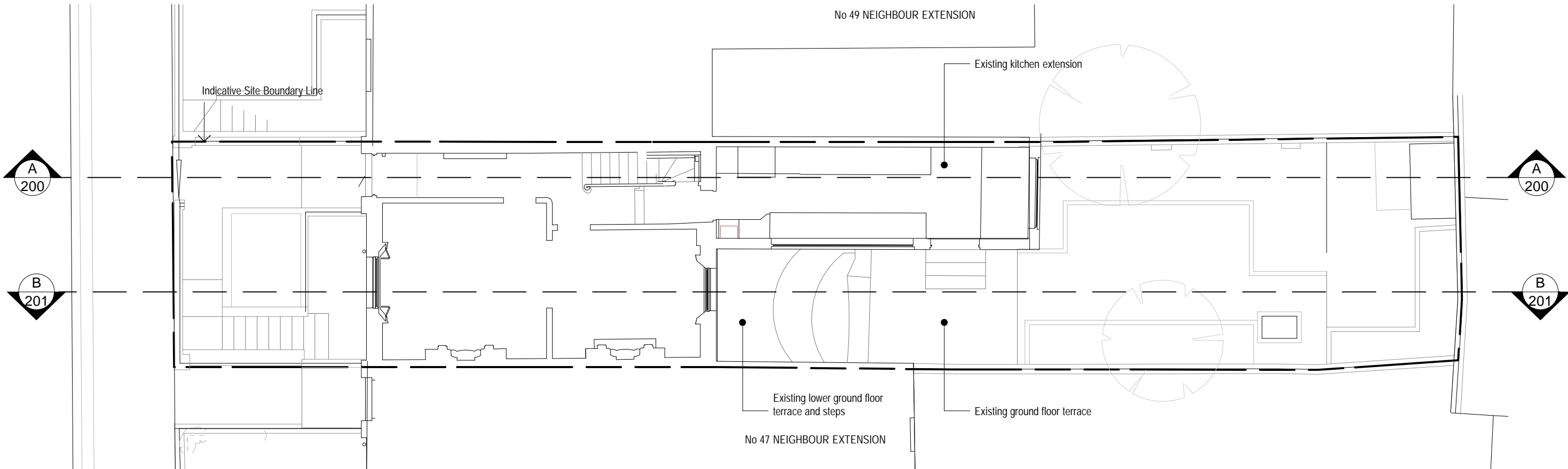
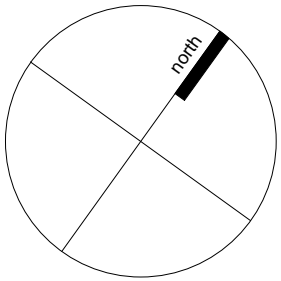
Existing joinery

Scale Meters

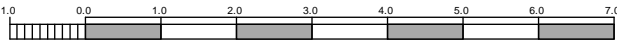


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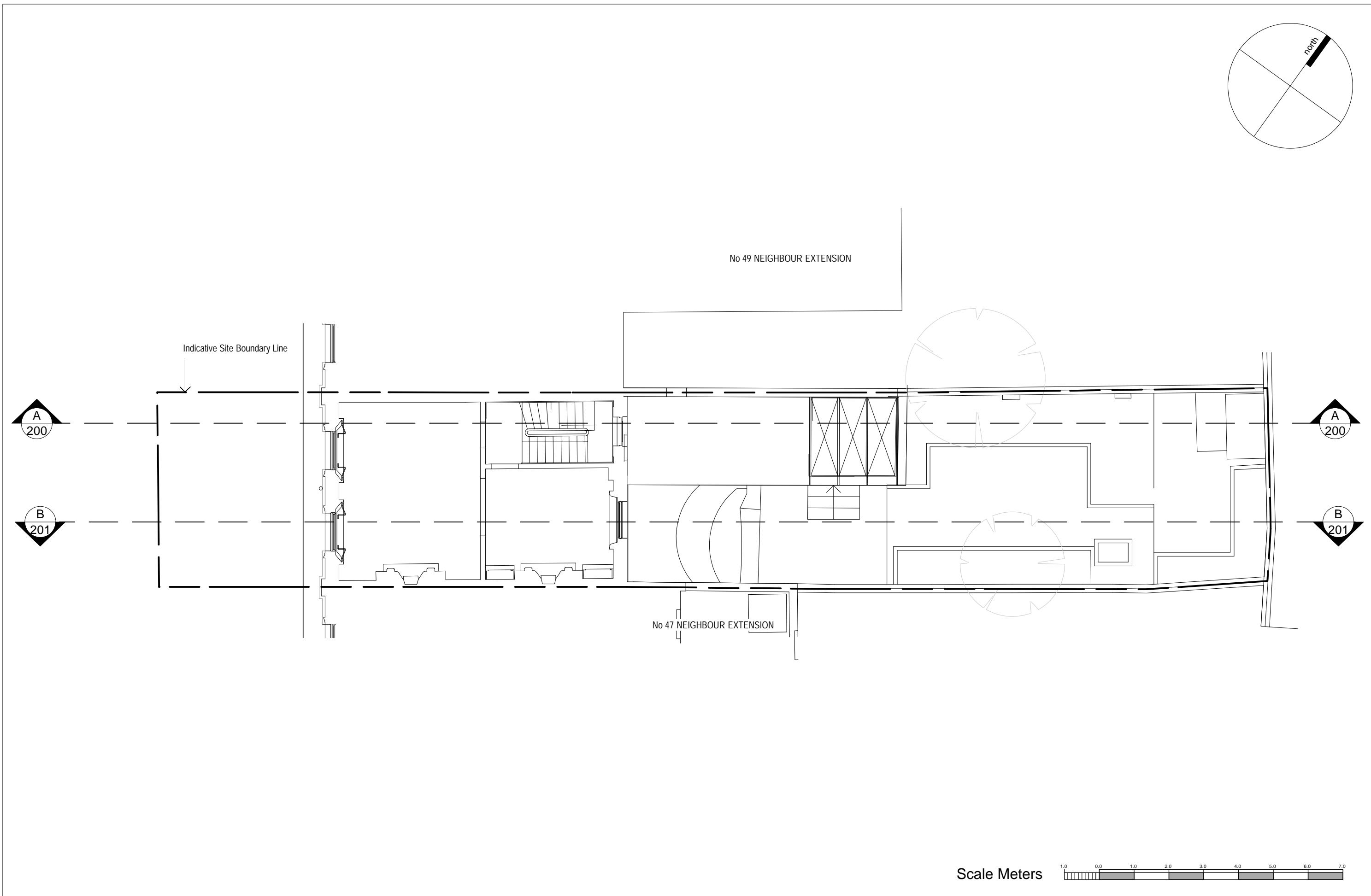
Existing extension and ground floor terrace:



Scale Meters



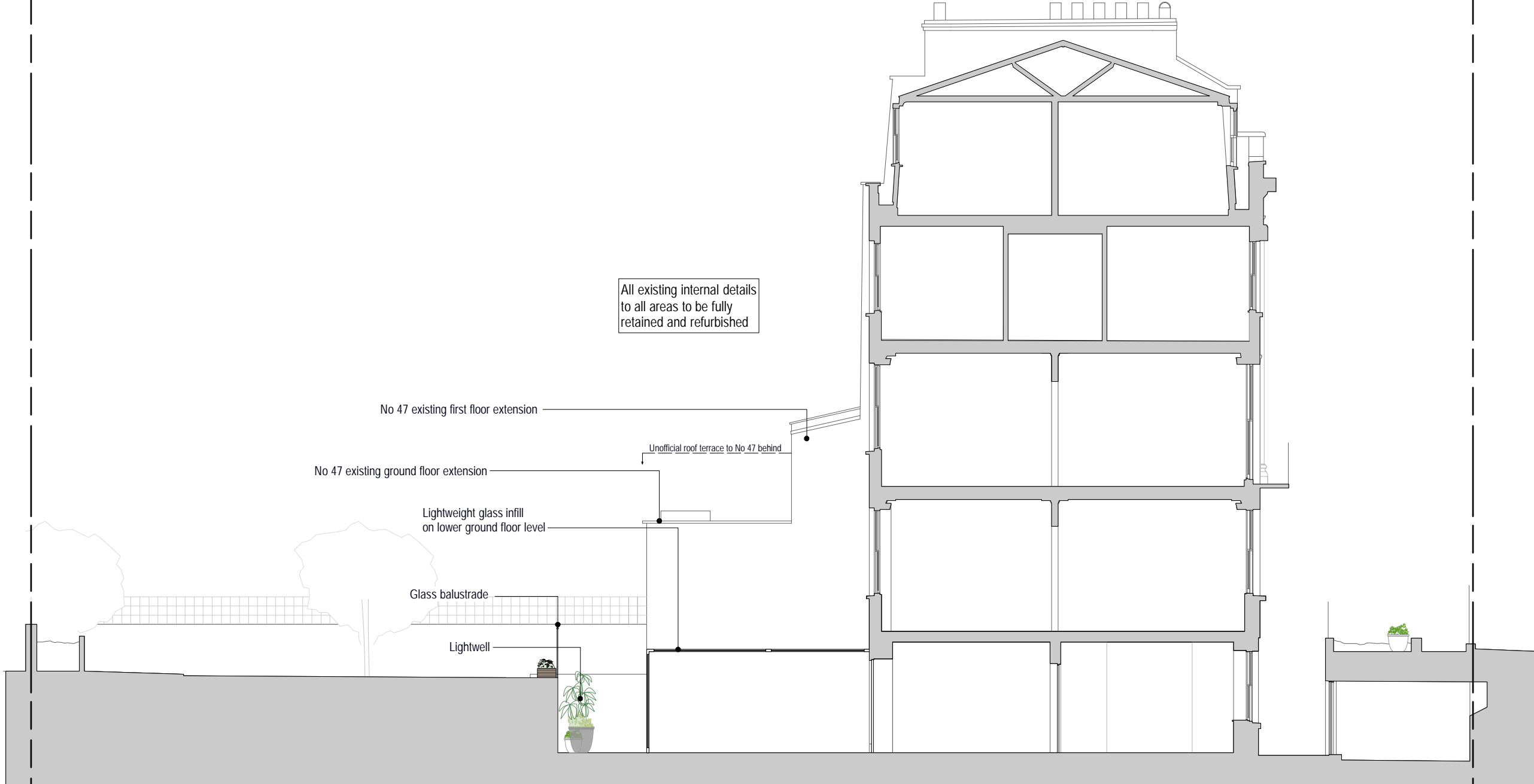
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Indicative Site Boundary

Indicative Site Boundary



SECTION B-B

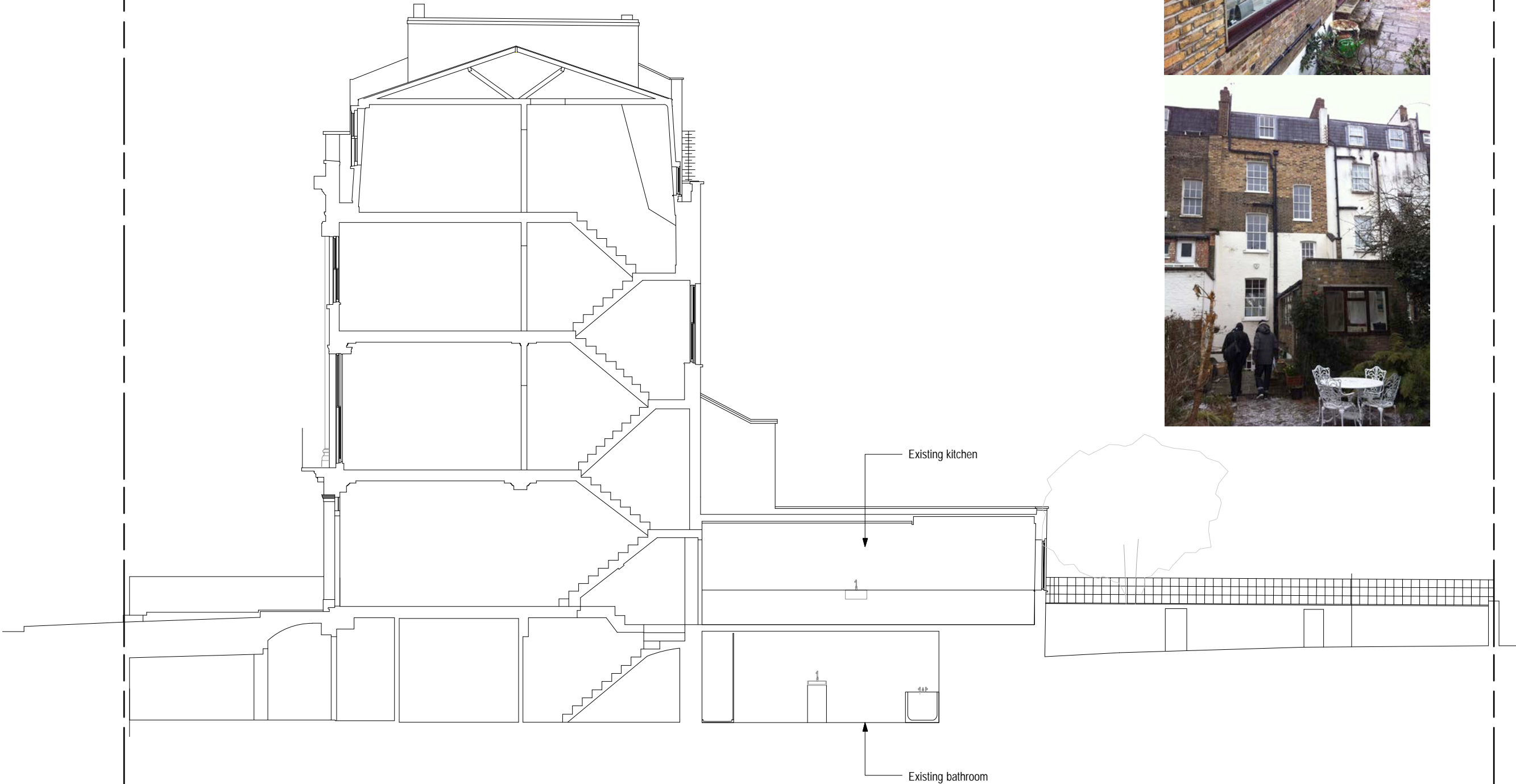


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Indicative Site Boundary

Indicative Site Boundary

Existing extension:



SECTION A-A

Scale Meters



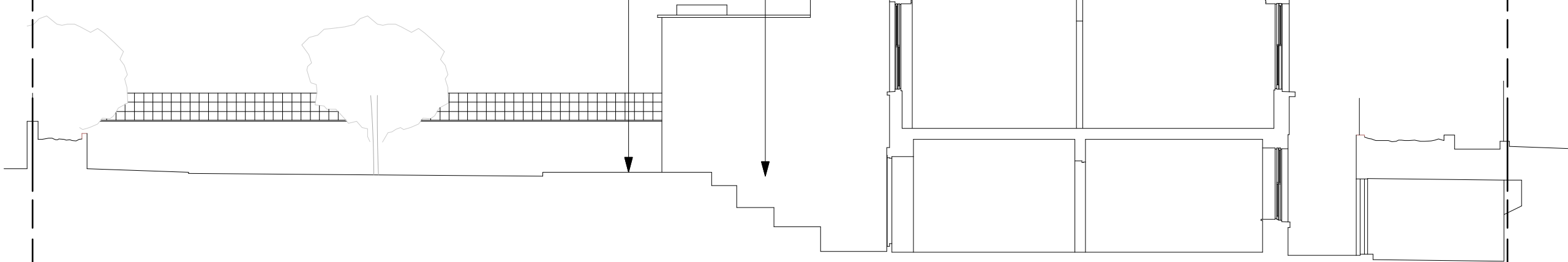
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Indicative Site Boundary

Existing steps



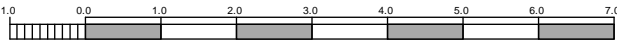
Existing ground floor terrace



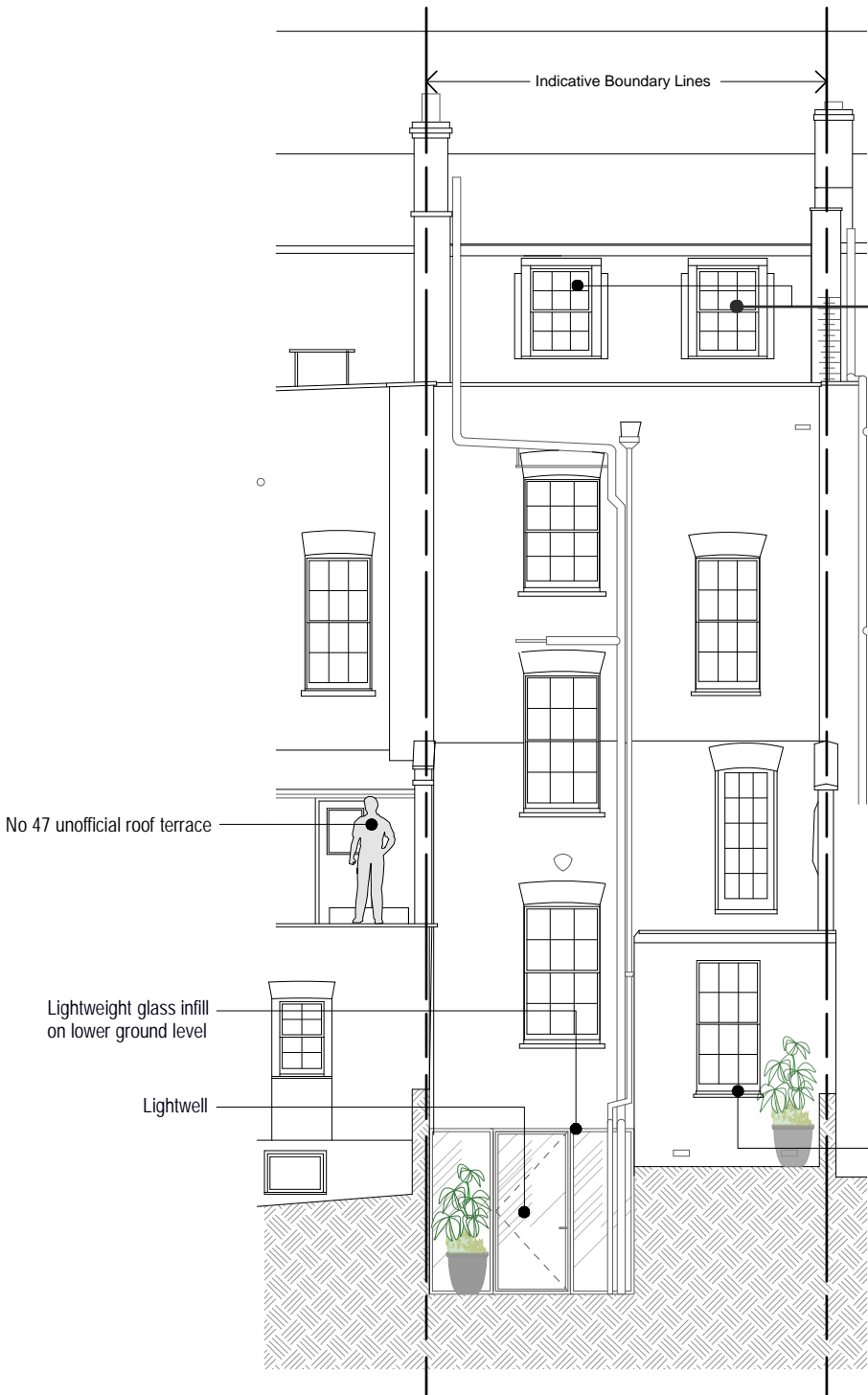
Indicative Site Boundary

SECTION B-B

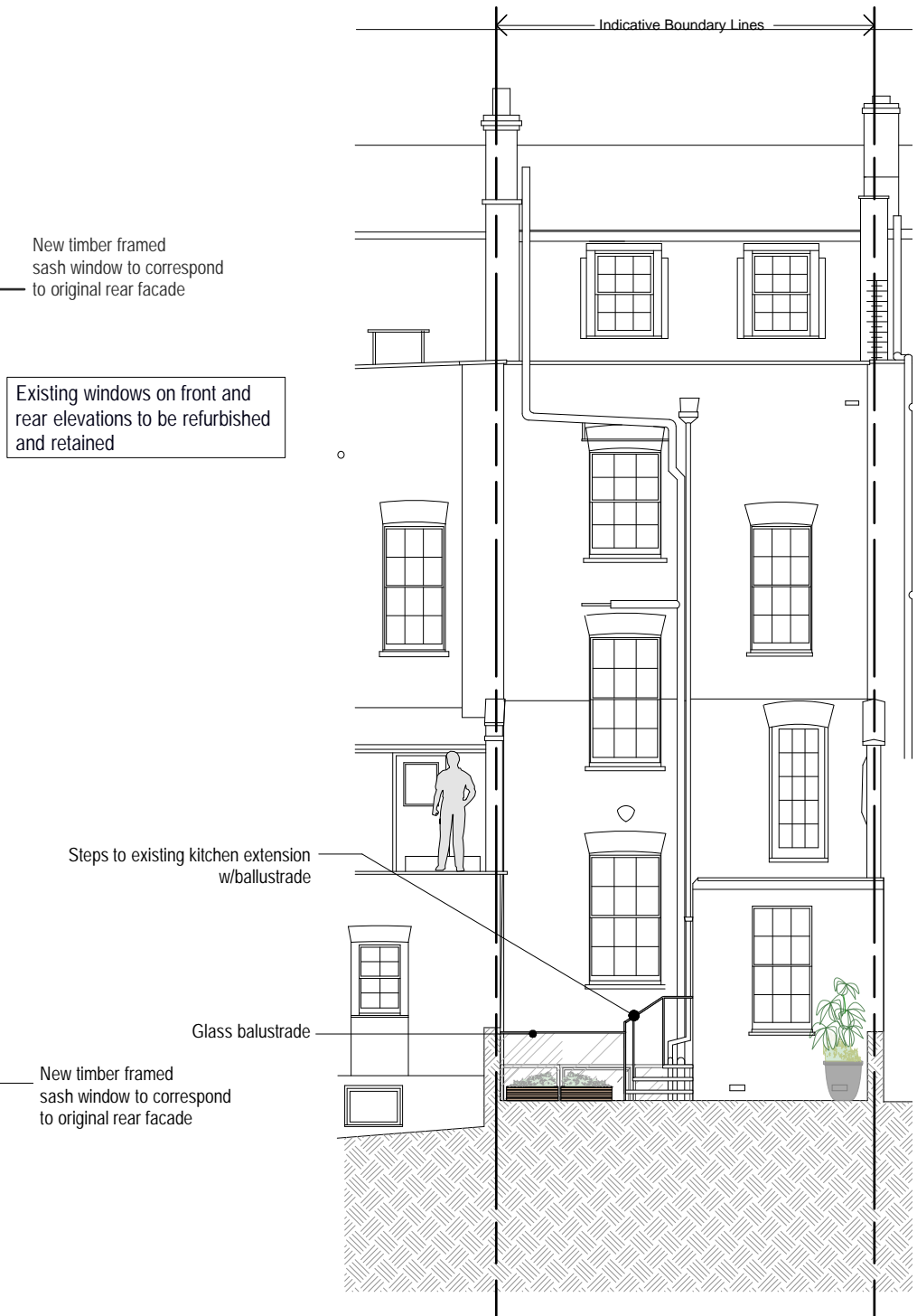
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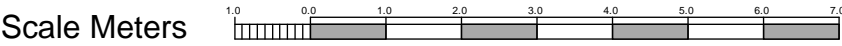
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Proposed Rear Elevation



Proposed Rear Elevation



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No 47 unofficial roof terrace

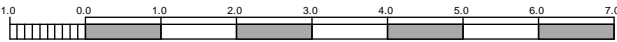


Existing extension



Existing Rear Elevation

Scale Meters



<div>UNDERCOVER</div> <div>ARCHITECTURE LTD</div>	<div>Studio 2 6 Regents Park Road, NW1 7TX</div> <div>T: +44 20 7209 9360 E: info@undercoverarchitecture.com</div>		<div>PROJECT TITLE</div> <div>48 MORNINGTON TERRACE LONDON, NW1 7RT</div>	<div>DATE</div> <div>2nd September 2013</div>	<div>DRAWING TITLE</div> <div>EXISTING REAR ELEVATION</div>	<div>REVISION</div> <div>B</div>	<div>PLANNING</div>	<div>This drawing is the copyright of Undercover Architecture Ltd and may not be copied, altered or reproduced in any way or passed to a third party without written authority. All dimensions are subject to site survey and site verification. Do not scale.</div>
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