

Delegated Report		Analysis sheet	Expiry Date:	17/05/2021
		N/A / attached	Consultation Expiry Date:	17/05/2021
Officer			Application Number(s)	
Laura Hazelton			(i) 2021/0409/P (ii) 2021/0406/L	
Application Address			Drawing Numbers	
111 Frognal London NW3 6XR			Please refer to decision notice	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
<p>(i) Variation of condition 3 (approved drawings) of planning permission ref: 2019/6089/P granted 03/03/2020 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, changes to footprint of rear extensions at ground and lower ground floor level, replacement of rear wall, installation of railings and planters to rear, and changes to new window design.</p> <p>(ii) Variation of condition 2 (approved drawings) of listed building consent ref: 2019/6100/L granted 03/03/2020 for the erection of basement room beneath garden, erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment (summary); Namely, changes to internal layouts, changes to footprint of rear extensions at ground and lower ground floor level, replacement of rear wall, installation of railings and planters to rear, changes to new window design, replacement floor joists, amendment to stair position.</p>				

Recommendations:

- (i) Refuse Planning Permission and enforcement action to be taken**
- (ii) Refuse Listed Building Consent and enforcement action to be taken**
- (iii) That the Borough Solicitor be instructed to issue a Breach of condition notice under Section 187 A of the Town and Country Planning Act 1990 as amended requiring compliance with condition 2 of planning permission reference 2019/6089/P granted 03/03/2020, and officers be authorised in the event of non-compliance, to commence legal proceedings under Section 187 A(8) and (9) or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.**
- (iv) That the Borough Solicitor be instructed to issue a Listed Building Enforcement Notice under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, and in the event of non-compliance with the notice, the Borough Solicitor be authorised to pursue any legal action necessary to prosecute the owner under Section 43 of the Act and or other appropriate power and/or the Executive Director Supporting Communities be authorised to take direct action under Section 42 of the Act to secure compliance with the notice.**

Application Types:

Variation or Removal of Conditions

Conditions or Reasons for Refusal:	Refer to Draft Decision Notices					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	01	No. of objections	02
Summary of consultation responses:	<p>One letter of objection was received from Phillips Planning Services Ltd on behalf of the neighbouring residents at nos. 109 and 113 Frognaal on the following grounds (summary):</p> <p>General comments</p> <ul style="list-style-type: none"> The application documentation suggests that the proposed changes must be considered acceptable because the groundworks / setting out associated with them were 'approved' by the Council as part of the discharge of condition 5 of the original consent. The approval of the conditional details can in no way be taken to supersede or justify changes to the main parent planning permission. The fact that unauthorised works have been undertaken should not result in a more favourable consideration of a subsequent retrospective application. Rather, where such works are knowingly undertaken this may be considered a material factor weighing against the grant of retrospective consent. <p>Impact on neighbours</p> <ul style="list-style-type: none"> The amended design of the rear extension would project beyond the existing wall and be more visible, exacerbating the sense of enclosure and creating an overbearing impact which would adversely impact the amenity currently enjoyed by no.113. As part of the demolition of the rear extension and its replacement (boot room) on the boundary with No.109 the side wall of No.109 (also Grade II* listed) has been underpinned without listed building consent and without the provision of any engineering information / justification or party wall agreement. The additional projection sought at upper ground floor level will be more prominent and visible in views from the upper floor windows within the rear elevation of No.109 and from the garden. <p>Harm to the special character of the Grade II* listed building</p> <ul style="list-style-type: none"> In summary it is clear that No.111 was listed for its association with the wider listed grouping including the main house. Its character is that of an ancillary stable block of one room deep plan form with a single storey and attic accommodation. The association with Sir Anthony Caro is also of great significance. The proposals are harmful in a number of aspects. The extensions if permitted would no longer be subordinate but rather would overpower and completely distort the plan form of the building. The original character as an ancillary, one room deep stable block would be completely lost. Cumulatively the additions would almost double the building's footprint. The upper ground floor would be extended by an additional metre. 					

	<p>The extension is already large and there is no justification for additional depth. The further extension would result in a disproportionate extension at this level.</p> <ul style="list-style-type: none"> • There are no material considerations or public benefits which justify the harm that would be caused.
<p>Historic England</p>	<p>On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation advisers, as relevant.</p> <p>Authorisation to Determine an Application for Listed Building Consent as Seen Fit received from Secretary of State 26/03/2021.</p>
<p>CAAC/Local groups comments:</p>	<p>No response received from Hampstead CAAC or Hampstead Neighbourhood Forum.</p>

Site Description

The site is a stable block range dating from approximately 1740, attributed to Flitcroft and listed Grade II*, adapted by noted New Brutalists the Smithsons for sculptor Caro in the 1960s.

The façade retains its general form, although the doors and windows have been replaced (apart from one sash window) and the brickwork has been painted. Flat box dormers were previously inserted in the roof to replace originals. The interior has been extensively modernised, including the conversion of some of the attics to rooms with a box-back mansard, however, appreciation of the site's original function, as a stable block, has been retained in the single-room plan.

To the rear, a large garden slopes towards the house, terminating in flights of concrete steps, herbaceous borders and a small concrete terrace.

The site is located on the western side of Frogna1, a quiet residential road accessed from Frogna1 Rise. It is within the Hampstead Conservation Area and Hampstead Neighbourhood Forum Area.

Relevant History

2019/6089/P & 2019/6100/L - Demolition of non-original extensions including rear dormer, uPVC greenhouse and boiler house; excavation of rear garden and erection of basement room beneath garden; erection of single storey rear extension at upper ground level and reinstatement of historic gabled rear elevation; replacement front dormer windows; internal and external refurbishment including removal of non-original partition walls and staircase, alterations to front and rear fenestration and reinstatement of timber stable doors. Granted 03/03/2020.

2020/3181/P - Details of basement engineer, building foundations, and tree protection measures required by conditions 4, 5 and 6 of planning permission granted on 03/03/2020 under ref: 2019/6089/P for the 'Demolition of non-original extensions including rear box back extension, uPVC greenhouse and boiler house; excavation of rear garden and erection of basement room beneath garden; erection of single storey rear extension at upper ground level and reinstatement of historic sloping roof, rear dormer and gable; replacement front dormer windows; internal and external refurbishment including removal of non-original partition walls and staircase, alterations to front and rear fenestration and reinstatement of timber stable doors'. Granted 05/08/2020.

2020/5992/P & 2020/5993/L – Demolition of rear garden sheds and erection of replacement outbuilding. Pending determination.

2004/2563/P & 2005/0330/L - Retention of higher replacement gates at front boundary and new trellis on existing front boundary brick wall, plus retention of replacement metal gates at rear entrance facing Oak Hill Way. Granted 18/03/2005.

3364 - The erection of a two storey addition to the rear of 111 Frogna1, Hampstead. Granted 08/08/1960.

Relevant policies

National Planning Policy Framework 2019

NPPG

London Plan 2021

Mayor's Supplementary Planning Guidance

Camden Local Plan (2017)

- A1 Managing the impact of development
- A2 Open space
- A3 Biodiversity
- A5 Basements
- D1 Design
- D2 Heritage
- T1 Prioritising walking, cycling and car-free development
- T4 Sustainable movement of goods and materials
- DM1 Delivery and monitoring

Hampstead Neighbourhood Plan 2018

- DH1 – Design
- DH2 – Conservation areas and listed buildings
- NE2 – Trees
- NE4 – Supporting biodiversity
- BA1 – Basement impact assessments
- BA2 – Basement construction plans
- BA3 – Basement management plans

Supplementary Planning Policies

Camden Planning Guidance

- Amenity CPG 2021
- Basements CPG 2021
- Biodiversity CPG 2018
- Design CPG 2021
- Transport CPG 2021
- Trees CPG 2019

Hampstead Conservation Area Statement 2001

1. Background and Proposal

1.1 Planning permission and listed building consent were previously approved under references 2019/6089/P and 2019/6100/L (granted 03/03/2020) for the following works:

- Demolition of non-original extensions including rear box back extension, uPVC greenhouse and boiler house;
- Excavation of rear garden and erection of basement room beneath garden;
- Erection of single storey rear extension at upper ground level;
- Reinstatement of historic sloping roof, rear dormer and gable;
- Installation of replacement front dormer windows;
- Internal and external refurbishment including removal of non-original partition walls and staircase, alterations to front and rear fenestration and reinstatement of timber stable doors.

1.2 Planning permission was granted subject to a number of conditions including:

- Condition 4 requiring details of the basement engineer to be submitted for approval;
- Condition 5 requiring details of the design of building foundations in so far as they may affect trees on or adjoining the site, to be submitted for approval; and
- Condition 6 requiring details demonstrating how trees to be retained shall be protected during construction work to be submitted for approval.

1.3 Listed building consent was granted subject to conditions including condition 4 requiring detailed drawings or samples of the following:

- Plan, elevation and section drawings of all new doors and windows at a scale of 1:10 with typical moulding, architrave and glazing bar details at a scale of 1:1. Historic windows and doors shall be single-glazed (part a).
- Ceiling plans depicting proposed lighting plan, including no recessed spotlights (part b).
- Samples and manufacturer's details of new facing materials including roof tiles shall be provided on site (part c).
- Sample panel of 1m x 1m of facing brickwork, demonstrating the proposed colour, texture, face-bond and pointing shall be provided on site (part d).
- Details of service runs for all new bathrooms/kitchens, demonstrating the relationship of new pipework with historic fabric (part e).

1.4 Permission is sought for various amendments to the approved proposals. These amendments have been partially implemented on site and therefore retrospective consent is now sought. The amendments include the following:

- Changes to approved basement extension to increase it from a maximum length of 6.9m and width of 4.2m to 7.9m long and 7.9m wide, including an additional extension of 2.3m x 2.4m to the northern boundary. The gross internal area of the basement room would be increased from approximately 22sqm to 52sqm (retrospective).
- Changes to approved rear extension to increase it from approximately 6.6m wide and 4.6m long to 6.26m wide and 5.56m long, to increase the overall footprint by 2sqm.
- Extension of 'boot room' by 1m.
- Replacement of rear wall adjoining lower ground and upper ground rear extensions and associated replacement of floor joists.
- Installation of railings and planters around the lower ground floor courtyard.
- Changes to materials including the introduction of a green glazed brick to external walls facing courtyard.
- Change to glazing bar pattern of front sash window.
- Changes to design of garden basement windows.
- Internal alterations to the positions of proposed walls, stairs, windows and doors.

- 1.5 By way of justification for the amendments to the basement layout, reference is made to a previous application for the approval of details reserved by condition which was submitted to discharge conditions 4, 5 and 6 (reference 2020/3181/P) and approved by the LPA on 05/08/2020. The drawings submitted to discharge conditions 5 and 6 showed an increase in the basement footprint and increased excavations compared to the approved drawings. There was no description, explanation or justification for these changes provided as part of the submission. The applicant asserts that these changes to the layout have already been approved by the approval of details application.
- 1.6 However, a discharge of a planning condition operates within the scope of the planning permission to which the condition relates. Accordingly, the details submitted to discharge a planning condition must not go beyond the terms of the planning permission, and equally, matters of principle established through the grant of the planning permission cannot be revisited in the submission of details. The discharge of a condition cannot be used to achieve what would amount to a revocation or a modification of a permission already given (see *Proberun Ltd v Secretary of State for the Environment* [1990] 3 PLR 79; *Kingsway Investments v Kent County Council* [1971] AC 72).
- 1.7 As such, the proposed changes to the basement are not considered to have been approved by the discharge of condition application, and the proposed changes must be considered afresh. The fact that the works have been implemented on site or were shown on drawings submitted to discharge conditions does not form a material consideration in the determination of the current applications.

2. Assessment

2.1 The principal planning considerations are considered to be the following:

- Design and Heritage
- Neighbouring amenity
- Basement excavation

3. Design and Heritage

Policy Framework

- 3.1 The Council's design policies are aimed at achieving the highest standard of design in all developments, including where alterations and extensions are proposed. Policy D1 of the Local Plan requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area; and Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings.
- 3.2 Policy DH1 of the Hampstead Neighbourhood Plan expects proposals to respect and enhance the character and local context of the relevant character areas, and to respond and contribute positively to the distinctiveness and history of the character areas through their design and landscaping. Policy DH2 requires development proposals to protect and/or enhance buildings (or other elements) which make a positive contribution to the conservation area, as identified in the relevant Conservation Area Appraisals and Management Strategies.
- 3.3 Camden's Local Plan is supported by CPG document 'Design' and the Hampstead Conservation Area Statement.
- 3.4 Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") provide a statutory presumption in favour of the preservation of the

character and appearance of Conservation Areas, and the preservation of Listed Buildings and their settings. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption.

- 3.5 The duties imposed by the Listed Buildings Act are in addition to the duty imposed by section 38(6) of the Planning and Compulsory Purchase Act 2004, to determine the application in accordance with the development plan unless material considerations indicate otherwise.

The National Planning Policy Framework 2019 (NPPF)

- 3.6 The NPPF requires its own exercise to be undertaken as set out in chapter 16 - Conserving and enhancing the historic environment. Paragraph 190 requires local planning authorities to identify and assess the particular significance of any heritage assets that may be affected by a proposal. Paragraphs 193-196 require consideration as to the impact of a proposed development on the significance of a designated heritage asset, including an assessment and identification of any harm/the degree of harm. Paragraph 196 states:

'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

Application site and assessment of significance

- 3.7 The application site is a former stable building, part of a larger estate by Flitcroft, listed grade-II*. It is one of four adjacent properties at nos. 105 – 111 Frognaal comprising the former house (Frognaal Grove) and its stable block and gardener's cottage, now four semi-detached properties. The four properties form part of a group listing, first listed in 1950 for their architectural and historic interest as well as their group value.
- 3.8 Frognaal Grove was a country house built by Henry Flitcroft in 1750. The estate, including the main manor house, outbuildings and gardens, was sold for conversion in 1953. Three dwellings were formed from the main house and a fourth from the stables and gardener's cottage (the site).
- 3.9 The original stable block built by Flitcroft in the 18th century was largely rebuilt and extended to the north in the mid/late 19th century by GE Street. As part of the 1950s subdivision of the estate, the stable block was divided in two and its courtyard separated. The southern bay of the stables now forms part of no.109 Frognaal which includes part of the stable and the late 19th-century extension of the house. No. 111 Frognaal comprises the former cottage (northern range) and the northern part of the stable block which contains two pedimented gabled bays (southern and northern transepts) either side of the central range.
- 3.10 The site was bought by Anthony and Sheila Caro in the late 1950s. The Caros converted the stables and gardeners cottage into residential accommodation and carried out a number of alterations including removal of historic dormers and the removal of stable doors and windows and replacement with casement windows to the front elevation. More significant changes were made to the rear including a new rear extension, excavation of garden ground level, removal of roof and erection of new box back extension, and changes to windows and doors.
- 3.11 As mentioned above, it is the building's historic and architectural interest which is considered to contribute to its significance. Its architectural interest derives from the surviving historic fabric and what remains of the original front façade, its simple layout as a loft above a stable, and its single-cell-deep plan form, attesting to its former use.

3.12 The building's historic interest derives from its relationship with the larger Frogna Grove estate, its historic association with Henry Flitcroft and GE Street, and the more recent association with the Caros.

Hampstead Conservation Area

3.13 The application site is located within Sub Area 5 (Frogna) of the Hampstead Conservation Area.

3.14 As described in the Conservation Area Statement, Hampstead has an exceptional combination of characteristics that provide the distinct and special qualities of the Conservation Area - the variety of spaces, quality of the buildings, relationships between areas, all laid upon the dramatic setting of the steep slopes, contribute to the character of the area. The contrast between the dense urban heart of Hampstead and the spaciousness of the outer areas is one of its major characteristics. It also demonstrates its historic development with the 18th century village still evident, adjacent to the streets created in the Victorian era, as well as many 20th century contributions. The Conservation Area character is therefore derived from the wide range of areas within it, each of which makes an important and valuable contribution to the Conservation Area as a whole.

Assessment of proposals

3.15 The consented scheme was considered, on balance, to provide an overall heritage benefit to the significance of the host Grade II* listed building. Modest rear extensions were granted above and below ground, and the proposals included a number of heritage improvements which included the re-creation of a missing gabled transept and partial reinstatement of the roof pitch to the rear; the removal of the modern rear extension to reveal the full width of the 19th century transept; the reinstatement of traditional dormers to the front elevation; removal of harmful modern glazing and installation of more sympathetically designed windows and doors; and the partial restoration of the original landscaping scheme. The current proposal would change the details, proportions and scale of the scheme to a degree that the benefits are no longer in balance with the harms.

3.16 The proposal would see the upper-ground-floor rear extension lengthened by 1m. This would increase its impact upon the setting of the listed host building when seen from neighbouring properties. While its width was based on the presence of a pre-existing rear dormer extension, the length of the rear extension was originally scaled to minimise its impact upon the house next door, no.113, from which the original proposal would have been subject to very limited views, being screened by a historic wall and mature vegetation. The visual impact on views of the site would now be significantly increased.

3.17 The proposal would involve additional excavation and the creation of an additional room and two bathrooms in the lower-ground floor. This would be harmful to the building's historic character as a modest former stable with a shallow, one-room plan. The new basement room would be over double the width and length of the original building and this increase in scale would be harmful to the building's spatial character. The consented narrow additional room at this level, which is essentially within the width of a pre-existing transept, is considered the largest extension that can be added without changing the character of this storey.

3.18 The applicant's heritage impact assessment (HIA) makes reference to a previous pre-application scheme (2017/6572/PRE) which proposed a larger basement extension than proposed by the current application. The officer advice was that there was no in-principle objection to a basement extension, and it is therefore suggested in the HIA that the local planning authority could not conclude that there would be any harm arising from this element of the works. However, the pre-application proposals and the advice given in response to that scheme is not considered directly applicable to the current application. In that instance, the

basement room was set well into the rear garden and removed from the main building, connected only via a corridor (which itself was not considered acceptable). In the current application, the basement would extend off the existing lower ground floor and significantly extend, increase and impact the footprint and plan form of the original building. A larger basement room set away from the building and within the garden setting would clearly read as a new and separate addition which would not impact the historic plan form, which is not the case in this instance. Furthermore, although the officer advice was that there was no in-principle objection to a basement extension at the site, it was also noted that the proposals were considered over-development, and it was recommended that they were significantly scaled back.

3.19 The proposal would also see railings and planter boxes added around the area of sloping lawn to the rear garden. This would increase the visual impact of the feature, which was originally considered acceptable on the grounds that it would be soft-landscaped and screened by plants alone. The integral planter boxes would significantly increase the area of the vertical surface on each side of the slope, and the enlarged vertical surfaces would be faced with glazed green bricks. This material is not considered appropriate in this historic context.

3.20 There is no objection to the changes to the design of the new garden basement windows as this would not represent a significant change from the approval or impact the significance of the building. Likewise, there is no objection to the amended design of the front sash window glazing bar pattern as this would match the design of the existing windows.

3.21 The proposals include amendments to the detailed finishes of the new elements of basement extension, including an exposed timber structure and clay tile finish. Given these finishes would be applied to new building elements, there is no objection to their use.

3.22 The replacement of existing floor joists is considered acceptable, given that it appears the floor joists were not historic. It also appears that the rear wall between the transepts which has been removed was modern 20th century fabric. As such, its replacement with a new rear wall in the same position is considered acceptable. However, the proposed use of green glazed bricks is not considered acceptable, and a more traditional material would be expected for the rear wall.

3.23 There is no objection to the proposed minor amendments to the staircase dimensions and position given this is a new addition and is non-original.

3.24 According to the applicant's morphology plan, the minor alterations to plan form affect only modern fabric. Consequently, it is argued, they are acceptable. It is regrettable that a significant amount of unauthorised demolition in a highly graded listed building has been carried out without permission, and approval sought retrospectively. The applicants are extremely fortunate that they have been able to demonstrate that the majority of their works harmed only non-historic fabric to a sufficient level of proof that enforcement action is not considered expedient. Investigation of the surviving structure and photos taken during works appear to support the position that both demolished floor decks and the removed partitions were modern fabric. Given this, there is no objection to the like-for-like reconstruction of the pre-existing plan form (i.e. that existing when the applicants acquired the property in 2017), the reconstruction of the roof as was (using the original tiles and slates), and the reinstatement of the ground floor at what is surmised to have been its original level.

3.25 However, the cumulative size of the rear extensions at lower ground and upper ground floor are considered harmful to the plan form and setting of the grade-II*-listed building and would result in harm to the significance of the listed building. The applicant's heritage impact assessment forms a different conclusion that the proposed amendments and unauthorised alterations do not result in any harm to the significance of the listed building. Nevertheless, it sets out what are considered to be public and heritage benefits including the removal of all impervious coatings, cement render and modern paints; and the reinstatement of breathable

materials including lime render, clay and straw cob blocks, clay plaster and paint; and the use of handmade traditional wood fired bricks.

3.26 The NPPF states that in determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and c) the desirability of new development making a positive contribution to local character and distinctiveness (para.192). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para.193).

3.27 The proposals are considered to result in harm to the significance of the designated heritage asset, and in line with paragraph 196 of the NPPF, this harm would be less than substantial. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the NPPF (para. 196) requires that this harm to be weighed against the public benefits of the proposal including, where appropriate, securing the optimum viable use of that asset.

3.28 Although it is acknowledged that there are heritage benefits provided by the proposals, these improvements would not be dependent on the current scheme to be delivered, and do not clearly or convincingly outweigh the harm caused by the proposed development.

3.29 As such, the proposals would not preserve or enhance the significance of the listed building, contrary to policies D1 and D2 of the Local Plan and policies DH1 and DH2 of the Hampstead Neighbourhood Plan, and this forms a reason for refusal.

4. Neighbouring Amenity

4.1 Policy A1 of the Local Plan seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and would not harm the amenity of neighbouring residents. This includes privacy, outlook, noise, daylight and sunlight.

4.2 The consented scheme was considered to have limited impact on the amenity of the closest residential occupiers at nos. 109 and 113 Frogna. Although the proposed rear extension at upper ground level would have projected an additional 4.5m compared to the existing rear extension, it would have been largely obscured from views from neighbouring property no. 113 by the existing brick boundary wall and greenery. The rear extension is now proposed to project an additional 1m beyond what was previously approved. Although the increased size of the rear extension would be visible from the neighbouring property, it is not considered so harmful to the amenity of residents in terms of loss of outlook or daylight, so as to form an additional reason for refusal on this basis.

4.3 The extension of the boot room to the southern boundary by an additional 1m would not impact neighbouring amenity due to its location at lower ground level.

5. Basement excavation

5.1 Policy A5 (Basements) states that the Council will only permit basement development where it is demonstrated that it will not cause harm - structurally, in amenity terms, environmentally or in conservation/design terms.

5.2 Policy BA1 of the Hampstead Neighbourhood Plan states that all basement developments are required to complete a basement impact assessment (BIA). For developments whose conditions require investigations beyond the screening stage, attention should be given to the additional

steps outlined in paragraph 5.12 of the Neighbourhood Plan.

- 5.3 Due to the excavations proposed as part of the consented scheme, a BIA screening report was submitted which demonstrated that there would be no impacts to slopes or surrounding structures and highways, that there would be no impacts to subterranean groundwater flows in the local and wider area, and that the site does not lie in a flood risk area and the proposals would reduce the impact of surface water flows on the sewer network. The report was audited by independent structural engineers Campbell Reith who confirmed that the scoping and assessment stages of the BIA were not required for this scheme and that the submitted BIA screening report complied with the requirements of the Council's Basements CPG.
- 5.4 The advice of Campbell Reith was sought to determine whether the current proposals would require a revised BIA or would likely raise additional issues which would not have been considered as part of the previously considered BIA screening report. Campbell Reith have confirmed that when assessing the approved scheme, they were not concerned about potential stability issues with neighbouring properties, as the development was in the centre of the site away from the site boundaries. However, now that the basement has been extended closer to the boundaries, there could potentially be additional stability issues. Campbell Reith have also confirmed that should the revised, larger basement scheme have been presented originally, they would likely have required additional information in regards to mitigating potential stability issues, and potentially a Category B audit if the stability issues required more rigorous assessment. In the absence of this information, the proposals are contrary to policy A5 of the Local Plan and policy BA1 of the Hampstead Neighbourhood Plan and this forms an additional reason for refusal.

6. Conclusion

- 6.1 In conclusion, the proposed development would not preserve or enhance the significance of the listed building, contrary to policies D1 and D2 of the Local Plan and policies DH1 and DH2 of the Hampstead Neighbourhood Plan, but rather, would result in harm to the significance of the listed building. This harm is considered to be less than substantial. The public benefits suggested by the applicant are acknowledged, but are not considered significant benefits and are therefore given low weight in the overall planning balance.
- 6.2 The proposed amendments are not considered to result in harm to neighbouring amenity, however, the lack of information regarding potential impacts of the increased basement excavations would be contrary to policy A5 of the Local Plan and policy BA1 of the Hampstead Neighbourhood Plan.
- 6.3 The proposal does not accord with the development plan (for the reasons outlined above) and there are no other material planning considerations (i.e. planning benefits) that indicate that planning permission or listed building consent should be granted, as required under Section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 and section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990. As such, it is recommended that planning permission and listed building consent are refused.

7. Recommendation

- 7.1 Recommendation 1: Refuse planning permission and enforcement action to be taken.
- 7.2 Recommendation 2: Refuse listed building consent and enforcement action to be taken
- 7.3 Recommendation 3: That the Borough Solicitor be instructed to issue a Breach of condition notice under Section 187 A of the Town and Country Planning Act 1990 as amended requiring compliance with condition 3 of planning permission reference 2019/6089/P dated 03/03/2020 and officers be authorised in the event of non-compliance, to commence legal proceedings

under Section 187 A(8) and (9) or other appropriate power and/or take direct action under Section 178 in order to secure the cessation of the breach of planning control.

7.4 Recommendation 4: That the Borough Solicitor be instructed to issue a Listed Building Enforcement Notice under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended, and in the event of non-compliance with the notice, the Borough Solicitor be authorised to pursue any legal action necessary to prosecute the owner under Section 43 of the Act and or other appropriate power and/or the Executive Director Supporting Communities be authorised to take direct action under Section 42 of the Act to secure compliance with the notice.

8. Planning reasons for refusal:

8.1 The development, by reason of the cumulative impact of the size of the rear extensions at upper ground and lower ground floor level, the proposed materials, and garden railings and planter boxes, harms the character and appearance of the host listed building and this part of the conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan and policies DH1 (Design) and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

8.2 In the absence of a basement impact assessment, it has not been satisfactorily demonstrated that the basement has not harmed the structural stability of the building or neighbouring properties or adversely affect the structural, ground and water conditions of the area, contrary to policy A5 (Basements) of the Camden Local Plan 2017 and policy BA1 (Basement impact assessments) of the Hampstead Neighbourhood Plan 2018.

9. Listed building reason for refusal:

9.1 The development, by reason of the cumulative impact of the size of the rear extensions at upper ground and lower ground floor level, the proposed materials, and garden railings and planter boxes, harms the special historic and architectural interest of the listed building, contrary to policy D2 (Heritage) of the Camden Local Plan and policy DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.