

LOCAL PLANNING AUTHORITY REF: 2019/5835/P

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)

APPEAL SUBMITTED BY DP9 LTD, ON BEHALF OF MR AND MRS
BREARLEY, AGAINST THE REFUSAL OF A PLANNING APPLICATION
FOR THE USE OF THE DEMOLITION OF AN EXISTING TWO-STORY
RESIDENTIAL DWELLING (C3) AND THE ERECTION OF A THREE-
STORY RESIDENTIAL DWELLING (C3)

4b HAMPSTEAD HILL GARDENS, HAMPSTEAD, LONDON NW3 2PL

APPEAL TO BE DETERMINED BY WAY OF WRITTEN
REPRESENTATIONS PROCEDURE

STATEMENT OF CASE ON BEHALF OF APPELLANT

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1.0 INTRODUCTION

- 1.1 On behalf of our client, Mr and Mrs Brearley (the Appellant), this Appeal Statement relates to a planning application submitted to the London Borough of Camden (LBC) (application reference: 2019/5835/P), for the *'Demolition of existing 2-storey dwelling and erection of a new 3-storey and basement dwellinghouse'* (herein referred to as 'the Proposals'), at the application site 4b Hampstead Hill Gardens, London, NW3 2PL (herein referred to as the 'Site').
- 1.2 Full details of the Site, its planning history, and the surrounding area are included within Appendix 1 of this statement. The full list of documents that were submitted in support of the above-mentioned application is included at Appendix 2, and the list of documents submitted alongside and in support of this appeal are included at Appendix 3. The decision notice associated with the refused planning application 2019/5835/P is included in Appendix 4, and the draft Section 106 Agreement associated with the Proposals at Appendix 5. Appendix 6 provides a response to objections received during the determination period of the application, and Appendix 7 outlines the relevant adopted Development Plan policy.
- 1.3 The existing two storey dwelling located at the Site is at the end of its design life and is no longer suitable for the occupation of a family, due to suffering from leaking and subsidence amongst other structural issues. Furthermore, the existing dwelling, by virtue of its incongruous design, has a negative impact on the character and appearance of the Hampstead Conservation Area, and the settings of the adjacent Grade II listed buildings. The proposal seeks to replace the existing dwelling with a new 3 storey with basement dwelling (although this is articulated as a 2-storey building with a pitched roof and dormer housing at the third storey) of exceptional design quality, that will contribute positively to the area, and be suitable for the occupation of the family. The proposed design represents a substantial enhancement over the existing building located at the Site achieved through its exemplary design, and this is reiterated within the Architectural Appeal Statement included at Appendix 3.

- 1.4 It is important to note that the principle of the demolition of the existing building located at the Site was established with LBC during the determination period of the application, and the applicant was encouraged to submit the proposals that are now subject to this appeal. This support indicates that LBC were in agreement that the existing dwelling has a negative impact on the street scene, the Hampstead Conservation Area, and the settings of the adjacent Grade II listed buildings.
- 1.5 The Proposals now the subject of this appeal statement have evolved over the course of two separate planning applications (2019/2964/P and 2019/5835/P, the latter now the subject of this appeal) and three design iterations, as documented in detail within Section 3 of the Architectural Appeal Statement. The current appeal proposals have been refined following feedback from LBC Officer's over the course of the determination periods of the two applications and are now considered to represent a high-quality piece of design that is contextually respectful.



Image 1.1 and 1.2: Displaying the existing dwelling on the left, and the proposed dwelling on the right.

- 1.6 The application was submitted to the London Borough of Camden on the 19th of November 2019. The application was determined under delegated powers and refused.

1.7 The planning application decision notice (2019/5835/P) was issued on the 21st October 2020 and gave five reasons for refusal [emphasis added]:

1. *The proposed replacement dwelling, by virtue of its excessive height, bulk and scale, would have a detrimental impact on the character and appearance of the streetscene and Hampstead Conservation Area and the setting of nearby grade II listed buildings, resulting in 'less than substantial' harm to heritage assets, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018.*
2. *The proposed development, by virtue of its unneighbourly and overbearing height and massing, would result in loss of outlook to 4A Hampstead Hill Gardens, to the detriment of their amenities, contrary to policy A1 (Amenity) of the London Borough of Camden Local Plan 2017 and policy DH1 of the Hampstead Neighbourhood Plan 2018.*
3. *The proposed development, in the absence of a legal agreement to secure a Construction Management Plan, would be likely to contribute unacceptably to traffic disruption and be detrimental to general highway and pedestrian safety and neighbouring amenity including air quality, contrary to policies A1 (Managing the impact of development), T4 (Sustainable movement of goods and materials), DM1 (Delivery and monitoring), A4 (Noise and Vibration) and CC4 (Air quality) of the London Borough of Camden Local Plan 2017 and policy BA3 (Local Requirements for Construction Management Plans) of the Hampstead Neighbourhood Plan 2018.*
4. *The proposed development, in the absence of a legal agreement securing an Approval in Principle, would fail to mitigate the impact of the construction works on the adjacent public highway, contrary to policies A1 (Managing the impact of development), T3 (Transport Infrastructure) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.*
5. *The proposed development, in the absence of a legal agreement securing car-capped housing, would be likely to contribute unacceptably to parking stress and congestion*

in the surrounding area and fail to encourage the use of sustainable modes of transport, contrary to policies T1 (Prioritising walking, cycling and public transport) and T2 (parking and car-free development) of the London Borough of Camden Local Plan 2017.

1.8 Informative 2 of the decision notice included at Appendix 4 states:

2. Without prejudice to any future application or appeal, the applicant is advised that reasons for refusal numbered 3, 4 & 5 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.

1.9 Reasons for refusal 3-5 reference the absence of a legal agreement, however this matter has been resolved and a draft Section 106 Agreement is included at Appendix 5 of this Appeal Statement. It is considered by the Appellant that some of the obligations that LBC have included within the draft S106 are not compliant with the CIL Regulations and the Secretary of State's policy and practice guidance, and on this basis an amended S106 Agreement is included at Appendix 6. This amended S106 Agreement has been issued to LBC for their agreement, and it is hoped that both parties are willing to accept the determination of the Secretary of State as to whether each of the proposed planning obligations in Clauses 4.1, 4.2, 4.4 and 4.5 meets the tests in Regulation 122 of the CIL regulations. If the Council are not willing to enter into the proposed agreement a unilateral obligation to similar effect will be provided.

1.10 A summary of the Appellants revisions to the draft S106 Agreement as included within Appendix 6 are outlined below:

- Obligation 4.1 Car Free Development is contested as it restricts future occupiers' ability to procure on-street car parking permits. The existing building benefits from up to 1 on-street parking permits, and 2 private parking spaces. It seems unreasonable that the right to an on-street parking permit is removed should the Appellant leave the property. In addition, only limited weight can be afforded to the car free development policy.

- Obligation 4.3 Construction Management Plan should be dealt with by way of a Condition, rather than a Section 106 obligation as per the NPPG, and the Construction Management Plan Implementation Contribution is unnecessary and does not meet the Regulation 122 test. A draft Construction Management Plan was submitted alongside planning application 2019/5835/P.
 - Obligation 4.4 Highways Contribution is also not considered to meet the Regulation 122 test and is deemed unnecessary. The protection of the Public Highway during construction works will be controlled through the Construction Management Plan. Any works of remediation that are required will in any event be remedied pursuant to any approved Construction Management Plan.
 - Obligations 4.5 the Basement Approval in Principle Application and Contribution obligations do not meet the Regulation 122 test. The Basement Impact Assessment (BIA) prepared by RPS and submitted alongside planning application 2019/5835/P determines the impact of the basement to be acceptable, and this has been audited at the Appellants expense by LBC's consultants Campbell Reith, who have confirmed the conclusions drawn in the RPS BIA are valid, and have determined the RPS BIA is acceptable.
- 1.11 On this basis, this Appeal Statement focuses on reasons for refusal 1 and 2, with reasons for refusal 3-5 addressed within the draft Section 106 Agreements (included at Appendix 5 and 6) in accordance with the above summary, which is to be the subject of discussions with LBC.
- 1.12 Reasons for refusal 1 and 2 are not supported by the evidence in this case. As demonstrated within the Architectural Appeal Statement prepared by Grid Architects and the Heritage Appeal Statement prepared by KM Heritage (both referenced at Appendix 3 and submitted in support of this appeal) the Proposals height, bulk and scale are not excessive, and instead are sympathetic to the larger Grade II listed villas that characterise the street, contrary to reason for refusal 1. In addition, the Proposal serves to preserve and enhance the Hampstead Conservation Area, and the settings of the adjacent listed buildings through the replacement of the existing building

which causes a degree of harm to these heritage assets, with a building that makes a marked positive contribution.

- 1.13 Reason for refusal 1 suggests that the Proposal will result in ‘less than substantial harm’ to heritage assets, when in actuality and as evidenced in the abovementioned documents, this is an incorrect conclusion, as the Proposal preserves and enhances the heritage assets causing no degree of harm.
- 1.14 In addition, reason for refusal 2 focuses on the relationship between 4a and 4b and concludes that the Proposal would result in a loss of outlook to 4a, to the detriment of their amenities. Again, this is incorrect and the impacts on the adjoining property at 4a resultant of the development have been carefully considered throughout the design development stage. The loss of outlook to 4a is negligible, as documented within Section 5 of the Architectural Appeal Statement. Furthermore, the proposed scheme demonstrates full compliance with the BRE guidelines in respect of Daylight, Sunlight and Overshadowing as documented in the DSO Report prepared by Point 2 and included at Appendix 1, meaning the impact on this amenity is acceptable. The impact on overlooking and privacy has also been carefully considered, and the Proposal serves to enhance the privacy for the residents of 4a through reducing the potential for overlooking to occur via the relocation of the living area from first floor to ground level, as documented within Section 5 of the Architectural Appeal Statement.
- 1.15 This Statement details that the proposals are acceptable and accord with the Development Plan, the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance (NPPG), and there is a presumption in favour of granting planning permission without delay.
- 1.16 This Statement is arranged in the following form:
- **Section 1.0:** Provides an introduction to the Appeal proposals;
 - **Section 2.0:** Assesses the proposals against LBC’s reasons for refusal 1;
 - **Section 3.0:** Assesses the proposals against LBC’s reasons for refusal 2;
 - **Section 4.0:** Provides a conclusion.

- 1.17 This statement of case should be read alongside the Architectural Appeal Statement prepared by Grid Architects, and the Heritage Appeal Statement prepared by KM Heritage. Both of these documents are included at Appendix 3 and are referenced throughout this statement.

2.0 REASON FOR REFUSAL 1

2.1 Reasons for refusal 1 states:

The proposed replacement dwelling, by virtue of its excessive height, bulk and scale, would have a detrimental impact on the character and appearance of the streetscene and Hampstead Conservation Area and the setting of nearby grade II listed buildings, resulting in 'less than substantial' harm to heritage assets, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018.

2.2 Reason for refusal 1 can be broken down into the following constituent elements.

1. The proposed development is of an excessive height, bulk and scale.
2. The proposed development would have a detrimental impact on the character and appearance of the street scene and Hampstead Conservation Area and the setting of nearby grade II listed buildings, resulting in 'less than substantial' harm to heritage assets.
3. The proposed development is contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018.

2.3 This section directly responds to the three key elements within reason for refusal 1 identified above, focusing on the areas of difference.

Excessive height, bulk and scale

2.4 The bulk of the proposed scheme is significantly less than all buildings neighbouring the appeal site, with the exception of 4a. This is articulated within figure 1.3 below, indicating the Proposal is still very much subordinate in respect of bulk and scale when compared with neighbouring dwellings.

2.5 The height of the proposed scheme is a 2-storey dwelling with a third storey located in the pitched roof, entirely consistent with the adjacent buildings to the appeal Site.

Again, as demonstrated in the visual evidence provided at Image 1.3, the height of the Proposal is significantly lower than the surrounding buildings with the exception of 4a, and on this basis it is incorrect to suggest that the height is 'excessive', as the proposed scheme maintains a subordinate relationship to the neighbouring dwellings in respect of height.

- 2.6 The height, bulk and scale of the proposals cannot be described as overbearing when observed within the context of the large villas which surround the appeal Site at numbers 4, 5, 6, 7, 9 and 11 Hampstead Hill Gardens. The prevailing building height, bulk and scale of these neighbouring buildings is substantially larger than the proposed scheme and this is illustrated visually within the images contained in the Architectural Appeal Statement, and notably within the image below. The suggestion that the appeal scheme 'competes' with these buildings as suggested in paragraph 3.11 of the delegated report is completely unfounded, and this is evidenced through the VU:City model included at Image 1.3 below.
- 2.7 The appeal proposal maintains a height, bulk and massing which is entirely appropriate to its context, and is articulated in a way which serves to preserve and enhance the street scene, the character and appearance of the Hampstead Conservation Area, and the settings of adjacent Listed Buildings, whilst providing a family sized dwelling of high design quality which meets the necessary space standards.
- 2.8 As documented within the Architectural Appeal Statement, the existing dwelling is of a very poor quality and does not meet the modern-day space standards for residential dwellings. On this basis, the proposed height, bulk and scale are of a suitable proportion to enable the proposed dwelling to meet the necessary space standards whilst achieving this in a manner that is not excessive, contrary to reason for refusal 1.



Image 1.3: VU:City model of the street with the appeal scheme in pink. This is figure 26 in the Architectural Appeal Statement.

Impact on the character and appearance of the street scene and Hampstead Conservation Area and the setting of nearby grade II listed buildings, resulting in 'less than substantial' harm to heritage assets.

- 2.9 The existing building on the appeal Site has a detrimental impact on the street scene and Hampstead Conservation Area, due to its design being vastly out of architectural context with the surrounding Grade II listed Victorian era villas. It should be noted that whilst the Planning Statement (included at Appendix 1) submitted alongside the application notes that the existing building makes a 'neutral at best' contribution to the street scene and Conservation Area, this implies the contribution to be negative. Section 17 of the Heritage Appeal Statement notes that both 4a and 4b are '*now awkward and bland structures in a street notable for the quality of its original or*

early buildings', concluding that 4b detracts from the character and appearance of the Conservation Area and that its present appearance causes a degree of less than substantial harm to the Conservation Area.

2.10 Given the Conservation Area designation, the replacement dwelling for the Site should seek to mediate between respecting the existing character of the area and creating a new building of architectural quality. As outlined in the Heritage Appeal Statement, the appeal Proposal successfully responds to its site and the heritage significance of its context, for the following reasons:

- The design of the appeal Proposal is clearly based on a close analysis of the character and appearance of this part of the Hampstead Conservation Area, and the design of the appeal Proposal is demonstrably informed by that analytical work;
- The connection between the character and appearance of this part of the conservation area and the design of the appeal Proposal is evident in the materiality selected (red brick, sandstone, zinc roof that relates to No. 4A), the overall profile (pitched roof, chimney, overhanging eaves), the proportions and scale (a two storey house with an evident vertical hierarchy), the fenestration (including the use of dormers) and the detailing of the scheme (such as the use of cornicing and string courses); and
- Notably the appeal Proposal mediates between the scale of the building to the east (No. 6 Hampstead Hill Gardens) and No. 4A. Its scale is between the two – it steps down from No. 6 towards the unusual (for Hampstead Hill Gardens) scale of No. 4A and lessens the disjunction in scale between the existing No. 4B and No. 6. Again, this mediation can be observed in Image 1.3 above.

2.11 On the basis of the above it can be concluded that the appeal Proposal not only preserves the character and appearance of the street scene and Conservation Area, but significantly enhances them over the existing condition, reversing the less than substantial degree of heritage harm resultant of the current 4b. This is evidenced

throughout the imagery presented in the Architectural Appeal Statement, which is further analysed in the context of heritage within the Heritage Appeal Statement.

- 2.12 Furthermore, the appeal scheme serves to enhance the setting of the adjacent Grade II listed buildings, on the basis that the existing dwelling located at the site detracts substantially from their setting, due to its incongruous appearance which is completely unresponsive to its context and the prevailing built form. As established within this appeal statement and within the supporting appeal documents included at Appendix 3, the existing building 4b causes a degree of less than substantial harm to the heritage assets of the listed buildings.
- 2.13 The Proposal is of an exemplary design quality and strikes a good balance between respecting the historical character and appearance of its context and resorting simply to imitation of the adjacent listed buildings. Fundamentally, the appeal Proposal represents a contemporary architectural response to the adjacent listed buildings and reinterprets key elements of their design without becoming pastiche. The appeal Proposal achieves this whilst maintaining a height, bulk and scale which is respectful of the adjacent listed buildings (again demonstrated in figure 1.3) and does not cause a negative impact on the street scene nor Conservation Area.
- 2.14 On this basis it can be concluded that the appeal Proposal represents an enhancement when contrasted to the existing situation and preserves and enhances the settings of the Grade II listed buildings, contrary to reason for refusal 1.

Development Plan policies D1, D2, DH1 and DH2

- 2.15 Reason for refusal 1 states that the appeal Proposals do not accord with policies D1, D2, DH1 and DH2 in relation to design and heritage matters. Each policy is addressed in turn below, with only the parts of the policies relevant to the appeal Proposals discussed. Each part of the policies relevant to the appeal Proposals is outlined, against which an assessment of the proposals is provided.

Camden Local Plan Policy D1 Design: States that the Council will seek to secure high quality design in development, and that development must;

a) respect local context and character,

As discussed within the accompanying Architectural appeal statement, the appeal Proposals have been formulated following extensive analysis of the local context and character, and this analysis has in turn informed the design. This is articulated in the buildings high quality design, which represents a contemporary interpretation of the character of the local built form, exhibiting and echoing key design features of neighbouring dwellings which are identified as making a positive contribution to the Conservation Area. On this basis the Proposals accord with D1 part a).

b) preserve or enhance the historic environment and heritage assets in accordance with policy D2 Heritage,

As discussed in Section 2.0 of this statement, the proposals preserve and enhance the historic environment and heritage assets, in the form of the Hampstead Conservation Area and the adjacent Grade II listed buildings. The appeal Proposal represents a betterment in this regard when contrasted with the existing building. On this basis the proposals accord with D1 part b).

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

The application now the subject of this appeal was accompanied with an Energy and Sustainability statement (included at Appendix 1), demonstrating the strong sustainability credentials of the proposed scheme, in accordance with D1 part c).

d) is of sustainable and durable construction and adaptable to different activities and land uses;

As per the above response to part c). It is also important to note that the proposed design is of a far more robust and durable construction than the existing building on the Site which is at the end of its design life, utilising modern construction materials to achieve this.

e) comprises details and materials that are of high quality and complement the local character.

As demonstrated throughout both the Architectural Appeal Statement and the Heritage Appeal Statement, the proposed palette of materials has specifically been chosen to compliment the local character such as the high-quality red brick, designed to mirror the design of neighbouring buildings, in accordance with D1 part e).

n) for housing, provides a high standard of accommodation; and

The appeal Proposals provide an exceptionally high standard of residential accommodation of a far higher quality than the existing dwelling at the Site, meeting London Plan and all national space standards in accordance with D1 part n).

Camden Local Plan Policy DH2 Heritage: States that 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. The parts of policy DH2 relevant to the appeal Proposal are outlined below with responses provided.

e) [the Council will] require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;

As demonstrated within the Architectural Appeal Statement, the Heritage Appeal Statement and as described in Section 2, the appeal Proposal serves to preserve and enhance the character and appearance of the Conservation Area. The existing dwelling at the Site has a detrimental impact on the Conservation Area due to its incongruous design being totally out of context with the prevailing built form of the Conservation Area, and hence the replacement of this dwelling with a high quality family home directly informed by the character of the built form within the Conservation Area represents a betterment, and enhances the character and appearance of the Conservation Area, in accordance with D2 part e).

k) [the Council will] resist development that would cause harm to significance of a listed building through an effect on its setting.

Again, as demonstrated within the Architectural Appeal Statement, the Heritage Appeal Statement and as described in Section 2, the appeal Proposals cause no degree of harm to the settings of the adjacent listed buildings, and instead serve to enhance their settings. The appeal Proposal will reverse existing harm to these assets caused by the appearance and condition of the existing building, according with D2 part k).

Hampstead Neighbourhood Plan Policy DH1 Design: States that development proposals should demonstrate how they respect and enhance the character and local context of the relevant character area(s) by (only parts relevant to this appeal statement are discussed):

a) Ensuring that design is sympathetic to established building lines and arrangements of front gardens, walls, railings or hedges.

The proposed appeal Proposal is entirely sympathetic to established building lines and this is demonstrated in section 4.3 of the Architectural Appeal Statement and included at Image 1.4 of this appeal statement, which displays the proposed building footprint is largely consistent with the existing situation, in accordance with DH1 part a).

c) Responding positively and sympathetically to the existing rhythm, proportion, height, scale, massing, materials and storey heights of surrounding buildings.

Image 1.3 of this appeal statement shows the relationship between the appeal Proposal and the surrounding buildings in relation to proportion, height, scale, massing and height. As can be observed, the appeal Proposal responds sympathetically in that it maintains a subordinate relationship with the large Grade II listed buildings, and also successfully mediates between these larger buildings and the adjoining 4a. Many of the design elements of the proposed appeal scheme are inspired by the adjacent buildings. In addition, the palette of materials selected

positively and sympathetically responds to the surrounding buildings through the use of materials consistent with these buildings, albeit in a modern context. On this basis the Proposals accord with DH1 part c).

d) Protecting the amenity and privacy of neighbouring properties

The appeal scheme serves to protect the amenity and privacy of neighbouring properties including the adjoining 4a, and this is discussed further in section 3 of this appeal statement.

e) Demonstrating how the proposal protects and enhances the views as shown on Map 4

The appeal Proposal does not impact any views shown on Map 4 of the Hampstead Neighbourhood Plan.

Hampstead Neighbourhood Plan Policy DH2 Conservation Areas and Listed Buildings: States:

3) New development should take advantage of opportunities to enhance the Conservation Areas by protecting and, where appropriate, restoring original architectural features, including walls, windows, doors, etc., that would make a positive contribution to the Conservation Areas.

The proposed appeal scheme clearly takes advantage of an opportunity to enhance the Hampstead Conservation Area, through the replacement of the existing dwelling and its associated detrimental impact on the Conservation Area, with a high-quality building of exemplary design. Indeed, the principle of the demolition of the existing building has been agreed with the Council, who are supportive of its removal. In addition, the appeal Proposal utilises characteristic architectural features present on buildings which make a positive contribution to the Conservation Area and reinterprets these features in a contemporary and sympathetic manner. On this basis the appeal Proposal accords with DH2 part 3).

In addition, the materiality of the existing building is vastly out of context with the Conservation Area, in that it consists of a combination of fletton bricks, 1960's weatherboard, zinc cladding and incongruous aluminium windows. The materiality within the proposed appeal scheme is of high-quality, and mirrors that of adjacent buildings and the wider Conservation Area in a contemporary manner.

4) Development proposals must seek 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 (see Appendix 3).

Several buildings in close proximity to the Site are identified as making a positive contribution to the Conservation Area, as per the Hampstead Conservation Area Statement, including numbers 6, and 7-11 Hampstead Hill Gardens. As demonstrated throughout this appeal statement and within the supporting documents, the appeal Proposals serve to preserve and enhance the neighbouring buildings through improving their setting. This is achieved through the demolition of the existing building, and the provision of a building of exemplary design quality. On this basis, the Proposal accords with DH2 part 4).

3.0 REASON FOR REFUSAL 2

3.1 Reason for refusal 2 states:

The proposed development, by virtue of its unneighbourly and overbearing height and massing, would result in loss of outlook to 4A Hampstead Hill Gardens, to the detriment of their amenities, contrary to policy A1 (Amenity) of the London Borough of Camden Local Plan 2017 and policy DH1 of the Hampstead Neighbourhood Plan 2018.

3.2 This can be broken down into the following constituent elements, which are contested in turn below:

1. Unneighbourly and overbearing height and massing would result in loss of outlook to 4a Hampstead Hill Gardens
2. Detrimental impact on the amenities of 4a Hampstead Hill Gardens contrary to A1 (Amenity) of the London Borough of Camden Local Plan 2017 and policy DH1 of the Hampstead Neighbourhood Plan 2018.

Unneighbourly and overbearing height and massing would result in loss of outlook to 4a Hampstead Hill Gardens

3.3 The impact of the Proposal on the adjoining 4a Hampstead Hill Gardens has been taken into careful consideration throughout the design development of the Proposal. As evidenced within the Architectural Appeal Statement, it is inaccurate to suggest that the appeal Proposal is of an unneighbourly and overbearing height and massing.

3.4 The comments in relation to unneighbourly height and massing are addressed in section 2 of this appeal statement. The height and massing of the appeal scheme achieves a successful mediation between the smaller scale and form of 4a, and the larger Grade II listed villas which surround the Site. This relationship is best illustrated in figure 1.3 above.

3.5 The impact of the increased height and massing of the Proposal on the outlook of 4a is negligible when contrasted with the existing situation. The façade line at the primary elevation is consistent with that of the existing building and does not protrude any further where 4b adjoins 4a, as demonstrated in Figure 1.4 below, so any additional height and massing will cause no impact on the outlook of the primary elevation of 4a. Furthermore, the fenestration of 4a is inset as can be observed in Images 1.1 and 1.2. This set back further reiterates that any change to the outlook of 4a from the primary façade will be almost imperceptible, and in any event the existing outlook from 4a is relatively poor due to this unfortunate design feature.

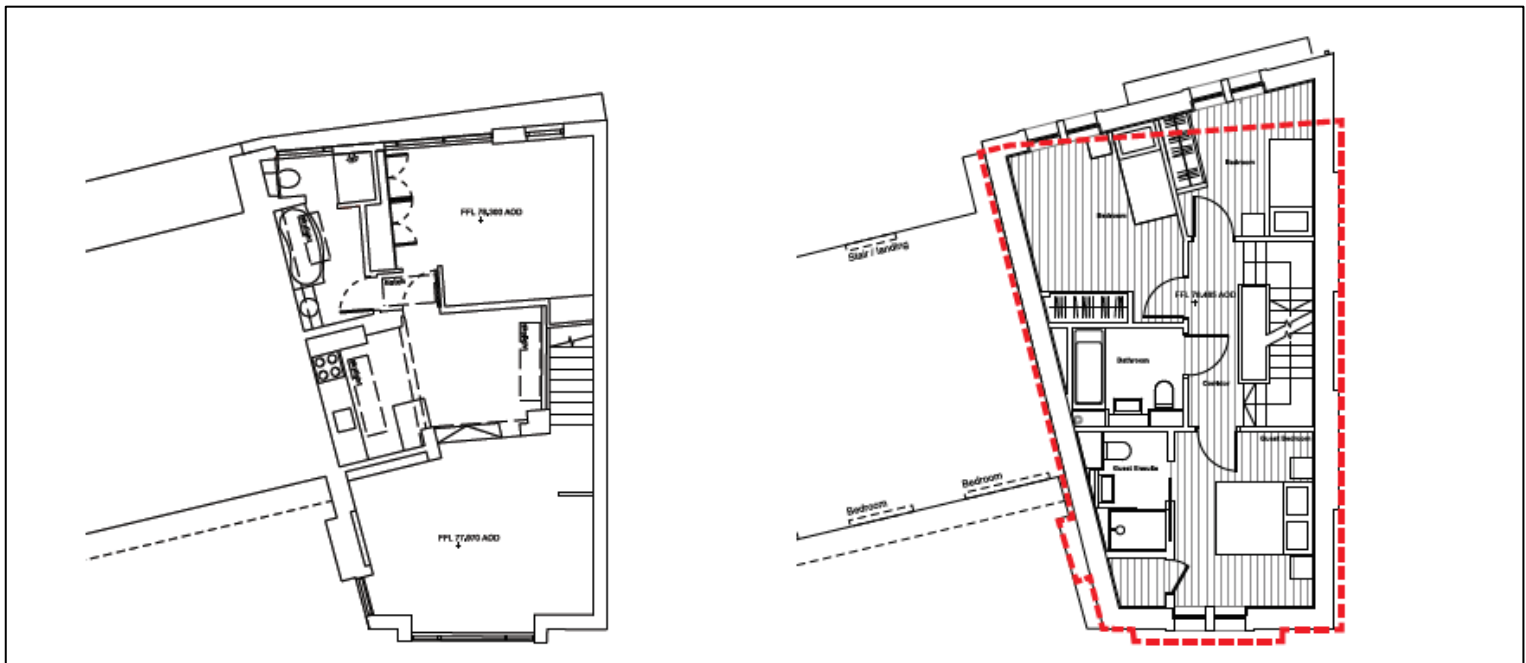


Image 1.4: The existing floorplan on the left, and the proposed on the right. As can be observed the building line of the proposed scheme is consistent with the existing situation where 4a adjoins 4b.

3.6 Moving to the relationship between the proposed appeal scheme and 4a at the rear of the buildings, it can be concluded that any impact to the outlook of 4a resultant of the height and massing of the appeal scheme is minor and will barely be perceptible. Image 1.5 below presents a sketch of the existing and proposed situations, from the receptor of the kitchen window of 4a. As can be observed, the additional height and massing of the Proposal in this location is a relatively minor change to the existing and certainly would not detrimentally affect the enjoyment of either the kitchen or outdoor space of the adjoining 4a.

3.7 The existing outlook from the rear of 4a onto 4b is currently poor, due to the low quality of the design and construction of 4b which has a flat, uninteresting roofline and clumsy chimney arrangement which is incongruous with the existing surrounding built form. The Proposal will provide a traditional and characteristic pitch roof, consistent with the predominant form of buildings in the area and the character and appearance of the Conservation Area. The Proposal is of an exemplary design quality and it is considered that the Proposal will serve to enhance the outlook of the rear of 4a, rather than cause a harm to outlook.

3.8 In addition, the existing living area of 4b is located on first floor level, providing opportunities for overlooking which could impact on the privacy enjoyed by the occupiers of 4a. The Proposal relocates the living area into the basement, and provisions bedrooms at upper floors. On this basis it can be argued that the Proposal also serves to improve the privacy enjoyed by 4a as it reduces opportunities for overlooking to occur.



Figure 1.5: Sketch drawings showing the existing relationship between 4a and 4b, with the existing arrangement on the left, and the proposed on the right. This demonstrates that the impact on the outlook of 4a is negligible. The original photo used to produce this sketch is included in Appendix 1.

- 3.9 To conclude, the assertion that the height and massing of the appeal scheme is unneighbourly, and overbearing is unfounded, and the Proposal is instead entirely appropriate for its context, successfully mediating between 4a and the larger Grade II villas adjacent. The impact on the outlook of 4a is imperceptible at the primary elevation due to the setback windows of 4a and the maintenance of the existing building line and footprint at this location, and the impact on the outlook at the rear is minimal, and should be treated as an enhancement.

Detrimental impact on the amenities of 4a Hampstead Hill Gardens contrary to A1 (Amenity) of the London Borough of Camden Local Plan 2017 and policy DH1 of the Hampstead Neighbourhood Plan 2018.

- 3.10 Again, suggesting that the appeal proposal will have a detrimental impact on the amenities of 4a is an unfounded statement, and is not supported by any evidence. Camden Local Plan Policy A1 outlines the amenity considerations that should be taken into account within the development proposals (parts e-n). The relevant parts of this policy in the context of the appeal Proposal are outlined below, and the appeal Proposal is analysed against these parts.

e) visual privacy, outlook

As demonstrated in section 3.7, the appeal Proposal serves to improve the visual privacy of the adjoining 4a. In addition, the impact on the outlook at the primary elevation of 4a is imperceptible, and at the rear is minor in nature. Again, as outlined above due to the poor design and construction quality of the existing 4b, it can be argued that the appeal Proposal, with its exemplary design and traditional pitched roof, will improve the outlook of 4a at the rear. The Proposals thus accord with A1 part e).

f) Daylight, sunlight and overshadowing

The planning application now the subject of this appeal was accompanied with a Daylight, Sunlight and Overshadowing assessment, which was prepared by Point 2 surveyors and is included at Appendix 1. This assessment demonstrated full

compliance with the BRE guidelines in respect of DSO, determining that the impacts of the proposed development on the daylight, sunlight and overshadowing of all neighbouring properties, including 4a, is acceptable. The conclusion drawn from the report states: *The proposed development at 4B Hampstead Hill Gardens demonstrates full compliance with BRE daylight (VSC and NSL), and sunlight (APSH) guidance and thus will not materially affect the daylight and sunlight amenity within any neighbouring properties. Further, the proposed development will have a negligible effect upon the availability of direct sunlight to a majority of surrounding outdoor amenity areas throughout the year, particularly during the summer months, when they are most likely to be occupied.* On this basis, the appeal Proposal fully accords with A1 part f) and there is no basis upon which to oppose the development on these grounds.

It should be noted that the design of the appeal proposals was subject to alterations during the determination period of the application (ref. 2019/5835/P). Point 2, who prepared the Daylight, Sunlight and Overshadowing Assessment advised that the change to the results resultant of the revised design were so de minimus, that a revised assessment was not required, and a covering letter was submitted on this basis. However, in the interests of good order and for the avoidance of doubt, a revised Daylight, Sunlight and Overshadowing Assessment prepared by Point 2 is submitted alongside this Appeal Statement and included at Appendix 3. The revised document confirms the fact that the revisions to the design have indeed improved the impact of the development against the BRE Guidelines. Both the original and revised designs demonstrate full compliance with BRE Guidelines.

4.0 CONCLUSION

- 4.1 This appeal statement relates to planning application 2019/5835/P which sought approval for the *'demolition of existing 2-storey dwelling and erection of a new 3-storey and basement dwelling house'*. The application was refused by the London Borough of Camden on the 21st of October 2020, and 5 reasons for refusal were provided. It is primarily reasons for refusal 1 and 2 that are contested within this Appeal Statement, with reasons for refusal 3-5 dealt with within the draft S106 Agreement and amended draft S106 Agreement included at appendices 5 and 6 respectively. It is hoped that both parties will agree to the Appellants revisions to the S106, and this matter is to be discussed with LBC.
- 4.2 This Appeal Statement should be read alongside the Architectural Appeal Statement prepared by Grid Architects, and the Heritage Appeal Statement prepared by KM Heritage.
- 4.3 The existing dwelling at the Site is of an extremely low architectural and design quality, which by virtue of its incongruous appearance causes a degree of less than substantial harm to the Hampstead Conservation Area, and to the settings of the adjacent Grade II listed buildings located at 7-11 Hampstead Hill Gardens. The existing dwelling at the site is nearing the end of its design life and is suffering from leaking and subsidence amongst other structural issues, meaning it is no longer suitable for occupation. The removal of this building is not opposed by LBC.
- 4.4 The Proposal is of an exemplary design quality and seeks to provide a high-quality family sized dwelling meeting current building standards and regulations. As demonstrated within the visual evidence provided throughout this appeal statement, the appeal proposal successfully mediates between the form and scale of the adjoining 4a Hampstead Hill Gardens, and the larger grand Victorian era dwellings that surround the Site. Contrary to reason for refusal 1, the appeal Proposal is of a height, mass and bulk that is appropriate to its context and serves to preserve and enhance the character and appearance of the Hampstead Conservation Area, and the settings of Grade II listed 7-11 Hampstead Hill Gardens, through its exceptional

design which incorporates complimentary architectural features found in the prevailing built form.

- 4.5 This appeal statement has also demonstrated, using technical and non-technical evidence, that the impact on the outlook and amenity of the adjoining building 4a Hampstead Hill Gardens is acceptable, contrary to reason for refusal 2. The impact on the outlook of 4a is minimal, and the Daylight Sunlight and Overshadowing assessment conducted by Point 2 and included at Appendix 1 demonstrates full BRE compliance. In addition, it has been demonstrated that in respect of privacy and overlooking issues, the appeal scheme represents an improvement when contrasted with the existing situation.
- 4.6 The appeal Proposal represents a form of high-quality design that is founded on a thorough and robust analysis of the character of the area that all levels of planning policy strongly encourage and support. It is clear that rather than cause harm to heritage assets of the Conservation Area and the adjacent listed buildings, the appeal Proposal actually results in betterment with no harm to the outlook and amenity of 4a Hampstead Hill Gardens. The appeal Proposal accords with all relevant Development Plan policies, is consistent with national planning policy on delivering sustainable, high-quality design, and as such planning permission should be granted without delay.

APPENDIX 1 – The Site and Surrounding Area

Site Description

The Site currently accommodates a 2-storey residential dwelling constructed in 1966 through the extension of the former garage associated with the property at 4a Hampstead Hill Gardens. The building is constructed from red common fletton brick and is part clad in a grey zinc material and part clad in white weatherboarding, inconsistent with the materiality of the Hampstead Hill Gardens area and the Hampstead Conservation Area. The windows are a mixture of timber, white aluminium and unfinished aluminium double and single glazed units. The Site adjoins the dwelling at 4a Hampstead Hill Gardens to the west.

The existing dwelling at the Site was formerly in use as a family home, however, was vacated in January 2020, due to its dilapidation making it unsuitable for continued use. It is at the end of its design life and has become susceptible to leaking, subsidence, and other structural issues.

The Site is situated midway along the southern aspect of Hampstead Hill Gardens, a quiet residential street located in the Hampstead Ward, within the northern part of the London Borough of Camden. The Site is in close proximity to the highway A502 Rosslyn Hill.

The Site is bounded to the north by Hampstead Hill Gardens road, number 6 Hampstead Hill Gardens to the east, and 4a Hampstead Hill Gardens to the west. The Site has two off-street parking spaces to the north of the dwelling outside the front façade.

The immediate built context of the Site is characterised by large detached residential dwellings dating from the 19th century, the majority of which are deemed to be of some architectural value. Many neighbouring properties are Grade II listed including numbers 2, 3, 4, 5, 7, 9 and 11. In addition, many neighbouring dwellings are designated as ‘buildings which make a positive contribution to the area’. These residential buildings are grand highly-detailed red brick detached houses, typically 3 to 4 storeys in height with basement.

The Site is located within the Hampstead Conservation area, specifically within Sub Area Three: Willoughby Road/Downshire Hill and within the Hampstead Hill Gardens character zone of this designation. The Hampstead Hill Gardens area is described within the Hampstead Conservation Area Statement (2001) as ‘an area with larger detached and semi-detached

houses'. This statement is not applicable to the Site however, as it is a markedly smaller dwelling in terms of height, bulk and mass, as well as aesthetic and materiality, to that of its neighbouring dwellings.

Planning History

The Architectural Appeal Statement submitted alongside this Appeal Statement summarises the design iterations discussed with LBC to date. Prior to the submission of the application now subject to this appeal (ref. 2019/5835/P) in June 2019 a similar application (ref. 2019/2964/P) was submitted to LBC for the:

'Erection of 3 storey dwelling house with basement following demolition of existing'

Following detailed discussions with officers from LBC, the scheme was withdrawn, and a revised scheme was resubmitted taking on board the comments from LBC.

Other than the previously withdrawn application, the planning history available on Camden's planning application register is sparse and relates solely to TPO's. The full planning history for the Site can be observed below.

Reference Number	Description of Development	Registration Date	Outcome
2015/3497/T	(TPO REF 12H) FRONT GARDEN: 1 x Hornbeam - Remove	24-06-2015	Refuse Works (TPO). Allowed at Appeal.
2014/7467/T	TPO REF 12H) FRONT GARDEN: 1 x Hornbeam - Reduce to previous points & thin by 20%	10-12-2014	Approve Works (TPO)
2010/5270/T	(TPO Ref: 12H-T103) FRONT GARDEN: 1 x Hornbeam - Reduce to previous points and thin by 20%.	04-10-2010	Approve Works (TPO)
2004/1835/T	(TPO Ref:12H) FRONT GARDEN 1 x Hornbeam - reduce crown 20% back to previous points, thin	12-05-2004	Approve Works (TPO)

	remaining crown 15%, shape.		
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Image referred to in Figure 1.5

The below photograph was utilised to produce the sketches included within Image 1.5 of Section 3 of the Appeal Statement.



APPENDIX 2 – List of Submission Documents

- Application Forms and Ownership Certificates, prepared by DP9;
- CIL forms, prepared by DP9;
- Site Location Plan, prepared by GRID Architects;
- Existing and Proposed Plans, Drawings, and Sections, prepared by GRID Architects;
- Structural Engineering drawings, prepared by Mason Navarro Pledge;
- Design and Access Statement, prepared by GRID Architects;
- Planning Statement, prepared by DP9;
- Daylight, Sunlight and Overshadowing Report, prepared by Point2 Surveyors;
- Basement Impact Assessment & Ground Movement Assessment, and addendum letter, prepared by RPS;
- Campbell Reith BIA Audit (commissioned by LBC at the Applicants expense);
- Heritage Statement, prepared by Prentice Moore;
- Arboricultural Impact Assessment, prepared by Lockhart Garratt;
- Construction Management Plan, prepared by Knight Build Ltd;
- Energy and Sustainability Report, prepared by Hoare Lea.

It should be noted that the Daylight and Sunlight Report prepared by Point2 Surveyors was not updated following the submission of the second iteration of the design under the application now subject to this appeal (ref. 2019/5835/P). Point 2 advised that any changes to the DSO results that occurred due to the revised design were de minimus, and on this basis the original report was resubmitted. However, in the interests of good order the revised DSO report, accounting for the appeal design is submitted alongside this Appeal Statement. The revised document confirms the fact that the revisions to the design have indeed improved the impact of the development against the BRE Guidelines. Both the original and revised designs demonstrate full compliance with BRE Guidelines.

APPENDIX 3 – The Appeal Documents

- Architectural Appeal Statement, prepared by Grid Architects.
- Heritage Appeal Statement, prepared by KM Heritage.
- Daylight, Sunlight, and Overshadowing Assessment, prepared by Point 2 Surveyors.

APPENDIX 4 – Decision Notice 2019/5835/P

APPENDIX 5 – Draft Section 106 Agreement associated with 2019/5835/P

**APPENDIX 6 – Amended Draft Section 106 Agreement associated with
2019/5835/P**

APPENDIX 7 – Response to Objections 2019/5835/P

The iteration of the design now the subject of this Appeal encountered 32 letters of objection, and 9 letters of support. The themes presented in the objections are outlined below, and responses are provided.

Height, Scale and Bulk: This is addressed in sections 2.4 – 2.8 above and in the interests of brevity is not repeated here. Fundamentally, the Proposal is of an appropriate height, scale and bulk to their context.

Design, Appearance and impact on the Conservation Area: This is addressed in sections 2.9 – 2.14 and again in the interests of brevity is not repeated here. The existing building, by virtue of its design and appearance has a detrimental impact on the Hampstead Conservation Area. The Proposal is of an exemplary and high-quality design, serving to enhance the character and appearance of the Conservation Area.

Basement Excavation: Planning Application 2019/5835/P was accompanied with a robust Basement Impact Assessment which was audited by Camden’s BIA Engineers Campbell Reith at the cost of the Appellant. The extended audit process clearly displays that the BIA is robust and correct in its conclusions that the basement development and excavation is acceptable. Camden are in agreeance with the conclusions of the BIA and the audit, and basement excavation is not listed as a reason for refusal.

Amenity Impact: This is addressed in Section 3 of this Appeal Statement and in the interests of brevity is not repeated here. As has been demonstrated, through a combination of technical and non-technical data, that any impact on amenity resultant from the Proposal is entirely acceptable, and there is no evidence to suggest that the Proposal should be refused on amenity grounds. This is the case for outlook, privacy & overlooking and in respect of daylight, sunlight & overshadowing.

Construction Impact: A Construction Management Plan was submitted alongside the planning application which demonstrates how any harmful impacts resulting from construction activities will be minimised and negated. Again, this was not cited as a reason for refusal by Camden, which demonstrates the LPA is satisfied with the information submitted in respect of construction and construction management.