

Appeal by Mr Neil Brearley in respect of proposals for 4B Hampstead Hill Gardens, London NW3 2PL

Local planning authority reference: 2019/5835/P

Statement of Kevin Murphy B.Arch MUBC RIBA IHBC

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Statement of background and qualifications

- 1 I am Kevin Murphy B.Arch MUBC RIBA IHBC. I hold an honours degree in architecture, I am a registered architect, and I am a member of the Royal Institute of British Architects. I also have a Masters in Urban and Building Conservation, and I am a full member of the Institute of Historic Building Conservation.
- 2 I am a consultant providing advice and guidance on all aspects of the historic built environment. I have undertaken this work since June 2005. Prior to this I was the head of the Historic Buildings Unit at John McAslan and Partners, architects, for a period of approximately eight months.

- 3 Between 1999 and November 2004, I was an Inspector of Historic Buildings in the London Region of English Heritage (now Historic England) dealing with a range of projects involving listed buildings and conservation areas in London. Prior to this, I was a conservation officer with the London Borough of Southwark, and I led the Conservation & Design Team at the London Borough of Hackney.
- 4 As an architect, I worked in London, Dublin, Paris and Glasgow, on a broad range of projects in a variety of contexts. This range includes office and other commercial buildings, residential development, transportation, healthcare and pharmaceutical buildings, and on the conservation and reuse of older buildings. I have considerable experience of architectural and urban design in various environments.

My appointment and experience relevant to the appeal

- 5 I was appointed by the appellant in respect of this matter in November 2020. I was not involved in the planning application for the appeal scheme. I have carefully assessed the appeal scheme, the material submitted in support of it and the Council's reasons for refusal. I have personally prepared this statement in support of the appeal.
- 6 I am familiar with the property and its surroundings. I have inspected the site and its surroundings for the purposes of preparing this statement.
- 7 The evidence that I have prepared and provide for this appeal in this statement is my professional opinion and has been prepared and is given in accordance with the guidance of my professional institutions. I confirm that the opinions expressed are my true and professional opinions.
- 8 While an Inspector of Historic Buildings in the London Region of English Heritage I was responsible for planning casework in the London Borough of Camden and dealt with many applications in the Hampstead and Belsize Park area. In my role as a heritage consultant, I have dealt with other projects in the vicinity of the appeal scheme site and in the London Borough of Camden.

The appeal

- 9 Refused application ref. 2019/5835/P sought planning permission for:

Demolition of existing 2-storey dwelling and erection of a new 3-storey and basement dwelling house

The content of my statement

- 10 The submitted Design & Access Statement ('GRID Architects Design and Access Statement – Addendum, May 2020'), Heritage Statement (as amended), drawings and other application material for the appeal scheme describe the site, its history and its surroundings, and provide an analysis of the heritage and townscape significance of the site and its context. I do not repeat that information here, but I have reviewed it in its entirety and will refer to aspects of it in my statement. Equally, I do not set out the relevant legislation, policy and guidance in this matter, as this is done by the Council in the officers' delegated report.
- 11 The design of the appeal scheme, and how it was amended in response to pre-application discussions and consultation, is dealt with in the amended DAS and Heritage Statement, and in 'Architectural Appeal Statement' prepared by Mr Laurence Osborn of GRID Architects. My comments in this statement are confined to the design of the scheme when it was refused and the effect of the appeal scheme on heritage and townscape significance.
- 12 My statement therefore focuses upon the Council's reasons for refusal numbers 1 and 2 as contained in the decision notices, and the assessment of design and heritage matters in the officers' delegated report.
- 13 4B Hampstead Hill Gardens is referred to as 'the site' or the 'appeal scheme site' in my statement. Where I refer to the Heritage Statement and Design & Access Statement, I refer to both documents as amended to reflect the final, refused scheme.

4B Hampstead Hill Gardens and its context

- 14 The Heritage Statement describes the character and appearance of this part of the Hampstead Conservation Area, and includes an extract from the relevant part of the conservation area appraisal. The street has a distinctly historical character, expressing in a satisfying way the evolution of residential architectural style from a more stuccoed neo-classical approach in the mid-Victorian period at the southern end of the street, to a series of very fine red brick Queen Anne houses at the northern, curved end developed in the 1880s, where 4B Hampstead Hill Gardens is located.
- 15 I note that the conservation area appraisal is somewhat vague regarding 4A and 4B Hampstead Hill Gardens in the context of the Willoughby Road/Downshire Hill Sub Area (3) of the Hampstead Conservation Area. At Page 52, it identifies Nos. 6, 10-20 (even) 13- 33 (odd) Hampstead Hill Gardens as making a positive contribution to the conservation area. At Pages 33 and 34 it provides lists of buildings within this part of the Sub Area that detract from the conservation area and which have a

neutral effect. The conservation area appraisal says that ‘A few small modern houses and flats have been added in recent years, which, although in marked contrast to the older villas, do not detract from the character of the area’, which suggests they neither enhance or detract, but 4A and 4B Hampstead Hill Gardens does not feature in the list of neutral buildings.

- 16 There are, in fact just three ‘modern houses and flats’ in Hampstead Hill Gardens: 4A and 4B, No. 8 and the extension to No.23, in roughly chronological order. In the context of a street with such a distinctive historical character (notwithstanding variations in the historical architectural styles used in the phases of development), these three buildings are notable by being at odds with the prevailing character of the street. That said, I consider that the extension to No. 23 demonstrates a concern for local character and subservience to the prevailing context in its materiality and elevational design.
- 17 I agree with the assessment of 4A and 4B Hampstead Hill Gardens as it is now found contained in the Heritage Statement and the Design & Access Statement. Firstly, the original 4A Hampstead Hill Gardens was, in my opinion, typical of its period in the way it was designed, without being notably innovative or significant in terms of the overall architectural environment of the 1950s and 1960s. Secondly, the original house was repeatedly altered over an extended period in an ad-hoc and clumsy manner. What modest architectural quality existed in the original house was, in my opinion, wholly compromised by subsequent alterations. The result, as we now find it is, I believe, at odds with the original architect’s aspirations as reported in the contemporary press when it was built. In terms of use (two dwellings rather than one), massing, materiality and overall appearance, the building now is not just a variation from the original design but something very different from that design. 4A and 4B Hampstead Hill Gardens are now awkward and bland structures in a street notable for the quality of its original or early buildings.
- 18 That is not to say that that it is not possible for a modern building to make a positive contribution to the character and appearance of a conservation area. Examples of such buildings exist elsewhere in the Hampstead Conservation Area – the Grade II* 49a Downshire Hill (by Michael Hopkins) and the Grade II* 1-3 Willow Road by Erno Goldfinger are examples. 4A and 4B are at the opposite end of the spectrum from such quality and significance. In my opinion the site detracts from the character and appearance of the conservation area – its present appearance causes a degree of less than substantial harm to the conservation area. The replacement of 4B Hampstead Hill Gardens is to be welcomed, and one might hope that a similar proposal will come forward for No. 4A.

The appeal scheme

- 19 In my opinion therefore (and reflecting policy and guidance on development in historic areas generally), a proposal for a site such as that at 4B Hampstead Hill Gardens should seek to mediate between respecting the existing character of the area and creating a new building of high architectural quality.
- 20 I consider that the appeal scheme very successfully responds to its site and the heritage significance of its context, for the following principal reasons:
- The design of the appeal scheme 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 scheme 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 scheme 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 scheme 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.
- 21 In my opinion the appeal scheme strikes a very good balance between respecting historical character and appearance and resorting simply to imitation of adjacent styles (or ‘pastiche’, as it is sometimes inaccurately described). It also, importantly, strikes a good balance between replacing No. 4B with a new house while not creating an incongruous relationship with No. 4A, which remains unaltered. As the Design & Access Statement explains, this is achieved by aligning horizontal elements of the new building with those of No. 4A, as well as using zinc as a roofing material. Similarly, I consider that the treatment of the east facing gable wall, in echoing the west-facing gable wall of No. 6, to be another example of the successful responses of the appeal scheme to the specific circumstances so the site.
- 22 The existing building at 4A and 4B Hampstead Hill Gardens ignores its context. This situation is reversed by the appeal scheme, which very clearly does the opposite. In doing so, the appeal scheme, in my opinion, not only preserves the conservation area but significantly enhances the conservation area over the present condition in

Hampstead Hill Gardens created by No. 4B. The appeal scheme would improve the character and appearance of this part of the Hampstead Conservation Area by rectifying to a tangible degree the imbalance created by 4A and 4B Hampstead Hill Gardens, both in terms of their original design and in terms of their very altered condition and appearance.

The compliance of the appeal scheme with legislation, policy and guidance.

Does the appeal scheme preserve the setting of listed buildings and the character and appearance of the conservation area?

23 Yes. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 Act requires decision makers to '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' when determining applications which affect a listed building or its setting. Section 72(1) of the Act requires decision makers with respect to any buildings or other land in a conservation area to pay 'special attention... to the desirability of preserving or enhancing the character or appearance of that area'.

1.1 In my opinion, the appeal scheme, at the very least, preserves both the setting of the nearby listed buildings and the character and appearance of the Hampstead Conservation Area. It is important to note that the legal requirement regarding satisfying Section 72(1) of the Act was established by *South Lakeland District Council v Secretary of State for the Environment and another* [1992] 1 ALL ER 573 and is met if the proposed development leaves conservation areas unharmed. We believe that it would be difficult to characterise the proposed scheme as doing anything less than leaving the Hampstead Conservation Area unharmed.

24 In any event, and I state earlier in this statement, the appeal scheme goes further than preservation to positively enhance the conservation area, for the reasons I give.

Does the appeal scheme conserve the significance of a designated heritage asset and avoid harm?

25 Yes. Paragraph 193 of the National Planning Policy Framework says that '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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'.

26 In my opinion, no harm is caused by the appeal scheme to the significance of the relevant designated heritage assets – the Hampstead Conservation Area or the

nearby listed buildings. The single glimpsed view of No. 4 across the site of No 4A and 4B Hampstead Hill Gardens (Page 40 of the Design & Access Statement as amended) is not of such significance in the conservation area as to preclude this conclusion. The appeal scheme helps to reverse existing harm to these assets caused by the appearance and condition of the existing building. As I have already stated, I believe the enhancement provided by the scheme is self-evident when it is compared with the existing situation.

Camden's Local Plan policies for design and conservation

- 27 I have reviewed Camden's current Local Plan policies for design and conservation in relation to the appeal scheme. In addressing the key tests in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework, I believe that the appeal scheme therefore fully complies with Camden's policy and guidance regarding design and conservation, and is consistent with the conservation area appraisal. 4B Hampstead Hill Gardens is not identified as a positive contributor to the conservation area (nor could it be) and the appeal scheme is a very good example of what the conservation area appraisal refers to in Guideline H21 (Page 62):

New development should be seen as an opportunity to enhance the Conservation Area and should respect the built form and historic context of the area, local views as well as existing features such as building lines, roof lines, elevational design, and where appropriate, architectural characteristics, detailing, profile, and materials of adjoining buildings.

- 28 I am also satisfied that the appeal scheme is fully consistent with Policies DH1 and DH2 of the Hampstead Neighbourhood Plan.

The Council's position

The reasons for refusal

- 29 Application reference 2019/5835/P was refused planning permission on 21 October 2020. The reason for refusal most relevant to my evidence is number 1 as follows:

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.

The officers' delegated report

- 30 At Paragraph 2.2, the officers' delegated report indicates support for the principle of demolition, and expands on this point in Paragraph 3.1. I consider Paragraphs 3.7 to 3.10 to be a fair and generally accurate assessment of the character and appearance of this part of the Hampstead Conservation Area, and provide useful advice to how new development (or redevelopment) can satisfy the legislative and policy requirements set out earlier.
- 31 However, I disagree with the statements made in Paragraph 3.11. The proposal cannot reasonably be described as being 'excessive and overbearing', given its lower scale in relation to other older buildings including No. 6 Hampstead Hill Gardens and the use of horizontal string courses and corncicing. In addition, the design cannot be reasonably described as 'three storey'. The design is self-evidently for a two storey house with an inhabited roof space served by dormer windows – exactly as found elsewhere in Hampstead Hill Gardens, a street which contains three-storey houses directly opposite 4B Hampstead Hill Gardens. I find the following statement highly questionable:
- 'The additional height and bulk competes with the listed villas opposite and intrudes into views of the listed building at no.4, undermining its setting through greater visible bulk and massing and no longer responding to the traditional historic relationship between the buildings in which No 4 predominates and 4A&B remain legible as subordinate buildings.'*
- 32 The assertion that the development 'competes with the listed villas opposite and intrudes into views of the listed building at no.4' is not supported by the visual material (drawings and views) that illustrate the appeal scheme and lacks credibility. Paragraph 3.11 and Paragraph 3.13, in my opinion, erroneously privileges the incongruity of the existing 4A and 4B Hampstead Hill Gardens as somehow being a positive quality but seems to confuse incongruity with 'unobtrusiveness'.
- 33 The key point here is that there is no reason in legislation, policy and guidance why a new development on this site should be 'unobtrusive' – certainly it should preserve and enhance the conservation area (which includes respecting scale) but that does not mean that it is required to be 'unobtrusive'. A building of the existing scale of 4A and 4B Hampstead Hill Gardens can be obtrusive by being of scale that is out of keeping with the general scale of the street – by being unusually low in height. In any event, I consider that the use of terms such as 'excessive' scale, 'overwhelm', 'unbalances' and 'competes' are inappropriate and demonstrates a lack of understanding of the appeal scheme, the character and appearance of this part of the conservation area and what legislation, policy and guidance actually

allows for. This, in turn, leads to an incorrect judgement concerning less than substantial harm in Paragraph 3.14.

Summary and conclusion

- 34 It is unfortunate that the Council sees the present scale of 4A and 4B as related somehow to what is of significance in the conservation area. There is no 'traditional relationship between 4A&4B and No. 4' (Paragraph 3.13 of the officers' delegated report); what relationship (of questionable value) exists was created in the mid-1950s.
- 35 That the site of 4A and 4B Hampstead Hill Gardens formed part of the private garden of No. 4 prior to the construction of Hampstead Hill Gardens is a historical fact, as is the development of the site from the mid-1950s onwards. The purpose of legislation, policy and guidance concerning the historic built environment is not to find a means to recreate or approach an original condition when it has been altered, as is suggested by references by the Council to the scale of the existing buildings, particularly when objecting to a proposal such as the appeal scheme does not actually achieve that aim.
- 36 It is, instead, to manage and control what happens next. That, in turn, can take a number of forms, including an increase in scale which nonetheless still satisfies legislation, policy and guidance by respecting what is significant in the context of the site. The appeal scheme may well be taller than the existing No. 4B, but the design of the scheme is such as to preserve and enhance the conservation area and the setting of nearby listed buildings, for the reasons explained in the Design & Access Statement, Heritage Statement and in my statement.
- 37 For these reasons I believe that the appeal scheme site fully complies with legislation, policy and guidance relating to the historic built environment, and I consider that the appeal be allowed.

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