

**PLANNING SERVICES**

**TOWN & COUNTRY PLANNING ACT 1990 (as amended)**

**HEARING  
STATEMENT OF COMMON GROUND**

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**APPEAL SITE**

4b Hampstead Hill Gardens  
London  
NW3 2PL

**APPEAL BY**

Mr & Mrs Neil Brearley

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**SUBJECT OF APPEAL**

Appeal against the Council's refusal to grant planning permission on 21<sup>st</sup> October 2020 for:

*“Demolition of existing 2-storey dwelling and erection of a new 3-storey and basement dwellinghouse”*

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**COUNCIL REFERENCE:** 2019/5835/P

**PLANNING INSPECTORATE REFERENCE:** APP/X5210/W/21/3272103

The application was refused by the Council on 21/10/2020 for the following reasons:

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.*

This statement addresses the following areas of common ground:

1. Description of the site
2. Designations
3. Relevant Planning history
4. Planning policy framework
5. Areas of agreement
6. Areas of disagreement

## **1 Description of the site**

- 1.1 No. 4b Hampstead Hill Gardens is a semi-detached, two storey, red brick / zinc cladded residential dwelling located on the southern side of the northern curve of the road.
- 1.2 The house was constructed pursuant to planning permission reference 1941, dated 19/07/1966 (for: Erection of self-contained dwelling over existing garages at 4a Hampstead Hill Gardens, Camden).
- 1.3 To the front there is driveway. A brick wall marks part of the front boundary and side boundaries.

## **2 Designations**

- 2.1 The appeal site is within the Hampstead Conservation Area. It is specifically located within the "*Hampstead Hill Gardens*" character zone of Sub Area Three: "*Willoughby Road / Downshire Hill*", as defined by the Hampstead Conservation Area Statement (HCAS).
- 2.2 Nearby listed buildings on Hampstead Hill Gardens include Nos. 1, 1A, 1B, 2, 2A, 3, 3A, 4, 5, 5A, 5B, 7, 9 and 11 and various walls, railings, gates etc. attached thereto (all grade II).
- 2.3 The appeal site is within the Hampstead Neighbourhood Plan area.
- 2.4 The following underground development constraint applies at the application site: slope stability.

## **3 Relevant planning history**

### 4b Hampstead Hill Gardens (the appeal site)

- 3.1 **2019/2964/P** - Erection of 3 storey dwellinghouse with basement following demolition of existing. **Withdrawn 29/07/2019.**

### 4 Hampstead Hill Gardens

- 3.2 **TP24808/26975** - The erection of a two-storey dwelling-house and private double garage on a site adjoining No. 4, Hampstead Hill

Gardens, Hampstead, and the formation of a new means of access to the highway. **Granted 28/05/1955.**

#### 4a Hampstead Hill Gardens

- 3.3 **2004/4790/P** - The replacement of a low stone wall on the front boundary with a new brick wall, pier and reclaimed metal railings. **Granted 21/12/2004.**
- 3.4 **PWX0302097** - Erection of a various ground floor infill extensions and a first floor side extension together with improvements to the external elevation of the existing dwellinghouse, including replacement windows and new zinc roof. **Granted 14/04/2003.**
- 3.5 **3694** - The erection of a car port and the construction of a pavement crossover at 4a Hampstead Hill Gardens, Camden. **Granted 28/06/1967.**
- 3.6 **1941** - Erection of self-contained dwelling over existing garages at 4a Hampstead Hill Gardens, Camden. **Granted 19/07/1966.**

## **4 Planning policy framework**

### National Policy Documents

- 4.1 The National Planning Policy Framework (NPPF) sets out the government's planning policies for England and how these should be applied. The NPPF was most recently updated in July 2021. Chapters 1, 2, 4, 9, 11, 12, 14, 15 and 16 are relevant to the determination of this appeal.

### Regional Policy Documents

- 4.2 The London Plan is the Spatial Development Strategy for Greater London prepared by the Mayor of London. It sets out a framework for how London will develop over the next 20-25 years and the Mayor's vision for Good Growth. The current London Plan was published in January 2021. Chapters 1, 3, 4, 7, 8, 9 and 10 are relevant to the determination of this appeal.

### Local Policy Documents

- 4.3 The Camden Local Plan sets out the Council's planning policies. The Local Plan was adopted in 2017 and covers the period from 2016-2031. The following policies are relevant to the determination of this appeal:

- G1 Delivery and location of growth
- H1 Maximising housing supply
- H4 Maximising the supply of affordable housing

- H6 Housing choice and mix
- H7 Large and small homes
- C6 Access for all
- A1 Managing the impact of development
- A2 Open space
- A3 Biodiversity
- A4 Noise and vibration
- A5 Basements
- D1 Design
- D2 Heritage
- CC1 Climate change mitigation
- CC2 Adapting to climate change
- CC3 Water and flooding
- CC4 Air quality
- CC5 Waste
- T1 Prioritising walking, cycling and public transport
- T2 Parking and car-free development
- T3 Transport infrastructure
- T4 Sustainable movement of goods and materials
- DM1 Delivery and monitoring

4.4 The Hampstead Neighbourhood Plan sets out the Council's planning policies for the area covered by the plan. It has the same legal status as the Camden Local Plan. The Neighbourhood Plan was adopted in 2018 and covers the period from 2018-2033. The following policies are relevant to the determination of this appeal:

- DH1 Design
- DH2 Conservation areas and listed buildings
- BA1 Basement Impact Assessments
- BA3 Local Requirements for Construction Management Plans
- TT1 Traffic volumes and vehicle size
- TT4 Cycle and car ownership

#### Supplementary Guidance

4.5 Camden Planning Guidance (CPG) provides advice and information on how the Council will apply its planning policies. The following CPG are relevant to the determination of the appeal:

- CPG Access for all (2019)
- CPG Amenity (2021)
- CPG Basements (2021)
- CPG Biodiversity (2018)
- CPG Design (2021)
- CPG Developer contributions (2019)
- CPG Energy efficiency and adaptation (2021)
- CPG Home Improvements (2021)
- CPG Housing (2021)
- CPG Public open space (2021)

CPG Transport (2021)  
CPG Trees (2019)  
CPG Water and flooding (2019)

#### Conservation Area Statement

- 4.6 The Hampstead Conservation Area Statement was adopted in October 2001. The aim of the statement is to provide a clear indication of the Council's approach to the preservation and enhancement of the Hampstead Conservation Area and it is to be used by the Council in the assessment of all development proposals in the conservation area. Pages 6, 26, 32 and 34 are relevant to the determination of this appeal.

### **5 Areas of agreement**

#### Principle of development

- 5.1 The principle of the demolition of No. 4b Hampstead Hill Gardens is considered to be acceptable, but only on the basis that the redevelopment scheme would preserve or enhance the character and appearance of the Hampstead Conservation Area, and not cause unacceptable harm to the setting of nearby listed buildings.

#### Amenity

- 5.2 The impact on neighbouring properties is acceptable in terms of daylight / sunlight and overshadowing impacts; and privacy and overlooking.

#### Basement impact

- 5.3 Sufficient information has been provided to demonstrate that the proposed basement would not cause harm to neighbouring properties; the structural, ground, or water conditions of the area; the character and amenity of the area; the architectural character of the building; and the significance of heritage assets, in accordance with Policy A5 of the Local Plan, Policy BA1 of the Hampstead Neighbourhood Plan, and CPG Basements (2021).
- 5.4 A Basement Impact Assessment (BIA) was submitted with the planning application and independently audited by Campbell Reith, in line with the requirements of CPG Basements (2021). Following objections from local residents, Campbell Reith were requested to revisit the BIA audit and its conclusions. Campbell Reith issued a follow up letter to their audit; however they did not change their view that the BIA complies with the aims and objectives of Policy A5 of the Camden Local Plan and CPG Basements.
- 5.5 The predicted impact at the time of construction phase is no more than Burland Scale 1.

### Residential standards

- 5.6 The replacement dwelling would exceed the Nationally Described Space Standards space standards for a 4 bed dwelling.
- 5.7 The replacement dwelling would provide a good standard of living for future occupiers in terms of size, layout, orientation and outlook, plus amenity and storage space.

### Trees

- 5.8 The impact on nearby trees is acceptable, subject to a condition to ensure the works are carried out in accordance with the methods outlined in the submitted Arboricultural Impact Assessment.

### Transport

- 5.9 Cycle parking provision is acceptable, subject to a condition to ensure the provision of 3 long stay spaces.

### Energy and sustainability

- 5.10 The proposal is acceptable in energy and sustainability terms, subject to a condition to limit maximum internal water use.

## **6 Areas of disagreement**

### Impact on the character and appearance of the Hampstead Conservation Area and the setting of nearby listed buildings

- 6.1 Whether the proposed replacement dwelling 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.

### Amenity

- 6.2 Whether the proposed replacement dwelling would cause unacceptable harm to neighbouring properties by way of loss of outlook to No. 4a Hampstead Hill Gardens as a result of its unneighbourly and overbearing height and massing.
- 6.3 Whether the Construction Management Plan should be secured by planning obligation or by planning condition to ensure that the proposed development would not cause undue harm to residential amenity as a result of the construction period.

### Basement

- 6.4 Whether, in the absence of an acceptable section 106 legal agreement to secure an Approval in Principle for the basement works, the excavation adjacent to the public highway would result in damage to the public highway and subsequent traffic disruption and dangerous situations for pedestrians and road users.

### Transport

- 6.5 Whether, in the absence of an acceptable section 106 legal agreement to secure car-capped housing, the proposal would be likely to contribute to unacceptable parking stress and congestion in the surrounding area and would fail to encourage the use of sustainable modes of transport.
- 6.6 Whether, in the absence of an acceptable section 106 legal agreement to secure a highways contribution, the footway adjacent to the appeal site would sustain damage without financial means of being fixed.

### Construction impact

- 6.7 Whether, the Construction Management Plan should be secured by planning obligation or by planning condition to ensure that the proposed development would not cause undue harm to traffic and highway and pedestrian safety.