

29 New End,
Hampstead, NW3 1JD.

**Objection to Planning Application
Reference Number: 2012/3089/P**



Prepared by

*Stephen Levrant Consulting
6, Hammersmith Terrace, Chiswick Mall,*

London W6 99TS

On behalf of
Local Residents

October 2013

Contents

Contents.....	2
1 Introduction	3
2 Summary	4
3 Historic Environment Assessment: Non-compliance with policy	5
4 Significance of the heritage assets	6
4.1 Generally.....	6
4.2 Significance of the existing building on the site.....	8
4.3 The nature of significance	10
4.3.1 Historic background	11
4.3.2 Significance considerations	11
4.4 Extent of the fabric that holds interest.....	11
4.5 Level of importance.....	13
5 Issue of harm	14
5.1 Issues.....	14
5.2 Assessment of Harm.....	15
6 Impact.....	17
7 Particulars of the proposal	18
8 NPPF issues in detail.....	20
8.1 Generally.....	20
8.2 Section 12.....	20
8.3 Section 5: Design.....	21
9 Further considerations in respect of the historic environment assessment.	23
9.1 Generally.....	23
9.2 Policy context.....	23
9.3 Proposed development and its effect (section 5).....	23
9.4 Effect on significance of heritage assets.....	24
9.5 Nature of the design (paragraph 5.13).....	24
9.6 Settings	25
9.7 Compliance with policy and guidance	28
10 Visual comparisons.....	30
11 Conclusion	33

1 INTRODUCTION

This report has been commissioned by a group of local residents, as an objection to the following planning application Reference: 2012/3089/P London Borough of Camden.

Address: 29 New End, Hampstead, NW3. (Formerly: nurses home).

Proposal: conservation area and planning permission for consent for ‘Demolition of existing building at 29 New End and creation of 17 residential (C3) units over lower ground, ground, first, second, third, fourth and fifth floor levels, creation of new vehicular access and access to basement parking, works to boundary wall, and works of hard and soft landscaping and other works incidental to the application.’

Applicant: Karawana Ltd

This objection deals primarily with the issues concerned with heritage assets, townscape; and the impact upon those, with particular reference to relevant sections of the NPPF.

The applicants have commissioned an Historic Environment Assessment from KM Heritage, which addresses the significance of heritage assets, and this objection examines that document in the light of relevant policies.

This report has been prepared by Stephen Levrant RIBA, AA dip, IHBC, Dip Cons (AA), ACArch, FRSA; architect, who has been practising for over 35 years exclusively within the cultural heritage environment. Having been previously employed for almost 10 years in central government as an architect in the Directorate of Ancient Monuments & Historic Buildings, the precursor to English Heritage, within the Office of Works; he founded the government’s Conservation Unit within the Property Services Agency. Subsequently he became a partner in the architectural practice of FG Frizzell, established in 1948, eventually taking over that practice to become principal of Heritage Architecture Limited. The work of the practice is entirely founded upon historic building and conservation issues, and employs 16 – 18 staff with offices in London and Manchester work is carried out both on a consultancy/advisory basis; and in practical design, contractual building construction conservation/restoration projects. Some 700 commissions have been completed to date, including numerous appeals and public inquiries.

“Stephen Levrant Consulting” is a separate company used for small number of personal projects, and particularly those involving third parties and communities.

2 SUMMARY

This objection is predicated upon the following issues:

- There is insufficient information to properly determine the application, given its highly sensitive location and the level of local concern.
- There is insufficient information in respect of the significance of heritage assets and the immediate context.
- The supporting documents and drawings are misleading
- The Historic Environment Assessment a key document in determination of this application is flawed and invalid.
 - It is based upon and formulated to comply with planning policy and guidance that is no longer current.
 - There is no Townscape Impact Assessment
 - The impact upon the heritage assets has not been properly assessed and will be highly adverse.
 - It is predicated upon and makes extensive comparative reference to, a previous proposal which is not before the council for consideration and is not included within the application documents.
- There is a risk of “slight damage” to listed Lawn House, which must be considered as “less than substantial harm” within the tenets of the NPPF. No “public benefit” has been offered in mitigation of such harm.
- There is harmful impact upon the settings of designated Heritage Assets and thus the proposal is not “sustainable” as defined by that document and . No “public benefit” has been offered in mitigation of such harm
- The design does not satisfy the requirements of NPPF.
- The application does not demonstrate compliance with all the relevant policies of the NPPF and is thus not “Sustainable” within the tenets of that policy document, and therefore must be refused
- The proposal thus fails to preserve and enhance the character of the heritage assets and their settings, and therefore contravenes the tenets of NPPF and local plan policies.
- The application should be refused in respect non-compliance with policy and related national policy guidance for the conservation of the historic environment

3 HISTORIC ENVIRONMENT ASSESSMENT: NON-COMPLIANCE WITH POLICY

This objection maintains that the local planning authority cannot determine this application by utilising the supporting documents before them. Specifically, the Historic Environment Assessment is predicated upon the tenets of PPS 1, PPS 3, and PPS 5; none of which are currently valid.

The application was registered 15 .06. 2012

The application covering letter from Planning consultants DP9 dated 13 June 2012, makes reference to an Historic Environment Assessment prepared by KM Heritage (May 2012). The application documents on the council's web site and thus those available for consultation and comment only include a Historic Environment Assessment Dated February 2012. This is further ratified as a key document in a letter from engineers TWS of 8th October 2012, where they confirm that they have used this document as part of their basement impact assessment.

The council web site includes an addendum to the archaeological desk based assessment to update it to the NPPF; there is a similar addendum to the D&A Statement from KSR Architects, dated 07.06.2012.

There is an additional report from KM Heritage dated 28 May 2013, but this deals entirely with an opinion in respect of requirement for listed building consent. It does not address NPPF issues.

There appears to be no updated Historic Environment Assessment available, and none with the date of "May 2012." other than the additional report from KM Heritage of 28 May referred to above.

The NPPF came into force in March 2012, and all other Planning Policy documents were repealed. The LPA can only determine the application within guidance and policy that is current.

The Historic Environment Assessment has not been amended to recognize the NPPF. We therefore fail to understand how the LPA can determine this application in its present form. The applicants have had an extensive time scale in which to amend this document and do not appear to have done so. The fact that it is still being referred to by their Engineers TWS as late as October 2012 would seem to substantiate that fact.

The LPA presumably has the option of making a comparison with the present policy and as the principle Acts have not changed, such comparison is possible. However, the NPPF is an overarching policy document, linking together and replacing numerous other policy guidance, including those previously covered by PPS 1, PPS 3 and PPS 5. The Framework demands that a proposal has to demonstrate that it is sustainable by reference to the policies 18 to 219. That has not been demonstrated.

Although the planning officers may elect to make their recommendation by transposing the NPPF policies with those of the former PPS documents, the consultees and objectors have had no opportunity to examine the proposal, in that light.

I am concerned that the officers determining this application do not appear to have noticed this point, which is unacceptable and therefore may be sufficient to challenge the determination. The

lack of a relevant heritage assessment that addresses the current national planning policy is sufficient to warrant refusal of the application.

4 SIGNIFICANCE OF THE HERITAGE ASSETS

4.1 Generally

All policies in the NPPF adopted 27th March 2012 constitute the Government's view of what sustainable development means in practice. The NPPF contains an express presumption in favour of

sustainable development which should be taken into account when making planning decisions. Conservation of heritage assets is one of the 12 core principles of the framework; hence development that fails to adhere to the historic environment policies, by failing to give due weight to the preservation of heritage assets, is not sustainable development. (NPPF Para 17).

Furthermore, one of the key dimensions of sustainability is protecting and enhancing the historic environment: *'Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment [...]'* NPPF Para 9.

Although this policy is outside the core "sustainability" policies, it is important in establishing the government's attitude towards "improvement". This has extreme relevance for the proposed replacement building, which is predicated upon the basis that the existing building has a substantial bulk and presence within the historic grain of this part of Hampstead. Indeed, Camden's own Conservation area Statement describes the existing building as "looming and overbearing". Notwithstanding any particular qualities which this existing building may contain, which have also not been properly assessed, any "improvement" should seek to produce a building of reduced bulk, mass, and impact. The proposal fails in this regard, and is admitted by the applicants by trying to justify a considerably larger buildings in all respects.

Failure to Identify and assess Heritage Assets

Para 128 states *'In determining planning applications, local authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than sufficient to understand the potential impact on their significance. [...] Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, when necessary, a field evaluation'.*

Para 129 continues on the subject: *'Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of the proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal'.*

Neither the Historic Environment Assessment, ("HEA") nor the Design & Access Statement submitted with the proposal, properly addresses the historic significance of the surrounding heritage assets, and both failed to recognise or acknowledge the present building proposed for demolition as a "non-designated Heritage Asset".

The HEA by KM Heritage fails to provide the necessary and accurate appraisal of significance of the character of the setting of the present building, and of the heritage assets whose settings will be

affected. For example, it limits impact on historic assets and their settings to a – very brief – description of three buildings; whereas the Design & Access Statement indicates 13 listed buildings within the immediate environs of the site, whose settings would be affected. More importantly, the ARUP engineers report states that there may be “slight risk” of damage to Lawn House, one of the listed buildings. This has not been mentioned or separately justified in the HEA. It is not clear why any risk at all should be occasioned to a listed building by this proposal.

The HEA, and the D & A statement do not include a Zone of Visual Influence in which the impact upon settings could be evaluated. Therefore the assessment has failed properly to evaluate the acceptability of redevelopment proposals in heritage terms as a matter of principle, and the assessment of the impact of those proposals is also incomplete and flawed.

4.2 Significance of the existing building on the site

This is dismissed summarily without any indication of research being carried out. It is given the date of “early 1950s” purely on the basis that it appears on the OS map of 1953 and does not appear on the preceding OS map of 1936. There appears to have been no research in the extensive archives of the Royal Free Hospital and other well-known archival sources. On this basis, it is just as probable that the building could have originated at any time during these two dates. In fact, it is more likely to have appeared shortly after the depiction of the cleared site, on the 1938 OS map; as the New End Hospital was taken over by the LCC in 1930, and at that date staff accommodation was makeshift in the old workhouse buildings. It is more likely that new, purpose-built nurse’s accommodation would have been something of a priority. However, there is in fact, another map in the OS series of 1951, at the very small scale of 1:10,560 which shows the site as undeveloped; but I believe this also to be inconclusive, as the OS maps are not always entirely reliable. Significance and actual construction date of the building cannot always be determined from map evidence alone.

Throughout the 1930s and early 1940s, the hospital gained an international reputation for the treatment of patients suffering from toxic goitre and myasthenia gravis following the establishment of a thyroid clinic in 1931. In 1942 the first thymectomy in the United Kingdom was performed at the hospital. At the establishment of the National Health Service in 1948, the hospital came under the control of the Archway Hospital Management committee as part of the Northeast Metropolitan Regional Hospital Board. It became recognised as a hospital for acutely sick patients and is especially renowned as a centre for endocrinology. These, and other milestones in the history, will have been instigators of the construction of the nurses’ home and would have a bearing on its significance. None of this has been recognised or assessed as part of the heritage of the existing building.

Without that full and proper assessment of significance, the value of the building cannot be properly determined and therefore the degree of harm that may be occasioned by its demolition, is also unknown. Without this information, it is impossible to state that the building possesses no qualities that may ascribe heritage value.

The Council's conservation area statement describes the building thus:

"The Nurses Home sits above the road level and is five storeys high with pitched roof and a ground floor that is set forward. It is a plain building with casement windows. There is mature horse chestnut in front of the Nurses Home, softening slightly the buildings (sic) overbearing quality as it looms over the street."

This is a less than helpful description, if with the heritage values of the building are to be meaningfully assessed. It ascribes "overbearing" as a "quality" rather than a mere criterion or effect of its appearance. The fact that the building also "looms" need not be a negative or detrimental criterion, if taken in its literal sense. This is, in fact, a well known attribute of the topography, which is such an important characteristic of the site and its environs. The building is included in a list of "Buildings or features which detract from the character of the area and would benefit from enhancement" included at the end of section in the conservation area statement relating to sub-area two. However, it is my view that the qualities of the existing building have not been properly assessed or understood; and "enhancement" does not necessarily imply demolition.

Although design issues are subjective, many buildings of this type and date range are now being reassessed for their role in contribution to the spread of modernism. The date and circumstances of its construction would contribute to this; and buildings which depend for their architectural form and articulation on an interpretation of the emerging "international style" tempered with a minimalist approach to their materiality, are considered to be of heritage asset value.

The building has not been surveyed internally or in detail for this report, but possesses a certain sophistication of proportionality, which would seem to indicate a possible origin at the earlier end of the 1936-1953 date range. Utilitarian buildings erected with a paucity of materials in the years immediately following the Second World War, often abandoned proportionality principles and attempted to free the design from what was often considered the tyranny of "the Orders" of Architecture.

On external visual evidence of the fabric, the building is far more redolent of the Part Deco period than one would expect for a post-war utilitarian hospital building. It has absolutely typical features of the 1930's period, including a feature chimney with stepped and articulated brickwork; a robust string cornice with dentils; and a top cornice, also with dentils and utilising a moulded cast iron gutter as the top cyma. The proportionality and massing of the building is also redolent of the earlier period, particularly the way it utilises the fall in the ground, reducing elements of horizontality and protrusion in order to meet the street level. The roof is pitched, with sprockets, and covered pantiles; and visual interest in the massing is provided at the extreme rear of the building by the use of a circular tower feature, constructed of headers. There is also an interesting porch feature at the entrance utilising neo-Regency motifs, which were a common feature in buildings of this type in the 1930s.

The height of the building, placed above its steeply sloping high plinth, in the dense urban grain, contributes to its impact within the conservation area, and whilst this may not be generally seen as a positive factor, it is as a result of its functionality and siting on the steeply sloping topography.

Moreover, when examined more closely with its context, and particularly with the extremely significant characteristic of steepness within Hampstead village, this verticality and massing may arguably be somewhat “overbearing” and may not relate well to the settings of the old hospital buildings opposite, Christ Church behind all the other adjacent listed buildings. However, there is an obligation to sustain and enhance, so an understanding of this context becomes more relevant in examination of the impact of the proposal. Essentially, if the “overbearing” is the feature which detracts from the character of the area, that should be addressed in a replacement building which clearly demonstrates enhancement through eliminating that trait.

English Heritage, in their comments to the Council, provided in a letter from the council to the applicants of 10th March 2008 (released to the objectors under the Freedom of Information Act) regarded the designation within the Conservation Area statement as “overly harsh” and wondered whether this was an error “mistaking this building for the one of lower-quality adjacent, which has been identified in the Statement as neutral.” They go on to say that:

“Whilst the building is large, and overly imposing due to its position on the rising ground, it relates well to the surrounding built form in terms of materials, massing and elevational detailing, and is of high quality construction with attention to detail and good brickwork. Any replacement building should be of sufficient design merit.”

The PPS 5 Planning Practice Guide provides a 3-step procedure for assessing significance, viz:

1. Establish the nature of the significance;
2. Define the extent of the fabric that holds the interest;
3. Determine the level of importance of that interest.

There is no evidence within the documents that this practice has indeed been followed in accordance with its true status as the valid national guidance document, to be accorded full weight in consideration of heritage policy matters¹. This is a fundamental error in approach and renders the assessment flawed.

The three principles are important and extremely relevant to an understanding of impact.

4.3 The nature of significance

This is not properly established or adequately demonstrated within the documents. The heritage assets are the conservation area, and all the individual structures and buildings within it, designated and non-designated, whose settings will be affected by the proposal. This is not just limited to the listed buildings noted in the HEA and D&A Statement.

¹ English Heritage Revision Note June 2012

As regards the conservation area, the development and historic use are paramount as elements of character that define the significance. There is no assessment or understanding of this demonstrated.

Due to the lack of historic research into the existing building on the site, such evaluation as there is of assessment of the evidential, historical, aesthetic and communal values of the building and its setting² is flawed.

4.3.1 Historic background

The historic background to the existing building has not been properly researched, or assessed for its contribution to significance. An outline has been provided at 4.2, above, which indicates that there are elements of important social history, and possibly, aesthetic values which have not been taken into account in the historic environment assessment.

4.3.2 Significance considerations

The Design & Access Statement contains a useful map regression, but the sources are not credited and there is no exposition of how that development affects or contributes to significance. The area depicted on each map is also severely curtailed to an area only slightly greater than the confines of the site. This fails to set the site within its context of the historic settlement of Hampstead and most importantly excludes the settings of numerous heritage assets.

The HEA does not make reference to the archaeological report outline history which accompanied their morphological map progression. However, the archaeological desktop study does not give a very good overview of the heritage assets within the setting of the subject site. There is no gazetteer of heritage assets and no descriptions or listing notices. Therefore, there is no material by which to properly understand the nature of significance of the setting of the site and how this will be affected by the proposal. The description of the morphological map regression also offers no indication of the antecedent use of the site. There appears to have been no archival research; and, for example, no satisfactory explanation of how what appears to be a quartered garden in 1866, becomes a vacant site with some vague walls built across it, by 1893. This lack of research is confirmed by the very brief bibliography attached to the archaeological desktop study.

4.4 Extent of the fabric that holds interest

This has not been properly addressed, and is slighted in the application documents.

An illustration in the Design & Access Statement indicates something of the extent of the fabric (of the conservation area) which holds interest and this is enlarged in the site analysis map included in the archaeological desktop study. It shows the numerous listed and other heritage assets, all of

² English Heritage "Conservation Principles" (2008)

which are within the setting of the proposal. (It must be remembered that in accordance with the latest English Heritage and DCLG guidance on setting, impacts are not limited to visual conjunction. (See below section 8.6.). These are all elements which comprise the extent of special interest, and therefore the impact upon each, and collectively, must be examined.

Thus the extent of fabric that holds interest is far greater than the confines of the site plan and one or two neighbouring listed buildings. In relation to this application, clearly all the buildings shown on the D & A statement illustrations are within the setting of the development and therefore this impact requires assessment.

Setting: The Genius Loci

The essence of the immediate environs of the site are defined by its history and its evolution, its form and character developing over time, to become the “place” that now exists. The street pattern has ancient origins and that which was shown on Rocque’s Map of 1746 is still recognisable today. This is a close grain essentially urban form, organic in origin and without the formality or planned spaces. The topography is steeply sloping in various directions and this gives rise to many variations of aspect and prospect in static and kinetic views through the immediate vicinity. The buildings that form the character of the place are representative of centuries of change but have consistency in materiality and scale. This is expressed even in non-domestic buildings where there has been a continuance of the key characteristics even though this would have been the result of limitations in technology in the past. The result today is one of homogeneity, despite differences in mass, bulk and height.

The council’s conservation area statement, places New End in the sub-area 2: “Christ Church/Well Walk”; and describes its outline characteristics as:

“The intricate network of lanes and narrow alleyways built on the complex slopes of the land to the east of Heath Street dates from the early 18th century through the 19th century. Except for Christchurch Hill and New End Square, the main streets and spaces run more or less along the contours, linked by narrow footpaths, steps and lanes running down the slopes to connect differing street levels. This network is punctuated by small and irregularly shaped spaces of great charm, such as Hampstead Square, New End Square, Mansfield Place and Stamford Close. The area contains an extraordinary variety of building types, ages and styles, ranging from tiny cottages of all ages, grand 18th century houses, Victorian tenements and substantial villas to 20th century council flats and small private houses”

The sub-area is further divided into “character areas” in which “New End/New End Square” is identified and described. Individual properties and their relationships are noted, including those properties immediately adjacent to and surrounding the site. There are no “negative contributors” other than the security gates to Young’s Court.

Historic uses also have significance which is related to the form, bulk and mass of the non-residential buildings. A small but significant group of municipal buildings developed, centred on the workhouse. The latter enlarged its facilities to become an infirmary and later the New End hospital; and its facilities and size grew with the increasing population. The New End School followed at the turn of the 20th century; and public baths were built nearby Flask Walk.

The quality of the buildings which form the setting of the site is marked by the high number of listed buildings. The Design & Access Statement identifies 13 listed buildings and it is the settings of these designated heritage assets which will be affected by the proposal. They are an eclectic collection of buildings, which is highly characteristic of the entire Hampstead conservation area. Their relationship to the steeply sloping topography influences the effect that these buildings may have the streetscape.

English Heritage, in their response to the Council (released to the objectors under the Freedom of Information Act) give the following summary of relevant and significant characteristics in the conservation area:

“The prevailing form of buildings in the conservation area is of “brick boxes” with simple geometry, sheer elevations, high solid to void ratio, punched window openings. Where terraces/balconies exist they tend to be housed within the building envelope. The built form is of extremely high quality, with a high degree of visual and physical permeability that allows views of several elevations of most buildings, not just the fronts, and shows a fine grain and highly complex layout of development in the area, exacerbated by the hilly topography. There is a clear consistency of form to the area, with a high degree of detail and visual interest provided by the views through, over and between sites, houses and their gardens.”

They then mention eight listed buildings “in close proximity to the site”. Given that this information was provided to the applicant in 2008, some four years before the present application, and, we are informed, led to the application at that time being withdrawn; it is somewhat incomprehensible as to why the concerns and criticisms were not addressed in the supporting documents to the current scheme.

4.5 Level of importance

The level of importance of the conservation sub area, and its character area, are extremely high, due to the characteristics so described, and the lack of negative contributors. Positive contributors to the character of a conservation area require substantial justification for any proposal which causes “substantial” or “less than substantial” harm. The NPPF, requires a balancing public benefit to mitigate the harm caused. Neutral contributors still require a justification if they are to be demolished. In this instance, there are 2 factors to consider that effect the level of importance of heritage assets. The demolition of the existing building; and the impact of its replacement upon the settings of the surrounding designated heritage assets, including the 13 listed buildings (at least) and the conservation area itself.

5 ISSUE OF HARM

5.1 Issues

The pertinent issue is whether a new building of greatly increased bulk, mass, and particularly matching the height, as proposed in these applications, causes harm to the character of the conservation area and the settings of the heritage assets concerned, and thus adversely affecting their special interest.

The issues of bulk, mass, height and articulation have not been individually addressed within the application documents. The new proposal results in an increase of floor area of 185% over the existing building (see 9.5 below), and as the existing building is regarded by the Council's conservation area statement as overbearing and looming, such substantial increases can only exacerbate those traits.

The issue of "harm" is at the root of NPPF and planning policies. The existing building is a non-designated heritage asset, and if considered to have a "neutral contribution," to the conservation area character, its demolition would still constitute a measure of harm. If it is considered to have an entirely negative impact; and it is recognised that the present building does have some less than satisfactory elements, particularly in relation to its height, bulk, and mass; then a replacement should rectify these detracting elements. That is, a replacement should demonstrate enhancement by being of lesser impact.

There is also the extremely pertinent issue of harm to settings of both designated and non-designated heritage assets. This has not been taken into account in any impact appraisal of the proposal.

The NPPF Procedure requires at policy 133: *"that local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or all of the following apply:*

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

5.2 Assessment of Harm

As to how harm might be assessed in relation to the NPPF and how the proposals may be assessed, there is no definition for substantial harm in the NPPF, so reliance must be on interpretation and EH's "Commentary on the NPPF" (27.03.12). This states that:

*"Total loss of a designated heritage asset or substantial harm to it (physical harm **or harm through development within the setting**), can be justified either on the grounds that the harm is necessary to deliver public benefits that outweigh that harm, or because the asset is demonstrably non-viable and it is better to free-up the site than keep the asset. [p133]" (My emphasis.)*

Thus substantial harm is equated with demolition of the asset or its transformative alteration. I would suggest that this must be interpreted as having a fundamental impact on the significance of the heritage asset by means of its total loss, profound physical harm to its fabric, or the complete compromise of its setting. **(The impact on setting is treated the same as physical harm).**

The new DCLG National Planning Practice Guidance, provides information on "how to assess if there is substantial harm?" It states:

What matters in assessing if a proposal causes substantial harm is the impact on the significance of the asset. As the National Planning Policy Framework makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting. While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm ie the scale of the works is not necessarily determinative of whether any harm caused is substantial or less than substantial.

A key factor in determining whether the works constitute substantial (ie serious) harm is if the adverse impact goes to the heart of why the place is worthy of designation – why it is important enough to justify special protection. This has to be assessed at the time of the decision in all cases.

No such detailed assessment has been carried out. The proposal, by virtue, not only of the demolition of the existing non-designated heritage asset; but rather more, the harm arising from its design, causes harm to the conservation area. The close grain, simple, elegant low buildings which are essential characteristics of the conservation area, go to "the heart of why the place is worthy of designation". The key characteristics and the "genius loci" have been expounded above. The existing building contributes detrimentally due to its overbearing and looming characteristics. In order to effect enhancement of these detracting elements, a proposal must be formulated which clearly possesses characteristics and empathy with the other buildings in the conservation area, and the sub area, which are considered to contribute positively to them.

Therefore, inter-alia, the new proposed building should be of reduced height, bulk, and mass, in order to eliminate the “overbearing” characteristic.

The new proposal does not accord with these characteristics and therefore causes substantial harm.

As “less than substantial harm” is not in the above definition, it in turn, must be physical harm (**or harm through development within the setting**) which does not fundamentally compromise the “special architectural or historic interest” of the asset.

There is no comprehensive analysis of the character of the conservation area and setting; and no assessment of the significance of the heritage assets affected by the proposal. The believe that the proposal causes harm to the settings of numerous designated and non-designated heritage assts including the conservation area; and that there is no appropriate or sufficient public benefit to mitigate that harm.

6 IMPACT

There is no comprehensive or meaningful visual or Heritage Impact Assessment.

The HEA makes no reference to the most important and seminal guidance document produced by English Heritage precisely for the purpose of assessing impact in such proposals: "*History in the View*". Published 2011 after a lengthy consultation draft had been in circulation, it sets out a methodology to provide an objective assessment of impact in views where heritage assets are affected.

Without such an appraisal of impacts in the widest sense, insufficient information has been provided making it impossible for the Council to determine this application in accordance with the guidance.

The applicant has included only two "perspective" views of the proposed new development, which are not verified in any way for their accuracy. There are no direct comparisons between a baseline from which they were generated and the proposal. The viewpoint from which they were taken is not given. Most importantly, there are no "verified views," which are now the standard tool for assessing impact within sensitive and historic environments. A verified view is constructed with a high degree of accuracy and is given with a baseline comparator so that the effect can be immediately ascertained. The view generated if produced as a photorealistic CGI to provide a very near realistic picture of the change that would be caused by the new work. The views should always include settings of heritage assets including relevant streetscape. The application has no views which clearly demonstrate the impact upon designated and non-designated heritage assets. Therefore, the Council have insufficient information upon which to determine the impact of this proposal upon the designated and non-designated heritage assets.

The Objectors have undertaken to produce a 3-dimensional view of the proposed development in order to gain a better understanding of the impact and also to compare the bulk of the proposed building over the existing. This is shown in Section 10 of this report.

7 PARTICULARS OF THE PROPOSAL

Following the publication of the NPPF, PPS5 was deleted. However the PPS5 Practice Guide which accompanied PPS5 remains a valid and Government endorsed document pending Government's review of guidance supporting national planning policy. The references in the document to PPS5 policies are obviously now redundant, but the policies in the NPPF are very similar and the intent remains the same, so the Practice guide remains almost entirely relevant and useful in the application of the NPPF. This is the formal policy advice direction of English Heritage³.

The proposal does not suggest itself as an "optimum viable use" for this site in the conservation area. The PPS 5 Historic Environment Planning Practice guide states at paragraph 89: "*... the optimum use is the one that causes the least harm to the significance of the asset, not just through necessary initial changes but also as result of subsequent wear and tear and likely future changes. The optimum viable use is not necessarily the most profitable one.*"

Note that this guidance is not limited to "building", but is intended for any heritage asset including conservation areas.

There has been no evidence provided that the existing building, converted into residential, as occurred with the workhouse/hospital, opposite would not be a viable use. Option studies on this basis should have been provided as a supporting justification for the demolition of the present building and its replacement by a much larger building. Such option studies should also include a basic "viability test" to demonstrate that such a proposal would not be economically expedient.

According also to the Practice Guide, under 'New development: design in context', paragraph 80, identifies a successful scheme as one '*whose design has taken account of the following characteristics of the surroundings, where appropriate:*

1. *The significance of nearby assets and the contribution of their setting.*
2. *The general character and distinctiveness of the local buildings, spaces, public realm and the landscape.*
3. *Landmarks and other features that are key to a sense of place.*
4. *The diversity or uniformity in style, construction, materials, detailing, decoration and period of existing buildings and spaces.*
5. *The topography.*
6. *Views into and from the site and its surroundings.*
7. *Green landscaping.*
8. *The current and historic uses in the area and the urban grain'.*

³ Revision Note to PPS5 Practice Guide, June 2012

These individual points have not been specifically addressed, although, I understand that they may have been addressed very generally within the overall body of documents and drawings, but that is not sufficient for a proper understanding of the impact of the proposal.

The Practice Guide paragraph 76 sets out the approach local planning authorities are to take when determining whether to grant planning permission or other consents for a proposal that affects the significance of a heritage asset. *'The key to sound decision-making is the identification and understanding of the differing, and perhaps conflicting, heritage impacts accruing from the proposals and how they are to be weighed against both each other and any other material planning considerations that would arise as a result of the development proceeding'*.

The proposed demolition of the existing building and construction of a building of greater mass and bulk, without a demonstration of impact on settings, is proof of the lack of understanding of the heritage values of the site and its setting.

The settings of all heritage assets must be examined and the impact of the proposal measured for each and for any cumulative affects

The approval of this application will be contrary to the 12 core principles expounded in point 17 of NPPF which include:

- *Taking account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*
- *Contributing to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in the Framework;*
- *Conserving heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations*

8 NPPF ISSUES IN DETAIL

8.1 Generally

All policies in the NPPF adopted 27th March 2012 constitute the government's view of what sustainable development means in practice. The NPPF contains an express presumption in favour of sustainable development, which should be taken into account when making planning decisions. Conservation of heritage assets is one of the 12 core principles of the framework; hence development that fails to adhere to the historic environment policies, by giving due weight to the preservation of heritage assets, is not sustainable development.

'Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment [...]' (NPPF Para 9).

8.2 Section 12

Section 12 of the NPPF, *'Conserving and enhancing the historic environment'*, specifically deals with planning for the historic environment, however, heritage considerations and issues are prevalent throughout the framework.

Continuing the ethos of the replaced PPS5 'Planning and the Historic Environment', NPPF paragraphs 128 and 129 refer to the duty of local authorities to identify and assess the significance of any heritage asset that may be affected by a proposal, including any contributions made by their setting. This assessment should be taken into account when considering the impact of the proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

The particular nature of significance of the existing site and its setting is not recognised in the planning application. The conservation area, and settings of the buildings within it are clearly heritage assets and their value has not been properly ascertained or acknowledged. The proposal disturbs and detracts from the composition. The new proposal does nothing to sustain or enhance the place-shaping role of the existing buildings.

Furthermore, local authorities are requested to weigh any harm to the significance of heritage assets that might arise from a proposal against the public benefits of the proposal, including securing its optimum viable use (NPPF Para 134).

The application gives no assessment of the magnitude of harm caused by the proposal and although the planning statement lists a number of "planning benefits" there is no exposition of the benefits required to balance that harm. This is not an acceptable approach and is based upon the false

premise of misunderstanding and failure properly to assess the significance of the site and its setting.

The NPPF is clearly supportive of beneficial change which it defines as sustainable development. However, development proposals need to be justified as beneficial in conservation terms and freedom to change has to be balanced and justified in consideration of harm to the significance of a heritage asset. The consideration of significance and the full concept of sustainability are material considerations in determining planning applications.

8.3 Section 5: Design

Policy 56 states: *The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*

“Making places better for people” must include enhancement measures, which cannot be achieved by proposing a new building which exacerbates elements that are not positive contributors to character.

Policy 58 states: *Planning policies and decisions should aim to ensure that developments:*

- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;*
- *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;*
- *are visually attractive as a result of good architecture and appropriate landscaping.*

The proposal has not demonstrated compliance with any of these important criteria. The proposed new building has 185% greater floor area than the existing exacerbating the present overbearing presence. The new building is over-dominant in its bulk, height and mass, and therefore cannot add to the overall quality of the area; it does not help to establish a strong sense of place, and there is a failure to understand the true nature of the streetscape and buildings. Far from creating an attractive and comfortable place to live, work and visit, the new building is unrestful and oppressive. There is no demonstration that the design has responded to local character, history, and, indeed, these have not been properly identified and understood as design criteria. Therefore, by reason of its design ethos, I do not regard the building as visually attractive or good architecture for its sensitive context.

Policy 61 states: *Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations.*

Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Notwithstanding subjective aesthetic issues, the proposal has not demonstrated an understanding of this important policy. The building itself is of such proportion, size and design criteria that it does not integrate into the delicate and dense grain of the immediate surroundings.

Policy 63 states: *In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.*

There is no indication that the design proposed is in any way complying with this policy. It is pedestrian, unimaginative, bulky, inarticulate and, other than the use of brick, has little in common with important characteristics that contribute to the significance of the designated heritage asset: the conservation area. This is simply not “outstanding or innovative” and those particular attributes would be major contributors to an enhancing factor, which is demanded by policy to replace the existing building.

Policy 64 states that: *Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.*

This has clearly not been complied with, as to do so would require a solution which has no greater impact in bulk, mass and height of existing, or would be of reduced proportions in order to provide a demonstrable enhancement. There is no exposition within the documents that a scheme of enhancing qualities, that is, one which is particularly of reduced bulk, mass and height, could be erected, viably, on the site. The existing proposal appears to take as its starting point, the height of the existing building. This is a misconceived criterion. The analysis of the site should include what may be considered an ideal height and articulation in order to significantly enhance the setting of the adjoining buildings and the conservation area. Therefore, the justification and analysis, which tries to substantiate the design, is flawed.

Policy 66 states that: *Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community. Proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.*

The purpose and reasoning of this objection is to emphasise that this policy has clearly not been complied with. Therefore, in accordance with that policy, this development should be unfavourably considered by the council.

9 FURTHER CONSIDERATIONS IN RESPECT OF THE HISTORIC ENVIRONMENT ASSESSMENT.

9.1 Generally

The HEA concentrates on a comparison of the present submitted scheme with a previous, withdrawn scheme. This is irrelevant. It is the proposed scheme, which should be assessed “on its merits” and comparison with an unseen scheme, which is not before the Planning Committee for determination, nor submitted for consultation, is misleading and therefore fails to address the issues of concern.

9.2 Policy context

The HEA quotes from PPS 1, PPS 3 and PPS 5, which are no longer relevant or valid. The PPS 5, Practice. Guide, is still current. Paragraph 79 of that is quoted, listing a number of heritage benefits that could weigh in favour of the proposed scheme. There is no demonstration that those benefits accrue from this scheme. Paragraph 6.9 of the HEA states that the scheme “does the relevant things that the “planning for historic environment practice guide” urges in paragraph 79 for the reasons explained earlier...”, But these are not, properly and clearly explained or demonstrated.

9.3 Proposed development and its effect (section 5).

This, one assumes, is an attempt at addressing impact; although that is not specifically addressed. There is no Visual Impact Appraisal. This section describes the proposal very much in comparison with the earlier withdrawn scheme, which, as explained above, is irrelevant. Paragraph 5.7 states that the scheme has been remodelled “to reduce further its impact on adjacent properties”. From this we can deduce that there is, indeed, an impact. However we are not told what that impact is, nor how to evaluate it.

Paragraph 5.8 deals with architectural expression, and the subjective conclusions stated do not address the criteria enshrined in the PPS 5 Practice Guide. Overall, the new design is incoherent, proportionally inept and unnecessarily eclectic. *[More...]*

There is no attempt to justify or prove a series of disjointed subjective statements and platitudes, such as:-

“design shape and bulk... Far more appropriate for the shape and topography of the site...”

“... Will improve visual amenity... For surrounding properties.”

“... Will improve views in the conservation area considerably by replacing a poor quality existing building.”.

All of which might be proven or demonstrated by comparison, views, but the applicants choose not to demonstrate this at all.

9.4 Effect on significance of heritage assets

None of this is proven or demonstrated. English Heritage has issued guidance for assessing the impact on Heritage Assets in the seminal document referred to above. "Seeing history in the view". It is highly relevant that all the documentation and supporting reports, for this application do not refer to this document. The tests and criteria promulgated in that document have not been included or attempted in any supporting documentation for this application.

"History in the view" provides a criteria matrix for determining whether an impact is adverse or beneficial/enhancing. It should be utilised by comparing views that contain heritage assets, both in the baseline condition and with the proposal superimposed inserted. These should ideally be "verified views". No such views have been prepared and their most conspicuous by their absence, begging the question, what is there to hide?

No demonstration of enhancement; no demonstration that it would not harm the setting of listed buildings.

Both these documents have been omitted from the HEA. Why? The author of the HEA has excellent credentials and experience and must surely be familiar with these documents? It is the contention of the objectors that if these tests and criteria were properly applied, the development fails to demonstrate any beneficial qualities and is harmful.

9.5 Nature of the design (paragraph 5.13)

It is the contention of the HEA that the nature of the design accords with the overall character of the conservation area. I believe this is not so. The conservation area has limited views, due to the close grain; therefore, the impact on the immediate environs is more acute. In fact, there has been no demonstrating Zone of Visual Influence; so this assertion cannot be tested or prudent.

"Careful scaling and massing... Do not over dominate in terms of bulk". This is not substantiated by a close examination of the design. The existing building is acknowledged to be overbearing. The scale of the proposal does not accord with domestic elements of character which are prevalent even in the non-domestic surrounding buildings. It may accord with commercial, industrial, or even health/education buildings, but that establishes a false and baseless iconography, which would be inconsistent with the desired elements of conservation area character for residential development.

Most significantly, the applicant has been careful to limit the proposed bulk to the existing plus a 'single' basement. In actuality the additional area is significantly greater than the area of this single basement:

The developer's gross internal area comparison at 18 May 2012 –

Existing = 25,919sqft Proposed = 48,000sqft

Note: 11% of the area of the existing building is attributed to the uninhabited roof space; and 10% to the basement which is a reduced height space for the boilers etc..

This is an **increase of 185%**.

The articulation of the proposal, with various projections bays and outshots, which are probably intended to give the impression of reduced bulk, in my opinion do the opposite. The limitation of only two perspective views conceals the fact that there is considerable bulk and height when viewed from other vantage points in the public realm. The simple, unpretentious and well proportioned design of the existing building is replaced by an over-elaborate, eclectic and disparate design of very considerably greater bulk and mass, that does not demonstrate any enhancement values. The increase in visual impact occasioned by the increase in general size is not offset by innovative or outstanding design.

9.6 Settings

Paragraph 5.8 of the HEA limits a discussion of settings to listed buildings and the church, whereas the Design & Access Statement indicates 13 listed buildings. This is clearly not an appropriate or sufficient assessment of impact on the historic environment.

English Heritage has issued an important guidance document: “The Setting of Heritage Assets”, which has not been addressed or acknowledged in the application. Although this document was predicated under the auspices of PPS 5, its guidance is still highly relevant and applicable. More importantly, DCLG has recently published National Planning Policy Guidance on an interactive website, and although this is presently in “beta” stage of consultation, it sets out extremely important definitions and guidance based upon the English Heritage, guidance and definitions within the NPPF. This is highly relevant to the determination of planning applications.

The Guidance, in answer to its own rhetorical question:

What is the setting of a heritage asset and how should it be taken into account?

It provides the following important answer:

A proper assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the asset and the degree to which proposed changes enhance or detract from that significance and ability to appreciate it.

Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.

The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

The contribution that setting makes to the significance of the asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.

When assessing any application for development within the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change. They may also need to consider the fact that developments which materially detract from the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation.

The proposal affects the setting of the identifiable envelopes of character which go to make up important elements of the conservation area and the sub-areas. Hampstead Square, into which New End runs, is actually seen in visual conjunction with the proposed new building. The views from the square are far more characteristic of the immediate environs than may be immediately obvious from depictions of the front elevation of the building. Some of these views are given in the Design & Access Statement at 2.2, but they are not addressed properly for impact.

There are similar impacts on New End itself, and Well Walk; and although a view has been given of Christchurch Passage, the depiction is questionable (see below, views). Hampstead Square is not considered at all, and there will be substantial impact from both the public realm, and existing.





In New End Square, the present building forms a neutral backdrop and defining edge to the Square, emphasising the topographical characteristics and providing a sense of urban depth. The proposed new building will change this and the impact of that change has not been assessed.



Views from New End Square. The Domestic Scale and intimate nature of the buildings within the setting of the existing building are apparent. No impact appraisal has been made of this highly sensitive view.

Therefore it is clear that the guidance requires that an understanding of setting and the impact upon all relevant settings are fundamental material considerations in the decision-making process. As that information is not presented or demonstrated in the application, the council cannot properly determine this application.

9.7 Compliance with policy and guidance

This constitutes section 6 of the HEA. In short, the HEA cannot demonstrate compliance with policies that are no longer current. Therefore, although much that is contained within PPS 1, 3 and 5 is has found its way into the NPPF, specific issues cannot be regarded as being addressed by this appraisal. More importantly, the holistic view of the NPPF has not been addressed, so that the Council had no document that deals with issues of heritage, townscape, and design within the tenets of the NPPF.

This section of the report does address selective points in the PPS 5 Practice guide, but there is insufficient detail, particularly in respect of the design criteria stated within that document, in order for the Council to form a balanced view of the impact.

Most significantly, although paragraph 79 of the Practice Guide is quoted, the HEA entirely omits to address paragraph 80,: “New development: design in context”.

This states that:

A successful scheme will be one whose design has taken account of the following characteristics of the surroundings, where appropriate:

- 1. The significance of nearby assets and the contribution of their setting.*
- 2. The general character and distinctiveness of the local buildings, spaces, public realm and the landscape.*
- 3. Landmarks and other features that are key to a sense of place.*
- 4. The diversity or uniformity in style, construction, materials, detailing, decoration and period of existing buildings and spaces.*
- 5. The topography.*
- 6. Views into and from the site and its surroundings.*
- 7. Green landscaping.*
- 8. The current and historic uses in the area and the urban grain.*

Some or all of these factors may influence the scale, height, massing, alignment, materials and proposed use in any successful design.

The Practice Guide at paragraph 121 reiterates and further emphasises important elements of design:

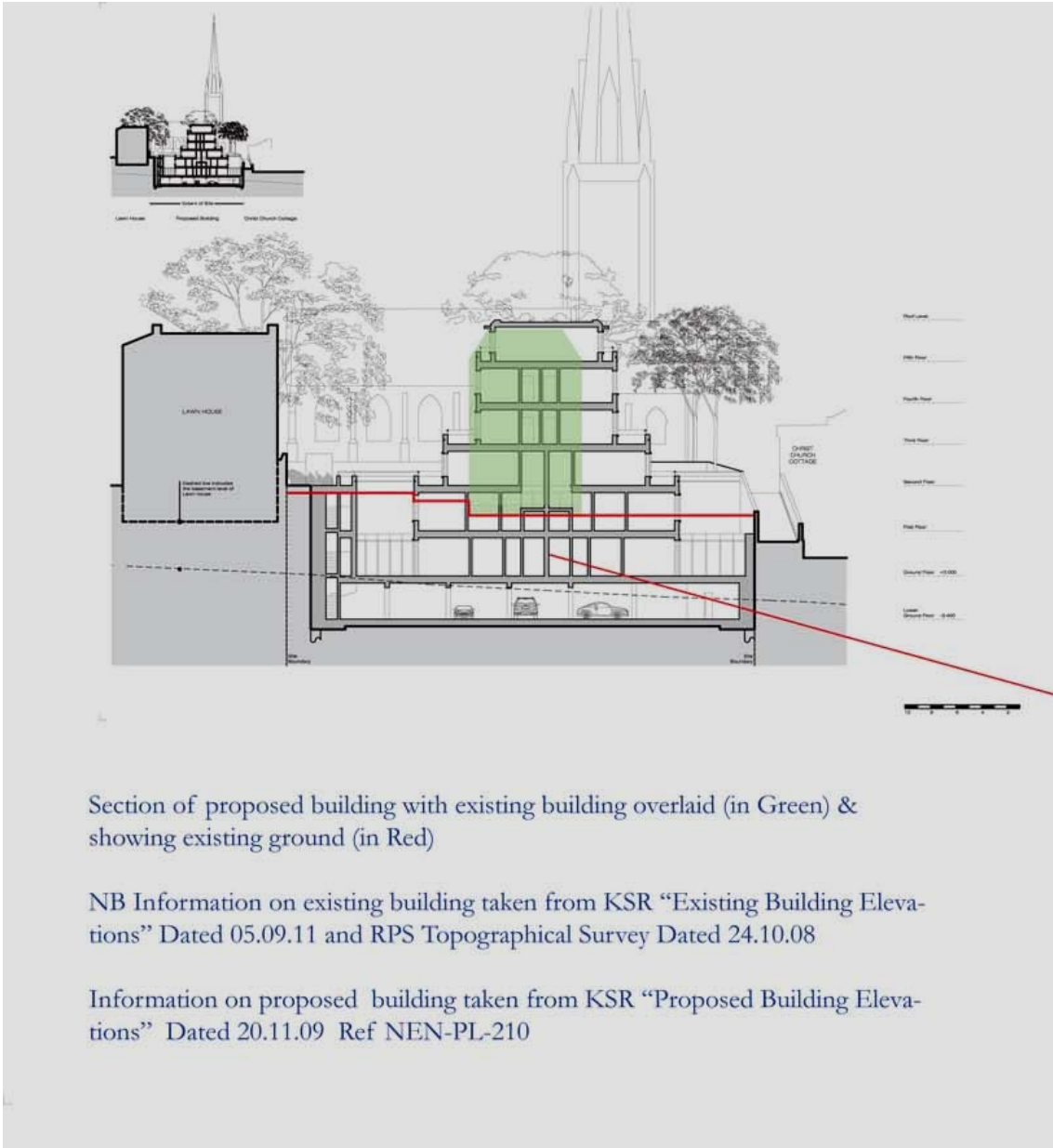
121. The design of a development affecting the setting of a heritage asset may play an important part in determining its impact. The contribution of setting to the historic significance of an asset can be sustained or enhanced if new buildings are carefully designed to respect their setting by virtue of their scale, proportion, height, massing, alignment and use of materials. This does not mean that new buildings have to copy their older neighbours in detail, but rather that they should together form a harmonious group.

Again, it would appear that only the materiality has been carefully considered in respect of the context, as a design element. There is no demonstration that these issues have been specifically addressed.

10 VISUAL COMPARISONS



Sketchup depiction of the view from Christchurch Passage showing the increased bulk of the proposed building over the existing (in red).

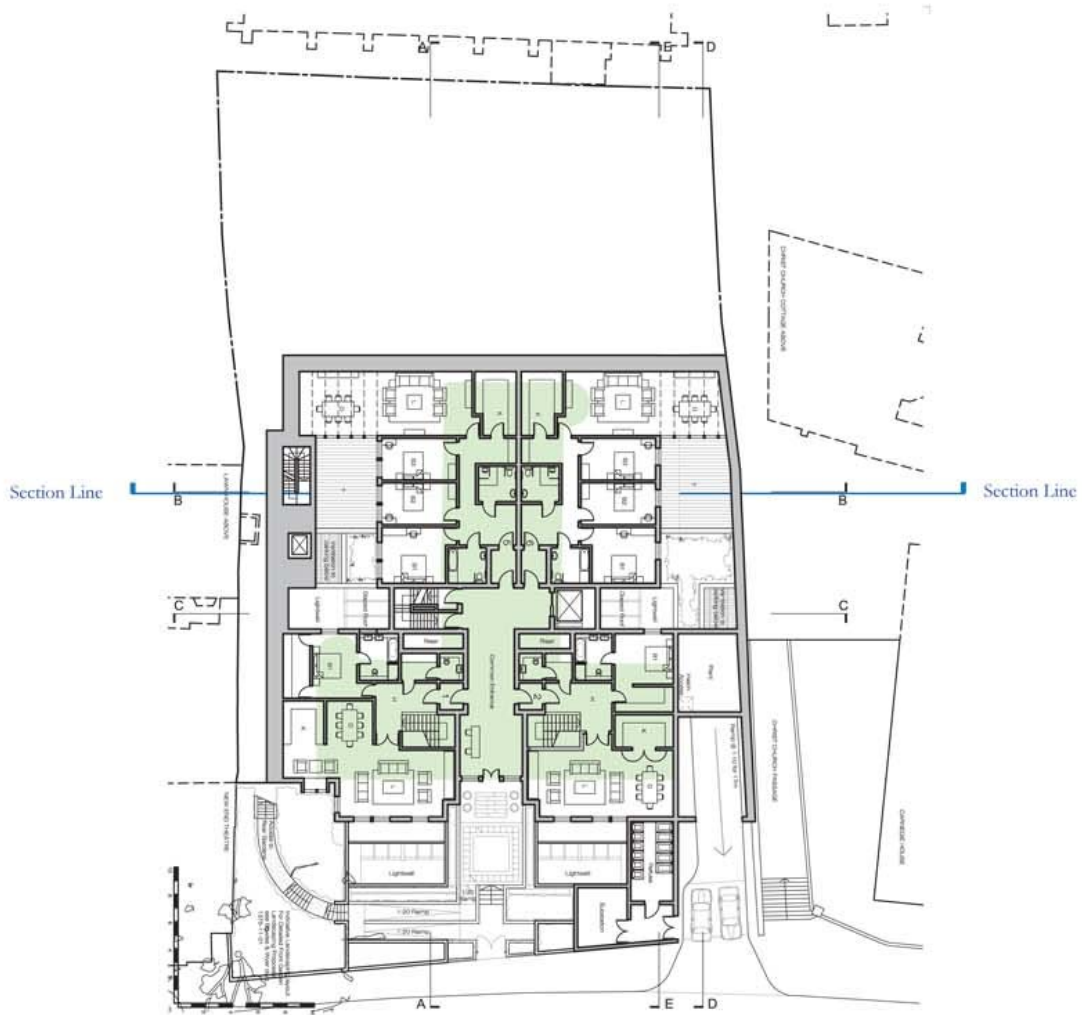


Section of proposed building with existing building overlaid (in Green) & showing existing ground (in Red)

NB Information on existing building taken from KSR “Existing Building Elevations” Dated 05.09.11 and RPS Topographical Survey Dated 24.10.08

Information on proposed building taken from KSR “Proposed Building Elevations” Dated 20.11.09 Ref NEN-PL-210

Comparative sections: This demonstrates the greatly increased bulk and mass of the new building.



Plan of proposed building with a typical floor of the existing building overlaid (in Green) one of the 3 proposed basements levels.

NB Information on existing building taken from KSR “Existing Building Plans” Dated 05.09.11 and RPS Topographical Survey Dated 24.10.08

Information on proposed building taken from KSR “Proposed Building Plans Ref NEN-PL-100” Dated 20.11.09

A comparison overlay of the plan form of the present building with a basement level of the proposed building.

11 CONCLUSION

- The Historic Environment Assessment is a key document required by the Council for determination of this application. The document is invalid as it is reliant upon redundant policies, and is not specifically address current policies enshrined in the NPPF.
- The Applicant has failed to assess properly the significance and heritage values of the conservation area and settings.
- The development proposal has not been informed by an understanding of the significance of heritage assets, that is their evidential, historical, aesthetic and communal value⁴.
- The proposal causes "substantial harm" to the character and settings of numerous heritage assets, and probably "less-than-substantial harm" by the demolition of a building which has not been properly assessed as to its contribution to the appearance and character of the Conservation Area.

The proposal fails to comply with NPPF and local policies in a number of respects, including:-

- the assessment document is flawed, and therefore it has not informed the proposals appropriately;
- the archaeological assessment does not comprehensively deal with the heritage assets nor the relevant history of the site;
- does not make a positive contribution to character and local distinctiveness;
- the proposed building exacerbates the existing criteria of height, bulk, mass, and therefore perpetuates those negative characteristics outlined by both the Council and English Heritage. It therefore does not enhance or contribute to the place shaping role of the building;
- the proposal thereby causes harm to the conservation area, listed buildings and their settings, which is not balanced by appropriate benefits.

There is an increase in gross internal area over the existing building of 185%, with subsequent increase in adverse effect of bulk and massing.

The proposed building does not demonstrate that it sustains and enhances the conservation area and settings of designated and non-designated heritage assets.

The redevelopment proposals therefore fail to meet the requirements of the policies of the NPPF, and there are no special or extenuating circumstances. It is therefore not a

“sustainable development” within the tenets of NPPF and must be refused consent.

Stephen Levrant RIBA, AA Dip, IHBC, Dip Cons (AA), ACArch, FRSA Stephen Levrant Consulting Aug
2013