

# Planning Note

JOB NUMBER

**38763**

CLIENT

**Mr and Mrs Broad**

SUBJECT

**St Johns Lodge, 151 High Street, Lindfield**

DATE

**August 2026**

## 1 Introduction

- 1.1 DHA have been instructed by the applicant to provide a planning note to support their proposals for St Johns Lodge, 151 High Street Lindfield. The Local Authority is Mid Sussex District Council (MSDC).
- 1.2 This note sets out the proposal, relevant planning history and the relevant national and local planning policies. It proceeds to undertake an assessment of the proposal. This note should be read in conjunction with the suite of application documents and the attached legal opinion prepared by Richard Harwood OBE KC.

## 2 The Site

- 2.1 St Johns Lodge is a dwelling house (Use Class C3), which is located to the northern side of Lindfield. The property is accessed off the High Street (B2028) via a shared driveway located on the western side of the highway.
- 2.2 St Johns Lodge was built in the 1850s and is Grade II listed (please refer to the submitted Heritage Statement, prepared by HCUK Group). Within the plot, there is a residential garden with areas of hard and soft landscaping, driveway area, a detached garage, and a standalone annexe building. The plot extends to c.0.13ha.
- 2.3 The immediate surrounding area is characterised by detached dwellings within generous plots to the east and south, and to the west is modern estate development. Beyond this part of Lindfield is the main built up area running along the High Street and open countryside to the north. There are other listed buildings within the vicinity of the site and these are set out in the supporting Heritage Statement prepared by HCUK.
- 2.4 A public right of way (footpath LIF-42CU) runs over the driveway and behind the northern boundary. It connects the High Street with the countryside to the north.

**Kent Gatwick London Leeds**

01622 776226 01293 221320 020 3005 9725 0113 323 6669

DHA Planning Ltd. Registered in England Registered Number: 2683290

**Email:** [info@dhaplanning.co.uk](mailto:info@dhaplanning.co.uk)

**Web:** [www.dhaplanning.co.uk](http://www.dhaplanning.co.uk)

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### 3 The Proposal

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- 3.1 Full planning permission (LPA Ref: DM/26/1764) and listed building consent (LPA Re: DM/26/1765) is sought for:

*“Replacement of later-addition single-storey rear extension with a new, single-storey rear extension. Removal of existing fireplace recess to the west elevation to allow for the construction of a bay window. Minor internal alterations at ground floor level to suit the proposed works, along with re-wiring and re-plumbing works throughout. Demolition of modern garage and construction of a new, single-bay garage within the rear garden. Associated hard and soft landscaping works”*

- 3.2 Both applications were submitted to MSDC on 20<sup>th</sup> July 2026 and made valid the same day. The site’s advertisement expires on 21<sup>st</sup> August 2026. The statutory determination date is the 14<sup>th</sup> September 2026.

- 3.3 The proposal comprises the following elements:

- Removal of existing single storey rear extension which extends by 1.3m and erection of a new single storey extension extending c.3.1m from the current rear elevation of the single storey extension (c.4.4m projection overall). The extension seeks c.6.2m width and a gently sloped roof up to c.3.2m in height (same height as the existing single storey extension). The extension will be rectangular in shape. Creating an additional approx.. 20sqm of floorspace;
- Installation of a bay window extending 1m (w) x 3.7m (d) x 2.5m (h);
- Demolition and erection of a replacement single bay garage (n.b. the principle parking is being improved and access strategy to the site is not being altered) (7.7m (w) x 7m (d) x 5.9m (h));
- Associated landscape works; and
- Associated internal alterations.

### 4 Planning Background

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- 4.1 The aforementioned applications propose a revised scheme, and these have been submitted following the refusal of planning permission (LPA Ref: DM/25/2068) and listed building consent (LPA Ref: DM/25/2069) in June 2026. The revised scheme has sought to address the reasons for refusal and the discussions held with the Council officers, as well as considering the professional views of the applicant’s consultant team.

- 4.2 The refused scheme included the following components:

- Removal of existing single storey rear extension and erection of a new single storey extension extending between 4.5m and 5.9m from the rear elevation. The extension sought a 6.5m to 8.1m width and a sloped roof

up to 2.8 to 3m in height. The extension was broadly rectangular but with an angled eastern elevation.

- Demolition and erection on of replacement garage;
- Installation of a bay window (1m (w) x 3.7m (d) x 2.5m (h));
- Associated landscape works; and
- Associated internal alterations.

4.3 Both the planning and listed building consent applications were refused as follows:

Full Planning: LPA Ref: DM/25/2068:

*"The proposed rear extension, due to its scale, form and design, would result in an unsympathetic addition to the dwelling. As such there would be a harmful impact to the special interest of the listed building. The harm is considered to be less than substantial and thus para 215 of the NPPF applies. In this case there are not considered to be any material public benefits resulting from the development that would outweigh the identified harm. The proposal is therefore considered to be contrary to the requirements of policies DP26 and DP34 of the Mid Sussex District Plan, the requirements of the NPPF and Section 16 of the Listed Building and Conservation Area Act 1990."*

Listed Building Consent: LPA Ref: DM/25/2069:

*"The proposed rear extension, due to its scale, form and design, would result in an unsympathetic addition to the dwelling. As such there would be a harmful impact to the special interest of the listed building. The harm is considered to be less than substantial and thus para 215 of the NPPF applies. In this case there are not considered to be any material public benefits resulting from the development that would outweigh the identified harm. The proposal is therefore considered to be contrary to the requirements of policy DP34 of the Mid Sussex District Plan, the requirements of the NPPF and Section 16 of the Listed Building and Conservation Area Act 1990."*

4.4 Following the refusal of these applications, the applicant met with the officers at MSDC to discuss alternative designs for the development in advance of the resubmission.

4.5 The delegated reports set out that the proposed replacement garage, bay window, internal and external alterations were considered acceptable. The main area of contention related to the rear extension and the impact this would have on the statutory listed building.

4.6 Prior to the aforementioned planning and listed building consent applications being refused, the following applications have been made to MSDC for works to St Johns Lodge and its trees:

- CU/225/74: Conversion of existing out building. Approved May 1974;

- CU/318/76: Porch and 3 additional windows. Approved November 1976 but not Implemented;
- CU/123/78: Proposed Single Garage. Approved April 1978;
- CU/144/78: Proposed single storey extension comprising new kitchen and minor alterations to existing lodge internally. - Approved May 1978 but not Implemented;
- CU/113/84: Rear Extension. Approved March 1984 and implemented;
- LF/066/87: Works to trees. Approved;
- DM/25/2065 Works to x2 Trees. No objection.
- 11/03832/TCA: Felling of x1 conifer. No Objection.

#### Statutory Listing

- 4.7 St Johns Lodge is a Grade II Listed Building (Entry Number: 1025449). It is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest. The listing sets out:

*"House, formerly purpose-built schoolmaster's house. Late C19 with C20 extension to rear in matching style and materials. Sussex sandstone with tiled roof. 2 storeys with projecting gable to left hand side, 2 windows. Gable has kneeler and cross shaped saddlestone and pointed arched window with double cusped heads. The right side has a 4 light window with cusped heads to 1st floor and 3 light window with cusped heads to ground floor. Pointed arched doorway in angle of gable containing pointed arched planked door with iron hinges."*

- 4.8 It is noteworthy to highlight that the 1984 extension is included in the 1987 listing as it is not carved out in the supporting description. As such, the building as a whole was of special interest in 1987, notwithstanding the 1984 extension. Accordingly, the 1984 rear extension forms part of the determining baseline for assessing the impacts of the proposal of the significance of the listed building.
- 4.9 The property was listed on 11th December 1987, three years after the approval for LPA Ref: CU/113/84, for the rear extension was granted in March 1984.

## **5 Development Plan**

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- 5.1 Planning law requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise (s.38(6) of the Planning and Compulsory Purchase Act 2004 and s.70 (2) of the Town and Country Planning Act 1990).
- 5.2 The development plan for MSDC comprises:
- Mid Sussex District Plan (2018);

- Site Allocations DPD (June 2026); and
  - Lindfield and Lindfield Rural Neighbourhood Plan (March 2016).
- 5.3 The NPPF (August 2026) and NPPG are material considerations in the determination of these planning applications. The key decision making policies in the new NPPF which need to be considered in the determination of this proposal are:
- Achieving Sustainable Development: Policy S3: Presumption in Favour of Sustainable Development and Policy S4: Principle of Development within Settlements
  - Achieving Well Designed Places: Policy DP3: Key Principles for Well Designed Places and Policy DP3: The Design Process
  - Conserving and Enhancing the Historic Environment: Policy HE4: Securing the Conservation of Heritage Assets, Policy HE5: Assessing Effects on Heritage Assets, Policy HE6: Proposals Affecting Designated Heritage Assets, and HE9: Conservation Areas
- 5.4 The adopted Policy Map sets out that the following designations cover the site:
- Conservation Area
  - Built up Area Boundary
  - Adjacent to the parish boundary
  - Adjacent to an area of townscape character
- 5.5 Of relevance to the determination of these applications are the following policies contained in the MSDP:
- DP21 Transport
  - DP26 Character and Design
  - DP34 Listed Buildings and Other Heritage Assets
  - DP35 Conservation Area
  - DP37 Trees, Woodland and Hedgerow
  - DP38 Biodiversity
- 5.6 MDSC are in the process of updating their development plan. The draft District Plan 2021-2039 is at examination stage and is consulting on Main Modifications until 7 September 2026. It carries little weight in the determination of planning applications. Of relevance are: DPN1 Biodiversity, Geodiversity and Nature Recovery; DPN4 Trees, Woodland and Hedgerows; DPB1 Character and Design; DPB2 Listed Buildings and Other Heritage Assets; and DPB3 Conservation Areas.

- 5.7 The Mid Sussex Design Guide SPD (November 2020) is material in the consideration of these proposals.

## **6 Key Planning Considerations**

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- 6.1 This section sets out the key planning considerations arising from the proposal and assesses the scheme against the prevailing policy framework.

### **Design**

- 6.2 The NPPF seeks the promotion of high quality places. Policy DP3 part 1 requires development to respond to their context, but without innovation or change being precluded. Part 5 sets out that substantial weight should be given to outstanding or innovative design, or which help raise the overall standard of design more generally in the area, provided that they are consistent with the overall form and layout of their surroundings. MSDP Policy DP26 seeks well designed development which reflects the distinctive characteristics of towns and villages.
- 6.3 As set out in the supporting Design and Access Statement, the objective has been to secure an exceptional design which has been driven by architecture to ensure that it responds sensitively to the Grade II lodge and the Conservation Area, as well as the immediate surroundings. The architects collaborated with HCUK preparing the amended design and considered their appraisal of the asset's significance and heritage interest to inform the design.
- 6.4 The proposal seeks a rear extension, a bay window to the western elevation, and a new free standing garage. The scale and form of the bay window and garage were deemed acceptable by the LPA, and we expect this to remain the case as this aspect is unchanged.
- 6.5 With regards to the rear extension, it has been wholly redesigned in response to the refusal of the previous scheme to ensure that it is a sympathetic addition to the lodge. As set out above, the rear extension has been reduced in scale significantly to ensure that it has a more uniform, slender and lightweight form, resulting in a subservient massing and footprint to the lodge. Most notably the angled elevation which was a significant concern of the Conservation Officer has been omitted from the updated scheme. This approach means that the architectural and historic aspects of the building remain as the main focus.
- 6.6 In terms of the garage, its design is traditional and it will be marginally bigger than the existing garage and shed, which will be removed. Its scale and form mean that it is suitable for modern day use, and it will be located further away from the listed lodge. Its context is characterised by a cluster of existing parking areas and garages. It will only be publicly visible by users of the PROW.
- 6.7 Overall, the approach will result in the provision of an exceptional design for the additions to the property, which has considered the unique characteristics of the property, heritage and setting. The proposal demonstrates compliance with the NPPF and MSDP. Furthermore, the guidance in the Mid Sussex Design Guide has been considered to ensure that principles relating to extensions have been taken into account.

## Impact on the Heritage

- 6.8 The site is located within the Lindfield Conservation Area and the dwelling is Grade II listed. As such Section 66 (1) and Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are applicable in the determination of these applications.
- 6.9 The applicant has secured a legal opinion from Richard Harwood OBE KC (RHKC), with specific regard to heritage matters arising from potential development at this site. Please note that the opinion was provided in the context of the initial refusal but is still applicable in the context of the new scheme. A copy can be found at **Appendix 1** to this planning note for your consideration in the determination of the application.
- 6.10 We have summarised the key aspects of this opinion below:
- When deciding whether changes to a listed building are acceptable, the starting point is normally the building as it exists today, not how it looked before it was listed. St John's Lodge was listed in 1987, after the 1984 rear extension had already been built. Whilst that extension is generally regarded as poor quality and may detract from the historic building, it forms part of the listed building as designated. (RHKC paragraphs 2-4).
  - The main question is therefore not whether the 1984 extension harmed the original house, but whether the proposed new works would harm the significance of the listed building in its current form. (RHKC paragraphs 27-36).
  - It would be wrong to assess the proposal against an imagined version of the building with the 1984 extension removed. The baseline should be the building that actually exists and has existed since listing. (RHKC paragraph 3; 16; 33).
  - Existing features that detract from the building's significance can still be relevant. New proposals might make those issues worse, or they might improve them, but they should be assessed against the current building rather than a historic version of it. (RHKC paragraph 34).
  - RHKC notes that it is/was the Conservation Officer's view is that the existing 1984 extension already has a negative impact on the historic core of the house, and that the proposed extension would add to that harm through its scale and visual impact. RHKC disagrees with the idea that harm should be measured by combining the impact of the 1984 extension with the impact of the new proposal, to establish a cumulative level of harm. RHKC notes the officer's misconception of Historic England's Managing Significance in Decision-Taking in the Historic Environment Historic Environment Good Practice Advice in Planning: 2, by bringing into consideration pre-listed harm. Instead, the focus should be on the effect of the new proposal on the building's current significance. (RHKC paragraph 25-29).

- The scheme should be looked at as a whole. Some elements may cause harm, while others provide benefits. In the end, any heritage harm needs to be weighed against the heritage benefits and any wider public benefits of the overall scheme. (RHKC paragraph 24 and 35).
- 6.11 Overall RHKC's opinion confirms that the assessment should start from the building as listed in 1987, including the 1984 extension, and that cumulative harm should not be assessed. The key issue is whether the proposed works would harm or improve the significance of the building as it exists today, rather than comparing them against an idealised version of the house before the 1984 extension was built. The proposal should then be judged, as per the NPPF, by balancing any harm against the benefits of the scheme as a whole
- 6.12 Turning to the proposal, we assess the impacts against the relevant policies contained in the NPPF and development plan, specifically, Policy 34 of the MSDP below, alongside other material considerations.
- Impact on St Johns Lodge
- 6.13 The previous reason for refusal related solely to the proposed rear extension and we note from the corresponding delegated report that the other elements sought (internal alterations, demolition of the garage, erection of a new garage and the new bay window) were considered acceptable (see above). However, as the rear extension was not acceptable, all the works set out in the description of development were refused. As such, all works are being sought again by these applications, albeit with a revised design for the rear extension.
- 6.14 Aside from the internal works proposed, all other aspects in the previously applications remain as previously sought. This will better reveal the historical layout and footprint of the Lodge, which is a benefit that the scheme will facilitate. We therefore encourage the LPA to maintain their view that these are acceptable in principle. With regards to the revised suite of internal alterations, the extent of these are limited and reflect the revisions to the proposed internal layouts which have arisen as a result of the rear extension having an alternative design.
- 6.15 As set out above, the scale, form and design of the proposed rear extension is reduced in size significantly, the form and design of the extension is uniform in shape and the materials proposed still take reference from the existing building to ensure that it is sympathetic to the setting and its heritage. The approach taken by Gould Baxter has been informed by the assessment of significance set out in Statement prepared by HCUK.
- 6.16 Additionally, restoration works are proposed to the exterior of the dwelling.
- 6.17 In terms of assessing the effects of the proposal on St Johns Lodge in line with NPPF Policy HE5, the HCUK statement has broken down the proposed works and then considered the effects holistically on the assets' significance.
- Rear extension- neutral impact due to the very low level of less than substantial harm resulting from the extension being outweighed by the viability improvements which this expansion of the dwelling enables would comprise a moderate heritage benefit

- Bay window- minor heritage benefit
- Re-pointing historic masonry on the house, bothy and link wall- considerable heritage benefit
- Restored shutters, fireplaces, rear doorway- individually afforded minor heritage benefits
- Replacement rooflight- afforded limited heritage benefits
- Other works- individually afforded moderate to minor heritage weight

6.18 HCUK concludes that when the application is taken as a whole

*"the effects of the Proposed Scheme would be highly positive and beneficial in heritage terms, even accepting a degree of minor harm resulting from the proposed single storey rear extension. The heritage benefits of the proposal are considerable and include the overarching benefit of securing the heritage asset's beneficial use as a viable family sized five bedroom dwelling on a long term basis.*

*Overall the heritage benefits of the proposal decisively outweigh any perceived harm, with no residual harm arising on the basis of internal heritage balance."*

6.19 It is clear from the above and the HCUK statement that granting the permission will facilitate the conservation of various aspects of the listed building, including securing the removal of some of the modern additions which are harmful. This approach to the design is considered appropriate to the building's significance and are important in maintaining this asset for future generations. This approach accords with the thrust of NPPF Policy HE4.

6.20 We share HCUK's view that NPPF paragraph's 214 and 215- now NPPF Policy HE6- do not need to be considered. Should officers take a different view, the public benefits arising comprise securing the long-term management and future of the listed building, as well as improving its contribution and setting to the cluster of listed buildings in the immediate vicinity, in terms of group value, historical interest and architectural interest. In addition, the removal of the existing domestic garage will benefit the public experience of the asset when passing along the public right of way or in glimpsed views from the High Street. The proposal therefore accords with Policy DP34 of the MSDP and the NPPF.

#### Impact on the Conservation Area

6.21 HCUK has assessed the contribution that the site makes to the significance of the Conservation Area and sets out that the Lodge contributes towards the high architectural value and historic interest of the Conservation Area- as a whole. HCUK then advises that the scheme as whole, including scale, form and design of the rear extension, would not be detrimental to the special character and appearance of the Conservation Area and notes that the dwelling is an important part of the historic ensemble with the Conservation Area. They conclude that the proposal would allow for the preservation of the special interest of St John's Lodge.

- 6.22 Previously, the LPA's heritage officer considered the harm caused to the to the Conservation Areas by the extension would be low-mid point and felt that the balancing exercise at paragraph 215 of the former NPPF should be applied. However, the planning officer took the view that as the extension is not publicly visible from the Conservation Area that the proposal would have a neutral impact and not cause harm. This is confirmed in the delegated report.
- 6.23 As the extension's new design is smaller, we would encourage the planning officer to draw the same conclusion as before and therefore not require an exercise assessing Policies HE6 part 4 and HE9 of the new NPPF. Accordingly, District Plan Policy 35, Design Guide DG11, DP26 and DG49 are not conflicted.

#### Summary of Heritage Impact

- 6.24 As made clear in RHKC's supporting legal opinion, the proposal should be considered against the listing in 1987 as the baseline. In this instance, this baseline already contains negative aspects of newer development (made in 1984), which were very much in situ when the lodge became statutorily listed and as such form part of the listing. This timing is critical for officers to recognise when judging the appropriateness of the scheme before them for a heritage perspective.
- 6.25 The HCUK statement has been conducted in accordance with the requirements of the NPPF. It clearly demonstrates, when considering the proposal for this household application as a whole, that there will be no wearing away of the building's special interest or any residual harm will arise as a result of the proposal. With regards to the Conversation Area's, it will be preserved. As such there will be no conflict with the NPPF or the development plan for MSDC.

#### **Highways**

- 6.26 As set out above the principle parking is being improved and the access strategy to the site is not being altered. As such the proposal complies NPPF Policy TR4 and with Policy DP21 of the District Plan, which considers highway impact.
- 6.27 As this aspect of the previous application was deemed acceptable, it is anticipated that officers adopt the same conclusion for the revised scheme.

#### **Impact on Neighbouring Amenity**

- 6.28 The dwelling is located within the built-up areas of Lindfield and it is wholly detached and is set back over 8.5m from the closest neighbour. Furthermore, the plot is largely contained by large evergreen hedgerows which extend to 4m in height and timber fencing.
- 6.29 The proposed extension to the northern elevation and bay window on the western elevation will both be located at ground floor level. They largely will be screened by the dwelling itself or the annexe. There are no first-floor openings within the proposed garage.
- 6.30 Considering the design, the plot's containment and the dwelling's setting, it is not considered that there will be a significant impact on neighbouring amenity once constructed, in terms of privacy, outlook, daylight and sunlight, noise, air or light

pollution. Overall the design is considered to accord with the design principles set out in Policy D3 12 of the NPPF and MSDP Policy DP26.

- 6.31 There may be short-term noise impacts during the construction phase, however, works will be controlled by Environmental Legislation and if required appropriately worded planning conditions. Policy DP26 is therefore complied with.
- 6.32 Impact on the neighbouring amenities was agreed as part of the previous application, and given that this scheme seeks a smaller extension, we would consider that officers should adopt the same conclusion.

### **Impact on Trees**

- 6.33 Tree works along the northern boundary have occurred (see planning history for relevant approvals) to make way for the proposed rear garage and some newly planted trees. Previously the Council's tree officer recommended no objection subject to conditions. We request that the same approach is taken when assessing the new scheme. This would allow the proposed planting to comply with DP37 of the Mid Sussex District Plan and support the principles set out in NPPF Policy N3 part c.

### **Ecology and BNG**

- 6.34 The submitted Bat Roost Assessment, prepared by SIMLAW (Dated August 2025) confirms that St John's Lodge contained two confirmed roosts, and had high bat roost suitability, the standalone annexe had moderate bat roost suitability, and the existing garage and a garden shed had negligible bat roost suitability. The assessment found that no bat roosts were recorded in the areas that will be directly impacted by construction of the single-storey extension, or ridge tile repairs; therefore, there is negligible potential for the proposed development.
- 6.35 The submitted Ecological Appraisal prepared by SIMLAW recommends the provision of bird boxes and bat boxes, which can be secured via a planning condition.
- 6.36 As part of the previous application the Council considered that the use of conditions with regards to ecological matters was acceptable and would ensure that the aims of Policy DP38 are complied with. We anticipate that officers will be able to adopt the same conclusion for the new application.
- 6.37 As this is a householder application it is exempt from the statutory requirements for Biodiversity Net Gains.

### **Drainage**

- 6.38 A Flood Risk Assessment has been prepared by Gould Baxter and is submitted in accordance with MSDC's validation requirements. The explains demonstrates that the site has a very low risk of flooding from rivers, seas and surface water, as well as unlikely risk from reservoir and groundwater flooding.
- 6.39 The proposal incorporates new rainwater pipes which will connect into the existing drainage arrangements on the site. The new driveway will be constructed out of

permeable materials and the patio will be resurfaced which will assist in reducing the amount of run off in this part of the site. Additionally, the assessment sets out that a separate planning application will be made to cover the proposed drainage works to manage a small area of flooding which occurs on the driveway in times of heavy rainfall.

6.40 The assessment concludes that the proposed extension, new garage and landscaping works will not give rise to additional surface water flooding and will help improve the periodic flooding which does occur in the driveway.

6.41 This approach accords with MSDP Policy 41.

## **7 Planning Balance and Summary**

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7.1 The foregoing demonstrates that the proposal as a whole has been considered against the national and local planning policy requirements, and that the following conclusions can be drawn in the overall planning balancing exercise.

- HCUK's statement has demonstrated that the design is sensitively designed and is wholly sympathetic to the architectural value and historic interest, and that the design will facilitate high quality restoration and refurbishment of the house. The scheme will conserve its long term future. When taken as a whole, the proposal will not result in a residual harm to heritage assets and will preserve the architectural value and historic interest of the site and its setting. As set out above, if officers disagree, public benefits have been demonstrated which outweigh their alleged degree of harm. **Benefit**
- The proposal will result in the preservation of the Conservation Area as heritage improvements which would not otherwise be secured can be delivered. **Benefit;**
- An exceptional design is proposed which reflects the site's unique characteristics and setting. **Benefit;**
- No harm to the highway will occur as a result of the proposal. **Neutral;**
- Neighbouring amenity will not be harmed as a result of the proposal. **Neutral;**
- The proposed removals will be offset by new tree planting. **Neutral;**
- Ecological benefits can be secured and delivered on site. **Benefit;**
- The proposal will have appropriately managed drainage and flood risk. **Neutral.**

7.2 We consider that no harms will arise as a result of the development.

7.3 The neutral effects are as a result of mitigating potential harms. The following weighting should be applied to the benefits- listed building substantial weight;



Conservation Area substantial weight; and ecological some weight. Individually and collectively the benefits weight in favour of granting planning permission. Additionally, the proposal has demonstrated compliance with the development plan and the NPPF.

7.4 It is requested that officers grant planning permission without delay.



## **Appendix 1- Legal Opinion by Richard Harwood OBE KC**

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**IN THE MATTER OF ST JOHNS LODGE, 151 HIGH STREET, LINDFIELD,  
HAYWARDS HEATH**

**ADVICE**

1. I am instructed to advise upon a proposed extension of St Johns Lodge, Lindfield, Haywards Heath.

**Summary**

2. The special interest or significance of a listed building is usually judged at the date of the proposal being considered. There may be circumstances where it is considered as at an earlier date, such as a retrospective application or where there has been deliberate neglect or damage. However it is not considered at a point prior to listing. The statutory duties are concerned with the preservation of a listed building and do not require its restoration to some earlier, pre-listing, condition. The special interest/significance is of the building at no earlier than when it is listed, and will often be at the present time.
3. In the present case the 1984 extension (pre-dating listing) is said to cause harm. The question for further proposals what is the effect of these new changes on the special interest of the building with the 1984 extension, rather than what harm is added to the harm already caused by the 1984 extension to the original building? It is not a matter of the total amount of harm caused by the 1984 extension and the new proposal: the baseline is not the special interest which the original building would have had if the 1984 extension had not been added.
4. The scheme is best viewed as a whole and ultimately the heritage benefits will have to be balanced against any heritage harm which would be caused. Additionally some changes are interlinked, such as removing the existing garage and constructing a new garage further back.

**Background**

5. St John's Lodge was constructed as a purpose built schoolmaster's house. It was listed grade II on 11<sup>th</sup> December 1987. The list description says it is 'Late C19 with C20 extension to rear in matching style and materials'. It is though a little older and is shown

on the 1875 OS map. The associated school was constructed in 1856 and the schoolmaster's house is considered to be of the same date.

6. The house was constructed in the Gothic style with an L-shaped plan form. The rear had three gables. In 1984 the house was extended by infilling the L. HCUK's Heritage Assessment says:

“The extension is finished in cementitious render, incised and textured to resemble Sussex sandstone, though as noted in the ASE Heritage Statement, not very convincingly. The 1980s work did at least incorporate ashlar dressings to the quoins, plinth and window openings and in that respect is broadly sympathetic. The cementitious finishes and patchwork of dye colouring are not of good quality and overall the extension is poorly executed.”

7. The house was listed after those works had been carried out.
8. Listed building consent was sought under reference DM/25/2069 for ‘Replace later addition rear extension with new single storey extension. Installation of bay window to western elevation including internal alterations. Demolish later addition garage and erect new single bay garage to rear garden with associate landscaping works’. Other than a lean to element, the 1984 extension was to be retained but the mortar and render replaced, windows altered and the internal configuration changed. The new extension would be flat-roofed, in Sussex stone with Crittal style windows.

9. The listed building consent was refused for one reason which was in substance:

“The proposed rear extension, due to its scale, form and design, would result in an unsympathetic addition to the dwelling. As such there would be a harmful impact to the special interest of the listed building. The harm is considered to be less than substantial and thus para 215 of the NPPF applies. In this case there are not considered to be any material public benefits resulting from the development that would outweigh the identified harm.”

10. The conservation officer's final comments, as recorded in the delegated report, included:

“I have indicated both at pre-application stage and in my initial response to this application in September 2025 that any substantial extension to this already heavily extended listed building would be unlikely to be favourably viewed due to the

cumulative adverse impact on the original and characteristic modest scale of the listed building.

This remains the case- as shown, the proposed extension would exacerbate the already unfavourable relationship of scale between the historic core of the building and the additions to it, and the original form and footprint of the house will be further obscured. The angled footprint of the extension also remains contentious in its poor relationship with the form of the original house and in the manner in which it extends across and partly hides the surviving original rear elevation of the house in all but the closest views. Its attachment to the western end of the existing original lean-to element to the rear elevation, as noted previously, will also blur the distinction between the modern and the original elements of the rear of the house.”

11. The planning officer’s assessment said:

“However, as set out in the Conservation Officer's comments, concern remains regarding the form, scale and design of the proposed single storey rear extension. Having considered the above comments, the Planning Officer agrees with these concerns and considers that the cumulative combination of the existing 1980s extension and the proposed rear addition to this is such that it is considered to have an overbearing impact in terms of scale and bulk, to the original building. ...

12. Part of the proposal is to make improvements internally and externally on the two storey infill extension from the 1980s which is a benefit of the scheme. Whilst it is noted that the cumulative impact of previous additions which were made prior to the listing, as set out under principle DG49 of the Design Guide, extensions should allow the original building to remain the dominant element of the property. Given the footprint of the original house and the existing two storey infill extension, it is Officers view that the combined scale of these additions with the proposed rear single storey extension would be harmful to the property, the listed building.

13. Therefore, it is Officers view that the scale, form and design of the proposed rear extension would result in an unsympathetic addition to the dwelling and taken cumulatively with previous additions would result in an overbearing impact to the original building. As such there would be a harmful impact to the special interest of the listed building.”

14. The planning officer considered that there would be a neutral effect on the conservation area. The officer's position on the heritage balance seems to be that the heritage harms outweighed the heritage benefits and there were no other public benefits which outweigh the balance of the heritage harm:

“The property remains in its original use, as a dwelling, and is not considered to be currently at risk. Whilst the benefits of scheme, namely but not exclusively of the removal of the existing garage and sheds, the replacement of uPVC rainwater goods with metal, the alterations to the 1980s enlargement and the reinstatement of the front gable finial are noted; it is Officers view that the harm caused to the heritage asset identified is greater than the benefits of the scheme.

Notwithstanding the above, there is no compelling evidence to demonstrate that the proposal is necessary to secure the optimum viable use of the property as whole. The property remains in its original use, as a dwelling, and is not considered to be currently at risk. Whilst it is noted that the proposed extension would enhance the living accommodation within the building, this is a private benefit and does not fall to be considered in the balance. Furthermore, the continued viable use of the building as a residential dwelling is not dependent on the proposal as the building has an ongoing residential use that would not cease in its absence.”

15. In pre-application correspondence about a proposed amended scheme, the conservation officer has advised:

“I do continue to have concerns with respect to the scale of the addition, particularly in terms of its cumulative impact on the character of the building when viewed alongside the existing 2 storey 1980s extension.

...In conclusion, in my opinion, the extension as amended continues to result in a level of less than substantial harm to the special interest of the building, due to its scale, but this level will be reduced in comparison to the refused scheme, and could be further mitigated by restoration of external fabric described above. Further detail submitted as part of a formal proposal would clarify where the level of less than substantial harm lies, but I would expect this to be within the lower part of that spectrum.

I note the applicant's points with respect to scale and to the baseline for analysis of new proposals where a listed building has been previously extended, but respectfully disagree, for the reasons I set out at our recent meeting:

- It is not possible to assess an appropriate relationship of scale based on measurements alone, as it is predominantly a visual matter, and will depend on context. It is also not correct to treat all parts of a listed building, at the time of its designation, as being of equal interest, as seems to be applicant's argument. Here, it is relatively straightforward to identify that the significance of St John's Lodge lies in its historic core. The existing addition detracts from that significance, in my professional opinion, and the further extension now proposed adds to that harm (although noting the mitigations identified above).

- It is recognised good practice when considering the impact of works to a listed building, including extensions, to consider cumulative impact, and that must be a relevant consideration here. To quote the relevant Historic England Guidance GPA Note 2 'Managing Significance in Decision Taking': *'The cumulative impact of incremental small-scale changes may have as great an effect on the significance of a heritage asset as a larger scale change. Where the significance of a heritage asset has been compromised in the past by unsympathetic development to the asset itself or its setting, consideration still needs to be given to whether additional change will further detract from, or can enhance, the significance of the asset in order to accord with NPPF policies.'* N.B. that the guidance does not differentiate in this respect between development occurring before or after designation of an asset. ...

In summary, in my opinion the scale of the proposed extension remains a concern. However, the changes to the design and the potential further works including removal of plaster from previously external stonework are positive steps in reducing the level of harm arising. I also consider that it will be relevant to weigh this harm against potential benefits arising from works elsewhere affecting the listed and curtilage listed buildings, including possibly the drainage works, although more information would be required as part of any formal application to identify the level of benefit arising from these."

## **Assessment**

16. At issue is the approach to take to the 1984 extension when considering future works to the building. Articulating that approach is not straightforward and the language used in these assessments may mask the actual thinking, so differences between the council and HCUK's analysis may be greater or lesser than they appear. It is the underlying thinking which leads to the final conclusion.
17. It is helpful to start from first principles.
18. The building was listed in 1987 on the basis that it was of 'special architectural or historic interest'.<sup>1</sup> That listing was of the whole building, including the 1984 extension. It does not follow that the 1984 extension itself was of special interest, indeed, the present consensus is that it was poorly executed and does not contribute to the special interest. The extension may even have reduced what would have been the special interest of the building. However the building as a whole was of special interest in 1987, notwithstanding the 1984 extension.
19. Special interest may change following listing. The building could be altered, in a positive or negative way. What is seen to be of special interest might also change: there may be a great value placed on that type of building; or research into the listed building might alter how its special interest is valued, for example, it could be discovered that the building is older than thought, or the architect or master builder could be identified. Even the grades of listing are sometimes changed.
20. Listed building consent is required for 'any works for the demolition of a listed building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest'.<sup>2</sup> A duty applies to the determination of listed building consent applications by the Planning (Listed Buildings and Conservation Areas) Act 1990, s 16(2):

"In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall 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."
21. Section 66(1) applies a similar duty to the determination of planning applications:

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<sup>1</sup> Town and Country Planning Act 1971, s 54(1).

<sup>2</sup> Listed Buildings Act, s 7.

“In considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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.”

22. In both sections ‘preserving’ means doing no harm.<sup>3</sup> There is no duty to enhance or restore a listed building. Otherwise, the Courts have been keen to emphasise that the legislation does not state how the decision-maker must go about discharging these duties.<sup>4</sup> Whilst that comment was in the context of whether benefits and harm to the listed building have to be balanced before considering whether preservation takes place, it has some application to the baseline.
23. The legislation does not require a listed building to be improved or restored to a previous condition. Where works have been carried out without listed building consent then enforcement may only alleviate the effects of the unauthorised works.<sup>5</sup> Compulsory purchase is possible where a ‘repairs notice’ has been served specifying works which are ‘reasonably necessary for the proper preservation of the building’<sup>6</sup> and ‘reasonable steps are not being taken for properly preserving a listed building’.<sup>7</sup>
24. In national policy the significance of the heritage asset is identified to then be able to consider the effect of the proposal on it: National Planning Policy Framework (2024), para 207, 208. Significance is ‘The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic’.<sup>8</sup> Historic interest in the NPPF is ‘An interest in past lives and events (including pre-historic)’.<sup>9</sup> The policy requirement is then set out for a clear and convincing justification for harm, great weight to an asset’s conservation and

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<sup>3</sup> *South Lakeland District Council v Secretary of State for the Environment* [1992] 2 AC 141 on the similar duty towards conservation areas, applied to listed buildings in cases including *East Northamptonshire District Council v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137, [2015] 1 WLR 45.

<sup>4</sup> *City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* [2021] EWCA Civ 320, [2021] 1 WLR 576 at para 72 per Sir Keith Lindblom SPT.

<sup>5</sup> Listed Buildings Act, s 38(2).

<sup>6</sup> Listed Buildings Act, s 49(1).

<sup>7</sup> Listed Buildings Act, s 48(1).

<sup>8</sup> NPPF (2024), Glossary.

<sup>9</sup> Planning Practice Guidance, ID: 18a-006-20190723.

balancing harm against public benefits: para 212-215.. Following the NPPF approach is likely to amount to compliance with the statutory duties.<sup>10</sup>

25. The conservation officer's pre-application advice quotes from paragraph 28 of Historic England's *Managing Significance in Decision-Taking in the Historic Environment* *Historic Environment Good Practice Advice in Planning: 2*.<sup>11</sup> This paragraph continues:

“Negative change could include severing the last link to part of the history of an asset or between the asset and its original setting. Conversely, positive change could include the restoration of a building's plan form or an original designed landscape.”

26. That paragraph does not refer to the timing of changes, in particular where those pre-date the listing, and has to be considered in the legislative context. That does not support a view that pre-listing changes should be added into any harm. Indeed, the paragraph is consistent with detrimental pre-listing changes being part of the baseline, so having caused a lower level of special interest.
27. Usually the baseline for considering whether a proposal will cause harm or benefit is the current condition and special interest of the building. Decisions have to be taken in the real world and any application will be about what is there. However whether that is the case is ultimately a matter of judgement within the statutory regime. For example, a retrospective listed building consent application would have to consider the effect of the works in the application so would start from the pre-works position. By the NPPF para 209 ‘Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.’ So an earlier condition of the building can be considered as a matter of policy,

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<sup>10</sup> *Mordue v Secretary of State for Communities and Local Government* [2015] EWCA Civ 1243; [2016] 1 WLR 2682

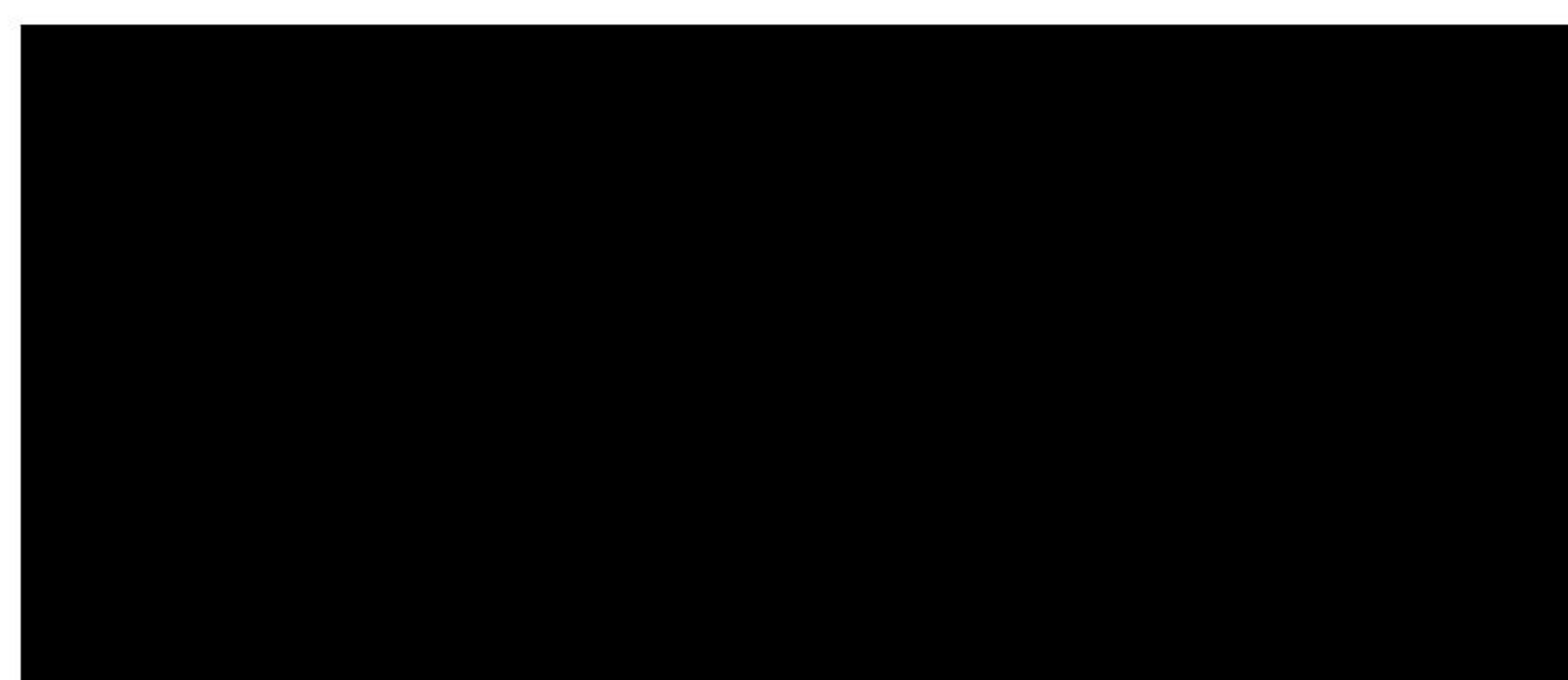
<sup>11</sup> Whilst intended to be useful, the advice sets out the limit of its status in para 2: ‘This good practice advice acknowledges the primacy of relevant legislation and the NPPF and PPG, and is intended to support the implementation of national policy. It does not however constitute a statement of Government policy, nor does it seek to prescribe a single methodology or particular data sources. In order to gain a full understanding of the relevant issues, this document should be read in conjunction with the relevant legislation, national planning policy and guidance (the NPPF and PPG), as well as Good Practice Advice Note 1 (*The Historic Environment in Local Plans*) and Good Practice Advice Note 3 (*The Setting of Heritage Assets*) and other Historic England Advice Notes. Alternative approaches may be equally acceptable, provided they are demonstrably compliant with legislation, national policies and objectives’.

which means that (as the policy is accepted to be lawful) preservation can, in some circumstances, be looked at before certain changes.

28. Some legal parameters do operate. In the context of legislation which does not require improvements, preserving (meaning doing ‘no harm to’) the special interest of a listed building must relate to the special interest which the building has had whilst being listed. An application for listed building consent cannot be found to have failed to preserve the listed building because it does not increase the special interest. Similarly, it would be an incorrect approach to the policy to assess significance on the basis of the building’s condition prior to listing or judge harm on that basis. That would be a failure to consider what the statutory, so designated, heritage asset is.
29. Taking a listed building as it presently is, or at an earlier time post-listing if that can be justified, does mean recognising that its special interest is determined on the position at that time. Whether a proposal is harmful depends upon the effect of what is proposed on the special interest which is being assessed. That special interest may have already been reduced prior to listing by earlier works.
30. A change has to be considered in its context, which may include other pre- or post-listing alterations. The listed building might be particularly sensitive to certain changes because of earlier alterations or developments. The Historic England example of severing the last link to an asset’s setting may be a good one.
31. The present matter concerns the effect of new works to the house when it already has the neutral status or harm of the 1984 extension. The most straightforward approach is to recognise that that special interest or significance is already affected by the extension and to identify the special interest or significance with that extension. Whether harm is caused (or its extent) is judged by reference to effects on the post-extension significance.
32. It is usually the case that parts of a listed building are what gives rise to the whole having special interest, and that other parts may have a neutral or harmful impact on the special interest. The special interest or significance has to be seen as a whole, and so may have been reduced by various elements, such as here by the 1984 extension. The 1984 extension does not cause harm to the special interest or significance of the listed building, but is part of determining what the baseline special interest or

significance is. The question is what is the effect of the proposals, including the new extension, on the current (or at least, post-listing) significance of the listed building?

33. The difference amounts to asking what is the effect of these new changes on the presumably lower level of special interest, rather than what harm is added to the harm already caused by the 1984 extension to the original building? It is not a matter of the total amount of harm caused by the 1984 extension and the new proposal: the baseline is not the special interest which the original building would have had if the 1984 extension had not been added.
34. Some proposals might compound negative aspects of the building or might have the benefit of improving or removing harmful elements. Those are factors to be considered but against the baseline of those negative aspects being in place.
35. In the context of a householder's proposals for their property, it is generally appropriate to consider the changes as a whole. The owner and their professional advisers will be thinking of a whole scheme, rather than a series of individual changes which can be picked from. Some changes will come in pairs, so removing the existing garage and shed is possible because a new garage is being proposed. There may be individual elements which would be harmful and could be changed, but the overall impact will be decisive. Benefits and any harms will have to be balanced together, bearing in mind that considerable weight to designated heritage assets involves giving that weight to benefits as well as harms.
36. If any matters arise out of this advice, please do not hesitate to contact me in Chambers.



39 Essex Chambers

Richard Harwood KC

81 Chancery Lane,

London WC2A 1DD

21<sup>st</sup> October 2025