



BUILT HERITAGE APPEAL STATEMENT OF CASE

**Land adjacent to 51-70
Waldemar Mansions
London SW6 5LX**

**On behalf of Residents of
1-40 and 41-50 Waldemar
Avenue Mansions, and
13-36 Colehill Gardens.**

**LPA refs:
2016/03035/FUL
2016/03081/FUL**

**PINs refs:
H5380/W/17/3177260
H5390/W/17/3177258**

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Prepared by:
Jonathan Smith BA (Hons) MA
PGCE PGDip MCifA IHBC

Stuart Taylor BA (Hons) PGDip
MCD MLA

Authorised by:
Duncan Hawkins BA (Hons) MSc
FSA MCifA

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PROFESSIONAL EXPERTISE

- i. My name is Jonathan Smith and I am Director of Historic Buildings at CgMs part of the RPS Group having been in this post for over four years. CgMs is the UK's largest planning and heritage consultancy. Our head office is in London with a network of offices throughout the country. We act for a wide range of private and public sector organisations, and provide advice on historic environment planning policy and practice.
- ii. I hold a first degree (Bachelor of Arts with Honours) in Archaeology and Geography from the University of Lancaster, a postgraduate degree (Master of Arts) in Buildings Archaeology from the University of York and a Postgraduate Diploma in Historic Conservation (with distinction) from Oxford Brookes University. I am a full member of both the Chartered Institute for Archaeologists and the Institute of Historic Building Conservation. I have nearly thirty years of professional experience in the field of planning and heritage, gained in both the public and private sectors.
- iii. In my current post I have appeared as an expert built heritage witness at planning inquiries, appeal hearings and examinations in public on nine occasions, and am currently appointed for and preparing for a further seven.
- iv. Before joining CgMs I was Heritage Team leader at Waterman Energy, Environment and Design Ltd for two years.
- v. Prior to moving to the private sector, I worked in local government as Heritage Service Manager at Gloucester City Council, Principal Archaeological Officer for the London Borough of Southwark, and County Planning Archaeologist and Acting County Archaeologist for Hertfordshire County Council.
- vi. The evidence which I have prepared and provide for this Appeal in this Built Heritage Statement of Case is true and has been prepared and is given in accordance with the guidance of my professional institution the Institute of Historic Building Conservation. I confirm that the opinions expressed are my true and professional opinions.

1.0 INTRODUCTION

- 1.1 CgMs (part of the RPS Group) has produced this Built Heritage Appeal Statement on behalf of a third party group comprising a number of residents of Waldemar Avenue Mansions (1-40 and 41-50 Waldemar Mansions and 13-36 Colehill Gardens Mansions). The Appeal Site, known as *Land Adjacent to 51-70 Waldemar Mansions* (Figure 1) was subject to planning applications 2016/03035/FUL and 2016/03081/FUL for a single dwelling and community building plus ancillary infrastructure. These applications were refused by LB Hammersmith and Fulham 9th December 2016. The descriptions of development comprise, respectively:

'Erection of a two storey detached dwelling house with basement and front, side and rear lightwells; erection of a one storey building with basement and front, side and rear lightwells, to be used as community space at ground floor level and office space at basement level; associated landscaping, to include a multi-sensory garden space with kitchen garden, allotments and seating'.

'Erection of a two storey detached dwelling house with basement and front, rear and side lightwells, with associated garden at front and rear'.

- 1.2 This Appeal Statement has been produced in support of a section of local resident objections to the above applications and demonstrates why LB Hammersmith and Fulham, as local planning authority, had sound heritage grounds to refuse planning permission.

- 1.3 The reasons for refusal, as relevant to built heritage matters, were:

'The development would result in a loss of private open space of local importance for its open character and contribution to visual amenity within the Colehill Gardens conservation area. More particularly, it would interrupt the green corridor between Waldemar Gardens and Fulham Palace Road and would have a negative effect on the character and appearance of the conservation area, in conflict with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The proposals are contrary to Policy O1 of the Core Strategy 2011 and Policies DM B1, DM G7 and DM E1 of the Development Management Local

Plan 2013'.

- 1.4 This Appeal Statement provides an assessment of significance of affected designated and non-designated heritage assets and considers the impact of the proposed development on those heritage assets. It is written further to a site visit, carried out Tuesday 12th September 2017, and with sight of the appellant's Statement of Case, which includes a heritage appraisal prepared by KM Heritage, May 2017.

The Appeal Site

- 1.5 The Appeal Site is located northeast of Fulham Palace Road and Bishop's Park, within an area of predominantly late nineteenth-century terraced housing [Fig.2]. The Mansion Blocks, located northwest, northeast and southwest of the Site introduced a different building typology and relationship to the Open Space of Colehill Gardens than the terraced housing. It is this, in part, that makes them of architectural interest and significance. The architectural interest that derives from the form, layout and architectural detailing of these buildings has given rise to their inclusion in the Colehill Gardens Conservation Area.
- 1.6 The heritage assets relevant to consideration in the Appeal comprise the Colehill Gardens Conservation Area and the non-designated, locally listed Waldemar Avenue/Colehill Gardens Mansion Blocks. Some consideration will also be given to the impact of the proposed development on the wider townscape, including that within adjacent conservation areas (in particular the 'green corridor' extending between Colehill Gardens and Fulham Palace Road).

Planning History

- 1.7 The Appeal Site has been subject to other planning applications dating back to 2007:

2007/01133/FUL

'Erection of a 5 storey plus basement building comprising one bedroom self-contained flat and 8 two bedroom self-contained flats, involving the provision of underground car and cycle parking and associated landscaping'.

Status: Refused and subsequently appealed.

APP/H5390/A/08/20171695

Status: Dismissed

2010/01414/FUL

Erection of a single storey, plus basement, single dwelling house.

Status: Refused and subsequently appealed.

APP/H5390/A/11/2143525

Status: Dismissed

A number of applications for the felling of a False Acacia Tree, adjacent to 51-70 Waldemar Avenue Mansions, have also been refused by the Local Planning Authority.

2.0 LEGISLATION AND PLANNING POLICY FRAMEWORK

- 2.1 The current national policy system identifies, through the National Planning Policy Framework (NPPF), that applications should consider the potential impact of development upon 'heritage assets'. This term includes: designated heritage assets, which possess a statutory designation (for example Listed Buildings, Conservation Areas, and Registered Parks and Gardens); and non-designated heritage assets, typically incorporated into a Local List compiled by Local Planning Authorities (LPAs).

[Legislation](#)

- 2.2 Where any development may affect designated heritage assets, there is a legislative framework to ensure proposed works are developed and considered with due regard for their impact on the historic environment. This extends in relation to this case from primary legislation under the Planning (Listed Buildings and Conservation Areas) Act 1990. The relevant legislation in this case extends from Section 72 of the 1990 Act. S.72 states that in exercising all planning functions, local planning authorities must have special regard to the desirability of preserving or enhancing Conservation Areas.

[National Planning Policy](#)

[*National Planning Policy Framework \(NPPF\)* \(Department of Communities and Local Government \(DCLG\), March 2012\)](#)

- 2.3 The NPPF is the principal document that sets out the Government's planning policies for England and how these are expected to be applied. It has been purposefully created to provide a framework within which LPAs and the local populace can produce their own distinctive Local and Neighbourhood Plans, respectively. Such Plans consequently reflect the needs and priorities of their communities.
- 2.4 When determining planning applications, the NPPF directs LPAs to apply the presumption in favour of sustainable development; the 'golden

thread' that is expected to run through the plan-making and decision-making process. Nonetheless, NPPF Paragraph 14 states that the presumption in favour of sustainable development is only applied unless certain policies indicate that such development should be restricted; these include policies protecting sites identified as: designated heritage assets; Areas of Outstanding Natural Beauty (AONBs); Sites of Special Scientific Interest (SSSIs); and the Green Belt.

- 2.5 The NPPF defines a heritage asset as: '*A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest*'. The definition of a heritage asset includes 'designated' heritage assets: '*A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation*'. In addition, other 'non-designated' heritage assets identified by LPAs are included in a Local List.
- 2.6 Section 7 *Requiring Good Design* reinforces the importance of good design in achieving sustainable development, by ensuring the creation of inclusive and high quality places. NPPF Paragraph 58 affirms the need for new design to: function well and add to the quality of the area in which it is built; establish a strong sense of place; and respond to local character and history, reflecting the built identity of the surrounding area.
- 2.7 Section 12 *Conserving and Enhancing the Historic Environment* contains NPPF Paragraphs 126-141, which relate to development proposals that have an effect upon the historic environment. Such policies provide the framework that LPAs need to refer to when setting out a strategy for the conservation and enjoyment of the historic environment in their Local Plans.
- 2.8 The NPPF advises LPAs to take into account the following points when drawing up strategies for the conservation and enjoyment of the historic environment:
- The desirability of sustaining and enhancing the significance of heritage assets and preserving them in a viable use consistent with

their conservation;

- the wider social, cultural, economic and environmental benefits that the conservation of the historic environment can bring;
- the desirability of new development in making a positive contribution to local character and distinctiveness; and
- opportunities to draw on the contribution made by the historic environment to the character of a place.

2.9 These considerations should be taken into account when determining planning applications and, in addition, the positive contribution that conservation of heritage assets can make to sustainable communities, including their economic vitality.

2.10 In order to determine applications, NPPF Paragraph 128 states that LPAs should require applicants to demonstrate the significance of any heritage assets likely to be affected by development proposals, including the contribution made by their setting. The level of detail provided should be proportionate to each heritage asset's significance and sufficient to understand what impact will be caused upon their significance. This is supported by NPPF Paragraph 129, which requires LPAs to take this assessment into account when considering applications.

2.11 NPPF Paragraphs 132-136 consider the impact of development proposals upon the significance of a heritage asset. Paragraph 132 emphasises the need for proportionality in decision-making and identifies that, when a development is proposed, the weight given to the conservation of a heritage asset should be proportionate to its significance, with greater weight given to those assets of higher significance. NPPF Paragraph 134 states that, where less than substantial harm will be caused to a designated heritage asset, the harm should be weighed against the public benefits of the development proposals, which include securing the heritage asset's viable optimum use. This provision is engaged for the decision maker in this case in relation to Coleshill Gardens Conservation Area.

2.12 Paragraph 135 sets out that the effect of an application on non-designated assets should be taken into account, whether affected directly

or indirectly. Regard should be given to the scale of any harm or loss and the significance of the heritage asset. This provision is engaged for the decision maker in this case in relation to the non-designated Mansion Blocks.

- 2.13 In relation to Conservation Areas, it is acknowledged in NPPF Paragraph 138 that not all aspects of a Conservation Area will necessarily contribute to its significance. This allows some flexibility for sustainable development to take place in or near Conservation Areas, without causing harm to the overall heritage asset's significance.

National Guidance

Planning Practice Guidance (PPG) (DCLG)

- 2.14 This guidance has been adopted in support of the NPPF. It reiterates the importance of conserving heritage assets in a manner appropriate to their significance as a core planning principle.
- 2.15 It also states conservation is an active process of maintenance and managing change, requiring a flexible and thoughtful approach. Furthermore, it highlights that neglect and decay of heritage assets is best addressed through ensuring they remain in an active use that is consistent with their conservation.
- 2.16 Key elements of the guidance relate to assessing harm. It states, an important consideration should be whether the proposed works adversely affect a key element of the heritage asset's special architectural or historic interest. Adding, 'it is the degree of harm, rather than the scale of development that is to be assessed'. The level of 'substantial harm' is stated to be a high bar that may not arise in many cases. Essentially, whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the NPPF.
- 2.17 Importantly, it is stated harm may arise from works to the asset or from development within its setting. Setting is defined as 'the surroundings in which an asset is experienced, and may be more extensive than the curtilage'. A thorough assessment of the impact of proposals upon

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

- 2.18 Importantly, the guidance states that if 'complete or partial loss of a heritage asset is justified, the aim should then be to capture and record the evidence of the asset's significance, and make the interpretation publically available.

Conservation Principles, Policies and Guidance (English Heritage, April 2008)

- 2.19 The document outlines Historic England's approach to the sustainable management of the historic environment. While primarily intended to ensure consistency in their own advice and guidance through the planning process, the document is commended to LPAs to ensure that all decisions about change affecting the historic environment are informed and sustainable.
- 2.20 This document was published in line with the philosophy of PPS5, yet remains relevant with the NPPF and PPG, the emphasis placed upon the importance of understanding significance as a means to properly assess the effects of change to heritage assets. Guidance within the document describes a range of 'heritage values' that constitute a heritage asset's significance to be established systematically; the four main heritage values are: aesthetic, evidential, communal and historical. The document emphasises that 'considered change offers the potential to enhance and add value to places...it is the means by which each generation aspires to enrich the historic environment' (Paragraph 25).

Overview: Historic Environment Good Practice Advice in Planning

- 2.21 In March 2015 Historic England (formerly English Heritage) withdrew the PPS5 Practice Guide document and replaced with three Good Practice Advice in Planning Notes (GPAs): 'GPA1: Local Plan Making', 'GPA2: Managing significance in Decision-Taking in the historic Environment',

and 'GPA3: The Setting of Heritage Assets'. A fourth document entitled 'GPA4: Enabling Development' has yet to be adopted.

- 2.22 These GPAs provide supporting guidance relating to good conservation practice. The documents particularly focus on how good practice can be achieved through the principles included within national policy and guidance. As such, the GPAs provide information on good practice to assist LPAs, planning and other consultants, owners, applicants and other interested parties when implementing policy found within the NPPF and PPG relating to the historic environment.

GPA3: The Setting of Heritage Assets (March 2015)

- 2.23 This advice note focuses on the management of change within the setting of heritage assets. This document replaces 'The Setting of Heritage Assets' (English Heritage, March 2011) in order to aid practitioners with the implementation of national policies and guidance relating to the historic environment found within the NPPF and PPG. The guidance is largely a continuation of the philosophy and approach of the 2011 document and does not present a divergence in either the definition of setting or the way in which it should be assessed.
- 2.24 As with the NPPF the document defines setting as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve'. Setting is also described as being a separate term to curtilage, character and context. The guidance emphasises that setting is not a heritage asset, nor a heritage designation, and that its importance lies in what it contributes to the significance of the heritage asset. It also states that elements of setting may make a positive, negative or neutral contribution to the significance of the heritage asset.
- 2.25 While setting is largely a visual term, with views considered to be an important consideration in any assessment of the contribution that setting makes to the significance of an asset, setting, and thus the way in which an asset is experienced, can also be affected by other environmental factors including noise, vibration and odour, while setting

may also incorporate perceptual and associational attributes pertaining to the asset's surroundings.

2.26 This document provides guidance on practical and proportionate decision making with regards to the management of proposed development and the setting of heritage assets. It is stated that the protection of the setting of a heritage asset need not prevent change and that decisions relating to such issues need to be based on the nature, extent and level of the significance of a heritage asset, further weighing up the potential public benefits associated with the proposals. It is further stated that changes within the setting of a heritage asset may have positive or neutral effects. It is stated that the contribution made to the significance of heritage assets by their settings will vary depending on the nature of the heritage asset and its setting and that different heritage assets may have different abilities to accommodate change within their settings without harming the significance of the asset and therefore setting should be assessed on a case-by-case basis. Although not prescriptive in setting out how this assessment should be carried out, noting that any approach should be demonstrably compliant with legislation, national policies and objectives, Historic England recommend using the '5-step process' in order to assess the potential effects of a proposed development on the setting and significance of a heritage asset, with this 5-step process continued from the 2011 guidance:

1. Identification of heritage assets which are likely to be affected by proposals;
2. Assessment of whether and what contribution the setting makes to the significance of a heritage asset;
3. Assessing the effects of proposed development on the significance of a heritage asset;
4. Maximising enhancement and reduction of harm on the setting of heritage assets; and
5. The final decision about the acceptability of proposals.

2.27 The guidance reiterates the NPPF in stating that where developments

affecting the setting results in 'substantial' harm to significance, this harm can only be justified if the developments delivers substantial public benefit and that there is no other alternative (i.e. redesign or relocation).

Overview: Historic England Advice Notes in Planning

- 2.28 In addition to the above documentation, Historic England has published three core Historic England Advice Notes (HEANs) that provide detailed and practical advice on how national policy and guidance is implemented. These documents include: HEAN1: Understanding Place: Conservation Area Designation, Appraisal and Management (February 2016), HEAN2: Making Changes to Heritage Assets (February 2016), HEAN3: The Historic Environment and Site Allocations in Local Plans (October 2015), and HEAN4: Tall Buildings (December 2015). Previously adopted documentation by Historic England that provide further information and guidance in respect of managing change within the historic environment include Seeing the History in the View (May 2011), and Managing Local Authority Heritage (June 2003).

HEAN1: Understanding Place: Conservation Area Designation, Appraisal and Management (February 2016)

- 2.29 This document forms revised guidance which sets out the ways to manage change in order to ensure that historic areas are conserved. In particular information is provided relating to conservation area designation, appraisal and management. Whilst this document emphasises that 'activities to conserve or invest need to be proportionate to the significance of the heritage assets affected,' it reiterates that the work carried out needs to provide sufficient information in order to understand the issues outlined in Paragraph 129 of the NPPF, relating to the assessment of any heritage assets that may be affected by proposals.
- 2.30 There are different types of special architectural and historic interest that contribute to a Conservation Area's significance. These include:
- Areas with a high number of nationally designated heritage assets and a variety of architectural styles and historic associations;

- those linked to a particular industry or individual with a particular local interest;
- where an earlier, historically significant, layout is visible in the modern street pattern;
- where a particular style of architecture or traditional building materials predominate; and,
- areas designated on account of the quality of the public realm or a spatial element, such as a design form or settlement pattern, green spaces which are an essential component of a wider historic area, and historic parks and gardens and other designed landscapes, including those included on the Historic England Register of parks and gardens of special historic interest.

2.31 Change is inevitable, however, this document provides guidance in respect of managing change in a way that conserves and enhances areas, through identifying potential within a conservation area. This can be achieved through historic characterisation studies, production of neighbourhood plans, confirmation of special interest and setting out of recommendations. NPPF Paragraph 127 states that 'when considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest,' this document reiterates that this needs to be considered throughout this process.

2.32 Section 71 of the Planning (Listed Buildings and Conservations Area) Act 1990 places on LPAs the duty to produce proposals for the preservation and enhancement of Conservation Areas. This document provides guidance for the production of management plans, which can 'channel development pressure to conserve the special quality of the conservation area'. These plans may provide policies on the protection of views, criteria for demolition, alterations and extensions, urban design strategy and development opportunities. Furthermore, it includes information relating to Article 4 Directions, which give the LPA the power to limit permitted development rights where it is deemed necessary to protect local amenity or the well-being of an area.

Strategic Policy

The London Plan, 2016

- 2.33 The London Plan 2011 comprises the Spatial Development Strategy for London, now consolidated with alterations March 2016. The policies set out in this document are operative as formal alterations to the London Plan; the Mayor of London's spatial development strategy and form part of the development plan for Greater London. In particular, this document encourages the enhancement of the historic environment and looks favourably upon development proposals that seek to maintain heritage assets and their setting.

POLICY 7.4 LOCAL CHARACTER

- 2.34 Development should have regard to the form, function, and structure of an area, place or street and the scale, mass and orientation of surrounding buildings.

POLICY 7.8 HERITAGE ASSETS AND ARCHAEOLOGY

- a) London's heritage assets and historic environment, including listed buildings, registered historic parks and gardens and other natural and historic landscapes, conservation areas, World Heritage Sites, registered battlefields, scheduled monuments, archaeological remains and memorials should be identified, so that the desirability of sustaining and enhancing their significance and of utilising their positive role in place shaping can be taken into account.
- b) Development should incorporate measures that identify, record, interpret, protect and, where appropriate, present the site's archaeology.
- c) Planning decisions
- d) Development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate.
- e) Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail.

f) New development should make provision for the protection of archaeological resources, landscapes and significant memorials. The physical assets should, where possible, be made available to the public on-site. Where the archaeological asset or memorial cannot be preserved or managed on-site, provision must be made for the investigation, understanding, recording, dissemination and archiving of that asset.

Local Policy

London Borough of Hammersmith and Fulham Core Strategy (Adopted July 2011)

- 2.35 The Core Strategy is the borough's principal planning policy document and contains within it the Council's long term vision and objectives for future development, as well as policies for delivering these objectives and strategic land allocations. Relevant policies noted in the reasons for refusal include:

Policy OS1- *'To protect and enhance parks, open spaces and biodiversity in the borough by [inter alia]: protecting back garden space and encouraging the enhancement of front gardens, and adding to the greening of streets and the public realm'.*

- 2.36 Policy BE1- Built Environment

'All development within the borough, including in the regeneration areas should create a high quality urban environment that respects and enhances its townscape context and heritage assets. There should be an approach to accessible and inclusive urban design that considers how good design, quality public realm, landscaping and land use can be integrated to help regenerate places'.

In particular, development throughout the borough should [inter alia]:

'be of the highest standard of design that respects local context and character and, in particular, reflects and extends where appropriate the urban grain of the historic street based pattern and scale of development, especially in residential areas of consistent townscape character; and

protect and enhance the character, appearance and setting of the borough's conservation areas and its historic environment, including

listed buildings, historic parks and gardens, buildings and artefacts of local importance and interest, archaeological priority areas and the Fulham Palace Moated Site scheduled ancient monument’.

2.37 The Proposals Map shows the site as being within the Colehill Gardens Conservation Area, however, the land has no other designation or allocation.

2.38 It should be noted that Core Strategy Policy BE1 Built Environment is not cited in the reasons for refusal, but I include consideration of it here since it is relevant to this case. I believe this to be a drafting error, since the reasons for refusal cite Development Management Policy B1 Providing for a range of employment uses, which is clearly not a heritage related policy.

LB of Hammersmith and Fulham Development Management Policies 2013

2.39 The document sets out the development management policies to be used by the Council in helping to determine individual planning applications and must be read alongside the Core Strategy.

2.40 Policy DM G7: Heritage and Conservation - ‘The Council will aim to protect, restore or enhance the quality, character, appearance and setting of the borough’s conservation areas and its historic environment, including listed buildings, historic parks and gardens, buildings and artefacts of local importance and interest, archaeological priority areas and the scheduled ancient monument. When determining applications for development affecting heritage assets, the council will apply the following principles:

a) The presumption will be in favour of the conservation and restoration of heritage assets, and proposals should secure the long term future of heritage assets. The more significant the designated heritage asset, the greater the presumption should be in favour of its conservation.

b) *Proposals which involve substantial harm to, or loss of, any designated heritage asset will be refused unless it can be demonstrated that they meet the criteria specified in paragraph 133 of the National Planning Policy Framework.*

- c) *Development affecting designated heritage assets, including alterations and extensions to buildings will only be permitted if the significance of the heritage asset is preserved or enhanced or if there is clear and convincing justification. Where measures to mitigate the effects of climate change are proposed, the benefits in meeting climate change objectives should be balanced against any harm to the significance of the heritage asset and its setting.*
- d) *Applications for development affecting heritage assets will be determined having regard to the scale and impact of any harm or loss and the significance of the heritage asset.*
- e) *Development should preserve the setting of, make a positive contribution to, or better reveal the significance of the heritage asset. The presence of heritage assets should inform high quality design within its setting.*
- f) *Particular regard will be given to matters of scale, height, massing, alignment, materials and use.*
- g) *Where changes of use are proposed for heritage assets, the proposed use should be consistent with the aims of conservation of the asset concerned.*
- h) *Applications should include a description of the significance of the asset concerned and an assessment of the impact of the proposed development upon it or its setting. The extent of the requirement should be proportionate to the nature and level of the asset's significance.*
- i) *Where a heritage asset cannot be retained, the developer should ensure that a suitably qualified person carries out an analysis [including photographic surveys] of its design before it is lost, in order to record and advance the understanding of heritage in the borough. The extent of the requirement should be proportionate to the nature and level of the asset's significance; and*
- j) *It respects the principles of accessible and inclusive design'.*

2.41 DM E1: Access to parks and open spaces - *'Access to parks and open spaces The council will seek to reduce open space deficiency and to improve the quality of, and access to, existing open space by:*

- requiring accessible and inclusive new open space in any new major development, particularly in the regeneration areas identified in the Core Strategy or in any area of open space deficiency;*
- refusing development on public open space and other green open space of borough-wide importance (see Core Strategy Appendix 2 and Proposals Map) unless it can be demonstrated that such development would preserve or enhance its open character, its function as a sport, leisure or recreational resource, and its contribution to biodiversity and visual amenity;*
- refusing development on open space that is not identified in the Core Strategy where such land either on its own or cumulatively has local importance for its open character or as a sport, leisure or recreational facility, or for its contribution to local biodiversity or visual amenity unless:*
- the proposed development would release a site for built development needed to realise a qualitative gain for the local community in pursuance of other physical, social and economic objectives of the Core Strategy and provision is made for replacement of open space of equal or greater value elsewhere; and*
- seeking improvements to and/or monies for improvement to existing open space where appropriate and when development proposals impact upon provision'.*

Planning Guidance Supplementary Planning Document (SPD), July 2013

2.42 The SPD offers policy guidance about residential standards and design and conservation guidelines.

2.43 SPD Design Policy 30 - Sets out that *'where there is change of use [...] it should be consistent with the conservation of the asset'*.

2.44 SPD Design Policy 49 - The policy seeks to protect key views and states *'new development should not adversely affect key views within, into or*

out of the conservation area'.

- 2.45 SPD Design Policy 55 - requires that *'Development in a conservation area which is also within or adjacent to open space should respect and complement the character of the open space and conservation'.*
- 2.46 SPD Design Policy 56 - The policy seeks to protect trees in conservation area.

Core Strategy (emerging)

- 2.47 LB of Hammersmith and Fulham is currently updating its local policy with the Proposed Submission Local Plan, Regulation 19, September 2016, submitted to Secretary of State for review 28 February 2017. It is anticipated scheduled for adoption late 2017. The plan, as emerging policy, is a material consideration; it seeks to maintain the borough's commitment to managing change affecting heritage assets and the built and natural environment.
- 2.48 Policy OS1: Parks and Open Spaces - Sets out that the Council *'will protect, enhance and increase provision of parks, open spaces and biodiversity'.*
- 2.49 Policy DC1: Built Environment - Sets out that *'all development within the borough [...] should create high quality urban environments that respects and enhances its townscape, context and heritage assets'.*
- 2.50 Policy DC2: Design and New Build - States that *'all proposals must be designed to respect the historical context and townscape setting of the site and its sense of place'.*
- 2.51 Policy PDC8: Heritage and Conservation - States that the Council will *'conserve the significance of the borough's historic environment'* and that development should *'conserve the setting of, make a positive contribution to, or reveal the significance of the heritage'.*

Supplementary Planning Guidance / Documents

- 2.52 There is no appraisal for the Colehill Gardens Conservation Area. This Appeal Statement therefore relies on the minutes of the Planning and Economic Development Committee (Special Meeting) - 13 March 1991 - that sets out some of the Conservation Area's character and special interest.

3.0 ARCHITECTURAL AND HISTORICAL APPRAISAL

Pre-19th Century

- 3.1 The Palace of Fulham and its grounds were, like many grand medieval London residences, established on the banks of the Thames; in this case for the Bishops of London that resided there over a number of centuries. The Appeal Site's proximity to the Palace would suggest that its evolution was, in part, influenced by it, but it is not clear whether the Site was brought under the direct management of The Bishops. By the eighteenth century the Site was being sold/tenanted to persons not connected with the Palace. The Site was in agricultural production when surveyed for the Rocque map 1741-5 [Fig.3], potentially comprising market gardens.
- 3.2 Today's road network is clearly emerging by the time of Rocque's survey, with Bishop's Avenue set out to the north of the Palace grounds and Fulham Palace Road to the north east of The Palace grounds.
- 3.3 Colehill Cottage, marked on Figure 3 in blue, is shown to the northeast of Bishop's Avenue, broadly on axis with it. Colehill Cottage and its grounds had a visual relationship with The Palace. Bishop's Avenue is the principal approach to Fulham Palace - a designed route lined with mature Plane trees. The Avenue's junction with Fulham Palace Road is marked by nineteenth-century Gothic gate piers (grade II listed), early nineteenth-century Tudor-Gothic gatehouse (grade II listed), and twentieth-century iron gates affording it considerable presence and status.

1867-1869

- 3.4 By the nineteenth century [Fig.3] a number of large villas were present within proximity of the moat surrounding the Palace, each set out some form of ornamental/productive garden. Four such villas had appeared by the time the 1867-69 OS map was being surveyed between 1848 and 1850. These buildings included Colehill Cottage, that would have been within today's Colehill Garden's Conservation Area, with Colehill Lodge and Grove Lodge to the north and an un-named building to the south, outside the Conservation Area.
- 3.5 The Appeal Site is located within the grounds of the former Colehill

Cottage/Lodge, towards the north-eastern boundary of the grounds [Fig.4]. The map indicates that this part of the Colehill Cottage grounds were by this time divided into three field compartments. The field compartments may have been productive gardens, however, the extent of planting marked is reduced from the time of Rocque's survey.

1895

- 3.6 By 1895 [Fig.5] the Appeal Site was still within the grounds of Colehill Cottage/ Lodge, however, the pattern of land use had changed. The smaller garden compartments had been opened out into a single space and the boundary to the northeast strengthened with tree planting. Waldemar Avenue had not yet been laid out to its current extent, though its modern day alignment established to the southeast. A number of outbuildings have been constructed to the northwest of the Appeal Site. These are separated from the gardens of Colehill Cottage by a sinuous band of tree planting, limiting intervisibility between these buildings and Colehill Cottage.
- 3.7 The grounds of Colehill Cottage had been encroached upon by residential development by 1895. The southern boundary has been largely replaced by the gardens of dwellings on Lalor Street and the unnamed dwelling to the south of Colehill Cottage demolished. Further dwellings have been constructed near the north east boundary of The Grounds, comprising Burnfoot Avenue and Horder Road. It is possible that the additional tree planting to the boundaries of Colehill Cottage was to screen this new development.
- 3.8 Colehill Lodge, to the north of Colehill Cottage has been demolished and its grounds developed with terraced housing fronting on to Fulham Palace Road. Further development on Firth Gardens had not yet been built out, though the infrastructure had been established.

1916

- 3.9 By 1916 [Fig.6] today's land use patterns had been established on both the appeal Site and surrounding townscape. The Mansion Blocks of both Colehill Gardens and Waldemar Avenue and access road had been

constructed and ornamental gardens/open space laid out on the site of the demolished Colehill Cottage.

1951

- 3.10 By 1951 [Fig.7] the Appeal Site had changed little from the 1916 plan and its setting is largely as set out in LB Hammersmith and Fulham's Minutes on designating the Colehill Gardens Conservation Area in 1991.
- 3.11 There is some evidence that the developers of Waldemar Avenue Mansions and Colehill Gardens mansions intended the buildings to be larger than they are today. The site visit allowed view of a blank wall to the northwest elevation of Colehill Gardens, with protruding bricks at the corners, that may suggest an aspiration to develop a further wing running northwest/southeast. However, the development never got any further, so the Minutes confirming the designation of the Colehill Gardens Conservation Area correctly asserts that the former grounds of Colehill Cottage/Lodge have remained largely un-developed and that the current extent of the open space remains undeveloped.

4.0 ASSESSMENT OF SIGNIFICANCE

Site Assessment

- 4.1 The Appeal Site is between 51-70 Waldemar Avenue Mansions and 82 Waldemar Avenue, opposite 21-40 Waldemar Avenue Mansions. It comprises land formerly used as allotment gardens by the residents of Waldemar Avenue Mansions and Colehill Gardens until 2002. Today the Site has been left to revert to scrub, though retains some mature trees.
- 4.2 To the southwest of the Appeal Site is open space together with which the Site forms the Open Space at the centre, spatially and in terms of contribution to significance, of Colehill Gardens Conservation Area. The rest of the Open Space is currently fenced-off and inaccessible from the Site. To the northwest is the rear elevation of 51-70 Waldemar Avenue Mansions and to the southeast an electricity sub-station and side return of No.82 Waldemar Avenue. The Site fronts onto Waldemar Avenue, separated by a timber fence and door that are in poor condition. The Site has strong intervisibility with 21-40 Waldemar Avenue Mansions opposite.
- 4.3 The Appeal Site is entirely within the Colehill Gardens Conservation Area and is broadly at the geographic centre of the designated area. The Site comprises one part [Fig.10: 'A'] of a large area of Open Space at the centre of the Conservation Area. As a whole, the Open Space amounts to approximately 2,180 square metres and can be read as three distinct parcels: two areas of scrub and mature trees formerly in use as allotment gardens to the centre and northeast ['A' and 'B'] and an ornamental garden to the southwest ['C']. This is set out in Figure 10.
- 4.4 Some mature trees, noted in the Minutes (described below) remain within the Open Space and the Appeal Site. The landscape establishes a strong sense of enclosure from within the Open Space and gives the wider townscape a verdant character.
- 4.5 Internal and external works have commenced at 51-70 Waldemar Avenue, to the north, adjacent to the Appeal Site.

Colehill Gardens Conservation Area

- 4.6 The Colehill Gardens Conservation Area was designated 13th March 1991 as an area of special architectural and historical interest under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 72 of The Act goes on to state that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'. Conservation areas are identified as designated heritage assets under Appendix 2 of the National Planning Policy Framework.
- 4.7 There is no Conservation Area appraisal for Colehill Gardens, however, the minutes of the Council meeting that resolved to designate the area are available and provide a brief description of its physical characteristics and significance. The term 'Minutes' is used to describe this committee paper throughout this document.

Significance

- 4.8 The Conservation Area predominantly, but not exclusively, comprises land once part of the grounds of Colehill Cottage and Colehill Lodge. The Open Space, and the Appeal Site within it, is entirely within the Colehill Gardens Conservation Area. The Open Space forms the core of this designation, both spatially and in terms of contribution to significance of the asset.
- 4.9 The Minutes confirming the designating the Conservation Area describe Colehill Gardens as 'a unique and individual area of open space which has never been built on'. The use of 'unique' and 'individual' is notable: the Open Space's part use as allotments is neither unique nor individual, indeed there are a large number of allotments nearby to the west of Fulham Palace Road.
- 4.10 The use of open space in relation to high density building forms is also commonplace in London. It is therefore suggested that these terms stem from the Appeal Site and the wider Open Space's historic evolution as an element of open space, i.e. land that still has a relationship with pre-urban Fulham and part of the grounds relating to Colehill Cottage and Lodge. This relationship could be considered to present evidential,

historical and communal value and significance. That there is no other open space that can be traced back to and still 'read' as the surviving elements of grounds of a minor residence of the pre-nineteenth-century urban expansion period elsewhere in the borough, increases the asset's significance and, therefore, the weight afforded to its conservation.

- 4.11 The Open Space and the Appeal Site's significance therefore stems, in part, from a historical and evidential value and associations with the grounds of Colehill Cottage and Lodge. These grounds are still clearly legible within the dense urban context because the currently surviving element has never been built on, notwithstanding that there has been some erosion of the historic gardens through built development to the edges. The Minutes state that 'the historic importance of the site is a major factor in considering the designation of the proposed conservation area'. The road infrastructure typically follows the earlier field boundaries and lanes of the pre-nineteenth-century landscape presenting clear evidential significance.
- 4.12 In a dense urban setting open space can be defined by the buildings that surround it as much as any intrinsic design of the landscape itself. In this case the form and character of the landscape is strongly defined by its close relationship with the built environment. The Minutes state that 'The buildings are part of a three-dimensional image which must relate to the open space and act as the compositional elements of the setting'. The Open Space's form is directly related to the building typologies and historic patterns of urban development in this part of Fulham. The significance of the Colehill Gardens Conservation Area in part derives from the evidential and historic values of these typologies and patterns of development and altering the relationship between the Open Space, including the Appeal Site, and the buildings would have an impact on this significance.
- 4.13 The special architectural interest that arises from the Mansion Blocks is expanded on under an assessment of Locally Listed Buildings, Section 4.2, so this section will focus on the relationship between the elements that collectively make up the Colehill Gardens Conservation Area. The

Mansion Blocks were a response to the demand for housing in an area of London fast urbanising; they provide higher density housing than the surrounding terraced streets whilst delivering an architectural language recognisable to aspirational investors in the late nineteenth/early twentieth century. This architectural language would help ensure the buildings were in keeping with their surroundings. The Mansion Blocks themselves maximise the plots they occupy whilst preserving the Open Space, as currently experienced, as amenity space and setting for the developments.

- 4.14 The Open Space should therefore be considered to have a designed relationship with the Mansion Blocks as opposed to merely land left over after their construction. Development on this land would have an impact on the relationship between these elements of the built environment and the 'core' characteristic of the Conservation Area, i.e. Mansion Blocks set out around open space. Each of the Mansion Blocks has a direct interface with the Open Space, including 1-50 Waldemar Avenue Mansions that is on the opposite side of Waldemar Avenue. That this was a key characteristic of the Conservation Area's designation could be supported by the inclusion of 78 -104 Colehill Lane: whilst these terraced houses are not mansion blocks they provide the open space with enclosure and complete the pseudo London-Square urban form and character.
- 4.15 When the Conservation Area was designated the Open Space contained some sixteen trees. These landscape features remain a significant aspect of the Conservation Area and contribute to the locality's sense of a greened and verdant townscape, as well as providing vertical and seasonal interest. The positive character that the trees establish is noted in the Minutes that state 'the many protected trees on site have a considerable input in creating not only the attractive appearance but also in wider townscape terms, where they contribute greatly to the character of the gardens and its environments'. This study has not had the benefit of an arboricultural survey, however, it is possible that some of the trees survive from the grounds laid out for Colehill Cottage and Lodge. In any case, the extent of planting echos the pre-urban land uses and provides

some evidential and historical value, as well as the clear aesthetic and communal value of greenspace.

- 4.16 The Colehill Gardens Conservation Area currently extends the green space afforded by Bishop's Park north east and over Fulham Palace Road, maintaining the historic link between the east and west sides of Fulham Palace Road on axis with Bishop's Avenue. The green corridor therefore has evidential, historical and aesthetic value as open space that helps define this historic entrance route to The Palace. It also has communal value as a open space within the borough hierarchy of open spaces, particularly so for the immediate residents.
- 4.17 In summary, Colehill Gardens Conservation Area is a heritage asset of high (national) significance. Its character and appearance, and therefore its special interest, is most strongly determined by the presence of the Open Space. It is the Open Space, of which the Appeal Site forms nearly one quarter, that is the primary and crucial contributor to the Conservation Area's significance.
- 4.18 Colehill Gardens and Waldemar Avenue Mansions are good examples of housing blocks of the late Victorian/Edwardian period and contrast with the typical terraced housing typology of the surrounding townscape. The buildings are on the LB of Hammersmith and Fulham Local Register of Buildings of Merit (The List), dated August 2015. They have intrinsic value as non-designated heritage assets of historical and architectural interest and make a positive contribution to the character of the Colehill Gardens Conservation Area. Locally listed buildings are identified as designated heritage assets under Appendix 2 of the National Planning Policy Framework.
- 4.19 The built form of dwellings on Colehill Lane and Waldemar Avenue is predominantly two to three-storey terraced housing, displaying typical details such as projecting bay windows, (some canted with heavy mullions) and gabled roofs. Some have decorative ironwork to the primary façade. Whilst the Mansion Blocks pick up many of these architectural details they are composed to form unified façades and are therefore distinct.

- 4.20 Waldemar Avenue Mansions, comprising 70 x 1, 2 and 3 bedroom units, were built in the late 1890s. Waldemar Avenue had been extended northwards to connect with Colehill Lane and the two mansion blocks were designed to form a 'gateway' in town planning terms at the north end of the street, marked by strong projecting canted bays. Colehill Gardens are dated on the Fulham Palace Road Elevation (Nos 1– 36) at 1903 and are distinct, albeit sharing a common architectural language with Waldemar Avenue Mansions.
- 4.21 Colehill Gardens hosts four retail units at ground floor, accounting for most of the units in the small neighbourhood centre on Fulham Palace Road.
- 4.22 A number of planning applications have recently been approved for the intensification of residential use at Waldemar Avenue Mansions and were being built out at the time of our site visit, 12th September 2017. Applications include:
- 2014/03614/FUL: Approved
 - 2014/02062/FUL: Approved
 - 2014/01548/FUL: Approved
 - 2014/00389/FUL: Approved
 - 2013/01718/FUL: Approved
 - 2000/01989/FUL: Approved
- 4.23 Combined, these applications will have a cumulative impact on the significance of the locally listed Mansion Blocks and the character and appearance of Colehill Conservation Area. The roof scape is to be altered to provide additional accommodation in the existing roof space, with new roof terrace. This includes the installation of roof lights to No. 17 Waldemar Avenue Mansions. Excavation of the building footprint is being carried out to provide additional accommodation at Nos. 53 and 54 Waldemar Avenue Mansions, requiring a new stair enclosure to the south east elevation and glazed entrance to the south west corner of the block. Externally, part of the garden is to be excavated to accommodate new lightwells, retaining walls and railings. Additional parking will be provided within the former gardens.

- 4.24 Internally the buildings have architectural details contemporary with their construction, notably terrazo and mosaic patterned lobby floors, ornamental iron stair ballustrade and Decorative faience tiled wainscotting. These elements suggest that the buildings were to be marketed to aspirational investors.

Significance

- 4.25 The Minutes of the meeting confirming the Conservation Area's designation set out that 'whilst the mansions complement the characteristics of scale, massing and materials of Waldemar Avenue they retain a distinct character of their own'. The significance of these locally listed buildings therefore lies, in part, in architectural detailing that is in-keeping with the local townscape whilst introducing something different, notably higher density housing to meet the needs of the growing local population. The buildings therefore have an aesthetic value, that positively contributes to the special interest of the Conservation Area. The Mansion Blocks also have an evidential and historical value in that they help make the nineteenth-century expansion of London's suburbs tangible. As notable local buildings, they will have some communal value to local residents and visitors to the area. The buildings were added to the local list and, in part, included within the boundary of the Colehill Gardens Conservation Area for this reason.
- 4.26 The Mansion Blocks have a setting that relates directly to their building typology and form. The principal elevation of Waldemar Avenue Mansions front onto Waldemar Avenue and Colehill Lane. To the rear of the buildings is the Open Space that also forms the 'core' of the Colehill Gardens Conservation Area. This amenity space would have been a key aspect of the developer's original design intent for the Mansion Blocks: providing those living in apartments with no access to private outdoor space visual access to outdoor space. The Open Space therefore has significance as the heritage asset's setting providing evidential and historic value as well as the obvious aesthetic and communal value of open green space in a dense urban setting.

- 4.27 The Mansion Blocks are non-designated assets that primarily derive their low (local) significance from the architectural interest of their fabric. The setting of the Open Space, including the Appeal Site, is an important contributor to their significance.

5.0 PROPOSALS, ASSESSMENT OF IMPACT AND CONCLUSIONS

Proposals

- 5.1 It is proposed to develop a single dwelling and community building on the Appeal Site, as set out in the application drawings and design and access statement by Jo Cowen Architects. The community centre is to be set within gardens and provide some business space at basement level. The dwelling is adjacent to 82 Waldemar Avenue and electricity sub-station and the community building between the new dwelling and 51-70 Waldemar Avenue Mansions.
- 5.2 The proposed buildings can be described as being in a modern style and low-rise. The community building is a single-storey structure and the dwelling 1.5 storeys plus basement half storey.
- 5.3 Existing landscape features will be retained and the new planting is proposed to augment this.

Colehill Gardens Conservation Area

- 5.4 The proposed development will inevitably have some impact on the significance of the designated heritage asset, that is to the character and appearance of Colehill Gardens Conservation Area.
- 5.5 We have set out that the existing Open Space is critical to the character and appearance being the primary contributor to the asset's special interest and significance, centering upon the relationship between the Open Space, Mansion Blocks and terraced housing. These elements create a pseudo London-square character. However, unlike most London Squares each block has a different relationship with the Open Space, and so it is literally the 'core' that holds the elements together. The Open Space is the primary contributor to the significance (character and appearance, and special interest) of the Conservation Area, as is the view of two appeal inspectors [see paras. 5.11-5.17 below].
- 5.6 The loss of a substantial quantum of the Open Space, in such a small, tightly focussed Conservation Area, will cause significant harm to the heritage asset, albeit less than substantial harm. The Open Space accounts for approximately 20% of the entire Conservation Area, which is substantial in such a dense urban context. The Appeal Site accounts

- for approximately 23% of the Open Space and so the loss of this land to development would change the character and appearance of the Conservation Area considerably and that of the Open Space more so.
- 5.7 The loss of nearly one quarter of the Open Space to development would reduce the extent of the 'green corridor' cited in the Council's refusal letter. This would reduce the legibility of the historic link between the east and west sides of Fulham Palace Road around the historic entrance to Fulham Palace via Bishop's Avenue.
- 5.8 We do not concur with the position set out in the Appellant's Heritage Appraisal that the Colehill Conservation Area 'does not rely on the openness of the space'. (Paragraph 4.6, 33) for those reasons set out above the core element of the Conservation Area is the Open Space. We have demonstrated that the Open Space is at the 'core' of the Conservation Area, as set out in the Minutes, spatially and in terms of being the primary contributor to its significance.
- 5.9 The extent and form of the Open Space emerged as a direct consequence of the Site's palimpsest nature: The Site's (as part of the Open Space) historic relationship to the Colehill Cottage/Lodge estate influenced the building typology used around the edge of the Open Space and, therefore, the Appeal Site, i.e. the Mansion Block, during the later nineteenth century. The Open Space responds directly to these building typologies. The proposals would therefore impact on the historic and evidential values of the Open Space as the main contributor to the Conservation Area's significance.
- 5.10 Building on nearly one quarter of the Open Space between the locally listed buildings would negatively impact on the relationship between the various heritage assets, the locally listed buildings and the Conservation Area. The Minutes set out that '*the buildings are part of a three-dimensional image which must relate to the open space and act as the compositional elements of the setting*'. However, the Appeal Schemes impede on the compositional relationship between 51-70 Waldemar Avenue Mansions and the Open Space by removing it to a single elevation interrelationship. 1-50 Waldemar Avenue Mansions would be

severed from the 'core' of the Conservation Area entirely by the construction of new buildings opposite.

- 5.11 The Planning History indicates a consistent approach by the LPA to the Appeal Site. Application 2007/01133/FUL was refused because:

'The development would result in the loss of private open space of local importance for its open character and contribution to visual amenity within the Conservation Area without the benefit of replacement open space; and

The proposed building was considered inappropriate in terms of its relationship to the existing open space, the existing buildings of merit surrounding the site and their setting. More particularly, the proposal by reason of its design, location and relationship to a landmark open space, would be detrimental to visual amenity. Consequently it would have a negative effect on the character and appearance of the Conservation Area'.

- 5.12 The subsequent appeal [APP/H5390/A/08/20171695] was dismissed with the inspector noting that the main issues were:

Whether the proposal would preserve or enhance the character or appearance of the Colehill Gardens Conservation Area by the reason of the loss of open space; and

The visual impact of the proposed development on the surrounding area by reason of its design, location and relation to open space'.

- 5.13 The inspector described the Conservation Area [para.4] as:

'a tightly drawn conservation area characterised by an area of open space enclosed by residential development [...] I accept that the site was probably a remnant space left over from the Colehill Gardens Mansion Block and park development and is in separate ownership. Nonetheless, the appeal site has been used for decades as an allotment and private gardens and cannot be considered as previously developed land'.

- 5.14 The inspector concluded that:

'The site retains a visual amenity value of local importance [...]. This is principally because it is visible from the street, provides views towards the pocket park and contains a number of trees that make a contribution

to the street scene. It also serves as a visual break in an otherwise heavily built up area and a backdrop to adjacent mansion blocks'.

- 5.15 A further application [2010/0414/FUL] for the Appeal Site was refused in 2010. The subsequent appeal [APPH5390/A/11/2143525] was also dismissed. The inspector described the Open Space as comprising:

'an overgrown parcel of open space, which is in private ownership. It is within the Colehill Gardens Conservation Area, which has a relatively restricted coverage [...] The much larger block on the opposite side of the road (Nos 1-40 Waldemar Avenue Mansions) extends from Colehill Lane for a much greater distance, terminating opposite the southern-most part of the appeal site'.

It was pointed out during the site visit that the blank brick wall on the southeast corner of Nos.51-70 may well indicate an intention at some time to extend the mansions across the appeal site to mirror the building opposite. Whilst there may be some truth in this speculation, the fact is that for over 100 years the present appeal site has remained vacant. In conjunction with the two areas of open space to the west, which extends to Fulham Palace Road, it forms an area of private open space that has become a feature of the conservation area and which contrasts with the continuous terraces of Victorian houses within the wider vicinity'.

- 5.16 Paragraphs ten and eleven of the appeal decision state that:

'the development would involve the permanent loss of an area of open space amounting to approximately one third of that providing the long-established setting for Waldemar Avenue Mansions and Colehill Gardens. This valuable open space, albeit in private ownership, would be replaced by a single residential dwelling [...]'.

- 5.17 The change from an open space to a dwelling and residential curtilage would have an adverse effect upon the character and appearance of the surrounding area, which has been designated as a conservation area in recognition of the interrelationship between the Victorian/Edwardian mansions and these three adjacent parcels of land. The innovative design of the proposal, which seeks to retain the open vista across the site, would appear incongruous and contrived and thereby out of character

with the conservation area as a whole’.

- 5.18 It is clear that the conclusions of the two appeal inspectors concur with our own, in that the key contributor to the Conservation Area’s character and appearance is the Open Space, and that the Appeal Schemes’ represent a significant reduction to that Open Space such that the character and appearance of the Conservation Area would be harmed and that the interrelationship between all the identified heritage assets’ significance would also be harmed.
- 5.19 We can see no enhancement to the Conservation Area derived from the Appeal Schemes that would outweigh the Schemes’ harm to it. Whilst the Schemes would replace a tired boundary treatment and potentially improve the landscaping, these benefits could be achieved without any new buildings on the Appeal Site.
- 5.20 It is our position that the proposals would not preserve or enhance the special interest of the heritage assets as required under Sections 72 and 66 of The Planning (Listed Buildings and Conservation Areas Act) 1990.
- 5.21 We have set out that the Open Space is the primary defining characteristic of the Colehill Gardens Conservation Area and a reduction of the Open Space by nearly one quarter will harm the character and appearance of the Conservation Area. In consideration of *South Lakeland DC v Secretary of State for the Environment and another* [1992] 1 ALL ER 573 we do not consider the proposals to either preserve or leave the character or appearance unharmed.
- 5.22 Colehill Gardens Conservation Area is a heritage asset of high (national) significant. The main contributor to the Area’s significance (and therefore to its character and appearance, and special interest) is the Open Space. The near one quarter loss of the Open Space caused by the Appeal Schemes represents a significant harm to the Area’s significance. Although this level of harm falls within the spectrum of less than substantial harm, this still represents a significant level and therefore warrants rejection of the Appeal.

Setting of Non-designated Mansion Blocks

- 5.23 The Mansion Blocks were designed around open space, an architectural

response to the need to provide public open space for residents that will have no private open space. The proposed development of over 20% of this Open Space, in a conservation area where open space is the defining characteristic, will cause harm to the setting of the locally listed buildings and in terms of their interrelationships between each elements of the Mansion Blocks and with the Conservation Area.

- 5.24 The introduction of the Appeal Schemes to the Conservation Area, will serve to sever the element of the Mansion Blocks on the east side of Waldemar Avenue which represents a significant level of harm to the Mansions' low (local) significance.

Conclusions

- 5.25 The Built Heritage Appeal Statement concludes that the proposed development of the Appeal Site will result in a less than substantial level of harm to the high significance of Colehill Gardens Conservation Area. Specifically, this harm is of a significant level within the spectrum of less than substantial harm. The Appeal Schemes will also result in a significant level of harm to the low significance of the non-designated Mansion Blocks.
- 5.26 The NPPF states in paragraph 134 that, 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'. The statutory duty placed on the decision maker in this case is derived from s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It requires that the decision maker 'have regard to the desirability of preserving', i.e. keeping from harm, the character and appearance, and the special interest of the Colehill Gardens Conservation Area. This statutory duty on the decision maker is clearly engaged in this case.
- 5.27 The NPPF states in paragraph 135 that in relation to the consideration of harm to non-designated heritage assets 'a balanced judgement will be required having regard to the scale of any harm or loss and significance of the heritage asset'.
- 5.28 Paragraph 132 of the NPPF guides the decision maker that great weight

must be afforded to any harm to a heritage asset's significance caused by the Appeal Schemes, the level of harm is less than substantial and specifically significant in magnitude within this spectrum. It is the conclusion of this Statement of Case that the public benefits of the scheme will not outweigh the less than substantial harm to the identified heritage assets' significance (as detailed in the accompanying Planning Appeal Statement).

5.29 The Appeal Schemes are contrary to the following Local Plan, Development Management Plan and Core Strategy policies:

- Policy OS1 requires that open spaces are protected. The loss of nearly one quarter of the Open Space does not represent its protection;
- Policy BE1 requires that all development '*respects and enhances its townscape context and heritage assets*' and '*protects and enhances the character, appearance and setting of the borough's conservation areas*'. The removal of nearly one quarter of the Open Space does not deliver respect and enhancement to the Conservation Area and does not protect the Area's character and appearance;
- Policy G7 indicates that there is a presumption '*in favour of the conservation and restoration of heritage assets, and proposals should secure the long term future of the heritage asset*', that '*development affecting designated assets [...] will only be permitted if the significance of the asset is preserved or enhanced or if there is clear and convincing justification*'. The proposed loss of nearly one quarter of the Open Space, the crucial and primary contributor to the significance of the Conservation Area, does not represent the securing of the Area's long term future, or of its preservation and enhancement; and
- Policy E1 calls for proposals to be refused on open space '*where such land, either on its own or cumulatively, has local importance for its open character [...] or visual amenity*'. The Appeal Schemes do not provide replacement open space of equal or greater value (significance).

- 5.30 Furthermore, in regard to the LPA's SPD Design Policy 30, the Appeal Schemes are not '*consistent with the conservation of the asset[s]*' and in relation to Design Policy 55, the Schemes do not '*complement the character of the open space and conservation area*'.
- 5.31 The Appellant's Statement of Case does not present clear and convincing justification for the identified harm and, as set out above, is not consistent with a number of local plan policies. The decision maker will need to invoke the statutory test and should conclude in their considerations that the Conservation Area should be kept from such harm that involves the near one quarter loss of its centrally defining contributor to its significance, namely the Open Space. Together with the great weight that must be afforded to this identified harm, these impacts on the identified assets lead to the conclusion that, in regard to built heritage issues, there is no material reason for the Appeals to be upheld.

APPENDIX A: REFERENCES

J Feret: Fulham Old and New: Exhaustive History of the Ancient Parish of Fulham, Vol III, MDCCCC

J Rocque: Plan of the Cities of London and Westminster and Borough of Southwark and the country near ten miles around, surveyed 1741-5

Committee Minutes: Planning and Economic development Committee (Special Meeting) - 13th March 1991

APPENDIX B: MINUTES OF COUNCIL MEETING CONFIRMING DESIGNATION OF COLEHILL GARDENS CONSERVATION AREA

COMMITTEE MINUTES

Planning & Economic Development Committee (Special Meeting) -
13 March 1991

80.5 RESOLVED -

80.5.1 That the two items nominated by the Opposition be dealt with prior to 10 p.m.

80.6 The Opposition requested to have votes recorded.

5 FOR - Councillors Sally Powell, Les Aldridge, Josie Wicks, Mike Goodman, Colin Aherne.

3 AGAINST - Councillors Mrs. Angela Clarke, Frances Stainton, Gerald Wombwell.

80.7 On the Administration motion, under Standing Order 44, it was RESOLVED -

80.7.1 That the meeting shall not adjourn at 10 p.m.

80.8 The Opposition requested that votes be recorded.

5 FOR - Councillors Sally Powell, Les Aldridge, Josie Wicks, Mike Goodman, Councillor Colin Aherne.

3 AGAINST - Councillors Mrs. Angela Clarke, Frances Stainton, Gerald Wombwell.

81. CONSERVATION AREA REVIEW (PEDC 2686)

81.1 RESOLVED -

81.1.1 To designate the following new Conservation Areas:

* CA NO. 38 - Colehill Gardens)

CA NO. 39 - Fulham Reach)

CA NO. 40 - Putney Bridge)

CA NO. 41 - Sands End Riverside)

CA NO. 42 - Wood Lane)

CA NO. 43 - Cloverly Estate)

CA NO. 44 - Hammersmith Odeon)

As shown on
attached Plans

3.1.2 To adjust the boundaries of the following in existing Conservation Areas:

CA NO. 8 - Ravenscourt Park

CA NO. 14 - Walham Green

APPENDIX I

COLEHILL GARDENS : CONSERVATION AREA

1. BACKGROUND

1.1 Under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990, local authorities are required to determine which parts of their area are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance, and to designate them as conservation areas.

1.2 In the Borough Local Plan, ENV6 para 8.35, the Council undertakes to designate further conservation areas.

2. PROPOSED CONSERVATION AREA

2.1 History and Identity

Colehill Gardens has been under the use of allotments and a garden in various forms since development was undertaken in this part of Fulham. It is widely believed that the gardens were once part of the grounds of Colehill Lodge (built in the approximate location of 51-70 Waldemar Avenue Mansions). Therefore, the historical importance of the site is a major factor in considering the designation of the proposed conservation area.

2.2 The Mansions blocks of Waldemar Avenue Mansions (70 units) and Colehill Gardens (36 units) were built in the grounds of Colehill Lodge. Waldemar Avenue Mansions were built in the 1890s, comprising 1, 2 and 3-bedroomed flats, the blocks were built in a uniform style, scale and massing and echoes the design style of the late Victorian period. Colehill Gardens was built in 1903, and whilst the mansions complement the characteristics of scale, massing and materials of Waldemar Avenue they retain a distinct character of their own.

2.3 The streets which surround Colehill Gardens act as the enclosure for the open space, which is the core area of the Conservation Area. The buildings are part of a three-dimensional image which must relate to the open space and act as the compositional elements of the setting.

3. PROPOSED BOUNDARY

3.1 The proposed Conservation Area is centred on Colehill Gardens which is its focal point. Also included within the boundary are 1-70 Waldemar Avenue Mansions, 1-36 Colehill Gardens, 78-120 (even) Colehill Lane, 68-82 (even) Waldemar Avenue, 1-11 Lalor Street and 411-423 Fulham Palace Road.

3.2 Colehill Gardens is a unique and individual area of open space which has never been built on. It incorporates an approximate area of 2,180 sq. metres. The open space can be divided into two distinct areas regarding recreational use. The north eastern end is used for allotments, changing to an area with parkland characteristics and an open sitting area to the south western end of the site.

3.3 Colehill Gardens contains some 16 trees which are subject to protection by a Tree Preservation Order which, under Section 198(3) of TCPA 1990, prohibits; "the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the local planning authority". As well as contributing to the habitat capability of the gardens,

the many protected trees on site have a considerable input in creating not only the attractive appearance but also in wider townscape terms, where they contribute greatly to the character of the gardens and its environments.

3.4 It is also considered that Colehill Gardens acts as a valuable resource for wildlife in the surrounding area, notwithstanding the existence of Bishops Park in the vicinity. In an area as highly developed as Hammersmith and Fulham 'green lungs' are an important resource for flora and fauna as well as people.

3.5 1-70 Waldemar Avenue Mansions and 1-36 Colehill Gardens

The scale, massing, architectural detailing and emphasis of Waldemar Avenue Mansions and Colehill Gardens is significantly different from its surroundings to warrant individual merit as a collective group. The buildings historic and architectural value, warrants their retention and inclusion in Schedule E of the BLP as Buildings of Townscape Value (Env.8).

3.6 78-120 (even) Colehill Lane, 68-82 (even) Waldemar Avenue, 1-11 Lalor Street and 411-423 Fulham Palace Road

These groups of properties are included for their contribution to the townscape of the area, and their enclosure of Colehill Gardens itself.

4. REASONS FOR DESIGNATION

4.1 Colehill Gardens is being designated as a Conservation Area in order to protect and enhance its character from any inappropriate development which may otherwise occur.

4.2 Any new development would result in the loss of open land used as allotments, containing trees the subject of Preservation Orders and an area worthy of nature conservation, to the detriment of the amenities of the residential area generally and, more particularly, the amenities of the residents in the immediate vicinity.

4.3 The mansion blocks are an important component of the setting of the conservation area, and are in themselves of historical and architectural interest. Any unsuitable change or alteration to the form and grain of the mansion blocks and surrounding buildings would lead to a change in character and attractiveness of the area and a loss of its identity.

5. LEGAL IMPLICATIONS OF DESIGNATION

5.1 Section 69 (1) and (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 grants powers to designate conservation areas, Section 70 (5-8) require the authority to give notice to the Secretary of State of the designation of the Conservation Area, and that it should be publicised in local papers and the London Gazette; furthermore the designated area should be recorded on the Local Land Charges Register. Once an area is designated there is a requirement to formalise and publicise proposals for its preservation and enhancement. The designation of the Conservation Area is effective on the date of the Committee decision.

5.2 Once an area is designated as a Conservation Area the Local Authority, in exercising any power under the 1990 Act, is required to pay special attention to the desirability of preserving or enhancing its character or appearance. The main specific consequence of designation is that it brings into control the demolition of certain buildings through the Conservation Area Consent procedure, and non-compliance with the legislation becomes a criminal offence. The maximum penalty that can be incurred is a £2,000 fine if action is taken in a Magistrates' Court, or an unlimited fine if action is taken in the Crown Court.

Alternatively a Conservation Area enforcement notice can require that a building demolished without permission is rebuilt to its former state and appearance.

5.3 Further specific powers in conservation areas relate to the lopping, topping or other works to trees and require that the local authority should be given six weeks notice of intent where such works are being considered.

5.4 In determining applications for development in Conservation Areas planning authorities may implement additional controls as outlined in Circular 8/87. Additional controls include; Applications to include detailed plans and drawings of proposed development, instead of giving permission in outline form (Para. 61). Special regard should be had to such matters as bulk, height, materials, colour, vertical or horizontal emphasis and design (Para. 62). Greater advertising obligations in order to consider any representations concerning new developments (Para. 63). Power to implement Article 4 Directions which may remove certain classes of development permitted by the General Development Order (Para.64).

6. EQUALITIES

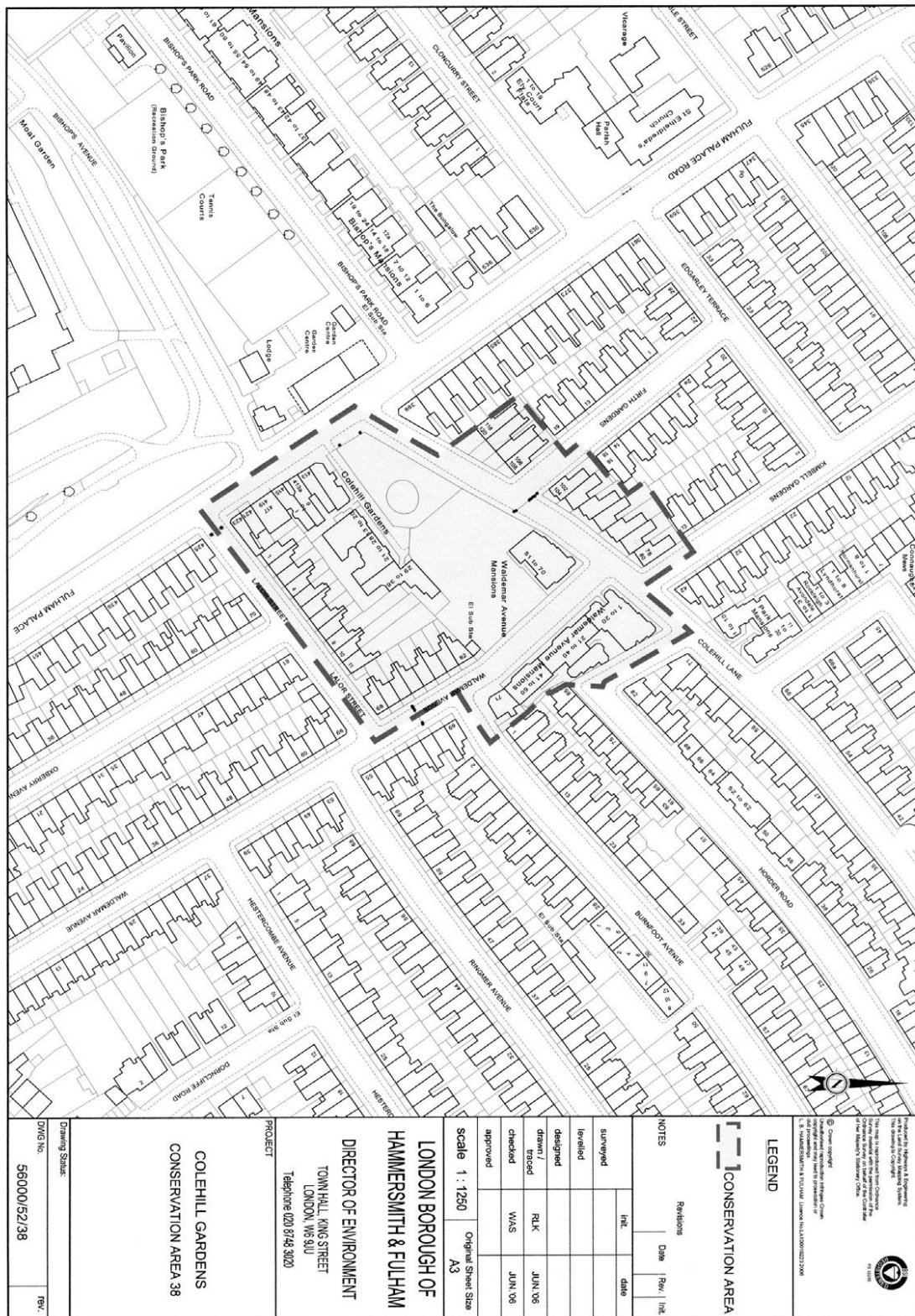
6.1 There are no apparent issues of this nature that may be affected by this report.

7. CONSULTATIONS

7.1 The responses to a proposed development on the Conservation Area had been collected for the purposes of a past Appeal. The local residents association and numerous interested individuals voiced their concern with, and disapproval of, a proposed scheme in the conservation area, which resulted in a reduction of the open space and the alteration of the local area's character.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - BACKGROUND PAPERS

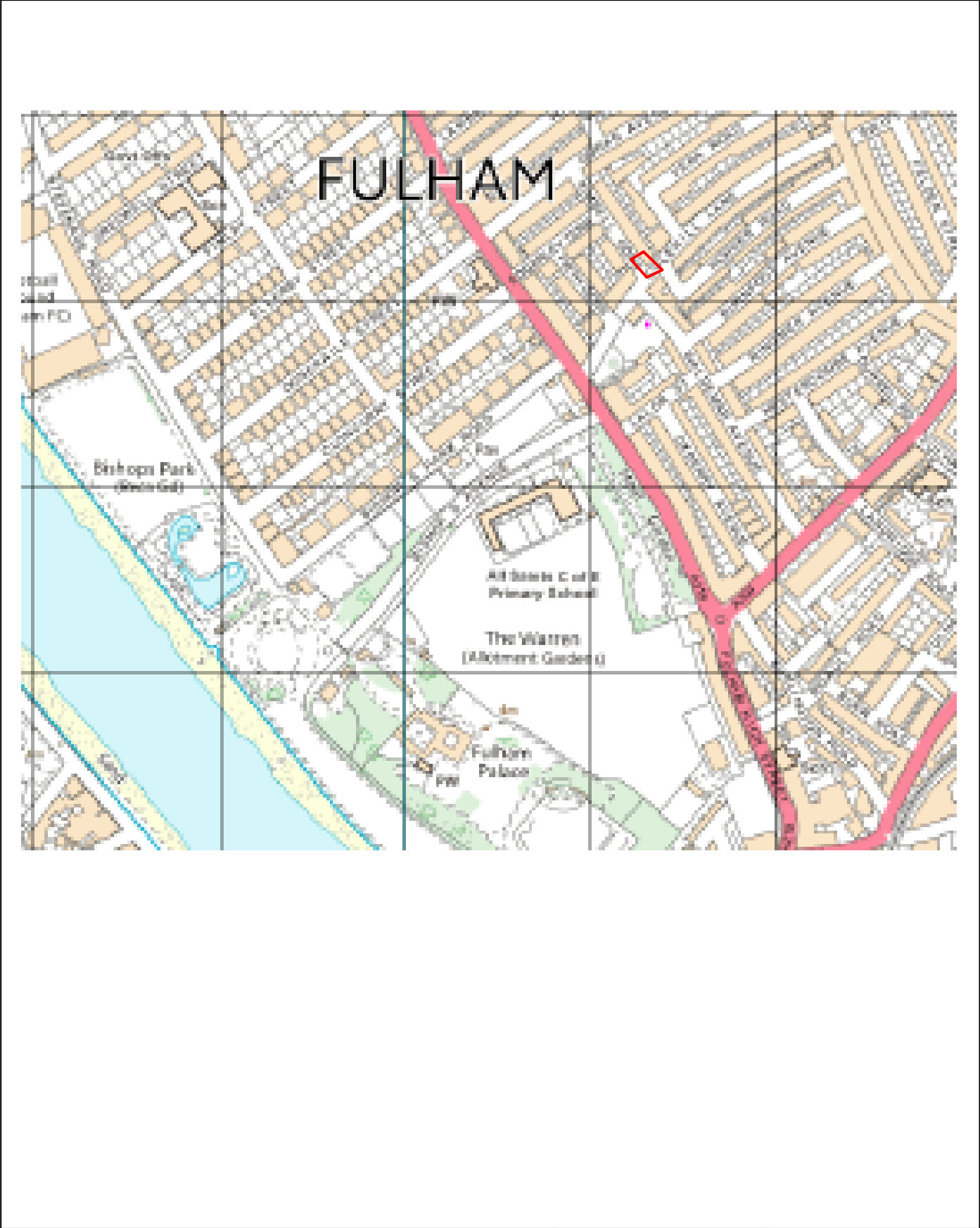
No.	Brief Description of Background Paper	Name/Ext. of holder of file/copy	Department/ Location
1.	DoE Circular 8/87	Barbara Woda Ext. 3315	DPD/THX 4th Floor
2.	Borough Local Plan ENV.6	"	"
3.	Working papers	"	"



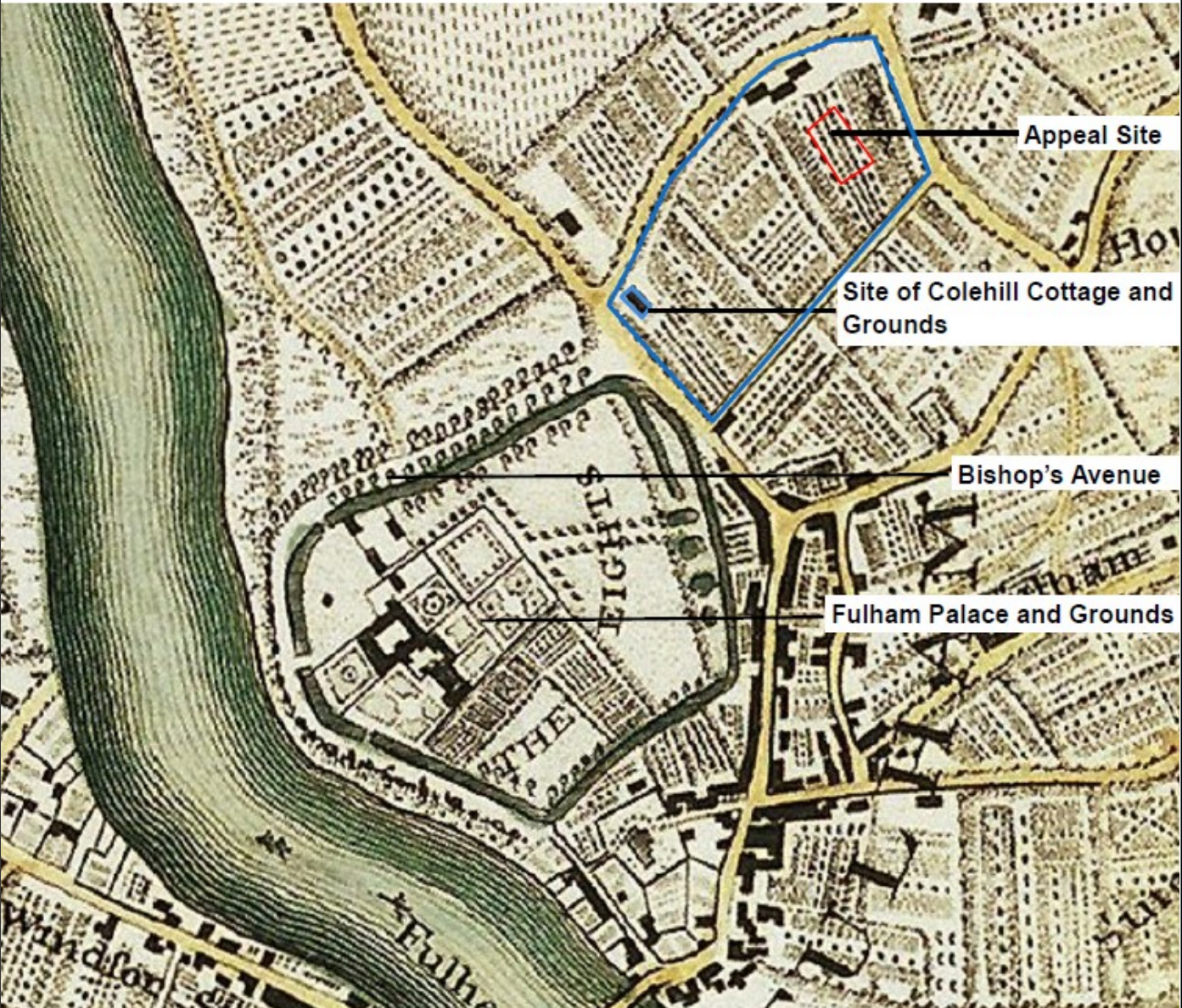
APPENDIX C: FIGURES



<p><u>Legend</u></p> <p>— Site Boundary</p> <div data-bbox="783 1951 831 2033"></div>	<div data-bbox="935 1865 1144 2114"></div>	<p>Not to Scale: Illustrative Only</p> <p>Figure 1: The Appeal Site Land Adjacent to 51-70 Waldemar Mansions</p>
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<p><u>Legend</u></p> <p>— Site Boundary</p> <div data-bbox="783 1951 831 2033"></div>	<div data-bbox="935 1865 1144 2114"></div>	<p>Not to Scale: Illustrative Only</p> <p>Figure 2: The Appeal Site Land Adjacent to 51-70 Waldemar Mansions</p>
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Legend

— Site Boundary

Not to Scale: Illustrative Only

Figure 3:
Fulham Palace and grounds, with the site location approximated and marked in red, to the north east of The Palace Grounds. Rocque Map 1741-1745



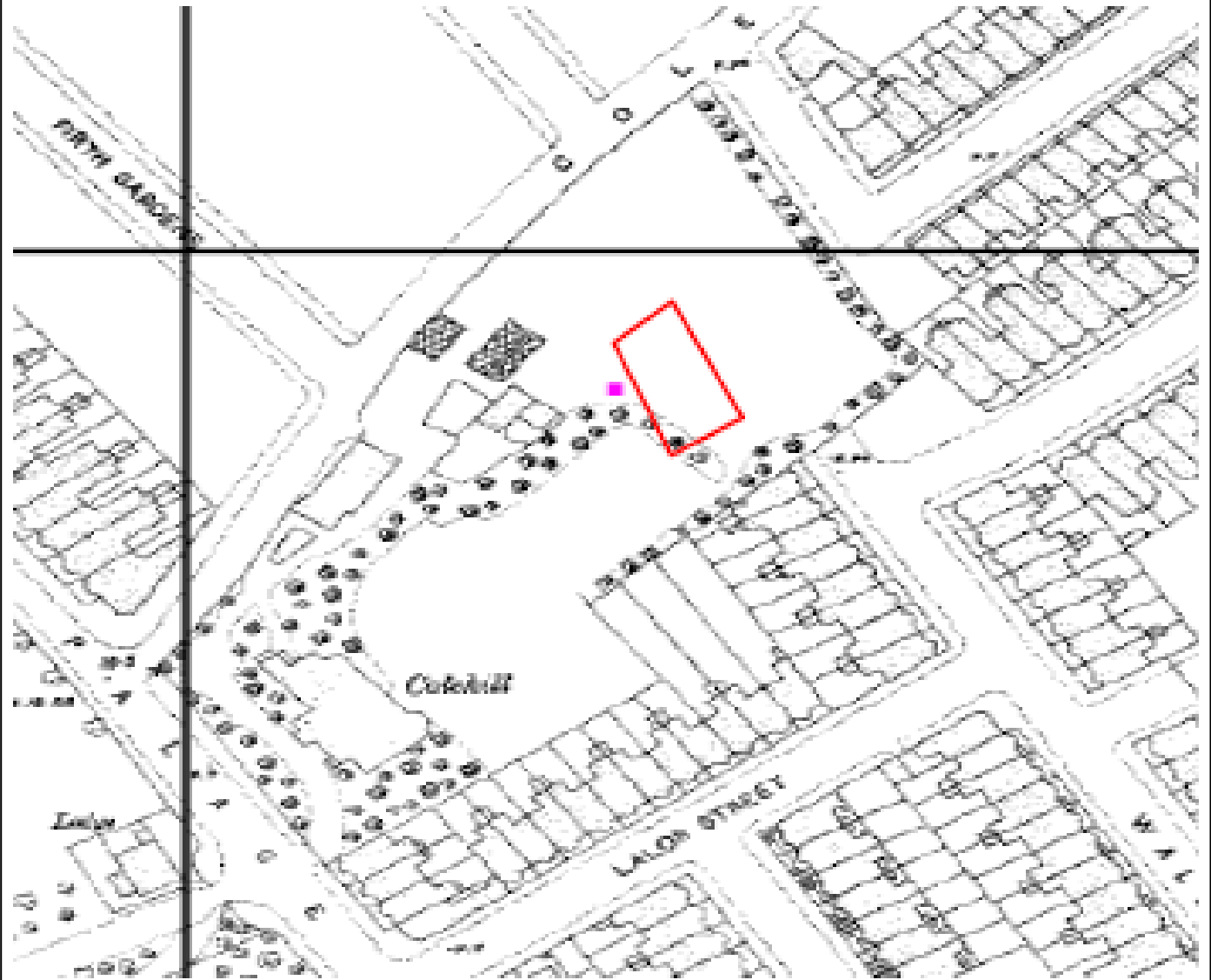
Legend

— Site Boundary



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Figure 4:
Appeal Site Location
1867-1869 OS mapping



Legend

— Site Boundary



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Figure 5:
Appeal Site Location
1895 OS mapping



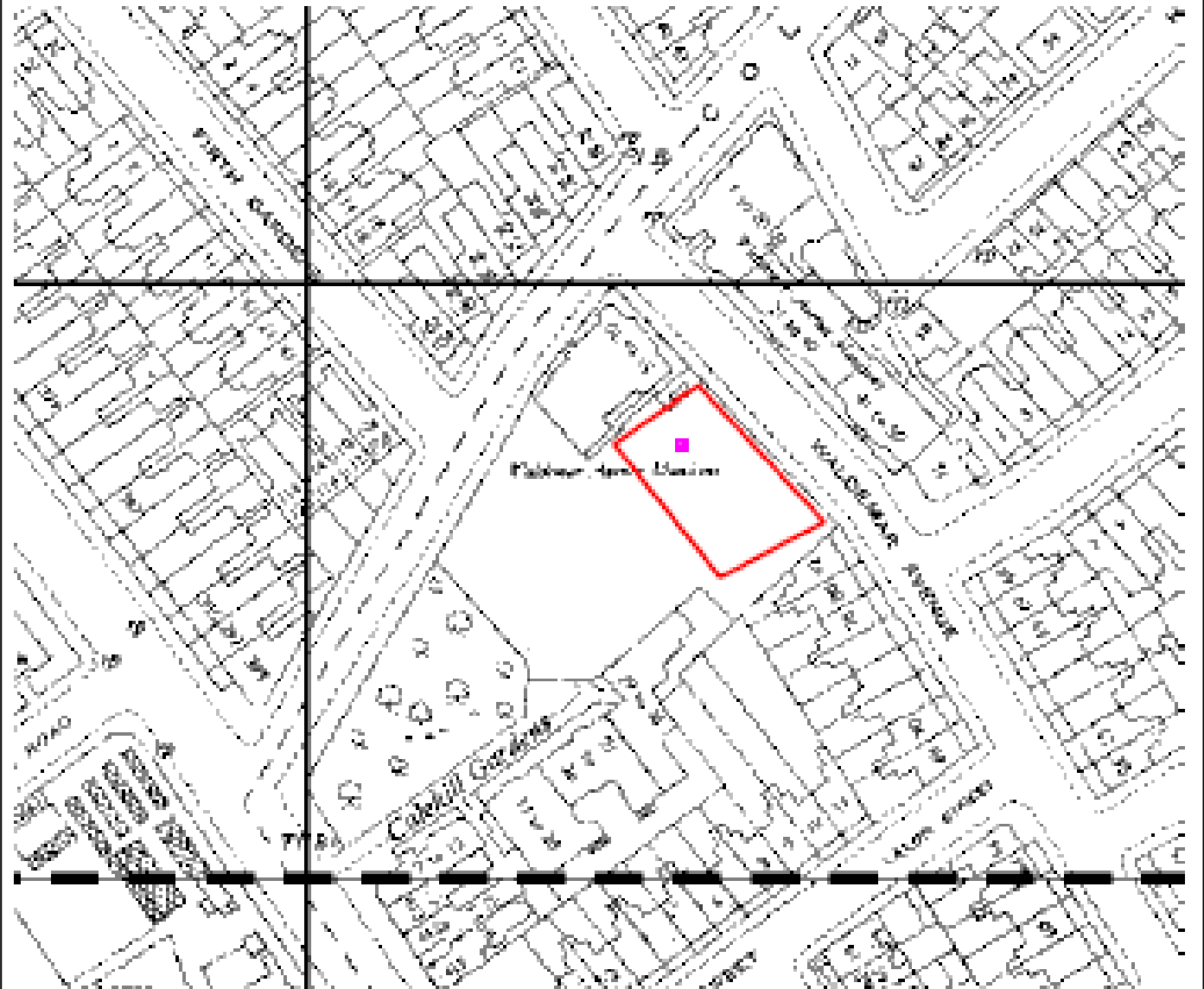
Legend

— Site Boundary



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Figure 6:
Appeal Site Location
1916 OS mapping



Legend




— Site Boundary

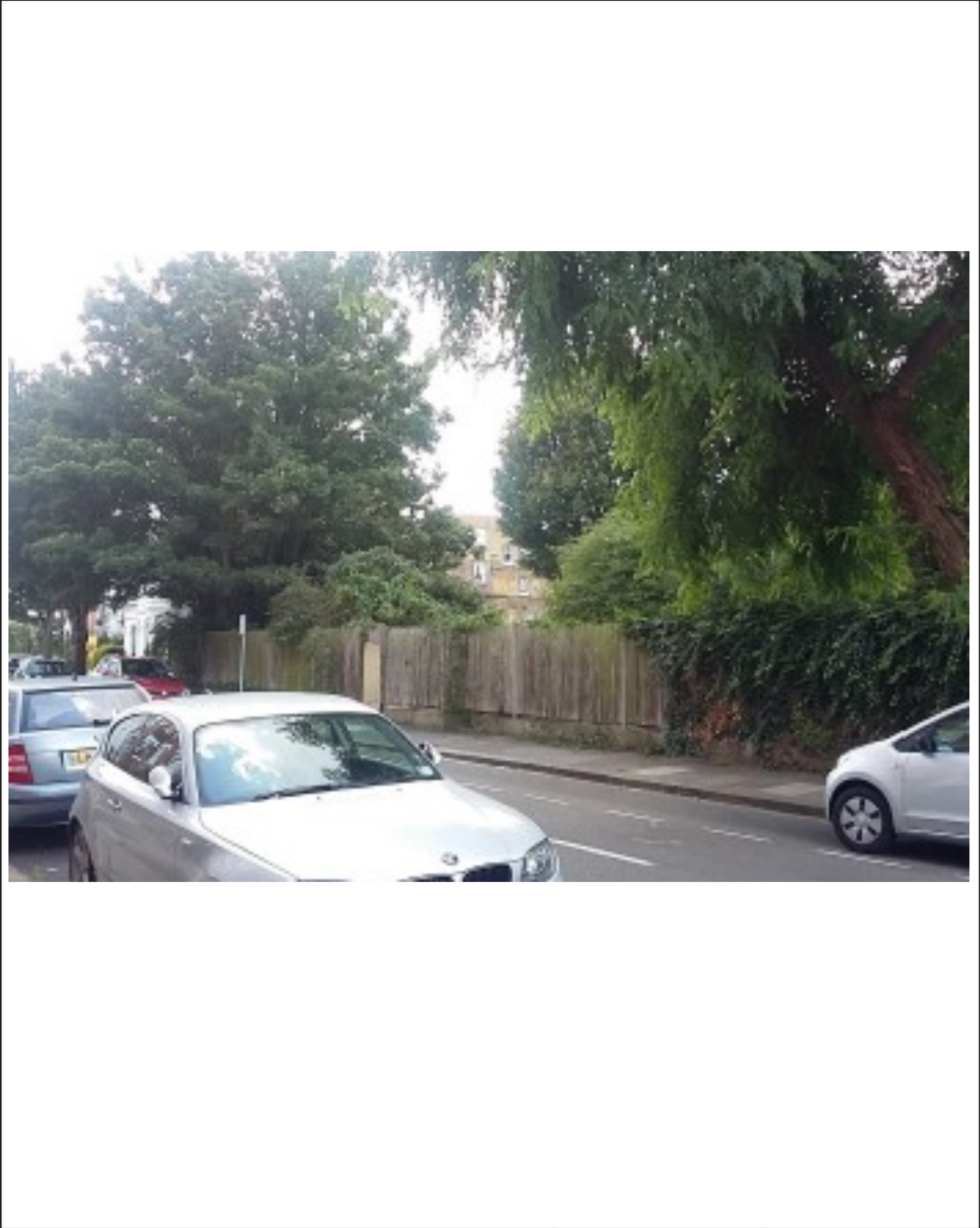


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Figure 7:
Appeal Site Location
1951 OS mapping



<p><u>Legend</u></p> <p> Site Boundary</p> <p></p>		<p>Not to Scale: Illustrative Only</p> <p>Figure 8: A view across the Appeal Site from the centre of the Open Space, looking northeast towards Nos 1-60 Waldemar Avenue Mansions</p>
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<p><u>Legend</u></p> <p>— Site Boundary</p> <div data-bbox="783 1951 831 2033"></div>	<div data-bbox="935 1865 1144 2114"></div>	<p>Not to Scale: Illustrative Only</p> <p>Figure 9: External view of the Appeal Site from Waldemar Avenue, looking southwest</p>
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Legend




— Site Boundary

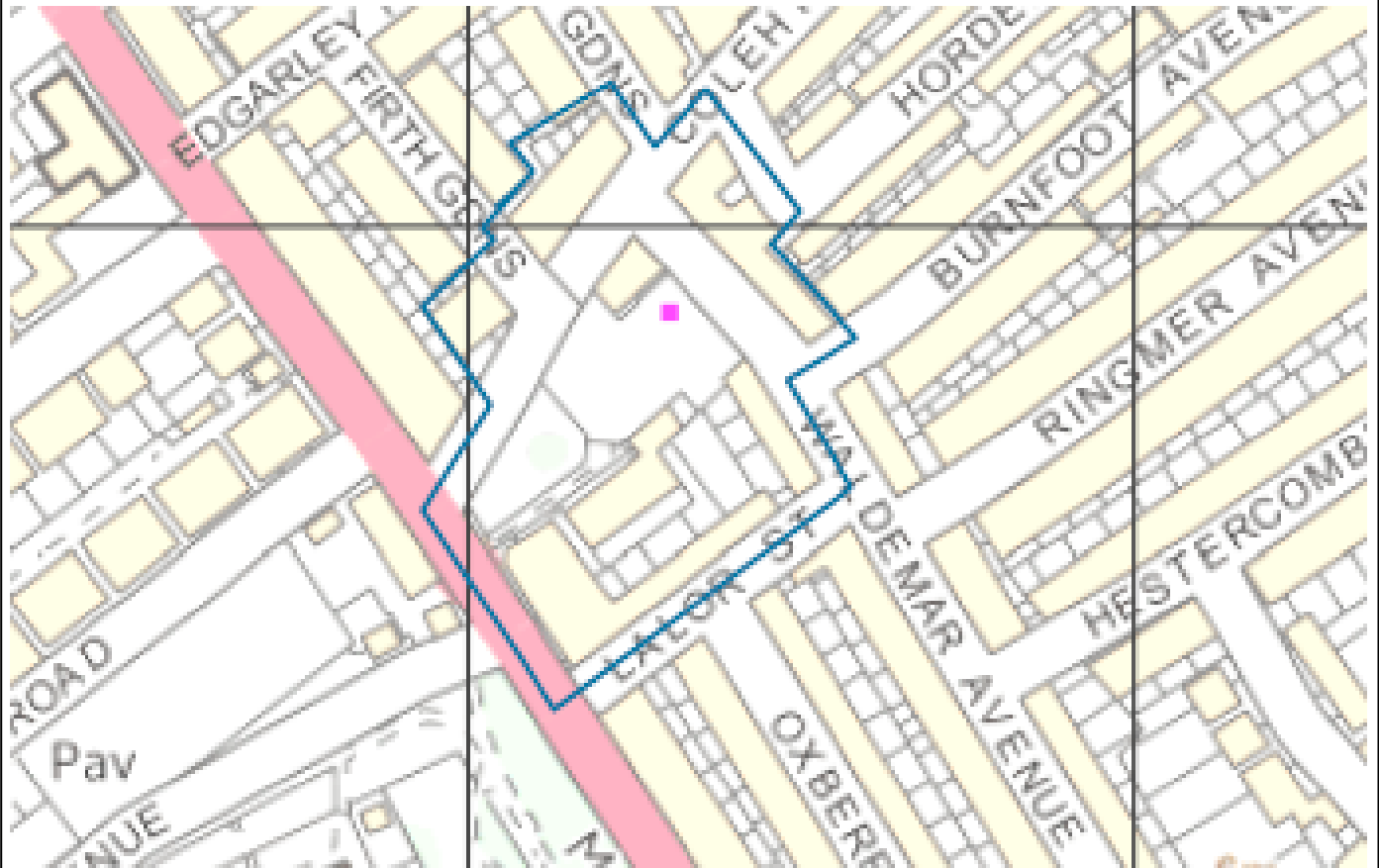


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Figure 10:
Open Space division:
A:former allotment garden
(Appeal Site)
B:former allotment garden
C:ornamental garden



<p><u>Legend</u></p> <p> Site Boundary</p> <p></p>		<p>Not to Scale: Illustrative Only</p> <p>Figure 11: View of the centre of the Open Space (in use as allotment gardens) with Colehill Gardens mansion block beyond</p>
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Legend

— Site Boundary



Not to Scale: Illustrative Only

Figure 12:
Colehill Gardens
Conservation Area in plan



<p><u>Legend</u></p> <p>Conservation Areas</p> <p>.....</p> <p>Colehill Open Space</p> <p>.....</p> <div data-bbox="778 1944 833 2033"></div>	<div data-bbox="932 1863 1142 2114"></div>	<p>Not to Scale: Illustrative Only</p> <p>Figure 13: Colehill Gardens Conservation Area</p> <p>.....</p> <p>Open Space</p> <p>.....</p>
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<p><u>Legend</u></p> <p>— Site Boundary</p> <div data-bbox="783 1951 831 2033"></div>	<div data-bbox="935 1865 1144 2114"></div>	<p>Not to Scale: Illustrative Only</p> <p>Figure 14: View southeast up Waldemar Avenue, with Waldemar Avenue Mansions 1-50 to the left and 51-70 to the right.</p>
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<p><u>Legend</u></p> <p>— Site Boundary</p> <div data-bbox="783 1951 831 2033"></div>	<div data-bbox="935 1865 1144 2114"></div>	<p>Not to Scale: Illustrative Only</p> <p>Figure 15: Brick key details to side return of 29-36 Colehill Gardens. Mansion block</p>
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Legend

— Site Boundary



Not to Scale: Illustrative Only

Figure 16:
Typical external architec-
tural detailing as seen on
51-70 Waldemar Avenue
Mansions



Legend

— Site Boundary






Not to Scale: Illustrative Only

Figure 17:
Entrance lobby details of
29-36 Colehill Gardens
mansion, with decorative
balustrade and terrazzo/
mosaic flooring



<p><u>Legend</u></p> <p>— Site Boundary</p> <div></div>	<div></div>	<p>Not to Scale: Illustrative Only</p> <p>Figure 18: Elevation drawing of 51-70 Waldemar Avenue Mansions approved extensions to southeast elevation, fronting onto the Open Space. Development comprises new glazed entrance, stair enclosure and railings, with new fenestration to the roof</p>
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<p><u>Legend</u></p> <p> Site Boundary</p> <div data-bbox="783 1951 831 2033"><p>N</p></div>		<p>Not to Scale: Illustrative Only</p> <p>Figure 19: Decorative faience tiled wainscoting to entrance lobby of 29-36 Colehill Gardens mansion block</p>
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