

Planning Appeal: Statement of Case

**139-147 Camden Road,
Camden, London NW1 9HJ**

Prepared For
Mr Vijay Pindoria

**3126
June 2023**



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1 INTRODUCTION

- 1.1 This Statement of Case is prepared in response to London Borough of Camden Council's (the Council) decision to refuse planning permission for the following development proposal:

'Erection of 4 storey block of flats with ground floor bin and bicycle stores and front paving and planting'

- 1.2 The application was made by Mr Vijay Pindoria and determined under the Council's planning reference 2022/4293/P. We provide a copy of the decision notice with the appeal.

PRELIMINARIES

- 1.3 It should be noted that whilst 8 reasons for refusal were given, reasons 4, 5, 6, 7 and 8 relate to the lack of a Section 106 (S106) Undertaking for securing items deemed necessary by the Council to make the proposed development acceptable. A S106 legal agreement will be provided with this Appeal that overcomes these reasons in full. Further details are provided as part of this statement.

- 1.4 This remaining reasons for refusal relate to the following issues:

- The character and appearance of the area
- Space and access standards
- Air quality

- 1.5 These are addressed within this statement, together with the following additional information that has not been previously seen by the Council:

- Air Quality Assessment
- Camden Air Quality Proforma



- 1.6 We will assess the reasons for refusal one by one in the Sections below and we ask that the Inspector take this evidence into account in determining the appeal.
- 1.7 As a starting point, the Officers' Report (which we will refer to regularly in this Statement) confirms that the redevelopment of the site is, in principle, acceptable. No objection is raised to the loss of employment on the site (because it is accepted that there will be none). The only loss is car parking (rather than employment space) and the officers' report provides conflicting responses to this. In paragraph 2.2.5 it states that the *"application site will no longer be used or needed for car parking. It will therefore not have an employment or business use as such and there will be no presumption in favour of protecting its business or employment use under policy E2 of the Local Plan."* Yet, at paragraph 2.2.7 it states that *"given this area is already well used (as seen during the officer site visit) for parking on-site this loss of six spaces could impact the daily operations of the business. The proposal is therefore recommended for refusal as the development does not meet Policy DP19 conditions and the applicant has not provided commentary of evidence to illustrate that this policy will be met."*
- 1.8 Our understanding is that the second quote above is left over (as a cut and paste error) from a previous report for an earlier application. The reference to DP19 is not found in the reasons for refusal providing the confirmation that the loss of parking was not a concern of the Council when determining this application. This does not, therefore, require any further discussion or consideration.



2 REASON FOR REFUSAL 1

2.1 The first reason for refusal sets out that:

The proposed development, by reason of its combined height, mass and extent of site coverage, and its detailed design would fail to respect the context and character of the area, including the adjacent Camden Square Conservation Area and it would harm the setting, character, landscape value and openness of the adjacent open space and trees of Cantelowes Gardens contrary to policies A2, A3, D1 and D2 of the London Borough of Camden Local Plan 2017 and policies D3, GO1 and SSP7 of the Kentish Town Neighbourhood Plan 2016.

2.2 There are several distinct elements to the first reason of refusal. These are the site-specific design issues in terms of height, massing and site coverage and their relevant impacts on character alongside the detailed design. We then have the issues the design would cause on the Conservation Area and Cantelowes Gardens. We will in turn look at each of these reasons.

2.3 As with any reason for refusal which refers to the character of the area, the first consideration is what, exactly, is that character? The Council (paragraphs 2.3.2 and 2.3.3 of the officers' report) suggests that *"The site occupies a **prominent location**, immediately adjacent to a park (Cantelowes Gardens) and **directly opposite** the Camden Square Conservation Area. The Camden Square Conservation Area Appraisal notes that **Camden Road is lined with semi-detached villas on both sides**, the south east side remains substantially intact as laid out by the Camden Estate."*

2.4 It continues that *"The surrounding area, and the Camden Road **streetscene is characterised primarily by period 3-4 storey residential properties** with Victorian features such as front bays, large timber sash windows with architraves, hipped tiled roofs, upper ground floor entrances with stone steps, pilasters and canopies etc. The buildings have distinctive, traditional gaps at the side, soft landscaped front gardens and low level brick boundary treatments, with some hedges. This character, complemented by the neighbouring **natural open space and landscaping** of*



*Cantelowes Gardens, sets a strong identity to Camden Road of **low-scale semi-detached pairs and greenery**, with set-back frontages that include planted space between the pavement and building line. Directly to the north, within Cantelowes Gardens, sit a row of 5 trees and wildlife area. The closest tree is sited in very close proximity to the site boundary with a canopy that overhangs the boundary.”*

- 2.5 The Council’s approach to identifying the Character of the Area is peculiar in so much that there is no reference to the development on the north side of Camden Road (the side of the appeal site). Whilst the reference to semi-detached villas is correct for the south side of Camden Road, it is not the character of the north side. On the contrary, as shown on the photograph below, there are *no* semi detached villas on the north side of Camden Road in the vicinity of the site.



Photo 1 – the view of the appeal site, taken from the south east side of Camden Road, looking west.

- 2.6 Photo 2 below shows the appeal site close up, with particular attention to the commercial building to the immediate south west of the appeal site, the building to which the proposed building will relate most. To the east of the appeal site is the



Cantelowes Gardens park, a different character again, albeit not open space that is bereft of development, there are sports pitches (with hard surfaces and fences) as well as the skate park which is visible in photo 1 above.



Photo 2 – a view of the appeal site from immediately opposite, on the south east side of Camden Road.

- 2.7 As demonstrated in photo 2 above, beyond the appeal site to the east is more multi storey development. To the south east of the commercial building (which will remain) is 167 to 173 Camden Road, a three storey development of similar height to the proposed development. Only beyond this building, over 100m from the appeal site, is the first of the identified pair of Victorian semi-detached dwellings. The next development, beyond Cantelowes Park to the north east, is Caledonian Square which is a modern development of flats over four storeys. The nearest Victorian Villa in this direction is 280m away from the appeal site, on the northern side of Torriano Avenue.
- 2.8 On this basis, the Council has misinterpreted the character of the area, choosing to emphasise the development to the south of Camden Road rather than to take into



account the development to the north of Camden Road to which the proposed development will visually relate. Our view is that the character of the appeal site side of Camden Road is of a total mix and match of buildings; some modern, some older; some single storey, others up to four storeys; some in commercial use, some in residential use and others in education use. In the absence of any prevailing character to which the development can, or must, relate, the question for the Inspector is simply whether the building will fit comfortably on the site and whether it will be harmful to the urban setting in which it will sit.

- 2.9 The single positive of our identified characteristics of the area (and even confirmed by the Council's consideration of the character of the area) is that 3 and 4 storey buildings are commonplace and therefore, as a matter of principle, the proposed development is not out of character. We give this further consideration in the context of height, mass and site coverage below.

Design, Height, Mass and Site Coverage

- 2.10 At paragraph 2.3.4 of the Officers' report, it states (in context of the above identified character of the area) that *"The setting requires an exceptional planning and architectural response to the site to ensure that any proposed building sits comfortably within this strongly characterised context"*.
- 2.11 This is a remarkable statement and erroneous in its emphasis on a "strongly characterised context". As we have explained above, the appeal side of the road (and therefore, by definition, the wider character of the area) is not characterised, let alone "strongly characterised". The statement above applies tests that are not set out in the quoted policies. Of the policies quoted in the reason for refusal, policy A2 refers to the impact on the neighbouring open space and is discussed in more detail below. Policy A3 refers to biodiversity and it is not clear why this is relevant to the reason for refusal (noting the officers' report discusses it in context of potential impact on trees). Policy D2 refers to heritage impact and is, again, assessed in its own section below. That leaves policy D1 which refers to design. The tests of D1, where relevant, are:



The Council will require that development:

a) **respects** local context and character;

e) comprises details and materials that are of high quality and **complement** the local character

f) integrates well with the surrounding streets and open spaces,

2.12 The Kentish Town Neighbourhood Plan policies quoted in the reason for refusal do not add any additional considerations over and above the Local Plan policies referenced above.

2.13 The two important tests above are highlighted. “Respect”. “Compliment”. Compliment is the interesting one as it specifically implies that the development does not need to *match* surrounding properties. In fact, neither test requires *matching* (and neither require “exceptional architectural response either”).

2.14 In respect of the above, the reason gives the combined height, mass and extent of site coverage, and its detailed design as the principal areas of concern. More detail is provided in the Officers’ report which refers to the importance of height and in particular the view of the “visible eaves levels”¹. However, as shown clearly in the Design and Access Statement and Section Drawings, the proposed development would sit below the eaves height of the buildings opposite proving that they are not taller than the visible ridge height of the semi-detached properties.

2.15 It is also the case the rhythm of the street (see page 21 of the Design and Access Statement) on the side of the site is predominantly comprises of buildings with a regular height pattern, albeit with some natural degrees of variation. The proposed development would be consistent with that rhythm and whilst there are also gaps, corresponding to areas of open space and low level buildings, these are bookended on

¹ Paragraph 2.3.4 of the Officers’ Report.



either side by taller buildings of three or four storeys. In this context, the proposed building would not be out of keeping with existing street structure.

- 2.16 The Delegated Report goes on to observe² that *“The proposed building would occupy the full width of the site, and would be only 3.5m from the pavement, with the metal fence/enclosure in front of the building being only 2m from the pavement”*. These fact are not disputed. However, the report then states that the *“Four storeys in height and flat roofed it would effectively rise sheer against the park, with a depth of 19m”* and that *“The proposed siting and coverage, in combination with the massing, in such proximity to Camden Road, and hard-up against the park at the side and at the rear, would detract from the context and character of Camden Road, the Conservation Area and the character, landscaping, openness and amenity value of the park”*.
- 2.17 As referred to above, the low points within the street are bookended by buildings of similar height to that proposed. Whilst there would be a short transition to the adjacent park, this is not extraordinary in an urban area. Equally, the articulated design means that the proposal would not be a bland or unattractive and will offer some surveillance over the park, which should not be discourage in terms of helping to reduce crime.
- 2.18 In terms of the set back from the road, we also disagree that this would be an issue, noting that the neighbouring building is set closer and much harder against the road and in our opinion the 3.5m provides sufficient relief. Furthermore, there are plenty of examples whether boundary treatments are set close to the road. Consequently, it is not clear why that would be harmful.
- 2.19 In terms of site coverage, the Council refer to the site coverage of the site in comparison to the typical character of Camden Road³. In this respect, most of the neighbouring properties are on larger sites than the appeal site, with the average size

² Paragraph 2.3.5 of the Officers' Report.

³ Paragraph 2.3.4 of the Officers' Report.



of site on the southern side of Camden Road (opposite the site), being about 330sqm. This compares to the site area of roughly 135sqm.

- 2.20 This enables those properties to have a lower site coverage, but it is also artificial to draw exact comparison, noting that those properties benefit from decent sized rear gardens that are not apparent from the road. The proposed development will not benefit from the same area of private amenity, but it will benefit from the open space around it.
- 2.21 Furthermore, it is not clear what consideration has been given to the London Plan's policy H1 that seeks to "*optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and **planning decisions** [our emphasis]*". This includes the use of small sites, which London Plan Policy H2 states should be 'pro-actively' supported for well -designed new homes.
- 2.22 In turning to the detailed design, the Officers' Report⁴ states that "*The design proposal shows a lack of respect to the locality with a confused palette of materials, and a façade expression that is out of keeping with existing character. The decorative 'feature brickwork' details included may provide welcome relief from the single planes of brickwork, but their ad-hoc locations are unsympathetic and contribute to the confused architectural language. The proposal for two different brick types creates a strong contrast, which acts to exaggerate the overall bulk*".
- 2.23 This concern must be read in the context of the Council, apparently, wanting the development to reflect the Victorian semi-detached character of the area which is their identified character. Of course, the proposed development does not reflect that. Nor has it made any attempt to. Having established that the character of the area is mixed and that there is no prevailing characteristic to match, this gives a clear starting point of ensuring, in isolation, that the design is of high quality. Contrary to the Council's conclusion, we believe that the design is of high quality. It will be a welcome addition to the street scene.

⁴ Paragraph 2.3.10 of the Delegated Report.



Impact on Conservation Area

- 2.24 There is no specific reason for refusal which refers specifically to the impact of the development on the character and appearance of the Camden Square Conservation Area but the first reason for refusal name checks the Conservation Area and quotes policy D2 which is the Local Plan's Heritage policy. We have left this consideration to the end of the section on the first reason for refusal because any impact on the Conservation Area must be viewed in context of the case that we have made.
- 2.25 This is a view enhanced by the very specific boundaries of the Camden Square Conservation Area – the boundary of which is shown below in figure 1.

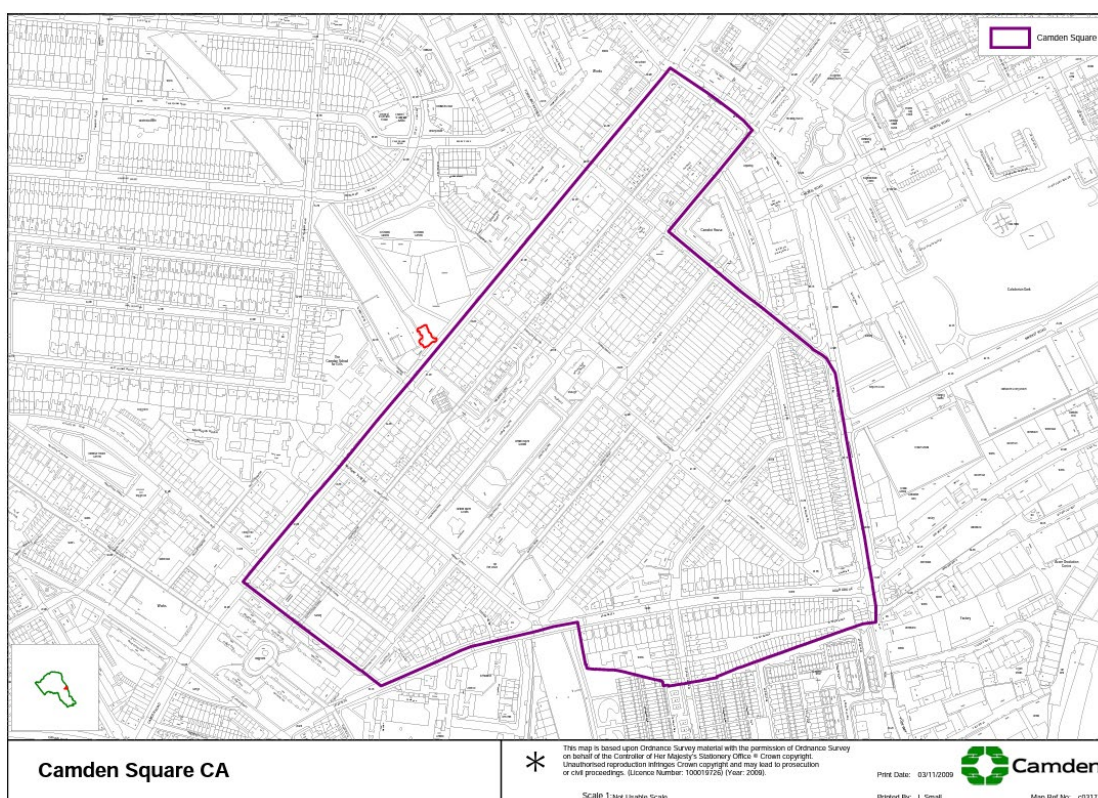


Figure 1 – The Camden Square Conservation Area map.

- 2.26 A Conservation Area is designated because it is an “*area of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance*”. The map above shows the character – linear streets of residential development. The Conservation Area appraisal (**Appendix 1**) confirms this explaining that “*It is a planned development, in a gridded street layout running parallel to and*



*perpendicular from Camden Road, and the layout is focused around Camden Square.” In other words, the *planned development* is focused within the Conservation Area Boundaries.*

- 2.27 The Officers’ report states⁵ that *“The proposal, by way of its size, siting, bulk and architectural design and treatments would detract from the historic architectural character, form and openness/landscaping of the Camden Road streetscene and it would not ‘enhance or preserve the character and appearance of the Camden Square Conservation Area’.* “
- 2.28 Why does it detract from the historic architectural character when it is a site which is outside of the defined area of that character? On the contrary, it would preserve the character of the area Conservation Area because it is a development which has absolutely no impact on the defining characteristics of the Conservation Area. It is as though the Council has made a simple connection between the site being on the edge of the Conservation Area and therefore concluded that there must be an impact. Then, by mis-defining the character of the area, the Council’s next logical step was to conclude that the impact would be harmful to the setting of the Conservation Area. On the contrary, we submit that the proposed development will have absolutely no impact (either positive or negative) on the character or appearance of the Camden Square Conservation Area because the historic importance and character is entirely contained within the Conservation Area boundaries, as explained in the Conservation Area Appraisal at Appendix 1.

Impact on setting, character, landscape value and openness of the adjacent open space and trees of Cantelowes Gardens

- 2.29 This final part of the Reason for Refusal, again, goes hand in hand with the case we have already made in this section and there remains the perception that the Council is simply linked the appeal site in its proximity to the park and therefore assumed a harmful impact. Policy A2 is an interesting policy in that it is generally refers to the protection (or otherwise) of the Council’s open spaces themselves. The relevant test

⁵ Paragraph 2.3.15 of the Officers’ report



is c) which states that the Council should *“resist development which would be detrimental to the setting of designated open spaces”*.

- 2.30 No definition is provided in the policy on what it means by *setting* nor what this part of the policy wants to achieve. The Council is equally unsure in concluding⁶ that *“with its sheer four storeys walls, hard-up against the boundary with the park and with its flush brick walls with full height glazing, terraces and winter gardens overlooking the park at all levels, the proposal would detract from the green and open character of the park and the enjoyment and amenity of the park for its users. ”* It jumps to the conclusion without given any narrative or contextural consideration of why the proposal will detract from the character, enjoyment or amenity of the park.
- 2.31 Ironically, as shown below in photo 3, the part of the park closest to the appeal site is partly fenced off from public access anyway. Where it is not fenced off, it is under the canopy of the row of trees at the front so not benefitting from sunlight or, indeed, openness. The Council makes no comparison with what is on site currently; an aggressive, fenced off yard dominated by cars. We suggest that this is a less attractive setting to the park than the high quality building proposed.
- 2.32 The Council’s own website describes the facilities at Cantelowes Gardens park, statin that it included a *“State of the art park with a focus on children's activities, includes two separate children's play areas and a skateboarding bowl used by BMX riders, rollerbladers and skateboarders, which has separate opening hours. Free outdoor gym. There is a multi-games use area. Has a dog walking area.”* The main part of the park which isn’t developed with these facilities is the large triangular area (in red on photo 4 below) which has an area of 0.2ha and is completely open. There are smaller pockets of shaded and unshaded greenery around the park. In other words, it is a park that caters for all its users irrespective of whether the space closest to the proposed development is available. Nevertheless, we have no reason to believe that the proposed development will make any of the park materially less attractive for its users.

⁶ Paragraph 2.3.12 of the Officers’ report



Photo 4 – Canteloves Gardens from the air

2.33 There are, apparently 2 further issues here, as explained in the Officers' report. Firstly, the blocking of light to the park and secondly the impact on trees. The Council state⁷ that *"The proposed north-east elevation faces Cantelowes Gardens, with the built form extending up to the boundary. This four storey flat elevation, of approximately 12m, creates a poor relationship to the setting of the park and has the potential to overshadow an area of open space in conflict with Policy D1f and D1j"* yet then say⁸ *"Due to the reduced height of the proposal (4 storeys as opposed to 5) and the limited area of park that would be subject to periodic over-shadowing, it is not considered that the proposal would result in significant shading in the park. There are numerous buildings situated alongside parks and open spaces in London and it is not considered that the development would result in a significant level of over-shadowing of the park to the detriment of the overall enjoyment or biodiversity value of the park."* Which is

⁷ Paragraph 2.3.12 of the Officers' report

⁸ Paragraph 2.9.3 of the Officers' report



it? The inconsistency is remarkable and suggests that the Council didn't give this application the full attention that it required.

Trees

- 2.34 In terms of the trees, the Council accept that the proposal will not harm the nearby trees in the park yet then add (let's call it a "non technical" tree concern) about the potential pruning of the trees stating *"Pruning works are required to facilitate development which will involve cutting back overhanging material to the boundary. The Council would resist the pruning of any branches within the park."* The Arboricultural Impact Assessment, submitted with the application puts this into context⁹ explaining that *"one tree will be pruned to facilitate construction"* explaining that *"the scale envisaged should not be altogether untoward in an occupied site and is similar to pruning already undertaken on the tree in question"*. This implies that pruning is acceptable when proposed by the Council but not when suggested to facilitate development. There is a reason why the Council's tree officer has not objected to the application and it is unacceptable and unreasonable of the planning officers to imply that there will be harm to the trees which could prevent the development from proceeding.

⁹ Paragraph 1.3 of the AIA



3 REASON FOR REFUSAL 2

- 3.1 Reason for refusal 2 states that *“by reason of the size of the units, the configuration of the front units and the absence of a lift, would not comply with the nationally described housing standards and it would not provide a satisfactory standard of accommodation or level of access for future occupiers”*.
- 3.2 In respect of the size of the units, reference is made to the Nationally Described Space Standards (NDSS) for new homes, which sets out minimum gross internal areas for all new dwellings. The standards are repeated in Table 3.1 of the London Plan:

Table 3.1 - Minimum internal space standards for new dwellings[^]

Type of dwelling		Minimum gross internal floor areas* and storage (square metres)			
Number of bedrooms (b)	Number of bed spaces (persons(p))	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *	N/A	N/A	1
	2p	50	58	N/A	1.5
2b	3p	61	70	N/A	2
	4p	70	79	N/A	2
3b	4p	74	84	90	2.5
	5p	86	93	99	2.5
	6p	95	102	108	2.5
4b	5p	90	97	103	3
	6p	99	106	112	3
	7p	108	115	121	3
	8p	117	124	130	3
5b	6p	103	110	116	3.5
	7p	112	119	125	3.5
	8p	121	128	134	3.5
6b	7p	116	123	129	4
	8p	125	132	138	4

Notes to Table 3.1

Key

b: bedrooms

p: persons

[^] New dwelling in this context includes new build, conversions and change of use.

* Where a studio / one single bedroom one person dwelling has a shower room instead of a bathroom, the floor area may be reduced from 39 sq.m. to 37 sq.m., as shown bracketed.

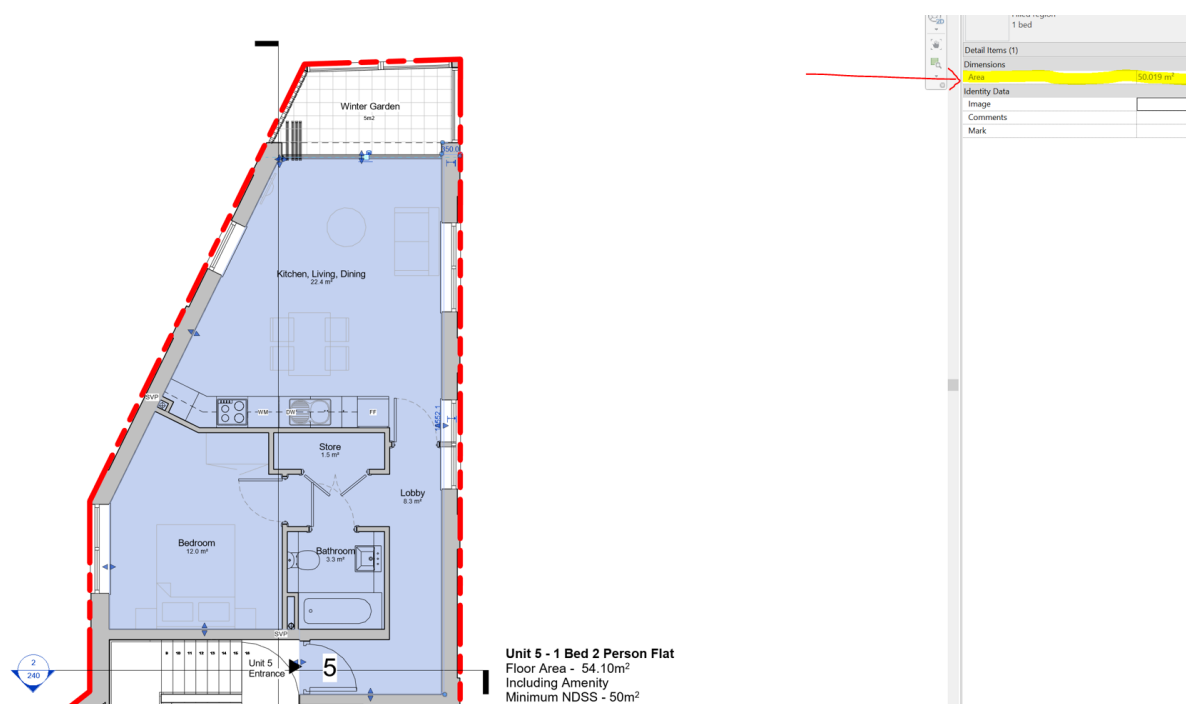
- 3.3 The Council’s stated position¹⁰ is that *“The proposed dwellings would only meet the minimum required gross internal areas if the winter gardens and terraces are*

¹⁰ Paragraph 2.4.2 of the Delegated Report.



included". No measurements are provided by the Council, and in any event, we would dispute their position.

- 3.4 We accept that the suggested annotations, including the amenity space within the calculations were misleading (equally, the Council could reasonable have sought clarity) so we have provided at **Appendix 2** the screenshots provided by the Architects showing the measured GIA for each of the proposed units. The measured floor areas are shown highlighted yellow in the corner as demonstrated below.



- 3.5 We set out the measurements against the NDSS in the table below:

- Unit 1 – 1 bedroom, 2 person flat with an internal floor area of 50m²
- Unit 2 – 1 bed (one person) studio with an internal floor area of 37m²
- Unit 3 – 1 bedroom, 2 person flat with an internal floor area of 50m²
- Unit 4 - 1 bed (one person) studio with an internal floor area of 37m²
- Unit 5 – 1 bedroom, 2 person flat with an internal floor area of 50m²
- Unit 6 – 2 bedroom, 4 person flat with internal floor area of 81.5m²



- 3.6 For all of these calculations, the amenity space/winter gardens are not included in the calculations. They are separate external spaces that are all 5m² and therefore compliant with the London Plan minimum requirements. The Council confirm in paragraph 2.4.2 that the winter gardens and terraces are not internal spaces. Logically, therefore, they are external spaces.
- 3.7 We have noticed that the plans submitted with the application showed a double bed in the studio flats (units 2 and 4). For clarity, and accuracy, these plans have been amended to show a single bed consistent with the proposed use as a 1 person property. The Planning Inspectorates Good Practice Note 9 explains when amended plans can be accepted during the appeal process and explains in paragraph 11 that “... *it may be possible to overcome objections by making amendments within the Wheatcroft principle. Whilst amendments to a scheme might be thought to be of little significance, in some cases even minor changes may be considered to materially alter the nature of an application and lead to possible prejudice. Examples might include detailed treatment of schemes to alter listed buildings or where any changes would move structures or windows closer to a neighbouring property. Decisions regarding the acceptance of amendments are dependant on the individual circumstances of each case. The question of the necessity for and extent of any further consultation on amendments is likely to be relevant to the exercise of discretion.*”
- 3.8 We request that the Inspector accept these amended plans because, applying the Wheatcroft Principles¹¹, there is no one that will be prejudiced by these amended plans and they do not materially alter the development that has been applied for.

¹¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]. This decision has since been confirmed in Wessex Regional Health Authority v SSE [1984] and Wadehurst Properties v SSE & Wychavon DC [1990] and Breckland DC v SSE and T. Hill [1992]



4 REASON FOR REFUSAL 3

4.1 The third reason for refusal relates to the absence of an air quality assessment and therefore the Council has concluded that the proposal is likely to be harmful to the living conditions of future occupiers and may also result in emissions which would impair the air quality in the area.

4.2 The Delegated Report¹² provides the following additional explanation:

“The proposal is for a sensitive use (new residential units) and therefore the National Air Quality objective of 40µg/m³ for annual NO₂ would apply. If the annual NO₂ is over 42µg/m³ (which it seems to be for some parts of the site) then the exposure to pollution would be harmful to the living conditions of future occupiers. Mitigation measures would be required with an air quality assessment detailing anticipated outcomes of mitigation measures and design considerations.”

4.3 To alleviate the Council’s concerns, an Air Quality Assessment has been prepared by Ardent Consulting Engineers, that we ask the Inspector to have regard to in their determination of the appeal.

4.4 For NO₂ concentrations, the assessment demonstrates that measured levels have been in decline with the most recent measurements for 2021 showing levels below the 40µg/m³ objective. The assessment also finds that predicted background PM₁₀ and PM_{2.5} concentrations are well below the relevant objectives.

4.5 The overall conclusion of the assessment finds that *“The development is considered to be better than ‘air quality neutral’ in terms of both building and transport emissions”* and *“there are no air quality constraints to the proposed development which is in accordance with regional and national policy and guidance”*.

4.6 Even so, and although made clear that it is not directly required, it is recommended that an Air Quality and Dust Management Plan (AQDMP) should be submitted to LBC

¹² Paragraph 3.12.2 of the Delegated Report.



prior to works commencing on the Site as a best-practice measure¹³. It is considered appropriate for this to be secured by condition.

- 4.7 Accordingly, it has been demonstrated that the proposed development meets the objectives of Local Plan.

¹³ Paragraph 6.3 Air Quality Assessment



5 REMAINING ISSUES

Reason for Refusal 4

- 5.1 This reason for refusal relates to securing the provision of affordable housing, with the Council indicating that a contribution of £167,240 is required in lieu of on site provision. As acknowledged in the Delegated Report, the Appellant is willing to enter into an agreement with the Council and will supply a draft S106 undertaking as part of the appeal.
- 5.2 Subject to this agreement being entered into, we would ask the Council to withdraw this reason for refusal.

Reasons for Refusal 5, 6 and 7

- 5.3 Reasons for refusal 5, 6 and 7 all relate to highway matters and therefore we deal with together below. In each case, the reason relates to the absence of a legal agreement, securing the following:
- 5) the prevention of future occupiers from obtaining on-street resident parking permits;
 - 6) a highways contribution for removing the crossover, reinstating the footway over and repaving the adjacent footway to repair any damage caused;
 - 7) a Vehicle Maintenance Unit Operational Statement for the adjoining car repair workshop
- 5.4 The submitted draft legal agreement will include provisions that secures each of the above. For the Vehicle Maintenance Unit Operational Statement, the Delegate Report¹⁴ confirms that the submitted statement is sufficient to overcome the Council's concerns and therefore the s106 secures the commitment to that statement.

¹⁴ Paragraph 2.8.2 of the Delegated Report.



- 5.5 Subject to the agreement being entered into, we would ask the Council to withdraw the reasons for refusal.

Reason for Refusal 8

- 5.6 This final reason for refusal relates to the absence of a legal agreement to secure an undertaking to a Construction Management Plan and associated Implementation Support Contribution of £3,920 and Impact Bond of £7,500.
- 5.7 A commitment to providing the above is also given and will be secured by the S106 Agreement and therefore addresses the issue. Subject to the agreement being entered into, we would ask the Council to withdraw the reason for refusal.



6 MATERIAL PLANNING CONSIDERATIONS

- 6.1 In addition to the above, it is acknowledged with the Delegated Report¹⁵ that the Council is currently unable to demonstrate a 5 year housing land supply. This is confirmed at paragraph 4.32 of 'London Borough of Camden Authority Monitoring Report 2018/19, 2019/20 and 2020/21' which states that *"Camden has a sufficient deliverable housing land supply to meet requirements for 4.0 years"*.
- 6.2 This means that Paragraph 11 of the NPPF is enabled, meaning that a presumption in favour of sustainable development, also known as the "tilted balance", should be applied. Despite it being acknowledged, this exercise has not been carried out by the Officer in reaching their conclusion on the acceptability of the proposal. This is a clear discrepancy and could have resulted in different conclusion being reached.
- 6.3 Indeed, in applying the tilted balance the NPPF makes clear that for decision taking, this means granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.4 Effectively, it moves the consideration on from the established position of the policies and into the (potentially) less onerous consideration of whether any harm (i.e. policy conflict) is so significant that it outweighs the significant and tangible benefit of 6 additional dwellings on a previously developed and under-utilised site. We have already taken the character of the area consideration into a question of harm (given that there is no defining characteristic of the area) and concluded that the proposed development is not harmful. The tilted balance allows the decision maker to find harm

¹⁵ Paragraph 2.2.11 of the Officers' Report.



yet still conclude that the benefits outweigh the harm and allow planning permission to be granted.



7 CONCLUSION

- 7.1 National and Local Policies both promote and encourage both the reuse of previously developed land (PDL) and the better use of land to help maintain a supply of houses and to respond to the ever-increasing housing need. It is, of course, preferable to redevelop PDL than it is to develop on the countryside or other undeveloped land.
- 7.2 The Council's first reason for refusal contains myriad issues, some clearer than others but all intrinsically linked to the impact of the development on the character of the area. The problem with this approach is that the Council has defined a prevailing characteristic which is not relevant to the application site, whether it is in terms of the Camden Square Conservation Area (a specially planned, grid format, Victorian Development) or in terms of the street scene where too much emphasis has been placed on the Victorian Semi Detached dwellings opposite with little reference to the very different character on the north western (the site's) side of Camden Road.
- 7.3 By contrast, we have presented the case that the appeal site does not specifically relate to any development worthy of replication. There is certainly no potential in replicating the Victorian design characteristics and there is no reason to do so in any case. The proposed development should therefore be viewed in isolation with a question of harm the pertinent consideration. The proposed development makes the best of the available land and addresses previous concerns about the height of the building (in the previous application). It achieves the balance between the two and will be a visually acceptable scale, a quality design and will not harm the area. On this basis, the development is acceptable.
- 7.4 We have demonstrated that the proposed dwellings all satisfy the Nationally Described Space standard and therefore the second reason for refusal has been addressed by this evidence. The Air Quality Assessment addresses the third reason for refusal. On this basis, assuming all the remaining issues are addressed by an agreed S106 in line with the Inspectorate's timetable, there is no reason why planning permission cannot be granted for the development.

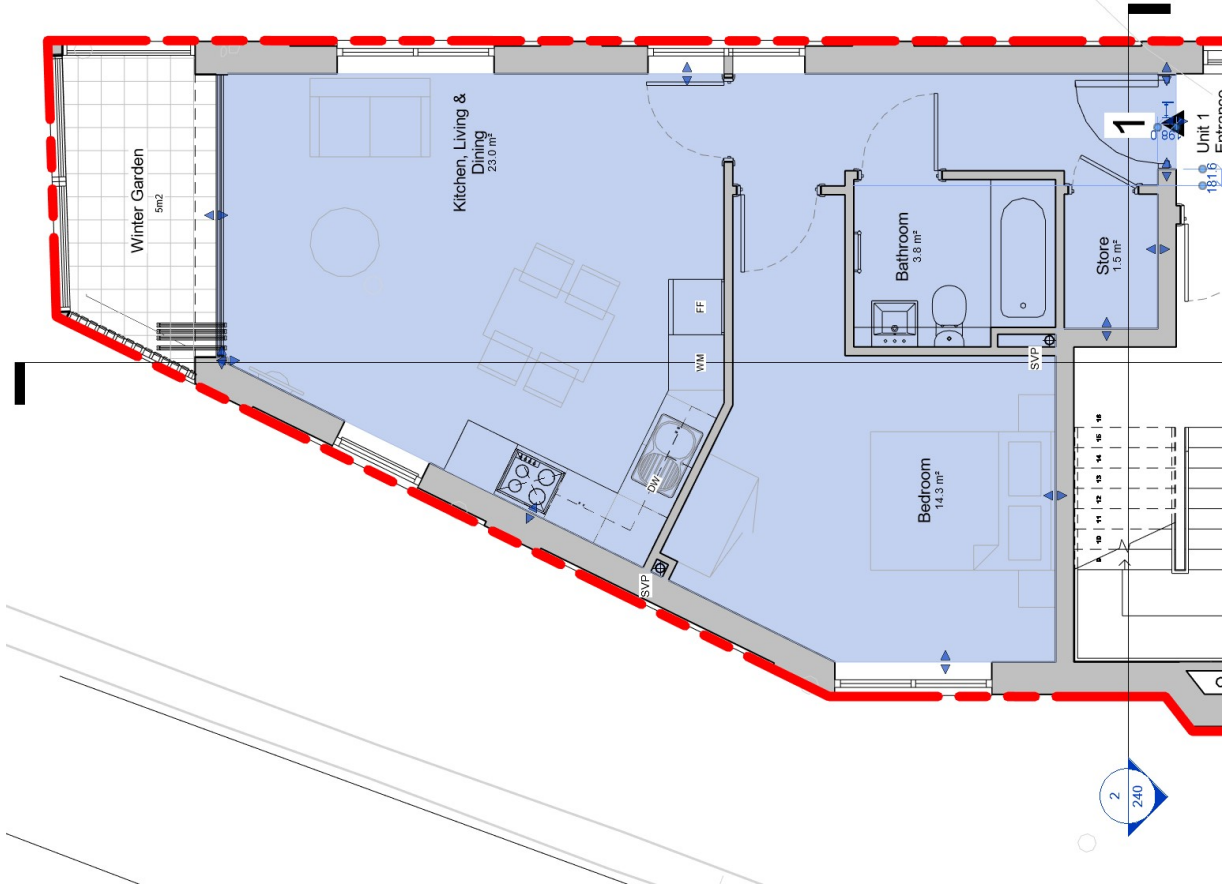


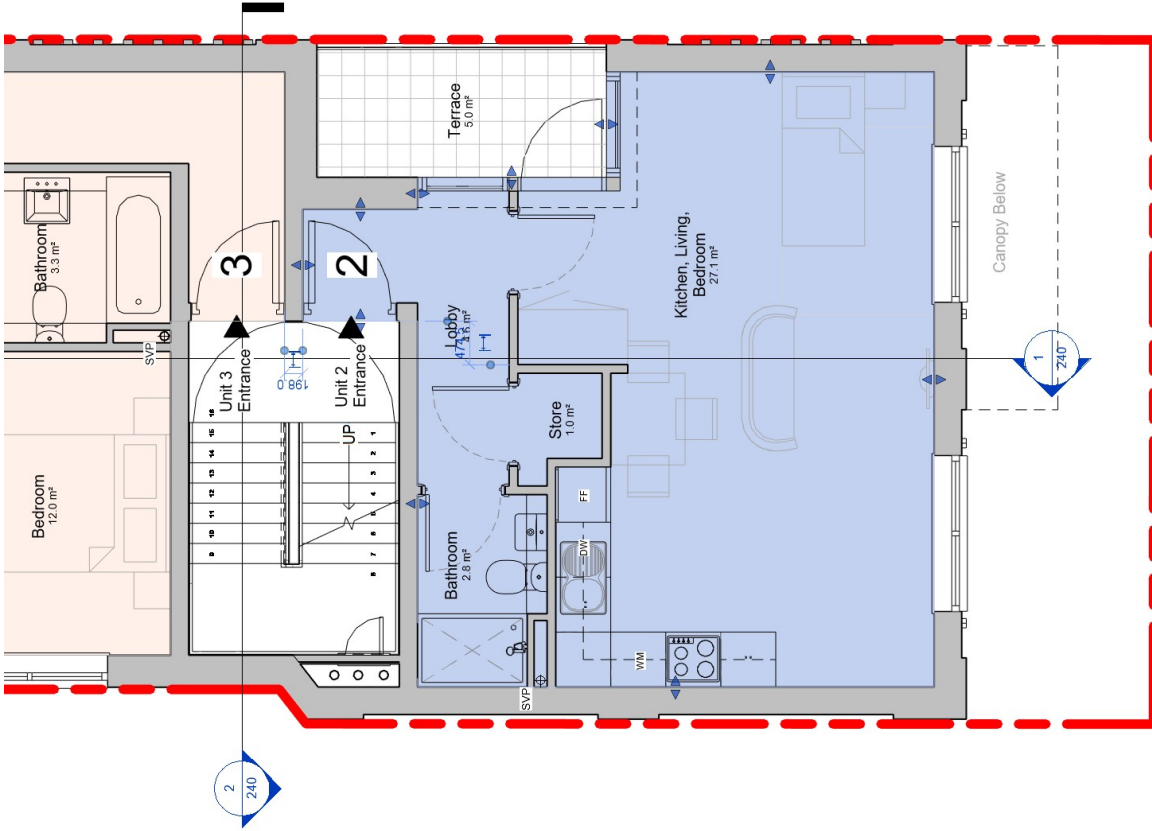
APPENDIX 1 – CONSERVATION AREA APPRAISAL



APPENDIX 2 – INTERNAL SPACE MEASUREMENTS

Filled region	1 bed
Detail Items (1)	
Dimensions	
Area	50.041 m ²
Identity Data	
Image	
Comments	
Mark	



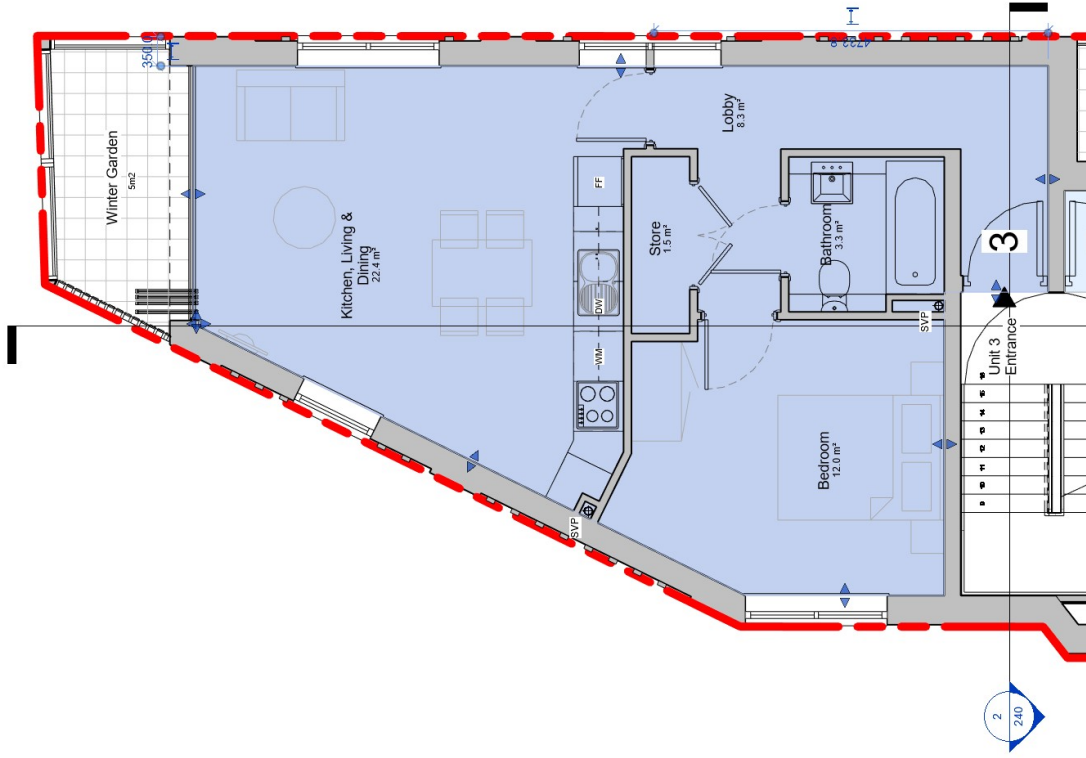


Unit 3 - 1 Bed 2 Person Flat
Floor Area - 54.10m²
Including Amenity
Minimum NDSS - 50m²

Unit 2 - 1 Bed Studio
Floor Area - 40.30m²
Including Amenity
Minimum NDSS - 37m²

Detail Items (1)
Dimensions
Area
37.025 m ²
Identity Data
Image
Comments
Mark

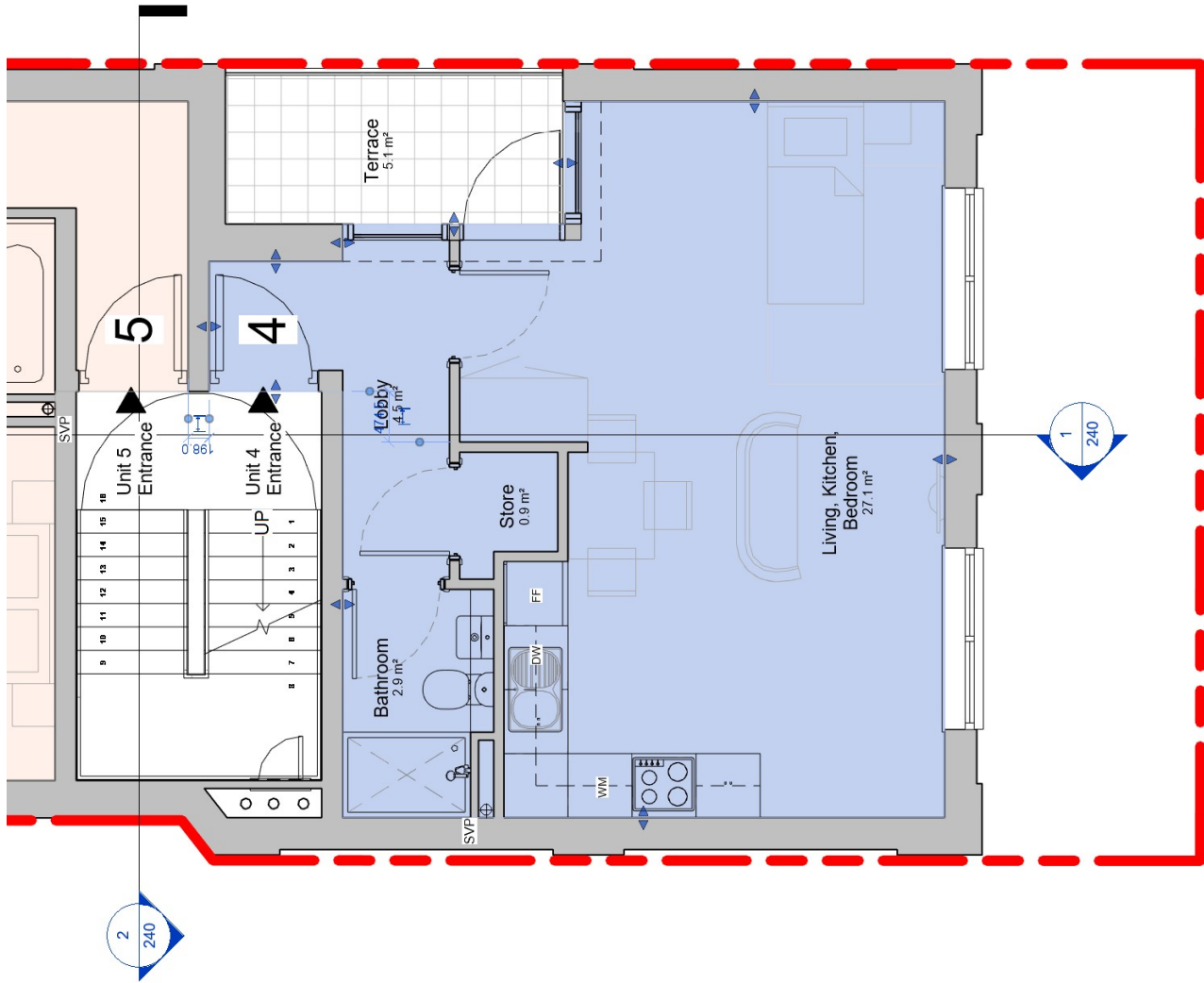
Detail Items (1)	
Dimensions	
Area	50.019 m ²
Identity Data	
Image	
Comments	
Mark	



Unit 3 - 1 Bed 2 Person Flat
 Floor Area - 54.10m²
 Including Amenity
 Minimum NDSS - 50m²

Unit 5 - 1 Bed 2 Person Flat
Floor Area - 54.10m²
Including Amenity
Minimum NDSS - 50m²

Unit 4 - 1 Bed Studio
Floor Area - 40.30m²
Including Amenity
Minimum NDSS - 37m²



Detail Items (1)
Dimensions
Area
Identity Data
Image
Comments
Mark



Filled region
1 bed

Detail Items (1)

Dimensions

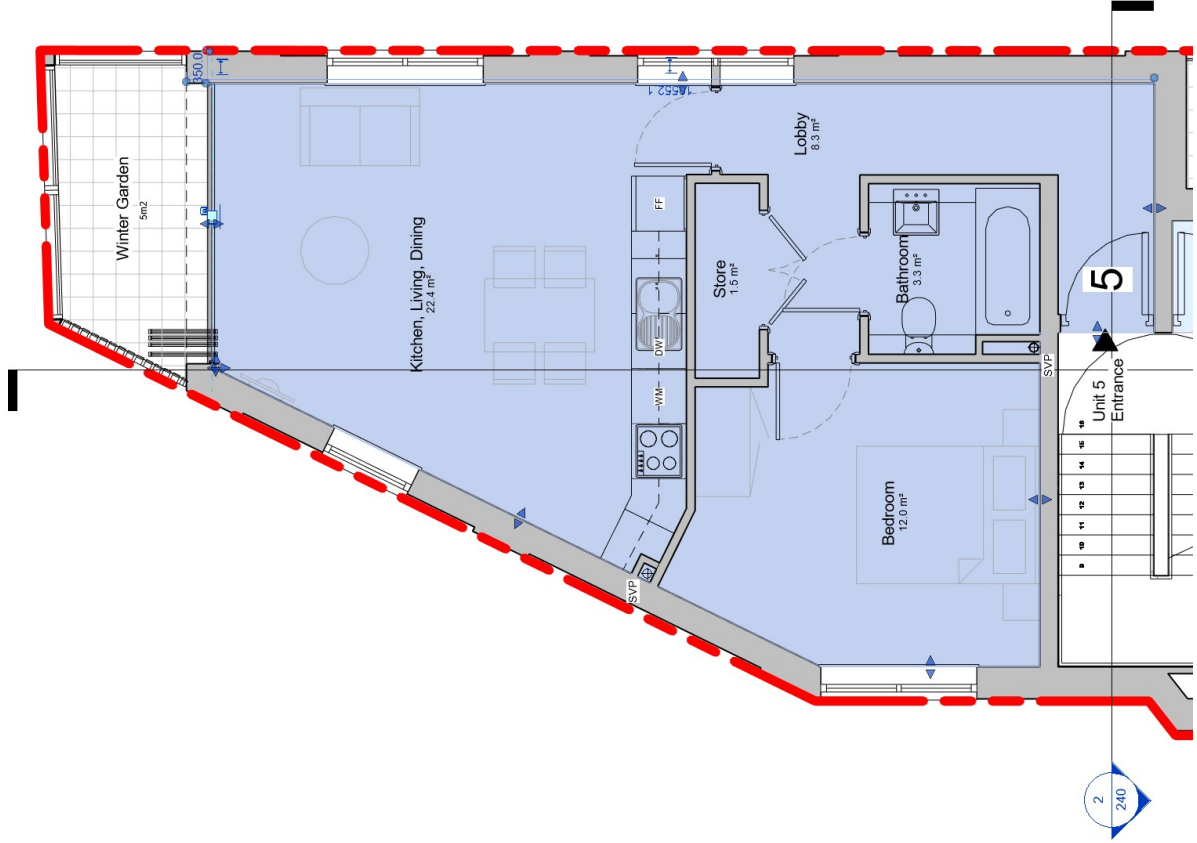
Area 50.019 m²

Identity Data

Image

Comments


Mark



Unit 5 - 1 Bed 2 Person Flat
Floor Area - 54.10m²
Including Amenity
Minimum NDSS - 50m²

X

Filled region 2 Bed	
Detail Items (1)	
Dimensions	
Area	81.517 m ²
Identity Data	
Image	
Comments	
Mark	

Rev	Date	Details	By	CHK
 engineerRoom CHALLENGE ORDINARY				
EngineRoom 2 Cardinal Street Ipswich IP1 1LG				
Planning				
Client / Location: 139-147 Camden Road, Camden London, NW1 9HJ				

