

STATEMENT OF COMMON GROUND

264 Belsize Road, London, NW6

NP12592
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4 September 2023

REPORT

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Jim Bailey

4 September 2023

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Contents

1 INTRODUCTION1

2 AREAS OF AGREEMENT AND MATTERS IN DISPUTE2

3 CONCLUSIONS4

Appendix 1 - List of agreed conditions

1 INTRODUCTION

- 1.1 RPS Consulting Ltd (RPS) has been instructed by Roxburg Overseas Ltd (the Applicant and Appellant), to submit a Section 78 appeal against the non-determination of planning application reference 2022/4450/P.
- 1.2 The application for 5 residential duplexes at 264 Belsize Road (2022/4450/P) was submitted on 13th October 2022 and registered by the London Borough of Camden ('the LPA') on 8th December 2022 and the deadline for determination was set at 22nd December 2022.
- 1.3 An appeal against the non-determination of this application has been submitted by RPS Group Ltd on 21st June 2023 and an Informal Hearing has been requested. The appeal has been given reference number APP/X5210/W/23/3324552. The hearing has been arranged for 12th September 2023.
- 1.4 This Statement of Common Ground sets out the areas of agreement and matters in dispute between the appellant and the LPA.

2 AREAS OF AGREEMENT AND MATTERS IN DISPUTE

A) Areas of Agreement

- 2.1 The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) are material considerations in the determination of all planning applications and appeals.
- 2.2 Section 38 of the Planning and Compulsory Purchase Act 2004 and Section 70 of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 2.3 A pre-application enquiry was submitted on 16th May 2022. Written advice was issued by the LPA, after 10 months, on 20th March 2023 (2022/2088/PRE). A pre-application meeting was held between the applicant, his agents and council officers on 27th March 2023. Officers requested amendments to the scheme and suggested that a new pre-application enquiry should be submitted. However, at the meeting the applicant's agent made it clear to the council officers that, if it took another 10 months to get advice, this route forward would not be acceptable. Subsequently, as an acknowledgement of its poor performance in dealing with the pre-app, the LPA re-imbursed the applicant 50% of the pre-app fee.
- 2.4 The planning application, which is the subject of this appeal, was submitted on 13th October 2022 and validated by the LPA on 8th December 2022. A target decision date of 22nd December 2022 was placed on the council's website. The council did not write to the applicant suggesting a different target date. In this case, the LPA has failed to make a decision before the target date of 22nd December 2022, which it set itself when it validated the application. No extensions of time were offered by the LPA or accepted by the appellant. After the pre-application meeting on 27th March, there was no further correspondence between the applicant and the LPA. Following the pre-app meeting, the applicant decided not to amend the application, but to submit this appeal. The applicant submitted a new planning application, which incorporates changes suggested by the pre-app, on 20th July 2023. This application, which was submitted via the Planning Portal, has not yet been acknowledged by the LPA.
- 2.5 If the LPA had made a decision, it would have had to take into account the following development plans, where relevant:
- Camden Local Plan (adopted 2017)
 - The London Plan (adopted 2021)
- 2.6 The following substantive matters are not in dispute:
- The appeal site lies in a sustainable and highly accessible location.
 - There is a presumption in favour of sustainable development in this location.
 - The appeal site is previously-developed land in an urban area where new residential development is acceptable in principle.
 - The existing building has been vacant since 2016 and no alternative community use has been found, meaning that the proposal is compliant with policy C2.
 - The new dwellings will help to meet the LPA's acute housing need.
 - The proposed dwelling mix of 2-bedroom dwellings is appropriate and complies with policy H7.
 - An affordable housing contribution would be acceptable to the LPA and should be secured by means of a section 106 agreement in compliance with policy H4.
 - The appeal site lies in an area with a high PTAL rating of 6a. No car parking is required or provided. The development will be car-free. Adequate cycle parking will be provided as part of the development, in compliance with policies T1 and T2.

- The proposal will be built to high standards of energy efficiency, in compliance with policies D1 and CC2.
- A Construction Management Plan (CMP) will be secured in order to minimise the impact of the construction of the development.
- A section 106 agreement (unilateral undertaking) has been submitted, which secures the affordable housing payment, car-free development status and a CMP.
- A list of conditions has been agreed between the LPA and the appellant, which is attached as **Appendix 1**.

2.7 The following matters are in dispute:

- Whether the standard of accommodation is acceptable in terms of daylight, sunlight and outlook, as required by the LPA's Housing CPG and policies D1 and H6.
- Whether the standard of accommodation is acceptable in terms of residential amenity for future occupiers, as required by policy D1 and H6.
- Whether the proposal protects the amenities of neighbouring occupiers, as required by policy A1.
- Whether the proposal fails to include suitable waste and recycling storage and collection facilities for the new residential units, as required by policy CC5.

3 CONCLUSIONS

- 3.1 The areas of common ground and matters in dispute are set out above.
- 3.2 A list of conditions, for discussion at the Informal Hearing, have been submitted to PINS by the LPA, on a without prejudice basis.
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Signed by:

On behalf of RPS Group



Signed by:

On behalf of London Borough of Camden

Appendix I

Conditions 2022/4450/P

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

(Prefix 564) 01, 02 rev A, 03 rev A, 04 rev A, 06 rev A, 07 rev A, 08 rev A, 09 rev A, 10, 11, 12, 100 rev D, 101 rev B, 102 rev B, 103 rev A, 104 rev B, 105 rev B, 106 rev B, 107 rev A, 108 rev C, 109 rev B, 110 rev A, 111 rev A, 112 rev A, 113 rev A, Design and Access Statement (Oct 2022), Planning Statement (October 2022), Sustainability Statement (September 2022), Overheating Analysis Report (September 2022), Utilities Assessment (September 2022), Whole Life Carbon Assessment (September 2022), Noise Impact Assessment (December 2022)

Reason: For the avoidance of doubt and in the interest of proper planning.

3. Notwithstanding any indication given on the approved plans, prior to the commencement of the development hereby permitted, samples of the materials to be used in the external elevations shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall be thereafter built in accordance with the approved details.

Reason: To ensure that the external appearance of the building is satisfactory and in accordance with policy D1 of the Camden Local Plan 2017.

4. Before the development commences, details of the location, design and method of waste storage and removal including recycled materials, shall be submitted to and approved by the local planning authority in writing. The facility as approved shall be provided prior to the first occupation of any of the new units and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policies CC5, A1, and A4 of the London Borough of Camden Local Plan 2017.

5. Before the development commences, details of secure and covered cycle storage area for 10 cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Appendix I

Conditions 2022/4450/P

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 of the London Borough of Camden Local Plan 2017.

6. Prior to first occupation of the buildings, detailed plans showing the location and extent of photovoltaic cells to be installed on the building shall have been submitted to and approved by the Local Planning Authority in writing. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. The cells shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of policies G1, CC1, and CC2 of the London Borough of Camden Local Plan 2017.

7. Prior to commencement of development, full details in respect of the living roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority. The details shall include:
 - i. a detailed scheme of maintenance
 - ii. sections at a scale of 1:20 with manufacturers details demonstrating the construction and materials used
 - iii. full details of planting species and density

The living roofs shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies G1, CC1, CC2, CC3, D1 and A3 of the London Borough of Camden Local Plan 2017.

8. The development hereby approved shall achieve a maximum internal water use of 110litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policies CC1, CC2, and CC3 of the London Borough of Camden Local Plan 2017.

Appendix I

Conditions 2022/4450/P

9. The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the typical existing background noise level by at least 10dBA, or by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

10. Prior to use, machinery, plant or equipment at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration-isolated from the casing and adequately silenced and maintained as such.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

11. The demolition hereby approved shall divert at least 95% of demolition waste from landfill and comply with the Institute for Civil Engineer's Demolition Protocol and either reuse materials on-site or salvage appropriate materials to enable their reuse off-site. Prior to occupation, evidence demonstrating that this has been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development contributes to reducing waste and supporting the circular economy in accordance with the requirements of policy CC1 of the London Borough of Camden Local Plan 2017, Camden Planning Guidance, and Policy SI 7 of the London Plan 2021.

12. The development hereby approved shall be constructed in accordance with the approved energy and sustainability statements prepared by Peter Deer and Associates dated September 2022. Prior to occupation, evidence demonstrating that the approved measures have been implemented shall be submitted and approved in writing by the Local Planning Authority.

Reason: To ensure the development contributes to minimising the effects of and can adapt to a changing climate in accordance with policies CC1 and CC2 of the Camden Local Plan 2017.