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Roxanne Gold  
The Planning Inspectorate  
3C Eagle Wing  
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2 The Square  
Bristol  
BS1 6PN

Dear Ms Gold,

**Appeal site: 139-147 Camden Road, Camden, London , NW1 9HJ**  
**Appeal by: Mr Vijay Pindoria**

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

I refer to the above appeal against the Council's refusal to grant planning permission dated 06/03/2023. The Council's case is set out in the Officer's delegated report. The report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

In addition to the information sent with the questionnaire, I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

## **1. Summary of site**

- 1.1. The site is wedge shaped in plan, measuring approximately 7.5m onto Camden Road and approximately 22m in depth. It has an area of approximately 140 sq m. It is located on the north-western side of Camden Road, to the north of the junction with Sandall Road. The site is used for car parking in association with the car maintenance building at 139 – 145 Camden Road. The site is bounded by Canteloves Gardens (north west and north east), by Camden Road (south east) and by the car maintenance building and railway embankment/retaining wall (south west).
- 1.2. Canteloves Gardens is designated open space and the site adjoins an area of grassland in the park which includes significant mature trees.
- 1.3. The site is not located in a conservation area or within the setting of any listed buildings. Camden Square Conservation Area extends across the other side of Camden Road. It is located in an area with a Public Transport Accessibility Rating of 4, within Flood Zone 1 of the Environment Agencies Flood Risk Map for Planning and in a Controlled Parking Zone.

### **The refused planning application subject of appeal**

- 1.4. On 06/03/2023 permission was refused for the erection of a four storey building comprising 6 flats: 3 x 1 bed 2 person flats, 2 x 1 bed 1 person studios and 1 x 2 bed 4 person flat. The building would also include a 10.1 sq m bin store and a 11.2 sq m bicycle store for 10 cycles, both situated on the ground floor at the front. The front of the site would be paved and planted and 2 visitor cycle spaces would be provided. The grounds for refusal are summarised as follows:
  - Proposed design's height, scale and its failure to respect to the context of Camden Square Conservation Area and adjacent open space of Canteloves Gardens
  - The proposed size of the units, internal configuration, lack of compliance with National Space Standards (NSS)
  - No air quality assessment
  - No S106 regarding 5 matters: Affordable Housing, car free development, highways contribution, a vehicle maintenance unit operational statement and a construction management plan (CMP)

### **Planning history**

- 1.5. Pre-application was sought under reference 2022/1367/PRE for a scheme that would provide comprise 6 units. The pre-application raised concerns over the

change of use, design/architecture, neighbouring amenity, issues of trees and the requirement of an energy statement.

1.6. Subsequently the subject planning application for planning permission was submitted which comprised of a very similar scheme including 6 flats and a four storey building. The application was refused on 06/03/2023 in relation to eight grounds of refusal. These are listed below in full.

1.7. The detailed reasons for refusal of this appeal planning application are:

1. *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 Canteloves 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. *The proposed development, 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. It would therefore be contrary to policies D1, H6 and C6 of the London Borough of Camden Local Plan 2017 and policy D3 of the Kentish Town Neighbourhood Plan 2016. It would also be contrary to the London Plan 2021 and NPPF 2021.*
3. *The proposed development, in the absence of an air quality assessment, and appropriate mitigation therein, is likely to be harmful to the living conditions of future occupiers. It may also result in emissions which would impair the air quality in the area. It would therefore be contrary to policies A1, CC4 and H6 of the London Borough of Camden Local Plan 2017.*
4. *The proposed development, in the absence of a legal agreement binding the applicant to the provision of the requisite provision of affordable housing, would fail to meet the Council's requirements for the provision of affordable housing in new residential development and would therefore be contrary to policy H4 of the London Borough of Camden Local Plan 2017*
5. *The proposed development, in the absence of a legal agreement including an undertaking to a car free development by way of the prevention of future occupiers from obtaining on-street resident parking permits, would fail to represent a sustainable form of*

*development which would seek to reduce car use in the Borough. It would therefore be contrary to policies T1, T2, and CC1 of the London Borough of Camden Local Plan 2017.*

6. *The proposed development, in the absence of a legal agreement including an undertaking to a highways contribution for removing the crossover, reinstating the footway over and repaving the adjacent footway to repair any damage caused, would fail to maintain the efficiency of the transport infrastructure. It would therefore be contrary to policy T4 of the London Borough of Camden Local Plan 2017.*
7. *The proposed development, in the absence of a legal agreement including a Vehicle Maintenance Unit Operational Statement for the adjoining car repair workshop which currently uses the site for car parking, would potentially result in over-spill parking and vehicular activity on adjacent roads harmful to the safety of the highway network. It would therefore be contrary to policy T3 of the London Borough of Camden Local Plan 2017.*
8. *The proposed development, in the absence of a legal agreement including an undertaking to a Construction Management Plan and associated Implementation Support Contribution and Impact Bond, would fail to mitigate against adverse impacts on the safety of the highway and the amenity of neighbouring occupiers during construction. It would therefore be contrary to policies A1 and T4 of the London Borough of Camden Local Plan 2017.*

1.8 All 8 reasons for refusal are fully amplified in the delegated report and are not repeated here. The appellant's grounds of appeal are addressed below.

## **2. Status of policies and guidance**

- 2.1. In determining the abovementioned application, the London Borough of Camden had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.
- 2.2. The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on 3<sup>rd</sup> July 2017. The following policies in the Local Plan are considered to be relevant to the determination of the appeal:
  - A1 Managing the impact of development
  - A2 Open space
  - A3 Biodiversity
  - A4 Noise and vibration
  - C5 Safety and security

- C6 Access for all
- D1 Design
- D2 Heritage
- E2 Employment Premises and Sites
- H1 Maximising housing supply
- H4 Maximising the supply of affordable housing
- H6 Housing choice and mix
- H7 Large and small homes
- CC1 Climate Change Mitigation
- CC2 Adapting to climate change
- CC3 Water and flooding
- CC4 Air quality
- CC5 Waste
- T1 Prioritising walking, cycling and public transport
- T2 Parking and car free development
- T3 Transport infrastructure
- T4 Sustainable movement of goods and services Policy H7 Large and Small Homes
- Policy T1 Prioritising walking, cycling and public transport
- Policy DM1 Delivery and Monitoring

2.3 The Council also refers to supporting guidance in Camden Planning Guidance (CPG) documents. The CPG documents most relevant to the proposal are as follows: The Camden Planning Guidance documents were subject to public consultation and were approved by the Council as indicated.

- CPG Employment sites and premises (2021) (Proposals involving loss of business premises and sites)
- CPG Design (2021) (S.2 Design Excellence, S.3 Heritage, S.4 Landscape and Public Realm)
- CPG Amenity (2021) (S.5 Construction Management Plans, S.6 Noise & Vibration, S.8 Contaminated Land)
- CPG Energy Efficiency and Adaptation (2021) (S.2 Energy Hierarchy, S.3 Making buildings more energy efficient, S.5 Renewable energy technologies, S.10 Sustainable design and construction principals)
- CPG Transport (2021) (S.2 Assessing Transport Impact, S.5 Parking and car-free development, S.8 Cycling Facilities)
- CPG Developer Contributions (2019) (S.5 Planning Obligations)
- CPG Water and Flooding (2019) (S.2 Water efficiency, S.3 Flooding)
- CPG Air Quality (2021) (S.3 Assessing Air Quality Impacts)
- CPG Trees (2019) (S.2 How the Council will protect trees)
- CPG Housing (2021) (S.4 Meeting the requirements for housing and affordable housing, S.6 Payments in lieu of housing and affordable housing)

- 2.4 The Kentish Town Neighbourhood Plan was established in 2016 and contains spatial policies in relation to area, defining its character and supporting certain development. The policies that have been considered are listed below:
- D3 Design Principles
  - GO1 Local Green Spaces
  - GO3 Biodiverse Habitats
  - SSP7 Small sites and infill development
- 2.5 The National Planning Policy Framework was published in April 2012 and revised in September 2023. It states that proposed development should be refused if it conflicts with the local plan unless other material considerations indicate otherwise. The full text of the relevant adopted policies was sent with the questionnaire documents.
- 2.6 The Council's adopted policies are recent and up to date and should be accorded full weight in accordance with paragraphs 31 – 33 and 213 of the NPPF.
- 2.7 There are no material differences between the NPPF and the Council's adopted policies in relation to this appeal.

### **3. Comments on appellant's grounds of appeal**

- 3.1 The appellant has put forward a statement of case which discusses the first three reasons for refusal in significant detail accepts reason's 4-8 are due to the absence of entering an s106 agreement due the decision to refuse the application. They accept that they would be willing to enter an s106 agreement for each of the obligations.
- 3.2 The applicant has provided a quote in section 2 contradicting earlier information in the report that the removal of car parking spaces on site was acceptable. This assumption that this is a 'cut and paste' error appears to be correct and the removal of the car parking spaces is considered acceptable.
- 3.3 Reason for refusal 1:
- 3.4 In relation to paragraphs 2.3-2.5 of the appellants statement of case, where the character assessment as laid out in the delegated report is questioned, the idea that the northern side of Camden Road is more important to the context of this site is false. The larger developments which are clearly being implied are the Camden School for Girls and the commercial building at 167-173. However these are approximately 67m and 59m away from the site which is set behind the existing

single storey car garage and the railway and Railway Bridge. Overall it would seem odd to reference these buildings given their distance and therefore it is not accepted that the 'character of the area' should be driven by this.

3.5 As identified in the Delegated Report (section 2.3.2), the site occupies a prominent location directly adjacent to Canteloves Gardens and with an existing single storey building to the south east and the semi-detached villa properties directly opposite. It is clear that these elements drive the sites context. Moreover, this single storey building (135-143 Camden Road) is an anomaly within the character of Camden Road, which is typically formed of '*greenery, with set-back frontages that include planted space between the pavement and building line*' as identified in section 2.3.3. Whilst 135-143 Camden Road is not described within the character assessment, it is not considered an applicable reference unless a single storey development is proposed.

3.6 In relation to paragraphs 2.10-2.13, these are not the only requirements of policy D1 and therefore the proposal should not be judged on these points, Policy D1 also does state clearly that:

*The Council expects excellence in architecture and design. We will seek to ensure that the significant growth planned for under Policy G1 Delivery and location of growth will be provided through high quality contextual design.*

3.7 It also goes on to say:

*The Council will require all developments, including alterations and extensions to existing buildings, to be of the highest standard of design and will expect developments to consider:*

- *character, setting, context and the form and scale of neighbouring buildings;*
- *the character and proportions of the existing building, where alterations and extensions are proposed;*
- *the prevailing pattern, density and scale of surrounding development;*
- *the impact on existing rhythms, symmetries and uniformities in the townscape;*
- *the composition of elevations;*
- *the suitability of the proposed design to its intended use;*
- *inclusive design and accessibility;*
- *its contribution to public realm and its impact on views and vistas; and*
- *the wider historic environment and buildings, spaces and features of local historic value*

3.8 This is also followed up in paragraph 7.3 and 7.4 of Policy D1. It is clear that the Council expects high quality architecture and design and that this is enshrined in Local Plan policy. Questioning this and writing in the appellants statement that '*in*

*fact, neither test requires matching (and neither require “exceptional architectural response either”).* Does raise serious questions about both how policy compliant the scheme and how much attention and duty was paid to providing a high quality design.

3.9 In relation to paragraph 2.14-2.18 and 2.23-2.24 where issues of the developments response to the area and the design itself, 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 relief from the single planes of brickwork, but their add-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.

3.10 The ground floor facing on to Camden Road does not contribute positively to the street frontage, as outlined in Local Plan Policy D1f. The detailed design of the entrances leave a significant proportion of inactive frontage through blank doors. This fails to address Local Plan Policy D1i regarding security, alongside providing only stepped access which presents a lack of ingress that is inclusive and accessible for all as required by Local Plan Policy D1g. The upper façade facing Camden Road exhibits a gridded character, described as columns, but more accurately considered as pilasters. The materials are a buff brick with infill of grey brick detailing surrounding grey framed windows. The windows are full height, with their size and proportion failing to complement the local character. The upper 3rd floor is set back by approximately 1m and clad in grey brick. This character is out of keeping with the context and demonstrates a lack of respect for the local character, thereby a failure to comply with Local Plan Policy D1e.

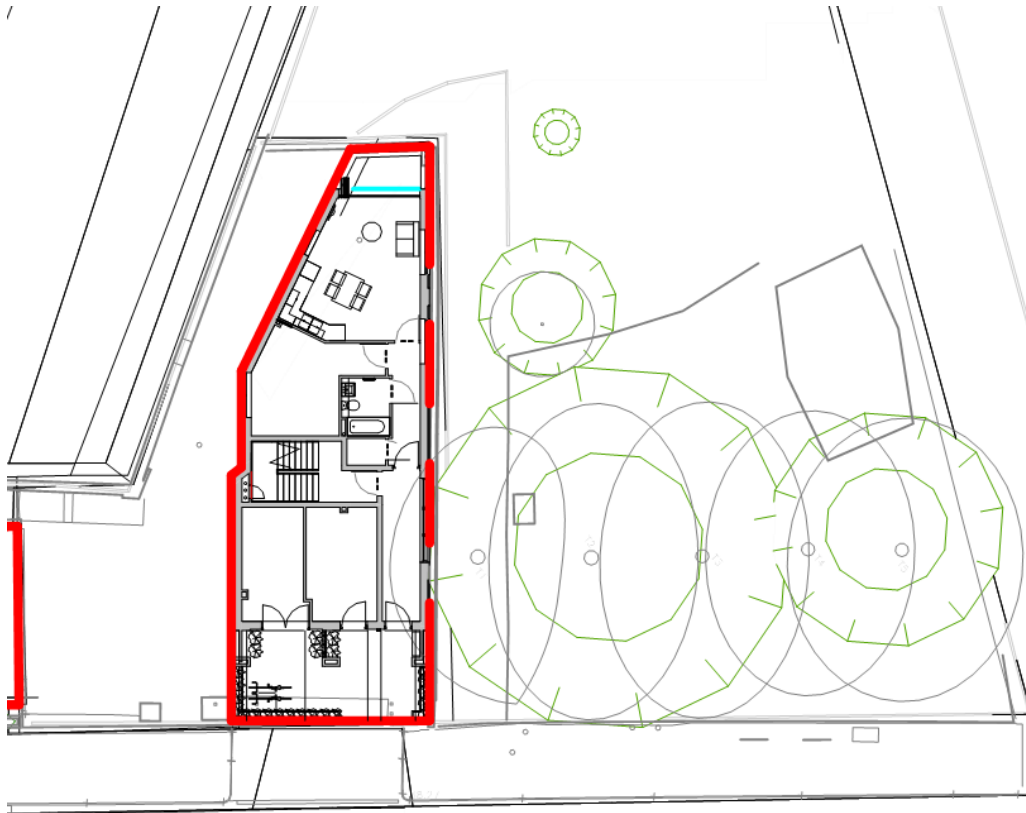
3.11 In relation to site coverage and paragraphs 2.19-2.22, it is a correct that this site is smaller than the prevailing character of sites in the area – even the semi-detached villas that are directly adjacent. However this means that the development should take this into consideration in terms of scale and what we have is a 4 storey building which is not appropriately designed for the site.

3.12 As per paragraphs 2.24-2.28 the delegated report states that the site occupies a prominent location, immediately adjacent to a park (Canteloves Gardens) and directly opposite the Camden Square Conservation Area. Due to this relationship and close proximity to the Conservation area, officers must pay regard to the proposals impact on the Conservation area. Due to the proposals poor design and its proximity to the Conservation area, the development would neither preserve or enhance the Conservation area’s character

3.13 In relation to paragraphs 2.29-2.34, this position is not accepted. As stated, the site is also to the south of an open space, with the potential of any development to cause



overshadowing to Canteloves Gardens. With the open space to the north and the neighbouring trees, any development on the site should demonstrate that it responds to natural features and preserves gardens and other open space in accordance with Local Plan Policy Design D1j. The proposed site plan confirms that the building would be within nearby tree canopies (see below) but there is no information regarding how this would be dealt with. The overall site coverage and a 12m sheer facade on to Canteloves Gardens fails to create a positive relationship with the open space, with resultant overshadowing and sense of enclosure and thereby in conflict with Policy D1j.

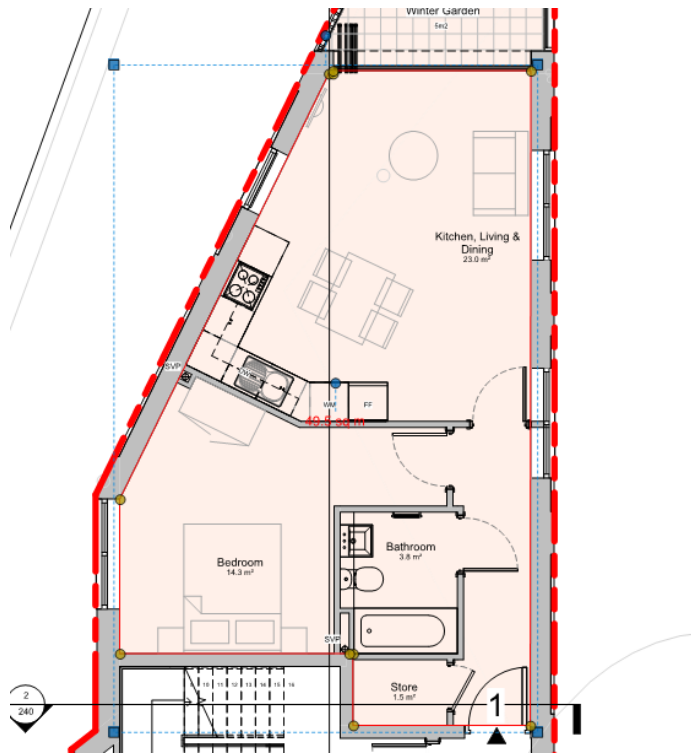


3.14 Reason for refusal 2:

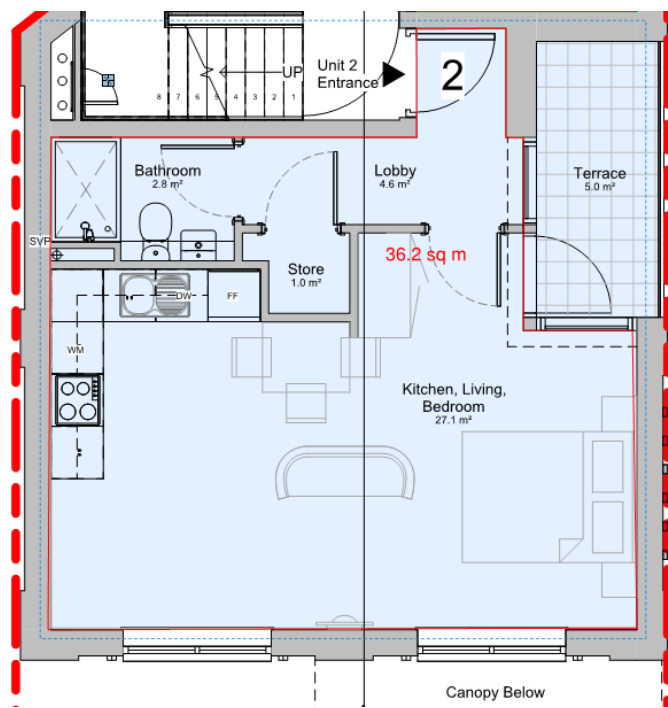
3.15 In respect to paragraph 3.2, whilst it is appreciated reference is made to the NSS table, this has not been complied with. Whilst it is admitted mistakes were made, the measurements for each of the units are disingenuous but also incorrect. The statement makes reference further measurements in appendix 2 of the statement but these are incorrect as well.

3.16 As part of the officer report it was explained that the 'terraces' or winter gardens cannot count towards the internal GIA and should not be offset against the units meeting NSS. There does not appear to be any evidence put forward that this should change and therefore it is still the Council's position.

3.17 Below are screenshots from the submitted plans demonstrating that the floor areas are incorrect and more importantly fail the NSS standards for their respective unit sizes:

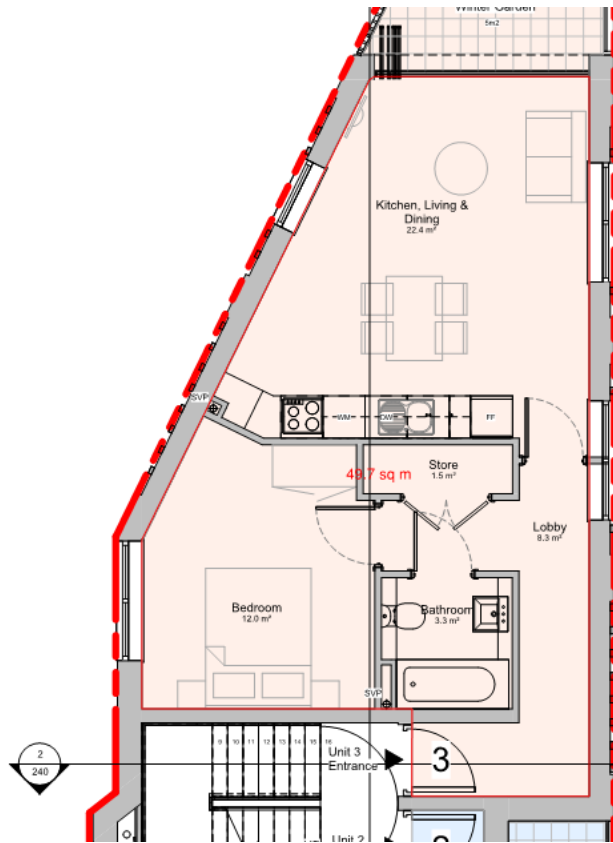


Ground floor unit 1



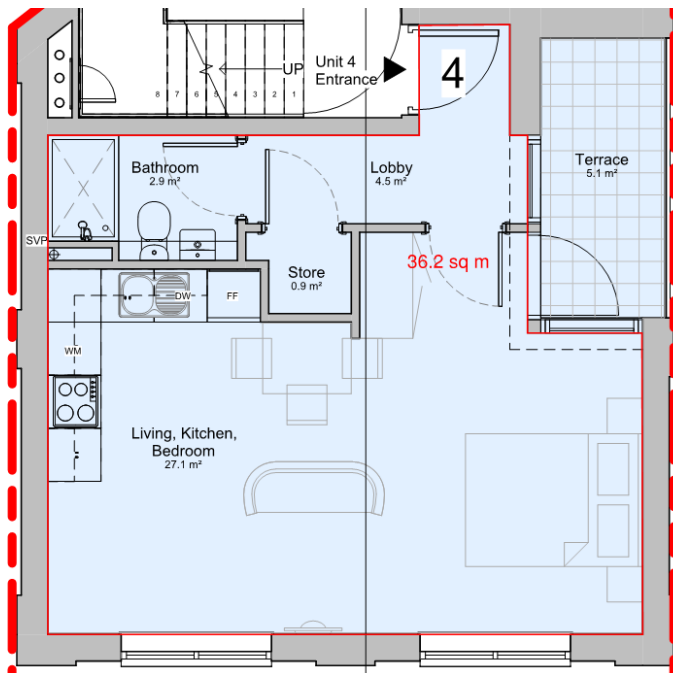
First floor unit 2

Unit 2  
Floor A  
Minim

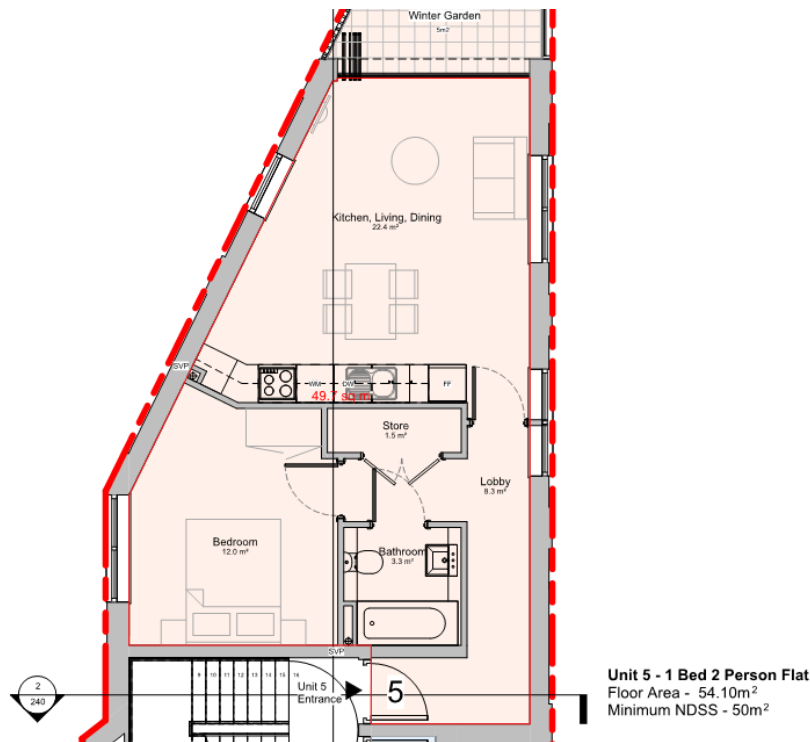


**Unit 3 - 1 Bed 2 Person Flat**  
 Floor Area - 54.10m<sup>2</sup>  
 Minimum NDSS - 50m<sup>2</sup>

*First floor unit 3*



*Second Floor unit 4*



Second floor unit 5

- 3.18 Whilst the Council accepts that the difference in GIA from the units complying is relatively small, it is important to mention that these sizes are the bare minimum. The development is for new units and 5/6 (83%) of them fail to comply with the NSS and therefore the Council would be approving a residential development where nearly all of the units would be substandard. Considering the site is not developed and is not severely constrained there is no justification for accepting this.
- 3.19 This is also relevant in relation to policy C6 (Access for all), the new development not only does not provide a lift to ensure that the units are accessible but it is clear the design has not incorporated accessible principles. This is also specifically mentioned within policy D3 of the Kentish Town Neighbourhood Plan 2016.

Reason for refusal 3:

- 3.20 The report and officers previous assessment correctly identified the location of a site being in an area of very poor air quality according to the LAEI 2019 air quality mapping. The scheme proposes sensitive uses and so an air quality assessment should have been provided which formed a reason for refusal
- 3.21 The statement suggests an air quality assessment has now been carried out however evidence was not provided for officers to assess in relation to the proposed scheme when the application was under assessment. Following the appeal the air quality assessment is not provided in the statement of case

document and therefore the Council cannot assess the acceptability of the assessment.

3.22 Therefore, the application should be dismissed on this basis.

#### *Planning Process*

3.23 The Council expects excellence in architecture and design as outlined in Policy D1, and on such prominent sites a careful scrutiny of design is required. The applicant had a single pre-application meeting that addressed design. Written feedback was issued that highlighted the proposals failure to adhere to Local Plan Policy D1 and a recommendation that any proposals are assessed by Camden's Design Review Panel (DRP), an independent and impartial panel of built environment experts. The application was made without further design advice from the LPA, did not consider the comments as outlined in the pre-application and without a DRP review.

#### **4. S106 requirements and conditions**

##### *Compliance with CIL reg 122*

4.1 The delegated report sets out justification for the following S106 matters. These issues cannot be overcome by conditions as the matters are either outside the scope of the site, complex and/or entail monetary contributions. The proposed restriction on the development being secured as :

- "affordable housing contribution" of £167,240
- "car-free",
- highways contribution : amount to follow
- "Vehicle Maintenance Unit Operational Statement"
- Construction Management Plan and Implementation Support Contribution of £3,920 and Impact Bond of £7,500

4.2 These meet the requirements of the CIL Regulations in being: (i) necessary to make the development acceptable in planning terms as identified by the relevant development plan policies; (ii) directly related to the occupation of the residential units being part of the development; and (iii) fairly and reasonably related in scale and kind to the residential units. This supports key principle 9 of the National Planning Policy Framework: Promoting sustainable transport.

4.3 The Council is approaching the appellant with a draft legal agreement in the event that the Inspector is minded to allow the appeal. The council will notify the inspector regarding progress at the final comments stage.

4.4 Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the “CIL Regulations”) creates statutory tests to determine whether a planning obligation is capable of being a reason for granting planning permission. Obligations must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

4.5 Current government guidance on the application of Section 106 is contained within the Planning Practice Guidance (NPPG) on Planning Obligations and the Use of Planning Conditions.

4.6 In this case, it is necessary to secure car-free housing to ensure the development promotes healthy and sustainable transport choices, an affordable housing payment to maximise the contribution of the site to the supply of affordable housing in the borough, a highways contribution to ensure that the highway is maintained, a Vehicle Maintenance Unit Operational Statement to ensure the loss of parking for the existing business on site is acceptable and a Construction Management Plan to ensure that the development can be implemented without causing detrimental impact to residential amenity or the safe and efficient operation of the highway network in the local area in accordance with policies A1, T1, T2, T3, T4, CC1 and H4 of the Camden Local Plan 2017.

#### **Reason for refusal no.4 (Affordable Housing)**

4.7 The appeal scheme proposes the creation of 418 sq m in GIA. This floorspace equates to capacity for four dwellings to be provided, and a contribution equating to 8% of the floorspace towards affordable housing should therefore be made. The payment-in-lieu in the Council’s Housing CPG is £5,000 per sqm. 8% of 418 sqm is 33 sqm and a contribution of 33 sqm x £5,000 = £167,240 is therefore required.

4.8 The most appropriate way of obtaining the financial contribution is via a s106 legal agreement and it is understood from the appellant’s statement of case that they are willing to provide the full contribution should the appeal be allowed. A draft copy of a section 106 legal agreement has been sent to the appellant and PINs will be updated on any progress at the final comments stage.

#### *CIL Compliance*

4.9 The contribution is considered to be CIL compliant. It is necessary in planning terms as identified in the development plan to mitigate against the increased impact that will be generated by the development. The contribution has been calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development.

#### **Reason for refusal no.5 (car-free)**

- 4.10 The Council's adopted policies T1 and T2 seek to limit the opportunities for parking within the borough as well as prioritise the needs of pedestrians and cyclists to ensure that sustainable transport will be the primary means of travel, reduce air pollution and local congestion. The appeal site is located within a Controlled Parking Zone (CA-D) and has a PTAL rating of 4. Therefore, the development should be secured as car-free through via a covenant under s.16 of the Greater London Council (General Powers) Act 1974 and other local authority powers if the appeal were allowed.
- 4.11 A planning obligation is considered the most appropriate mechanism for securing the development as car-free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car-free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, a legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free". The Council's control over parking does not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council's control is derived from Traffic Management Orders ("TMO"), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where an additional dwelling/use needed to be designated as car-free. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a "Car-Free" legal obligation. The TMO sets out that it is the Council's policy not to give parking permits to people who live in premises designated as "Car-Free", and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free".
- 4.12 Use of a legal agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.

#### *CIL Compliance*

- 4.13 The CMP and associated contribution is considered to be CIL compliant as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to managing impacts to neighbours and on the surrounding highways from construction at the site.

#### **Reason for refusal no.6 (Highways Contribution)**

4.14 The appeal scheme would lead to the existing vehicle crossover becoming redundant. The adjacent footway could also be damaged during construction works and it will therefore be necessary to secure a Section 106 Highways Contribution for removing the crossover, reinstating the footway over and repaving the adjacent footway to repair any damage caused. A highways cost estimate will be sent at final comments stage.

#### *CIL Compliance*

4.15 The Highways contribution is considered to be CIL compliant as it ensures that the development is acceptable in planning terms to necessarily account for the impact on the highways in relation to construction.

#### **Reason for refusal no.7 (Vehicle Maintenance Unit Operational Statement)**

4.16 The applicant has submitted a Vehicle Maintenance Unit Operational Statement in support of the application. This states that the current occupants of the adjoining vehicle maintenance centre (Autodeustsche), who use the car park for the storage of vehicles awaiting MOT tests, were due to vacate the premises in April 2023 and that the site will be taken over and operated by the applicant (Holocene Motors) as an electric vehicle maintenance centre. The applicant states that they can operate the site without the benefit of the car park, with all vehicles accessing the site via Sandall Road and being worked on and stored within the existing building. It is stated that there would be 5 members of staff working at the site on a shift basis from 8am to 6pm Monday to Friday and 8am to 2pm on Saturdays, generally dealing with 10 vehicles per day. All staff would travel to the site by public transport. The Statement goes on to state that:

4.17 “The intention is that customers will wait on site whilst their car is being seen to and take their car away after works are complete. Notwithstanding this there is capacity to store at least 4 vehicles in the workshop, whilst maintaining access to all vehicle maintenance bays and providing a turning area to ensure that all vehicles can enter and leave the site in a forward gear. The operational model is such that the business can continue to function, without the need to displace customer vehicles elsewhere. The site is located within a controlled parking zone which would restrict the ability for vehicles to be parked on the street.”

4.18 The Vehicle Maintenance Unit Operational Statement is considered sufficient to overcome concerns regarding the loss of the existing car park and the potential for vehicle parking to be displaced onto the adjacent roads, in particular Sandall Road.

#### *CIL Compliance*

4.19 In order to ensure that the site is operated in accordance with the Vehicle Maintenance Unit Operational Statement in the future, it should be secured by means of the Section 106 Agreement (not Condition) as the matter includes roads outside the control of the applicant.

#### **Reason for refusal no.8 (Construction Management Plan)**



- 4.20 Local Plan policy A1 states that Construction Management Plans (CMPs) should be secured to demonstrate how developments would minimise impacts from the movement of goods and materials during the construction process (including any demolition works). The appeal proposal would involve significant works due to the construction of large buildings on the site. A CMP would be required in order to address the issues around how the demolition and construction work would be carried out and how this work would be serviced (e.g. delivery of materials, set down and collection of skips), with the objective of minimising traffic disruption and avoiding dangerous situations for pedestrians and other road users. The failure to secure a CMP by S106 would give rise to conflicts with other road users and be detrimental to the amenities of the area generally.
- 4.21 Given the location of the site immediately adjacent to a Red Route, where no stopping is permitted at any time, construction of the proposed development will need to be carefully managed. This would be best achieved by securing a Construction Management Plan and associated Implementation Support Contribution of £3,920 and Impact Bond of £7,500 by means of the Section 106 Agreement. This will help to ameliorate the impact of construction activities on the operation of the local highway network and neighbouring amenity.
- 4.22 A planning obligation is considered to be the most appropriate mechanism for securing compliance with a CMP in this case simply because a considerable extent of the activity during construction could cause conflict with other road users and users of both carparks. It would also be detrimental to the amenity of the area and will necessarily take place outside the curtilage of the planning unit of the appeal site. Potential impacts for the proposed demolition/construction works which should be controlled by a CMP include traffic generation from removal and delivery of materials to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users.
- 4.23 Under the Planning Act conditions are used to control matters on land within the developers' control. However, a CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site but also around the site in order to minimise as far as reasonable the detrimental effects of construction on local residential amenity and/or highway safety on the nearby roads, hence using a condition to secure the type of off-site requirements usually included in a CMP would in this case be unenforceable.
- 4.24 Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to off-site requirements, particularly public highway (which is not land within the developers' control). As such, a Section 106 Agreement (rather than a condition) is the most appropriate mechanism. This is in accordance with Planning Practice Guidance which states that conditions requiring works on land that is not controlled by the applicant often fails the tests of reasonability and enforceability.

#### *CIL Compliance*

- 4.25 The CMP and associated contribution is considered to be CIL compliant as it ensures that the development is acceptable in planning terms to necessarily mitigate

against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to managing impacts to neighbours and on the surrounding highways from construction at the site.

### *Conditions*

- 4.26 It is not considered that conditions would mitigate the impact of the development as set out above. The suggested conditions below would secure compliance with the proposal.

## **5 Conclusion**

- 5.4.1 Based on the information set out above, and having taken account of all the appellant's arguments and additional information submitted, the Council maintains that the proposal is considered to be unacceptable for the reasons given.
- 5.5 The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns.
- 5.6 For these reasons the Inspector is respectfully requested to dismiss the appeal. However, should the Inspector be minded to approve the appeal, suggested conditions and a draft S106 is to follow.
- 5.7 If any further clarification of the appeal submission is required please do not hesitate to contact Ewan Campbell on the above direct dial number or email address.

Yours sincerely,

**Ewan Campbell**  
**Planning Officer**  
**Regeneration and Planning**  
**Supporting Communities**

## APPENDIX A – Suggested conditions

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### Conditions

1	<p>The development hereby permitted must be begun not later than the end of three years from the date of this permission.</p> <p>Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).</p>
2	<p>All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.</p> <p>Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.</p>
3	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>100, 101, 200, 210, 211, 212, 213, 214 A, 230 A, 250, 251, 252, 253, 254, 255, 256, 257, 258, Design &amp; Access Statement (December 2022 Rev A - Engine Room), GEA Desk Study Report (J22265 Rev 0 - September 2022), Noise and Vibration Assessment (Venta Acoustics - September 2022), Construction Management Plan ProForma (LB Camden), Planning Statement (SM Planning - October 2022), Energy and Sustainability Statement (EEABS - September 2022), Arboricultural Implications Assessment (Landmark Trees - October 2022), Vehicle Maintenance Centre Operational Statement</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>

### Informatives

1	<p>This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations &amp; Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.</p>
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2	<p>All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at <a href="https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319">https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319</a> or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)</p> <p>Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.</p>
3	<p>Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).</p>

