

PLANNING APPEAL STATEMENT OF CASE 1 LYMINGTON ROAD

20 NOVEMBER 2024

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SECTION 1 | INTRODUCTION

- 1.1 This Appeal Statement of Case has been prepared by Firstplan on behalf of our client, Quintet Investments Ltd, in support of an appeal against the refusal of planning permission ref: 2024/0531/P by Camden Council for proposals at 1 Lymington Road, NW6 1HX.
- 1.2 The application sought consent for the following description of development:
- “Erection of a single-storey dwellinghouse to the rear of 1 Lymington Road.”*
- 1.3 The application was refused on 30 May 2024 for the following four reasons:
1. *“The proposed single storey dwellinghouse by reason of its inappropriate bulk, scale, location, massing, and detailed design would cause harm to the architectural composition of the host building and the character and appearance of the West End Green Conservation Area contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*
 2. *The proposed single storey dwellinghouse by reason of its inappropriate height, design, extent, and proximity to the host building, would result in a loss of privacy to the occupiers within the flats of the host building, whilst also resulting in poor amenity outcomes to future occupiers. In the absence of a Daylight/Sunlight Assessment, insufficient evidence has been provided to demonstrate that the proposal would not result in a loss of daylight to the rear facing windows of the lower ground / ground floor flats of the host building. The proposal is therefore contrary to policy A1 (Managing the impacts of development) of the London Borough of Camden Local Plan 2017, the London Plan 2021 and the NPPF 2023.*
 3. *The proposed single storey dwellinghouse by reason of its footprint would result in the loss of an excessive part of garden space which contributes to the character of the townscape, the loss communal amenity space for occupiers of the host building, whilst also exceeding the scale of what could be considered a subordinate garden building. The proposal is therefore contrary to policy D1 (Design) and A3 (Biodiversity) of the London Borough of Camden Local Plan 2017 and policy 17 of the Fortune Green and West Hampstead Neighbourhood Plan.*
 4. *The proposed development, in the absence of a legal agreement securing car-free housing, would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017.”*
- 1.4 This Statement comprises the Appellant’s Statement of Case and sets out their full representations and supporting evidence. It specifically provides reasoned justification as to why the Appellant believes, contrary to Camden Council’s reasons for refusal, that the proposals comply with the relevant adopted development plan. This Statement will address the reasons for refusal set out above and contained within the decision notice and the issues raised within the planning officer’s Delegated Report.
- 1.5 The Statement assumes the following structure: Section 2 presents the relevant background information; Section 3 sets out the details of the proposed scheme; Section 4 sets out the relevant policy context, Section provides an assessment of the Council’s reasons for refusal; and Section 5 presents the conclusions.

SECTION 2 | BACKGROUND INFORMATION

a) Site and Surrounding Area

- 2.1 The appeal site is located on the north side of Lymington Road, close to its junction with West End Lane within the West End Green Conservation Area. The site is occupied by a three-storey semi-detached residential property (two full storeys with accommodation on the roof), which is subdivided into 13 flats, comprising a mix of studios and one-bedroom units. The property has two entrances, one at the front and one to the side passageway.
- 2.2 There is a large rear garden which is currently overgrown and underutilised. The garden steps up from the building's ground floor level. It is enclosed by a mix of fences including a high rendered wall which is 4.1m in height to part of the western boundary.
- 2.3 The site is well-connected to public transport with a rating of 5 (6 being the best). The site is located within Flood Zone 1, meaning a low probability of flood risk.
- 2.4 The surrounding area is residential in character on Lymington Road with commercial services located close by on West End Lane, directly adjoining the site to the east.
- 2.5 As a result of the sites location at the end of the road, the rear garden of No.1 is significantly wider than the rest of the houses along the street.

Figure 1: Appeal Site Location



b) Planning History

- 2.6 The relevant planning history for the site is, as follows:

- Planning permission was obtained in August 1970 for “erection of a single-storey rear extension at 1 Lymington Road, N.W.G and the conversion of the ground floor into 3 self-contained flats” (ref. CTP/G5/1/6/9080).
- An application was refused in February 2008 for “*the erection of a two storey rear extension to provide four additional bed sit units*” (ref. 2007/5710/P).
- Planning permission was refused in July 2014 for “*Erection of upper mansard slope front and rear dormer roof extensions to provide 2 additional bedrooms to Flat 14*” (ref.2014/3945/P).
- Planning permission was approved in July 2022 for “*Erection of rear roof dormer window and one front rooflight*” (ref.2022/2241/P).
- A Certificate of lawfulness has been granted in October 2023 for “*use of flats at first and second floors, which are numbered 3, 5, 6, 7, 9, 11, 13, and 14 as self-contained units (C3)*” (ref. 2023/3894/P).
- Planning permission was approved in January 2024, for the “*Demolition of existing ground floor rear extension and construction of new single storey rear extension with green roof, alterations to side fenestrations, reconfiguration and amalgamation of existing 4 x studio and 1 x 1 bedroom ground floor flats to provide 2 x studio flats and 1 x 2 bedroom flat, erection of timber bike stores with sedum roof and bin store within the front garden and associated works*” (ref. 2023/3119/P).
- Planning permission was refused on 30 May 2024 for the “Erection of a single-storey dwellinghouse to the rear of 1 Lymington Road (ref: 2024/0531/P). This application is the subject of this appeal.

SECTION 3 | APPEAL PROPOSALS

3.1 The planning application, which is the subject of this appeal, sought approval for the following description of development:

“Erection of a single-storey dwellinghouse to the rear of 1 Lymington Road.”

3.2 The proposals comprised a single storey dwelling in the rear garden of the 1 Lymington Road. The proposed dwelling would measure 51sqm and includes a double bedroom, bathroom and open plan living/kitchen/dining room. It is dual aspect.

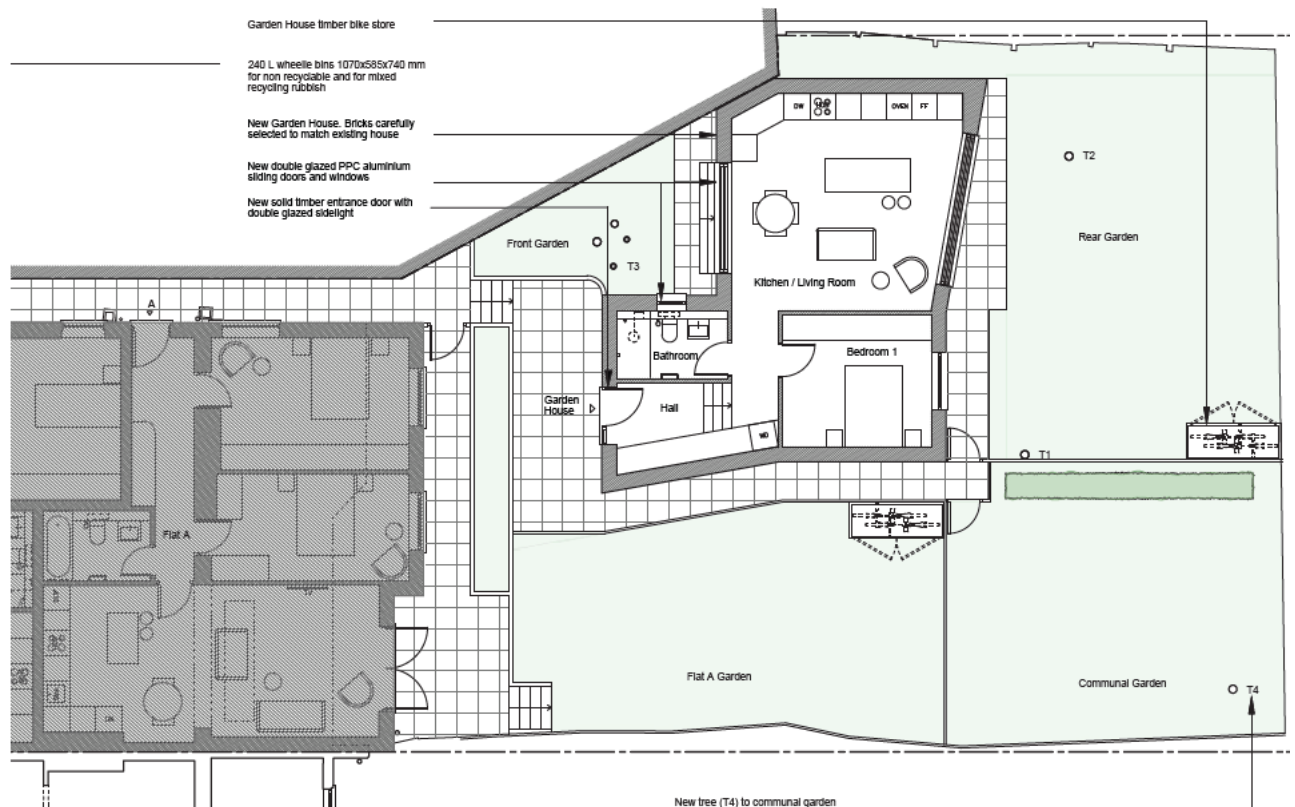
3.3 The proposed building is to be constructed of brick to complement the existing house with a green roof. The form of the house has been designed to be an asymmetric organic design which draws on the angles of the plot and the garden location.

3.4 The remaining garden will be divided to provide a private rear garden and front courtyard for the new house, a private garden for the rear flat of the main building and a communal garden.

3.5 Access to the new house will be via the existing passageway, which is currently used to access the rear flats. Private cycle storage will be provided in the rear garden and the new house will use the communal refuse area at the front of the site.

3.6 The proposals are described in more detail in the Design, Access and Heritage Statement that supported the refused planning application.

Figure 3.1: Proposed Site Plan Extract



SECTION 4 | PLANNING POLICY CONTEXT

4.1 This section of the Statement of Case sets out the relevant planning policy context and other material considerations relevant to the appeal.

a) The Development Plan

4.2 The Development Plan comprises the Camden Local Plan (2017), The Fortune Green and West Hampstead Neighbourhood Plan (2015) and the London Plan (2021). The National Planning Policy Framework (2023), the West End Green Conservation Area Appraisal and Management Strategy (2011) and relevant Camden Planning Guidance are also of material consideration.

4.3 The Development Plan Policies that the Council alleges the appeal development would conflict with are set out below.

b) Camden Local Plan (2017)

- Policy G1 (Delivery and location of growth) – The Council will create the conditions for growth to deliver the homes, jobs, infrastructure and facilities to meet Camden’s identified needs and harness the benefits for those who live and work in the borough.
- Policy A1 (Managing the impact of development) – This policy seeks to ensure that standards of amenity are protected for occupiers and neighbours.
- Policy A3 (Biodiversity) – Is intended to protect and enhance sites of nature conservation and biodiversity.
- Policy D1 (Design) – Seeks to secure high quality design in development that seeks to respect the local context and character.
- Policy D2 (Heritage) – seeks to preserve and where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas and listed buildings.
- Policy T2 (Parking and car-free development) – Seeks to limit the availability of parking and require all new developments within the borough to be car free. Legal agreements will be used to ensure future occupants are aware they are not entitled to on-street parking.
- Policy DM1 (Delivery and monitoring) – Seeks to deliver the vision, objectives and policies of the Local Plan.

c) The Fortune Green and West Hampstead Neighbourhood Plan (2015)

- Paragraph A12 states *“infill developments: any replacement of a house or houses, or addition of a new house, within an existing terrace should be to the same scale as the terrace, including the roofline. It should be similar in form, materials and details. Replication of particular exterior details is strongly recommended where such details are consistent in streets. Houses should be set back from the pavement and match or fit the building lines of existing properties, with front garden areas remaining unpaved. The same principles should apply to vacant sites in streets where there is already a pattern of existing development.”*
- Paragraph A13 states *“Garden developments: in order to protect the Area’s green/open spaces, the development of new dwellings in private gardens should be avoided. If any developments are approved, they should maintain a much lower profile than existing housing stock, usually one or two storeys”.*
- Policy 17 (Green / open space) – Development shall protect and improve where appropriate, existing green / open space.

d) West End Green Conservation Area Appraisal and Management Strategy (2011)

- 4.4 Lymington Road is recognised as being a virtually intact late Victorian streetscape that contains large semi-detached red brick houses with random-stone garden walls and brick piers. The houses are enhanced with architectural features including iron balconies and lively multi-gabled roofscapes covered in terracotta tiles with ridgeline and finial detailing. The subject semi-detached property is reflective of these characteristics but has been internally divided into self-contained flats.
- 4.5 The Management Strategy identifies 1 Lymington Road as a building that makes a positive contribution to the conservation area.

SECTION 5 | STATEMENT OF CASE

- 5.1 The Decision Notice provides four reasons of refusal in relation to the appeal proposals, which are, as follows:
1. *“The proposed single storey dwellinghouse by reason of its inappropriate bulk, scale, location, massing, and detailed design would cause harm to the architectural composition of the host building and the character and appearance of the West End Green Conservation Area contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.*
 2. *The proposed single storey dwellinghouse by reason of its inappropriate height, design, extent, and proximity to the host building, would result in a loss of privacy to the occupiers within the flats of the host building, whilst also resulting in poor amenity outcomes to future occupiers. In the absence of a Daylight/Sunlight Assessment, insufficient evidence has been provided to demonstrate that the proposal would not result in a loss of daylight to the rear facing windows of the lower ground / ground floor flats of the host building. The proposal is therefore contrary to policy A1 (Managing the impacts of development) of the London Borough of Camden Local Plan 2017, the London Plan 2021 and the NPPF 2023.*
 3. *The proposed single storey dwellinghouse by reason of its footprint would result in the loss of an excessive part of garden space which contributes to the character of the townscape, the loss communal amenity space for occupiers of the host building, whilst also exceeding the scale of what could be considered a subordinate garden building. The proposal is therefore contrary to policy D1 (Design) and A3 (Biodiversity) of the London Borough of Camden Local Plan 2017 and policy 17 of the Fortune Green and West Hampstead Neighbourhood Plan.*
 4. *The proposed development, in the absence of a legal agreement securing car-free housing, would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017.”*
- 5.2 Each reason for refusal is addressed in turn below.

a) Reason for refusal 1 – The scheme proposals in respect of bulk, scale, location, massing and design

- 5.3 The first reason for refusal states that the single storey dwelling would be inappropriate in respect of its bulk, scale, location, massing, and detailed design and would therefore, cause harm to the host building and the character and appearance of the conservation area.
- 5.4 The property itself benefits from a relatively large rear garden comprising a total of 286.6sqm. The proposed dwelling within the garden would comprise 51sqm with a private garden comprising, 76.5sqm. The site slopes up towards the rear of the site with several mature trees along the west and north boundaries. The existing garden itself is poorly maintained, overgrown and underutilised, as shown in the images below (see Figure 5.1 below).
- 5.5 The proposed dwelling has been carefully designed and sited to respond to the complex site conditions weaving between existing mature trees on rising naturally to follow the site topography. The scheme design has sought to retain these mature trees within the garden, which has influenced the design of the proposed garden dwelling, its location and massing.

Figure 5.1 View towards Lymington Mansions Boundary



- 5.6 In terms of detailed design, Aurra Studio Architects explored the proposed geometry and form of the green roof design to develop a practical solution for the roof which would follow the site's topography and read as a plane of green from upper floor windows of the host property. The unique design of the roof has allowed for a design that would be sustainable and would maintain the feel of the existing garden landscape.
- 5.7 Lymington Road is characterised by three-storey late Victorian properties. Most of the properties, including the application property, have single-storey rear extensions. There are several outbuildings in the conservation area including at 10 Lymington Road, which was granted consent in March 2020 (ref: 2019/6036/P). At 20 Crediton Hill consent was granted in April 2023 to develop a self-contained flat on a backland site adjacent to a block of garages and occupied by an outbuilding. This site is similar to 1 Lymington Road, in that it is a wider plot than the rest of its neighbours.
- 5.8 Within the immediate area there is development deep into the plot at 1 and 2 Fawley Road, directly to the north of the site, as shown in Figure 5.2 below. These sites are similar end of row houses within the West End Green Conservation Area, adjoining properties on West End Lane. The proposals are therefore considered to be in keeping with the urban grain for these end of road sites.

Figure 5.2 Image of built form at 1 and 2 Fawley Road



- 5.9 The dwelling's placement within the garden has been thoughtfully considered to ensure it complements the existing built environment. The design and materials reflect the architectural style and character of the local area, ensuring consistency with the surrounding buildings. This approach prevents any harsh contrast in appearance, maintaining the aesthetic coherence of the neighbourhood.
- 5.10 Furthermore, the proposed garden dwelling would not disrupt the existing street scene or public views, as it is situated discreetly within the private garden area to the rear of the host property and is out of sight from public vantage points. The development is considered to preserve the openness and greenery of the garden, maintaining the balance between built structures and natural spaces that contribute to the character of the townscape.
- 5.11 Therefore, the proposed garden dwelling has taken into consideration existing site constraints and would not in respect of its, bulk, scale, location, massing, and detailed design cause harm to the architectural composition of the host building and the character and appearance of the West End Green Conservation Area.

b) Reason for refusal 2

a) Loss of privacy to the occupiers within the flats of the host building

- 5.12 In respect of the proposed layout of the proposed garden dwelling, the layout has been considered to ensure that the privacy of the host building flats is respected. There are no windows in the new dwelling which directly face the host building, apart from the side light to the entrance door, which the applicant would be happy to be conditioned to be obscure glazed. Whilst the window to the kitchen/living room faces south, views are to the passageway, with views to the rear flat in the host building are obscured by the proposed projecting bathroom and hallway.
- 5.13 The access past the ground floor flats in the host dwelling as currently approved is for a communal garden and therefore the number of people walking past the windows of the rear flat is not significantly increased by the provision of an extra unit. Indeed, the approved communal garden has a similar boundary relationship with the rear flat as the proposed additional house.
- 5.14 The green roof will ensure that the views from the flats on the upper floors of 1 Lyminster Road remain green, and again the relationship is similar given the approved communal garden.

b) Loss of daylight to rear facing windows of the lower ground / ground floor flats of the host building

- 5.15 A Daylight and Sunlight Assessment has been prepared by T16 Design in support of this planning appeal and to specifically address the second reason of refusal in relation to loss of daylight to the rear facing windows of the lower ground / ground floor flats of the host building. This report is attached at Appendix 2.

Appendix 2

- 5.16 The report has assessed the three rear windows of the host property for both the existing and proposed conditions. The results confirm that all windows retain 80% of their current values and are compliant with BRE recommendations in relation to daylight impacts. As all windows face within 90° of north, so no sunlight calculations were required as part of the assessment.
- 5.17 The report also provided an assessment of the neighbouring gardens which confirmed that the neighbouring garden retains in excess of 80% of its current area which receives 2 hours of sunlight on March 21st. Therefore the scheme is considered to be compliant with the BRE guidance in relation to sunlight impacts to gardens and overshadowing.

5.18 The Daylight and Sunlight Assessment concludes that there will be no adverse impacts on neighbouring residents in terms of daylight and the nearest neighbouring garden will retain in excess of 80% of its current area which receives 2 hours of sunlight therefore the proposed development is considered to be acceptable in daylight and sunlight terms and complies with policy A1, and therefore addresses the second reason for refusal.

c) Reason for refusal 3 – Loss of garden space

5.19 In terms of footprint, the Officer's Delegated Report states that the proposed dwelling footprint of 51sqm and height of 3000-5000mm would far exceed the scale of what would be considered as a subordinate garden building. The Officer's report further states that cumulatively the proposals would diminish the availability of communal garden amenity space for existing occupiers.

5.20 At present, the garden is overgrown and underutilised. The existing garden comprises 286.6sqm, the proposals subject to this appeal, sought to provide a private rear garden and front courtyard for the new proposed housing, a private garden for the rear flat of the main building and a communal garden. The existing communal garden was not adequately used by residents nor was it properly maintained. The host property is a block of flats and therefore, there is no defined owner of the garden and as a result the garden was not properly used by tenants. The proposals included dividing the existing garden to form a mix of private and communal gardens for the new house and for the existing flats and rooms at the host property. The garden will include new bicycle storage and landscaped pathways between the various gardens. The areas of private garden dedicated to the proposed new dwelling house are proportioned to give a sense of privacy and provide adequate high quality amenity space on a scale that can be manageably maintained and used throughout the year. This is considered to be a vast improvement to the existing situation and would provide residents with better garden amenity space which currently residents are not utilising. Therefore, on this basis, we refute the statement in the Officer's Delegated Report that states the proposals would diminish the availability of communal garden amenity space.

5.21 The proposed garden dwelling footprint would occupy 21.9% of the garden with 26.7% of private garden space. The proposed footprint is considered to be appropriate and would not result in the loss of an excessive part of the garden or garden space. The proposals have sought to ensure that adequate garden space would still be provided to the host property and the new proposed dwelling. The remaining 78sqm of garden area would be allocated to Flat A and the 63.4sqm would be communal garden space.

5.22 The size and footprint of the dwelling are considered to be proportional to the existing garden, ensuring that a substantial portion of the outdoor space remains intact for communal use and enjoyment, and the building does not dominate the site. Therefore, in our view, the scheme proposals would not result in the loss of an excessive part of the garden or garden space.

5.23 The proposed single-storey garden dwelling house has been carefully designed to ensure it does not harm the character of the townscape. The development is modest in scale, with a low-profile design that integrates harmoniously with the existing residential setting. The single-storey nature of the dwelling ensures that it remains visually unobtrusive and subservient to the main dwelling and surrounding properties.

d) Reason for refusal 4 – Legal agreement for car-free housing

5.24 To address the fourth reason for refusal, a certified and executed s.106 legal agreement has been provided alongside this planning appeal which seeks to secure car-free housing. Therefore, the proposed development would not contribute to parking stress and congestion in the surrounding area and is considered to be compliant with policies T2 and DM1 the Camden Local Plan 2017. This adequately addresses the reason for refusal four.

SECTION 6 | CONCLUSIONS

- 6.1 This Appeal Statement has been prepared in support of an appeal against the refusal of planning permission ref: 2024/0531/P by Camden Council for proposals at 1 Lymington Road, NW6 1HX.
- 6.2 This Statement of Case has demonstrated that:
- The proposed garden dwelling has taken into consideration existing site constraints and would not in respect of its, bulk, scale, location, massing, and detailed design cause harm to the architectural composition of the host building and the character and appearance of the West End Green Conservation Area.
 - The proposed layout has taken into consideration the rear ground floor flats at No.1 and the surrounding residential properties to ensure there would be no direct overlooking or loss of privacy.
 - A Daylight and Sunlight report has also been prepared that confirms that there will be no adverse impacts on neighbouring residents in terms of daylight and the nearest neighbouring garden will retain in excess of 80% of its current area which receives 2 hours of sunlight therefore the proposed development is considered to be acceptable in daylight and sunlight terms.
 - The size and footprint of the dwelling are considered to be proportional to the existing garden, ensuring that a substantial portion of the outdoor space remains intact for communal use and enjoyment, and the building does not dominate the site. Therefore, in our view, the scheme proposals would not result in the loss of an excessive part of the garden or garden space.
 - A certified and executed s.106 legal agreement has been provided alongside this planning appeal which seeks to secure car-free housing. Therefore, the proposed development would not contribute to parking stress and congestion in the surrounding area.
- 6.3 Therefore based on the reasons set out within this Statement of Case it is reasonable to conclude that the proposals are not considered to be contrary to Camden's Local Plan, The Fortune Green and West Hampstead Neighbourhood Plan (2015) and the West End Green Conservation Area Appraisal and Management Strategy (2011).
- 6.4 Having regard to the above, the Inspector is respectfully requested to allow this appeal, and grant planning permission.

