

1 Lymington Road, London, NW6 1HX

Planning Inspectorate ref: APP/X5210/W/24/3355892

London Borough of Camden ref: 2024/0531/P

Appellant Response to London Borough of Camden's Statement of Case and Third Party Comments 20 January 2025

1. Introduction

- 1.1 This document has been prepared by Firstplan, on behalf of our client, Quintet Investments Ltd (the Appellant), to provide a response to the London Borough of Camden's (The Council) Statement of Case dated 3 January 2025, and third-party comments that were received on 7 and 10 January 2024, in respect of planning appeal APP/X5210/W/24/3355892.
- 1.2 The Appellant's grounds for appeal have been clearly and fully set out within the Firstplan Appeal Statement of Case dated 20 November 2024. This note does not therefore seek to repeat the information set out within this Statement which is already before the Planning Inspector. However, it is considered appropriate to comment on the points raised within the Council's Statement of Case and the third party responses.
- 1.3 The Appellant's full response is provided below and addresses in turn each of the Reasons for Refusal and the points put forward by the Council in their Statement of Case. It is acknowledged that the Council agree at paragraph 3.21 that the reason for refusal 4 relating to the absence of a S.106 legal agreement has been addressed.

2. Response to London Borough of Camden Statement of Case

Reason 1 - The scheme proposals in respect of bulk, scale, location, massing and design

- 1.4 The Council's Statement states at paragraph 3.4 onwards that the precedents provided within the Appellants Statement of Case are not considered to be relevant. The applications were referenced within the Appellant's Statement of Case based on their similarity to the appeal scheme. It is acknowledged that the schemes are not directly identical in their proposals, however a precedence is set for outbuildings within the rear gardens, within the Conservation Area.
- 1.5 At paragraph 3.5 onwards the Council do not consider the planning applications referred to are considered to be relevant to the appeal scheme. These included 10 Lymington Road (ref. 2019/6036/P) and 20 Crediton Hill. The Appellant confirms that the application reference number being referred to for 20 Crediton Hill is 2022/0743/P.
- 1.6 Application ref. 2019/6036/P at 10 Lymington Road approved a small outbuilding for ancillary residential purposes to the rear of the main building. The application (ref. 2022/0743/P) at 20 Crediton Hill was approved to provide a self-contained, stand-alone residential property adjacent to a block of garages and occupied by an outbuilding. As per paragraph 5.7 of the Appellant's Statement of Case we remain of the view that site is similar to 1 Lymington Road, in that it is an end of terrace property with a wider plot than the rest of its neighbours. The same applies to 1 and 2 Fawley Road in that the properties are end of row houses within the Conservation Area.
- 1.7 The Appellant remains of the view that, the dwelling's placement within the garden 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. Additionally, the proposed garden dwelling would not disrupt the existing street scene or public views, and the development will preserve the openness and greenery of the garden, maintaining the balance between built structures and natural spaces that contribute to the character and appearance of the conservation area.

- 1.8 In summary, the proposed garden dwelling has taken the existing site constraints into consideration in that the site is enclosed by a mix of fences including a high rendered wall which is 4.1m in height to part of the western boundary. The location of the proposed dwelling has taken this into consideration and it is therefore considered that the proposal 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.

Reason 2 – Loss of Privacy

- 1.9 The Council state at paragraph 3.13 that the impact on the existing communal passage to the rear garden would be made worse by the proposal. Whilst the Appellant's case at paragraph 5.13 of the Statement of Case dated 20 November 2024 remains valid, the Appellant would like to reiterate that 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.
- 1.10 The Council do acknowledge at paragraph 3.13 that there are no windows directly facing the rear flat of the main building and therefore no direct overlooking and that the occupiers would only be using the rear garden on occasion.
- 1.11 In respect of the proposed layout of the proposed garden dwelling, the layout was sensitively considered to ensure that the privacy of the host building flats is respected. No windows were proposed in the new dwelling, which directly faces 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. In addition, the proposed soft landscaping and proposed fence lines within the design have also sought to safeguard privacy for the ground floor flat.

Loss of Daylight to Rear-Facing Windows

- 1.12 The Council states at paragraph 3.15 that the Daylight and Sunlight Report submitted in support of the planning appeal is not sufficient to address the reason for refusal due to a NSL test not being undertaken. The Council has not acknowledged that the Daylight and Sunlight Reports submitted with the appeal 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.
- 1.13 The Daylight and Sunlight report submitted with the appeal sets out in section 3.1, the justification for the proposed methodology used and confirms that the assessment has used the main criteria for daylight and sunlight analysis which is to show compliance with the Vertical Sky Component for daylight impacts and Annual and Winter Probable Sunlight Hours for sunlight impacts. The assessment concluded that there will be no adverse impact on neighbouring residents in terms of daylight and in terms of sunlight there were no windows that faced within 90 degrees of south and therefore no calculations were required.
- 1.14 Where VSC meets BRE guidance it is often accepted that the results provided are sufficient and it is common to use the VSC test where it shows a pass. Therefore the Appellant disagrees with the Council's statement that a NSL test should be included and is of the position that the Daylight and Sunlight assessment undertaken is sufficient to address the reason of refusal and the impact of the proposal on the availability of daylight / sunlight of the rear flat and is compliant with Policy A1.

Reason 3 – Height, Scale and Loss of Garden Space

- 1.15 At paragraph 3.17 of the Council's Statement of Case, the Council states that "*the new dwelling would have a footprint of 51 sqm and height of 3-5m, which in the Council's view far exceeds the scale of what*

would be considered a subordinate garden building". The Council goes on to further state that the size of the proposals do not adhere to traditional outbuildings.

- 1.16 The footprint and height of the proposed dwelling, while larger than traditional ancillary garden buildings, must be considered in context. The scheme proposals were sensitively designed to respond to existing site constraints which involved retaining mature trees and working with the sites sloping topography. The proposed height of the building varies in height in order to follow the site's topography and read as a plane from the upper floor windows of the host property. Therefore, we remain of the view that the proposed height is considered to be appropriate and proportionate to ensure functional living space for future occupiers. The Appellant also acknowledges that traditional garden outbuildings may be smaller in height, the comparison is not wholly applicable as the scheme proposals is for one self-contained dwelling rather than an ancillary building.
- 1.17 The Council state at paragraph 3.18 that when removing the private garden for Flat A would result in 234.6sqm to be shared between the remaining 13 flats equating to 18sqm per flat. The proposed dwelling would cover 1/3 of the permeable area and would reduce the communal garden area by 183.8sqm which is an 80% reduction in communal garden area.
- 1.18 As set out in paragraph 5.21 of the Appellant's Statement of Case, the proposed garden dwelling footprint would occupy 21.9% of the garden with 26.7% of private garden space. We remain of the view that, 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.
- 1.19 The Appellant would like to reiterate that at present the garden is overgrown and underutilised and the proposals subject to this appeal seeks 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 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.
- 1.20 It is acknowledged that the Council consider the amount of communal garden space being provided is not sufficient for residents but, at present the tenants do not benefit from any useable garden space and it is the intention of the appeal scheme to provide this. Supporting paragraph 6.49 of Camden's Local Plan highlights the importance of private amenity space in adding to residents quality of life and that applicants are encouraged to explore all options for the provision of new private outdoor space.
- 1.21 In addition, the Council states at paragraph 3.19 that the garden can easily be maintained with proper and ongoing garden maintenance. The Appellant would like to raise that although proper maintenance could address this issue, the Council has not considered the underlying issue of underutilisation. As is often the case with people living in flats is that there is no defined owner and therefore the garden ends up not being used. The appeal proposals seek to offer up a more permanent practical solution that would transform the garden space and ensure the occupiers of the flats and the new garden dwelling felt they had access to private amenity space.
- 1.22 Paragraph 3.20 of the Council's Statement of Case states that the new dwelling, further subdivision of the garden and the loss of communal outdoor amenity space would result in unacceptable levels of harm to amenity as well as loss of open space. The Appellant would like to highlight that the scheme proposals have sought to mitigate any unacceptable impacts to amenity and we remain of the view that the remaining garden space can still be designed and maintained to provide high quality outdoor amenity for residents, ensuring it remains functional and accessible.

Reason 4 – Legal Agreement for car-free housing

- 1.23 The Council accept at paragraph 3.21 that the fourth reason for refusal has been addressed as the Appellant has provided a executed S.106 legal agreement with the appeal. We confirm that we are liaising with the Council’s lawyer regarding completion of the legal agreement.

Assessment of The Council’s Planning Conditions

- 1.24 Under section 5 of the Council’s Statement of Case, the Council provide a list of suggested planning conditions should the appeal be allowed. The Appellant has reviewed these and confirm they are satisfied with the proposed conditions put forward.

3. Response to Third-Party Comments

- 1.25 A number of comments from third parties were received as part of this appeal on 7 and 10 January 2025. The Appellant has reviewed these comments, which primarily raise concerns regarding amenity, loss of garden space, and the proposed design. Most of these issues have already been addressed in the Appellant’s original Statement of Case and in the response to the Council’s Statement of Case. For clarity, the summary table below outlines the key issues raised and provides the Appellant’s responses.

Third Party Comments Summary	Appellant Response
Loss of privacy to the ground floor accommodation and windows to the side passage	As set out in paragraph 5.12 of the Appellant’s Statement of Case, the Appellant remains of the view that the proposed layout of the proposed garden dwelling 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.
Communal garden use is likely to be during favourable weather with access to the proposed dwelling will be more extensive and will result in more noise and nuisance.	The Officer’s Delegated Report stated that <i>“the proposal would not impact the neighbouring properties in regard to sunlight/daylight and noise nuisance.”</i>
Loss of green space	The Appellant remains of the view that the proposal will only take 51sqm of garden space and the benefits of the proposals are considered to outweigh this loss. The proposals do not remove any mature trees and include replacement planting.
Loss of trees and biodiversity	The loss of trees were not a reason for refusal. The planning application was supported by a comprehensive Arboricultural Impact Assessment. The Officer’s Delegated Report confirmed that the Tree Officer raised no objection in relation to the removal of two trees nor from a biodiversity perspective due to the tree being of low quality.
Creates a precedent	Applications are determined on individual merits which need to take into consideration site specific constraints. The site in particular has a challenging topography and the design sought to retain existing mature trees.

The appellant uses incorrect/untrue arguments at 5.8 in its appeal in relation to the extension structure at 2 Fawley Road. That structure was originally built in 1899/1900 as a detached Coach House and subsequently joined with full planning permission to the main house.	The comparison to 2 Fawley Road was in relation to the development's placement within the rear garden of the plot and the size of the plot which is similar to the appeal site.
Further impact on available parking spaces	The appeal proposal is for a 1 bedroom garden dwelling. In our view the impact on available parking spaces will be negligible.
Views from surrounding properties into the garden	<p>The proposals have incorporated a green roof and planting to ensure the 'garden feel' can be maintained when viewed from surrounding properties and the host property itself.</p> <p>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.</p>
Inappropriate in terms of scale, bulk and height	The Appellant remains of the view that the scheme proposal is considered to be appropriate in terms of scale, bulk and height and has been designed to take into consideration complex site constraints.
1 house would not contribute to the housing shortage	The Officer's delegated report stated that " <i>the proposed scheme would provide public benefits including one additional new unit.</i> " In addition, Camden Council falls substantially short on the 5 year housing land supply and therefore the presumption in favour of sustainable development is engaged and there is a need to place great weight on the provision of housing in decision making. Albeit the number is considered low but, nonetheless the dwelling would contribute to the housing supply within the borough.

4. Conclusion

- 1.26 In conclusion, it is considered that the Council's Statement of Case does not adequately assess the merits of the application. However, it is acknowledged that the Council agree that the reason for refusal 4 has been addressed.
- 1.27 The points within the LPA's Statement of Case have been clearly addressed within the submitted Firstplan appeal Statement of Case dated 20 November 2024. The proposal for a new garden dwelling to the rear of the site will provide additional high-quality housing within the Borough. In the light of the above, we hope that the Inspector has sufficient information to find in favour of these proposals. Please let us know if you have any queries.

Our Ref: 23213/KM/RB/ot