

Date: 20/12/2024
Your ref: APP/X5210/W/24/3355163
Our ref: 2023/3169/P
Contact: Sarah White
Direct line: 020 7974 5213
Email: Sarah.White@camden.gov.uk



Planning Solutions Team
Regeneration and planning
Culture & Environment Directorate
London Borough of Camden
Town Hall
Argyle Street
London
WC1H 8EQ

Tel: 020 7974 2555
planning@camden.gov.uk

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Bridget Holden,

Appeal/ Planning Reference	Site Address	Development Description
Your Ref: APP/X5210/W/24/3355163	Boydell Court St John's Wood Park London	Erection of a new 2 storey dwelling house and associated works in the northeast corner of Boydell Court Estate.
Our Ref: 2023/3169/P	NW8 6NH	

Appeal on behalf of SD Investments and Management in respect of refusal of planning permission under the Town and Country Planning Act 1990 (as amended).

1. INTRODUCTION

1.1. The Planning Permission (2023/3169/P) was refused under delegated powers on 15 July 2024 for the following reasons:

- 1. The proposed development, by reason of the siting and height of the building, and poor-quality design, would result in an incongruous form development, which would fail to make the best use of land and optimise the capacity of the site, and would appear out of context when compared to surrounding properties, causing harm to the character and appearance of the street scene, contrary to Policy D3 of the London Plan 2021 and Policy D1 of the Camden Local Pan 2017.*
- 2. The proposed development, by reason of the siting and height of the building, would ground and first floor flats within Block D by way of creating an increased sense of enclosure and overbearing, and a reduction daylight, contrary to Policy A1 of the of the Camden Local Pan 2017.*
- 3. The proposed development would provide unacceptable and substandard living accommodation by way of failure to provide sufficient floor to ceiling height, the poor outlook and light, and the absence of a private external amenity space, contrary to Policy D6 of the London Plan 2021 and Policy H6 and D1 of the Camden Local Pan 2017.*
- 4. The proposed development, in the absence of an Air Quality Assessment, has failed to demonstrate that future occupants would not be exposed to unacceptable*

levels of air pollution and subsequently that the site is suitable for residential use, contrary to Policy C1 and CC4 of the Camden Local Plan 2017.

5. *In the absence of a legal agreement securing an affordable housing contribution, the development would fail to maximise the supply of affordable housing to meet the needs of households unable to access market housing, contrary to Policy H4 of the Camden Local Plan 2017.*
 6. *In the absence of a legal agreement securing the development as car-free, the development would contribute to parking stress, congestion in the surrounding area, environmental impacts, and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to Policies C1, CC4, T1, T2, and DM1 of the Camden Local Plan 2017.*
 7. *In the absence of a legal agreement securing a Construction Management Plan, construction impact bond and an implementation and monitoring fee, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies G1, A1, A4, CC4, T3, T4, and DM1 of the London Borough of Camden Local Plan 2017.*
- 1.2. The Council wishes to rely on its *Delegated Report* (Officers Report), which sets out the decision-making process which led to the refusal of planning permission, and as such this assessment is not repeated below. However, the Appellant's Statement of Case (SoC) raises some points in defence of the appeal which Council hereby wish to refute.

2. COUNCIL'S RESPONSE

- 2.1. The Appellant's SoC has addressed each reason for refusal (RfR) in turn and therefore for ease, the Council's response also follows this format.
- 2.2. A point of clarification that the Council would like to draw the Inspectors attention to is in relation to the application timeframes set out within Paragraph 3.1 of the Appellant's SoC. This states that the application was registered on 15 February 2024 (incorrectly stating that this was by the 'London Borough of Barnet'), and that the application was submitted via the planning portal on 21 September 2022, however this timeline is incorrect. The application was received by Council on 02 August 2023, which is reflective of the date on the application form, being 31 July 2023. Whilst there was a delay in the validation of this application due to outstanding validation requirements, it is noted that the application was registered within 6 months of the application being received, not 18 months as noted by the Appellant.

RfR 1: Design

- 2.3. The first reason for refusal relates to the siting, height and poor-quality design of the proposed development, which would result in an incongruous form of development, fail to make the best use of land and optimise the capacity of the site, and would appear out of context when compared to surrounding properties, causing harm to the character and appearance of the street scene.
- 2.4. In terms of the proposed siting of the building, the Officers Report states that due to the location of the new building within close proximity to the site boundary, the established building line would be disrupted given that most of the properties along this part of the street have been set back with small front gardens/paved areas. The

proposed dwelling would be much closer to the street and would not include a green buffer of consistent width to other properties, including Boydell Court, along this part of the street. Paragraph 5.3 of the Appellant's SoC discusses the varied building lines within the Boydell Court Estate development, stating that they are not clearly defined and have been changed over time. It is important to be clear that the reason for refusal relates to the established building line along the adjoining road, St John's Wood Park, and not within the development itself. Along this frontage there is a generally consistent building line which would be disrupted by the introduction of a two-storey dwelling so close to the site's frontage on a prominent corner site.

- 2.5. The Appellant's SoC at paragraph 5.4 then goes on to highlight a previous planning permission (2022/4056/P) for the erection of a single-storey workshop building within the same location that was granted in February 2023. The Appellant attests that the principle of development in this location has therefore been established. The Council does not disagree with this statement; however, it is the increased scale of the current scheme that is inappropriate in this location. Below is a comparison of the street elevations of the previously approved workshop and the current proposal. It is evident that the Appeal Scheme would be significantly more dominant when viewed from the street scene, with the previously approved workshop having minimal visibility over the existing boundary treatment. Therefore, this disruption of the building line resulting from the Appeal Scheme would be more intrusive than the previously approved workshop, despite both schemes being within the same location.



- 2.6. Paragraph 5.5 Appellant's SoC addresses the height of the proposed development, stating that when seen against the backdrop of a large 9-11 storey flatted development that it would appear modest in size and subordinate to the larger building. The Appellant has somewhat misinterpreted the reason for refusal in this respect. The mention of height within the reason for refusal and as set out within the Officers Report, relates to the combination of the siting and two-storey height of the

building and the impact this has on the disruption of the building line, rather than the relationship between the height of the proposal and the existing buildings. This is clearly set out within paragraph 2.13 of the Officers Report and therefore the explanation has not been repeated here.

- 2.7. Moving onto design quality, the Appellant's SoC at paragraph 5.7 states that the proposal has been designed to be 'uncomplicated' rather than creating a bold architectural statement. The Appellant attests that the design makes reference to Block D of the main development by using matching brickwork and window design. The Council maintains the position that the proposed building is of poor-quality design for the reasons set out within paragraphs 2.16 and 2.17 of the Officers Report. It is reiterated that the Camden Local Plan requires a high quality of design - a higher bar than simply avoiding harmful design – and this is reflected in the NPPF which makes clear development should be visually attractive (para 135) and should be refused if it is not well designed (para 139).
- 2.8. Paragraphs 5.9 – 5.11 of the Appellant's SoC relate to optimisation of site capacity. The Appellant relies on the fact that the principle of development in this location has been established by the previous approval (2022/4056/P) for a single storey workshop in this location. The Appellant states that on the basis of this previous approval, the location '*makes it ideal for a new residential dwelling*'. Whilst it is acknowledged that a building has previously been approved in this location, this was only a single storey and was approved for an ancillary workshop use. The current proposal is larger in scale and is for a standalone dwellinghouse, which completely changes the nature of the development and has limited comparability to the previously approved scheme, aside from the location. Paragraphs 2.3 – 2.7 and 2.12 – 2.15 of the Officers Report clearly outline why the proposed development is not appropriate for this location and how the proposal fails to achieve site optimisation in a context appropriate manner.
- 2.9. In light of the comments above and the assessment provided within the Officers Report, the Council maintains that the proposed development, by reason of the siting and height of the building, and poor-quality design, would result in an incongruous form development, which would fail to make the best use of land and optimise the capacity of the site, and would appear out of context when compared to surrounding properties, causing harm to the character and appearance of the street scene. The evidence provided by the Appellant is insufficient to overcome this reason for refusal.

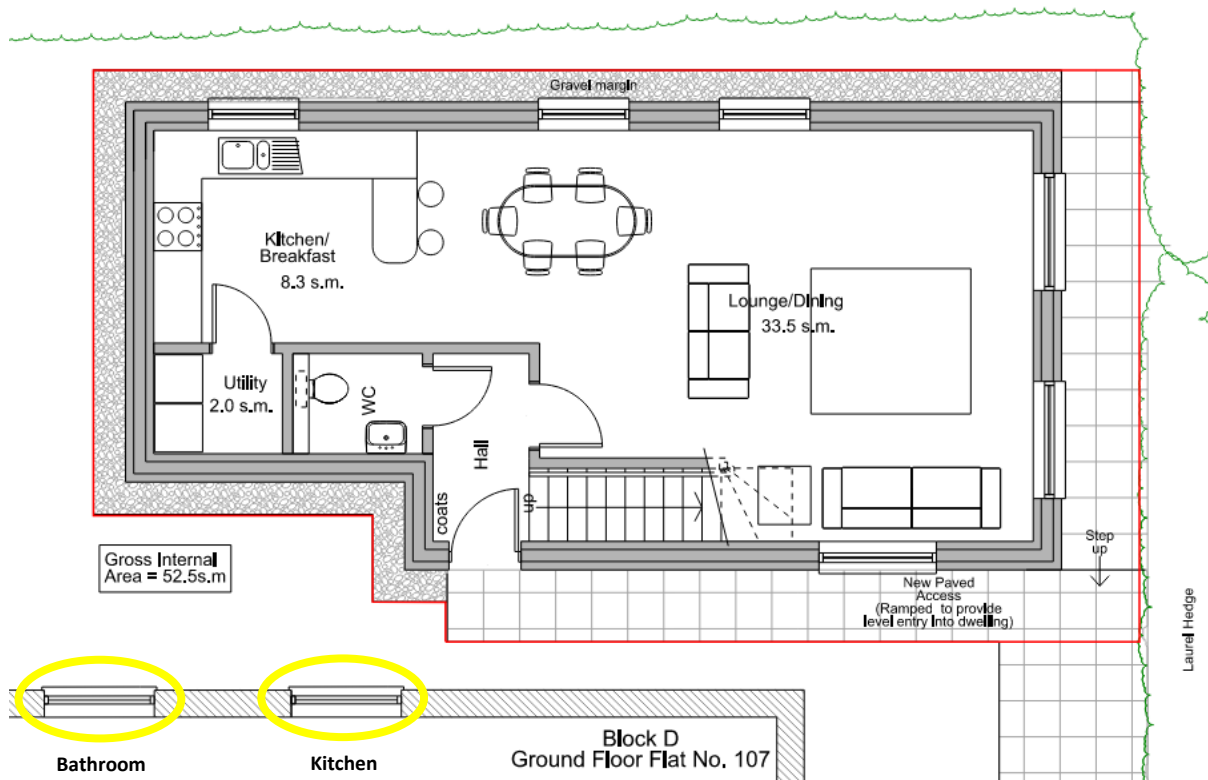
RfR 2: Neighbouring Amenity

- 2.10. The second reason for refusal relates to the impact of the development on neighbouring amenity, specifically the impact that the siting and height of the building would have on the ground and first floor flats within Block D by way of creating an increased sense of enclosure and overbearing, and a reduction daylight.
- 2.11. Paragraph 5.13 of the Appellants SoC states that the proposed dwelling has been located as close to the front of Block D as possible, '*whilst respecting the established building lines*'. As discussed in paragraph 2.4 above, the proposed development is not considered to respect the existing building lines along St John's Wood Park. The Appellant attests that the siting of the building would '*not interrupt views*', and that the adjoining windows within Block D (serving a kitchen and bathroom across the ground and first floor flats) would not be '*fully obscured*'. The Council would like to be clear that the reason for refusal relates to an increased sense of enclosure and overbearing, rather than a reduction in outlook. Nevertheless, the Appellant's

statement above is based on the fact that the height of the proposed development would sit lower than midpoint of the windows of the first-floor unit. However, the Council disagrees with this statement.

2.12. As evidenced by the ground floor plan below, the habitable kitchen windows of both flats would be entirely block by the proposed building. With regard to the first floor flat, whilst the height of the building would be slightly lower than the top of the first-floor windows, as illustrated by the image on page 23 of the Appellant' SoC, the primary outlook from this first floor window is through the bottom pane of the window, and the image clearly demonstrates that it would be blocked by the proposed building. This would result in an increased sense of enclosure for these occupants due to the limited setback of the proposed dwelling from these windows.

2.13. Paragraph 5.14 of the Appellant's SoC goes further to state that the proposed dwelling would be set in from these adjoining windows to maximise distances between the properties to ensure that outlook is maintained. The proposal would result in a blank façade within 2.5m of these habitable windows (being the two kitchen windows at ground and first floor), significantly increasing the sense of enclosure these occupants would experience when compared to the open and unobstructed outlook that they are currently afforded.



Proposed ground floor plan of the Appeal Scheme

2.14. With regard to daylight, no Daylight and Sunlight Assessment was submitted with the application to demonstrate that the proposal would not result in a harmful loss of light to both the dwellings to the north and west and ground and first floor levels. The Appellant has now submitted a Daylight and Sunlight Assessment as part of the appeal, and it is at the discretion of the Inspector as to whether this new information should be taken into account in the determination of the appeal. Notwithstanding this, the Council has reviewed this report and is satisfied that the proposed development

would not have an unacceptable impact on the light received up the adjoining dwellings within Block D to north and west and ground and first floor levels.

- 2.15. In summary, if accepted by the Inspector, the Council is satisfied with the findings of the submitted Daylight and Sunlight Assessment which demonstrate that the proposed development would not result in unacceptable impacts on the daylight and sunlight received by adjoining dwellings. Notwithstanding this, the Council maintains that the proposed development by reason of the siting and height of the building, would result in an increased sense of enclosure and overbearing for the ground and first floor flats within Block D. The evidence provided by the Appellant is insufficient to overcome this aspect of the reason for refusal.

RfR 3: Standard of Accommodation

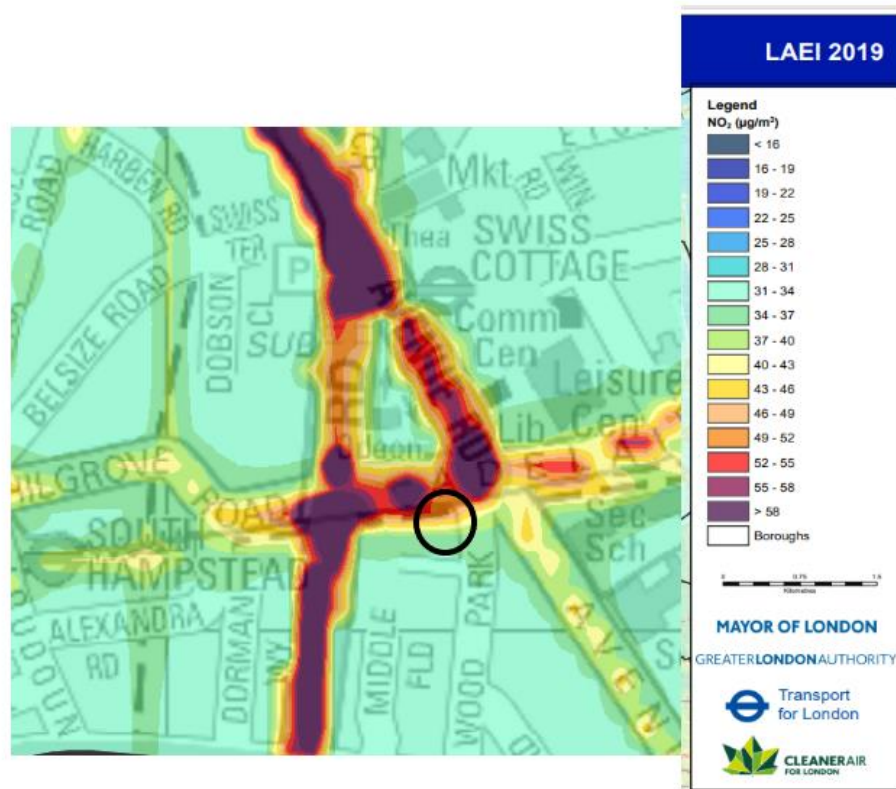
- 2.16. The third reason for refusal relates to the standard of accommodation provided, specifically that the proposed development would provide unacceptable and substandard living accommodation by way of failure to provide sufficient floor to ceiling height, the poor outlook and light, and the absence of a private external amenity space.
- 2.17. With regard to floor to ceiling height, all new dwellings should achieve a minimum floor to ceiling height of 2.5m for at least 75 per cent of the total Gross Internal Area of the dwelling in accordance with Policy D6 of the London Plan. In this instance, the proposed dwelling would fall short of this requirement, and given that this is a new dwelling, there is no reason why this could not be achieved. This is addressed further in paragraph 2.20 of the Officers Report.
- 2.18. Within paragraph 5.19 of the Appellant's SoC, the Appellant states that the floor to ceiling height could be made compliant by reducing the height of the entrance ramp slightly to regain height internally. The Appellant has not provided amended plans to demonstrate that this could be achieved without compromising other aspects of the proposal, therefore the Council is unable to properly assess whether this would be an appropriate solution. It is respectfully requested that the Inspector dismisses this hypothetical proposal due to lack of evidence to demonstrate that this could feasibly be implemented.
- 2.19. In terms of outlook, paragraph 5.21 of the Appellant's SoC states that the Council has *'failed to acknowledge the fact that there are windows on three elevations of the dwelling and there is at least a 1 metre gap on all sides which will allow for some outlook'*. This statement is incorrect; paragraphs 2.26 – 2.27 the Officers Report, and the associated diagram, clearly demonstrate how the Council has considered the setback of the proposed dwelling from the site boundaries when coming to its conclusion on the quality of outlook. The Council maintains that future occupants would be afforded poor quality outlook from the main ground floor living space.
- 2.20. With regard to daylight, as noted above, no Daylight and Sunlight Assessment was submitted with the application to demonstrate that the proposal dwelling would receive adequate levels of light. The Appellant has now submitted a Daylight and Sunlight Assessment as part of the appeal, and it is at the discretion of the Inspector as to whether this new information should be taken into account in the determination of the appeal. Notwithstanding this, the Council has reviewed this report and is satisfied that the proposed development would receive acceptable levels of light within all habitable rooms.

- 2.21. Lastly, in relation to private amenity space the Appeal Scheme does not include any private external amenity space for future occupants. Paragraph 5.25 of the Appellant's SoC states that '*the proposed plans do allow for the provision of private external amenity space, although the formal subdivision of the land has not been shown on the plans*'. The Appellant has not provided a plan to show the intended location or layout of this proposed private external amenity space and requested that this be conditioned. Paragraph 5.27 of the Appellant's SoC then goes on to state that overlooking from adjoining properties would be largely from non-habitable rooms, however, has not provided evidence to show that the windows within the units to the west are all non-habitable.
- 2.22. Paragraphs 2.21 – 2.25 of the Officers Report outlines why a suitable private amenity space cannot be provided at the site, and for these reasons it is not considered to be appropriate to require details of an external amenity space to be provided via condition.
- 2.23. In summary, if accepted by the Inspector, the Council is satisfied with the findings of the submitted Daylight and Sunlight Assessment which demonstrate that the proposed development would receive adequate levels of daylight and sunlight. Notwithstanding this, the Council maintains that the proposed development would provide an unacceptable and substandard living accommodation by way of failure to provide sufficient floor to ceiling height, the poor outlook, and the absence of a private external amenity space. The evidence provided by the Appellant is insufficient to overcome this aspect of the reason for refusal.

RfR 4: Air Quality

- 2.24. The fourth reason for refusal relates to the failure of the Appellant to demonstrate that future occupants would not be exposed to unacceptable levels of air pollution and subsequently that the site is suitable for residential use. Paragraph 2.40 of the Officers Report outlines that the proposal would introduce new sensitive receptors within an area of very poor air quality, and an Air Quality Assessment would be required to demonstrate that the site is suitable for residential use.
- 2.25. No Air Quality Assessment (AQA) was submitted with the application; however Appellant has now provided one as part of the appeal, and it is at the discretion of the Inspector as to whether this new information should be taken into account in the determination of the appeal. Notwithstanding this, the Council has reviewed this report and raises concerns with the assessment and conclusions relating to operational impacts on occupants as follows:
- The Department for Environment Food and Rural Affairs (DEFRA) mapped background value for the site grid location - 526744, 184097 is not referenced in the report.
 - The report refers the following sources for air quality:
 - *Local monitoring sites* – which shows levels of NO₂ under the objective level but particulate matter close to or higher than those considered to be poor air quality by the London Plan 2021.
 - *London Atmospheric Emissions Inventory (LAEI) 2025 projections of 2019 modelling* - The AQA should not use old projections to 2025 as these are based on assumptions. If 2019 mapping indicates the area has poor air quality, then as the proposal introduces new receptors, the AQA should model the site using DEFRA background concentrations/traffic data and sense check against recent monitoring data.

- The Camden Planning Guidance (CPG) on Air Quality clearly states that that modelling should not predict improvements to future years (future vehicle emissions or future background concentrations):
 - The Council expects use of the nearest and most representative valid data source or sources to the proposed site. Other things being equal, Monitoring Emissions to Air, Land and Water (MCERTS) approved monitors are preferable versus diffusion tubes, while triplicate tube sites are preferred over single tube sites.
 - For background concentrations, the Council expects the use of the nearest AMS station's most recent valid data or the DEFRA mapped value, whichever is greater.
 - The Council expects use of baseline year data for development year scenarios – especially vehicle emission factors and background concentrations. On the basis of reliability, forward projected values are not accepted except for road movements.
- It is also noted that the LAEI mapping doesn't take into account the London Underground ventilation shaft. There is reference to two documents and a statement that "*Whilst data on the quantification of emissions from operational Transport for London (TfL) underground ventilation shafts is limited, some studies have been published*" ... "*Research undertaken on emissions from a ventilation shaft on the Victoria Line concluded that there was little evidence to suggest that ventilation shaft emissions increased dust concentrations and dust deposition rates beyond baseline conditions.*"
- The following referenced documents could not be located by the Council:
 - *4-Rail Services Ltd, 2011. Analysis of Airborne Dust Samples Collected from Victoria Line Vent Shafts Adjacent to Vauxhall Station and from Platforms*
 - *Crossrail Ltd/ERM 2009. Environmental Statement*
- It is noted that Section 6.3.2 of the AQA states: "*The TfL ventilation shaft is located within 10m of the northern façade of the building and research However, due to the close proximity of the proposed development and its high sensitivity receptors to the shaft vent, it is recommended to follow good air quality practice and include a PM filtration system to the MVHR system for the proposed development. The MVHR system is proposed to use an F7 pollen filter to capture fine particles in addition to the coarse pre-filter to the MVHR*". Further information would be required to confirm the conclusion that the "*shows that ventilation shafts do not typically create a significant change to the baseline PM concentrations within the area.*"
- Considering the most recent mapping of the site from the LAEI 2019 (see below) the site is considered to be in an area of particularly poor air quality and therefore it was expected that the AQA having noted this would have undertaken up to date site specific modelling in order to determine the current air quality for the site and appropriate use of the site or mitigation required such as design considerations including setting residential property back from polluted roads and other sources.



LAEI 2019 Map

2.26. For the reasons set out above, Council considers that the AQA submitted with the Appeal is inadequate to demonstrate that the site is suitable for residential use and that the future occupants would not be exposed to unacceptable levels of air pollution. It is not considered appropriate to require a revised AQA subject to condition, as it needs to be clearly demonstrated that the site is suitable for residential use prior to approval being provided. As such, the evidence provided by the Appellant is insufficient to overcome this aspect of the reason for refusal.

RfR 5, 6 and 7: Planning Obligations – S106 Legal Agreement

2.27. The three final reasons for refusal relate the absence of a legal agreement to secure an affordable housing contribution, car-free development, and a construction management plan and associated construction impact bond and implementation and monitoring fees.

2.28. It is noted that the Appellant is willing to enter into a legal agreement covering the heads of term above, and the Appellant has prepared a Section 106 Legal Agreement which has been reviewed and agreed to by Council's Legal Team. Should the Inspector resolve to allow the appeal then it is requested that this is subject to the signing and acceptance of this Section 106 Legal Agreement.

2.29. 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 relates to the development; and
- Fairly and reasonably related in scale and kind to the development.

- 2.30. 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.

Affordable housing

- 2.31. Paragraphs 2.8 – 2.10 of the Officers Report outline why an affordable housing contribution is required in accordance with Policy H4 of the Camden Local Plan and how the contribution amount has been calculated.
- 2.32. 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:

- 2.33. 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 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.

Car-free development

- 2.34. Paragraph 2.44 of the Officers Report outline why the development must be secured as car-free in accordance with Policy T2 of the Camden Local Plan.
- 2.35. 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".
- 2.36. The 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 a potential future purchaser 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:

- 2.37. The car-free requirements complies with the CIL Regulations 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. This supports key principle 4 of the National Planning Policy Framework: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the parking provision for the site and impact on the surrounding highway network.

Construction Management Plan

- 2.38. Paragraphs 2.45 – 2.46 of the Officers Report provide justification for the submission of a construction management plan (CMP) and associated construction impact bond and implementation and monitoring fees, in accordance with Policy A1.
- 2.39. 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.
- 2.40. 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.
- 2.41. 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.
- 2.42. A Construction Management Plan Bond ("CMP Bond") is required for a similar reason to the CMP due to the scale of the proposed development as well as the demolition works. This is to ensure that if the need for any enforcement were to arise both the residents and the Council have the financial resources to be able to enforce the CMP to ensure the ongoing protection of amenity and the efficient operation of the highways network in the area. The CMP Bond is returned to the Owner after the construction period minus any funds if required to be drawn down by the Council. The Bond amount is in line with our guidance based on the scale of the development.

CIL Compliance:

- 2.43. 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.

3. CONCLUSION

- 3.1 In summary, Council maintains the position that the application should be refused and considers that the information submitted by the Appellant in support of the appeal does not overcome or address Council's reasons for refusal.
- 3.2 As such, it is respectfully requested that the Inspector dismisses the appeal accordingly. However, should the Inspector allow the appeal, it is requested that the following conditions below are imposed and that a Section 106 Agreement be entered into as per the attached; notwithstanding the issues regarding conditions related to private external amenity space and an air quality assessment as outline within paragraphs 2.22 and 2.26 of this SoC and paragraphs 2.21 – 2.25 of the Officers Report.

4. SUGGESTED CONDITIONS

<p>Time Limit</p> <p>The works hereby permitted shall be begun not later than the end of three years from the date of this consent.</p> <p><u>Reason:</u> In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended)</p>
<p>Approved Plans</p> <p>The development hereby permitted shall be carried out in accordance with the following approved plans-</p> <p>Location Plan; 561/20; 561/21; 561/22; 561/23; 561/24; 561/25; 561/26; 561/27; 561/28; 561/29; 561/30; Design and Access Statement; Energy Assessment; Building Regulations Compliance Report.</p> <p><u>Reason:</u> For the avoidance of doubt and in the interest of proper planning.</p>
<p>Materials</p> <p>Prior to commencement of the development, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:</p> <p>a) Details including sections at 1:10 of all windows (including jambs, head and cill), ventilation grills, external doors and gates;</p>

b) Plan, elevation and section drawings, including fascia, cornice, pilasters and glazing panels of the new shopfronts at a scale of 1:10;

c) Manufacturer's specification details of all facing materials (to be submitted to the Local Planning Authority),

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 of the London Borough of Camden Local Plan 2017.

Landscaping details

No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the local planning authority in writing. Such details shall include details of any private external amenity space. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policies A2, A3, and D1 of the London Borough of Camden Local Plan 2017.

Landscaping maintenance

All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development. Any trees or areas of planting (including trees existing at the outset of the development other than those indicated to be removed) which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, and D1 of the London Borough of Camden Local Plan 2017.

Cycle Storage

Prior to commencement of the development, details of secure and covered cycle storage area for 2no. 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.

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.

Air Quality Assessment

Prior to commencement of the development, a revised air quality assessment report, written in accordance with the relevant current guidance, for the existing site and proposed development shall be submitted to and approved by the Local Planning Authority.

The development shall be at least "Air Quality Neutral" and an air quality neutral assessment for both buildings and transport shall be included in the report.

The assessment shall assess the current baseline situation in the vicinity of the proposed development. The report shall include all calculations and baseline data and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

If required a scheme for air pollution design solutions or mitigation measures based on the findings of the report shall be submitted to and approved by the Local Planning Authority prior to development. This shall include mitigation for when air quality neutral transport and building assessments do not meet the benchmarks or if mitigation is not adequate then an air quality neutral offset payment may be agreed.

The approved design or mitigation scheme shall be constructed and maintained in accordance with the approved details.

Reason: To protect the amenity of residents in accordance with London Borough of Camden Local Plan Policy CC4 and London Plan policy SI.

Air Source Heat Pump

Prior to commencement of above ground works, details, drawings and data sheets showing the location, Seasonal Performance Factor of at least 2.5 and Be Green stage carbon saving of the air source heat pump and associated equipment 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. A site-specific lifetime maintenance schedule for each system, including safe access arrangements, shall be provided. The equipment 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 policy CC1 of the London Borough of Camden Local plan.

Water efficiency

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, CC3 of the London Borough of Camden Local Plan 2017.

Non-road Mobile Machinery

All non-Road mobile Machinery (any mobile machine, item of transportable industrial equipment, or vehicle - with or without bodywork) of net power between 37kW and 560kW used on the site for the entirety of the [demolition and/construction] phase of the development hereby approved shall be required to meet Stage IIIB of EU Directive 97/68/EC. The site shall be registered on the NRMM register for the [demolition and/construction] phase of the development.

Reason: To safeguard the amenities of the adjoining occupiers, the area generally and contribution of developments to the air quality of the borough in accordance with the requirements of policies G1, A1, CC1 and CC4 of the London Borough of Camden Local Plan 2017.

M4(2) Dwelling

The dwelling hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2), evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy H6 of the London Borough of Camden Local Plan 2017.

If any further clarification of the appeal submissions is required, please do not hesitate to contact Sarah White on the above direct dial number or email address.

Yours sincerely,

Sarah White
Senior Planning Officer