

PLANNING SERVICES

**TOWN & COUNTRY PLANNING (DETERMINATION BY INSPECTORS)
(INQUIRIES) RULES 2000**

PROOF OF EVIDENCE

Ben Le Mare BA (Hons) MTCP MRTPI

FOR PUBLIC INQUIRY COMMENCING ON 18 December 2013

APPEAL SITE

4 St. Augustine's Road, London, NW1 9RN

APPELLANT

Mr Paul Godfrey

SUBJECT OF APPEAL

Appeal against London Borough of Camden's refusal of Planning Permission for the 'Erection of five storey building comprising 9 residential units (2x 2 bedroom and 7x 3 bedroom flats) (Class C3).'

COUNCIL REFERENCE: 2013/1210/P

PLANNING INSPECTORATE REFERENCE: APP/X5210/A/13/2204277/NWF

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INTRODUCTION

- i. I, Ben Le Mare, have prepared this proof of evidence for presentation at the Public Inquiry into the appeal. I hold a Bachelor of Arts in Town and Country Planning, with Honours, and a Masters in Town and Country Planning. Both qualifications were achieved at the University of West of England, Bristol. I have been a licentiate Member of the Royal Town Planning Institute since 2006.
- ii. I have over seven years experience working as a professional Town Planner for Local Planning Authorities, and two years for King Sturge LLP - an international property consultancy. Since June 2012 I have been working as Senior Planning Officer in Development Management in Camden Council's Local Planning Authority.
- iii. During my professional career as a planning officer I have dealt with a wide range of planning applications including strategic, major, minor, and householder development proposals. The majority of these applications required an assessment of a development's impact on the character and appearance of an area.
- iv. The evidence that I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

STRUCTURE OF THE PROOF

v. In my evidence I provide a summary of the application which is the subject of the appeal and the process undertaken leading to the refusal. I identify and summarise the policy framework under which the Council's decisions were made. I deal with the Council's main reasons for refusal and also the matters to which it will be necessary to cover under a planning obligation.

vi. My evidence will be divided into seven sections:

Section 1: (Subject of appeal) I shall provide a summary of the planning application and the reasons for refusal.

Section 2: (Planning history) I shall provide a brief summary of the planning history relating to the site. Summarised details are set out in the Statement of Common Ground.

Section 3: (Planning policy and guidance) I shall identify national, regional and local planning policies and guidance relevant to the reasons for refusal and the issues discussed in my proof.

Section 4: (Site and surroundings) I will describe the appeal site and surrounding area.

Section 5: (Assessment of proposal) I will provide an assessment of the proposed development in the context of the NPPF. Regarding the scale, massing and detailed design of the building, my colleague Mortimer MacSweeney will discuss, in his separate proof, how would represent an unsympathetic addition to the street scene and would fail to achieve the necessary quality of architectural design befitting of this prominent site within Camden Square Conservation Area.

Section 6: (S106 planning obligations) I will outline the Council's position on the requirement for section 106 obligations are set out in order to overcome reasons for refusal numbers: 2, 3, 4, 5, 6, 7, 8, 9.

Section 7: (Conditions) I will list the conditions which, notwithstanding the outcome of this appeal, should be

Section 8 (Conclusion) I will summarise the arguments made in this proof of evidence.

vii. In addition to myself, the Council will call one witness:

- Mortimer MacSweeney, Senior Conservation Officer with Camden Council. This evidence will support the Council's Refusal Reason 1.

1.0 SUBJECT OF APPEAL

- 1.1 The appeal is against the London Borough of Camden's refusal of an application for planning permission for the erection of five storey building comprising 9 residential units (2x 2 bedroom and 7x 3 bedroom flats) (Class C3) at 4 St. Augustine's Road, London, NW1 9RN ("The Site"). The proof of evidence herewith describes the appeal.

PLANNING APPEAL

- 1.2 An application (2013/1210/P) was received by Camden Council on 4 March 2013 for planning permission for the aforementioned development described under section 1.1.
- 1.3 The application was registered on 25 March 2012.
- 1.4 On 25 March 2013 written notification of the application was sent to 89 neighbouring addresses. Camden Square Conservation Area Advisory Committee (CAAC) and Thames Water were also notified on this date. A site notice was displayed outside the site on 27 March 2012 for a period of three weeks. An advertisement was placed in the Ham & High newspaper on 4 April 2013.
- 1.5 A re-consultation of the adjoining occupiers, those who had comment on the proposals and the Camden Square CAAC took place to notify them that amended plans had been received to reduce the balconies on the western elevation from four floors to three floors, and their width reduced in ascension. Letters were sent on 10 May 2013.
- 1.6 A response from Thames Water was received on 10 April 2012 stating no objection on waste or water grounds. They however advised that informatives should be appended to any planning approval.
- 1.7 The Camden Square CAAC raised concerns with the application on 25 April 2013, which for the Inspector's convenience are summarised below:

- Consider the overall scheme to be disappointing and not an enhancement to the conservation area with overall style being bland
- Although the proposal is bulkier than its neighbours it suits the prominent position and is not overwhelming
- Concern about window hierarchy - no hierarchy in graded heights to glazed doors to balconies on west elevation and unnecessarily high railings
- St Augustine Road frontage relates poorly to street
- Porch/portico is ungainly
- Landscaping is unimaginative
- Agar Grove and St Augustine's Road elevations seem disconnected from the Murray Street side of the building
- May affect light to neighbouring properties
- They also comment that the lift overrun not shown on drawings and window surrounds would not comply with Building Regulations

1.8 In response to neighbouring consultation the following representations were received (these have already been forwarded to the Planning Inspectorate as part of the Questionnaire):

- Belvard Point Residents and The Committee of Belvard Point have raised objections.
- Letters of objection from 6 residents (first consultation) and 4 residents (second consultation)

1.9 The design of the proposed building was amended during the planning application to address concerns about the design of the western elevation. The balconies on this elevation have been reduced from four floors to three floors, and their width reduced in ascension to relate to the traditional window hierarchy of Agar Road and St Augustine's Road.

1.10 The application was recommended for approval by officers and presented at Development Control Committee on 15 August 2013. The Development Control Committee resolved to refuse the application and the final decision notice (please see **Appendix 1**) was subsequently issued on 22 August 2013. The reasons for refusal comprised:

- 1 *The proposed development, by reason of its scale, massing and detailed design, would appear as an unsympathetic addition to the street scene and would fail to achieve the necessary quality of architectural design befitting of this prominent site. As such it would neither preserve nor enhance the character and appearance of the Camden Square Conservation Area contrary to policies CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.*

- 2 *The proposed development, in the absence of a legal agreement to secure the provision of a Construction Management Plan, would be likely to contribute unacceptably to traffic disruption, and be detrimental to the amenities of the area generally, contrary to CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Core Strategy and Development Policies.*

- 3 *The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies CS11 (sustainable travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy, and policies DP18 (parking standards), DP19 (Managing the impact of parking) and DP32 (Air quality and Camden's Clear Zone) of the London Borough of Camden Local Development Framework Development Policies.*

- 4 *The proposed development, in the absence of a legal agreement securing necessary contributions towards highway works would fail to make provision to restore the pedestrian environment to an acceptable condition after construction contrary to policy CS11 (sustainable travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and DP17 (walking, cycling and public transport) of*

the London Borough of Camden Local Development Framework Development Policies.

- 5 The proposed development, in the absence of a legal agreement securing a sustainable energy strategy, would fail to take sufficient measures to minimise the effects of, and adapt to, climate change contrary to policies CS13 (tackling climate change) and DP22 (sustainable design and construction) of the London Borough of Camden Local Development Framework Core Strategy and Development Policies.*
- 6 The proposed development, in the absence of a legal agreement for securing a contribution to open space provision, would be likely to contribute unacceptably to pressure and demand on the borough's existing open space facilities, contrary to policies CS15 (Protecting and improving our parks and open spaces & encouraging biodiversity) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP31 (Provision of, and improvements to, open space) of the London Borough of Camden Local Development Framework Development Policies.*
- 7 The proposed development, in the absence of a legal agreement for securing a contribution to education provision, would be likely to contribute unacceptably to pressure and demand on the borough's existing educational facilities, contrary to policies CS10 (Supporting community facilities and services) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP15 (Community and leisure) of the London Borough of Camden Local Development Framework Development Policies.*
- 8 The proposed development, in the absence of a legal agreement securing a necessary contribution towards pedestrian, cycling and environmental improvements in the area would fail to make sufficient provision in a sustainable manner for the increased trips generated by the development contrary to policy CS11 (sustainable travel) of the London Borough of Camden Local Development Framework Core Strategy and DP17 (walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development*

Policies.

- 9 *The proposed development, in the absence of a legal agreement to secure a deferred affordable housing contribution, would fail to maximise the contribution made by the development to the supply of affordable housing in the borough, contrary to policies CS6 (Providing Quality Homes) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy, policy DP3 (Contributions to the supply of affordable housing) of the London Borough of Camden Local Development Framework Development Policies.*

One informative was added to the decision notice:

Without prejudice to any future application or appeal, the applicant is advised that reasons for refusal numbers 2 - 9 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.

2.0 RELEVANT PLANNING HISTORY

- 2.1 The last known lawful use of The Site was as a builder's yard, and has been vacant for a number of years. The Site is recognised as having no authorised or established use.
- 2.2 In October 2008 an application was submitted for the erection of a basement and part three, four and five storey building of 1,200sqm to create nine residential (5x 2-bed, 3x 3-bed, 1x 4-bed) units (Class C3) plus associated disabled parking, cycle and refuse stores and landscaping (ref: 2008/4783/P). This application was refused consent on 1 July 2009.
- 2.3 The primary reason for refusal was:
- **Reason 1:** *The proposed development, by reason of its scale and detailed design, would appear as an incongruous feature on this prominent site, failing to preserve or enhance the character and appearance of the Camden Square Conservation Area or the wider area contrary to policies B1 (General design principles) and B7 (Conservation areas) of the London Borough of Camden Replacement Unitary Development Plan 2006, guidance within the Camden Planning Guidance (2006) and Camden Square Conservation Area Statement.*
- 2.4 Further reasons related to the failure to secure appropriate mitigation measures by way of s106 legal agreement, relating to the following concerns:
- **Reason 2:** Affordable housing contribution in the circumstances that any of the residential units are subdivided in the future
 - **Reason 3:** Provisions for Public Open Space
 - **Reason 4:** Provisions for Education
 - **Reason 5:** Car-free housing
 - **Reason 6:** Demolition and Construction Management Plan
 - **Reason 7:** Highways works
 - **Reason 8:** Environmental sustainability measures including compliance with Level 3 of the Code for Sustainable Homes

- 2.5 The Council's decision was appealed through written representations on 17 August 2009 (ref: APP/X5210/A/09/2110690). The Inspectorate resolved to dismiss the appeal on 28 January 2010 (attached as **Appendix 2** of this Proof).
- 2.6 A subsequent planning application (ref: 2010/6748/P) was submitted in December 2010 for the erection of basement and part three and four storey building of 1,214sqm to create nine (7x 2-bed & 2x 3-bed) residential units (Class C3). This application was refused at Development Control Committee on 7 April 2011.
- 2.7 The primary reason for refusal was:
- **Reason 1:** *The proposed development, by reason of its scale and design, would appear as an incongruous feature on this prominent site, failing to preserve and enhance the character and appearance of the Camden Square Conservation Area or the wider area contrary to policies CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.*
- 2.8 Further reasons related to the failure to secure appropriate mitigation measures by way of s106 legal agreement, relating to the following concerns:
- **Reason 2:** Affordable housing contribution in the circumstances that any of the residential units are subdivided in the future
 - **Reason 3:** Provisions for Public Open Space.
 - **Reason 4:** Car-free housing.
 - **Reason 5:** Provisions for Education.
 - **Reason 6:** Highways Works.
 - **Reason 7:** Environmental sustainability measures including compliance with Level 3 of the Code for Sustainable Homes.
- 2.9 The applicant did not appeal the Council's decision to refuse this application.

- 2.10 In response to the Council's decision to refuse the subject application of this appeal, a further planning application was submitted on 13 September 2013, which proposes the 'Erection of five storey building comprising 9 residential units (2x 2 bedroom and 7 x 3 bedroom flats) (Class C3).' This application is pending consideration and expected to be determined prior to the date of the Inquiry.

3.0 PLANNING POLICY AND GUIDANCE

- 3.1 Copies of all the Council's Core Strategy and Development Policies listed below have already been sent as part of the Questionnaire. However for ease extracts of all the specific policies and guidance that I refer to in section 5 of my proof (Assessment of proposal) are included in appendices to the proof.

National policy documents:

- 3.2 At the time of the decision the National Planning Policy Framework (NPPF) and accompanying PPS 5: Planning for the Historic Environment Practice Guide (which remains a valid and Government endorsed document) are a material consideration (attached in **Appendix 3**).
- 3.3 The NPPF states that the purpose of planning is to help achieve sustainable development. *'Sustainable development is about change for the better, and not only in our built environment... is about positive growth – making economic, environmental and social progress for this and future generations...Planning must be a creative exercise in finding ways to enhance and improve the places in which we live our lives.'* (Ministerial Forward, page i)
- 3.4 The three dimensions of sustainable are economic, social and environmental, and the planning system must perform three roles in achieving sustainable development. Paragraph 7 sets out the following:
- **an economic role** – *to build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type, and in the right places, is available to allow growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
 - **a social role** – *to support strong, vibrant and healthy communities, by providing an increased supply of housing to meet the needs of present and future generations; and by creating a good quality built environment, with accessible local services that reflect the community's needs and supports its health and well-being; and*

- ***an environmental role*** – *to protect and enhance our natural, built and historic environment, to use natural resources prudently and to mitigate and adapt to climate change, including moving to a low-carbon economy.*
- 3.5 NPPF paragraph 8 states that these three *“roles should not be undertaken in isolation, because they are mutually dependent. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions.”*
- 3.6 The Core Planning Principles of the NPPF set out in paragraph 17 state that planning should *“always seek to secure high quality design”* (bullet point 4) and *“conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generation”* (bullet point 10).
- 3.7 Furthermore, paragraph 60 of the NPPF identifies that *“decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative though unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.”*
- 3.8 Paragraph 65 of the NPPF states that *“Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal’s economic, social and environmental benefits).”*
- 3.9 Paragraph 134 of the NPPF, provides guidance in respect of weighing harm of new development against public benefits, in stating that *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum*

viable use.” Furthermore, paragraph 137 requires that Local planning authorities should “look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance”

LOCAL AND REGIONAL PLANNING POLICY FRAMEWORK

- 3.10 The Development Plan for the area comprises the London Plan July 2011 and the Local Development Framework, containing the Camden Core Strategy and the Camden Development Policies.

Local Development Framework

- 3.11 Camden’s Core Strategy and Development Plan Documents (Local Development Framework) were adopted in November 2010. The 4 Strategic objectives of the LDF are;

- A sustainable Camden that adapts to a growing population;
- A strong Camden economy that includes everyone;
- A connected Camden where people lead healthy active lives; and;
- A safe Camden that is a vibrant part of our world city.

- 3.12 The policies of relevance to the appeal site, having regard to all material considerations, are listed below. Extracts of the policies that I have specifically referred to in section 5 of my proof are given in the appendices to my proof.

LDF Core Strategy

- CS1 Distribution of growth
- CS5 Managing the impact of growth and development
- CS6 Providing quality homes
- CS11 Promoting sustainable and efficient travel
- CS13 Tackling climate change and promoting higher environmental standards
- CS14 Promoting high quality places and conserving our heritage
- CS15 Protecting and improving our parks and open spaces and encouraging biodiversity
- CS18 Dealing with our waste and encouraging recycling

- CS19 Developing and monitoring the Core Strategy

LDF Development Policies

- DP2 Making full use of Camden's capacity for housing
- DP3 Contributions to the supply of affordable housing
- DP5 Homes of different sizes
- DP6 Lifetime homes and wheelchair homes
- DP16 The transport implications of development
- DP17 Walking, cycling and public transport
- DP18 Parking standards and limiting the availability of car parking
- DP19 Managing the impact of parking
- DP21 Development connecting to the highway network
- DP22 Promoting sustainable design and construction
- DP24 Securing high quality design
- DP25 Conserving Camden's heritage
- DP26 Managing the impact of development on occupiers and neighbours
- DP28 Noise and vibration
- DP31 Provisions of, and improvement to, open space and outdoor sport and recreation facilities) – this policy is attached in **Appendix 4** as it was not submitted with the appeal questionnaire.
- DP32 Air quality and Camden's Clear Zone

Camden Planning Guidance (CPG)

- 3.13 The Council will also, where appropriate, rely on supplementary planning guidance as set out in the Camden Planning Guidance 2013 (CPG 2013) and Camden Planning Guidance 2011 (CPG 2011) insofar as it is material. CPG 2013 was adopted since the planning application was determined and I attach in **Appendix 5** relevant extracts from the documents.

CPG 2013

- CPG1: Design, chapters 1, 2, 3, 6, 10
- CPG2: Housing, chapters 1, 2, 4, 5

- CPG3: Sustainability, chapters 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13,

CPG 2011

- CPG6: Amenity, chapters 1, 2, 4, 5, 6, 7, 8, 9, 11, 12
- CPG7: Transport, chapters 1, 2, 5, 7, 8, 9
- CPG8: Planning obligations, chapters 1, 2, 3, 4, 5, 6, 7, 10, 11

Camden Square Conservation Area Appraisal & Management Strategy

- 3.14 In March 2011 the Council published the Camden Square Conservation Area Appraisal and Management Strategy. This document provides an assessment of the conservation area's special character, which seeks to define that character, and to give consideration to the key issues and pressures that are affecting the area as of 2010.

London Plan

- 3.15 At the time of the decision the adopted regional plan was the Mayor's London Plan July 2011, and the following specific policies are relevant to the appeal scheme:
- 3.3 Increasing housing supply
 - 3.4 Optimising housing potential
 - 3.5 Quality and design of housing developments
 - 3.8 Housing choice
 - 3.9 Mixed and balanced communities
 - 3.10 Definition of affordable housing
 - 3.11 Affordable housing targets
 - 3.12 Negotiating affordable housing on individual private residential and mixed use schemes
 - 3.13 Affordable housing thresholds
 - 6.5 Funding crossrail and other strategically important transport infrastructure
 - 7.1 Building London's neighbourhoods and communities
 - 7.2 An inclusive environment
 - 7.3 Designing out crime
 - 7.4 Local character

- 7.6 Architecture
- 7.8 Heritage Assets and Archaeology
- 7.19 Biodiversity and access to nature
- 8.2 Planning obligations

4.0 SITE AND SURROUNDINGS

- 4.1 The application site is a triangular site at the junction of St Augustine's Road, Agar Grove and Murray Street. It is enclosed by a 2m high brick wall facing St Augustine's Road and Agar Grove and backs onto the side boundaries of 4 St Augustine's Road and 27 Agar Grove. It lies within the Camden Square Conservation Area and is identified as making a negative contribution to the character and appearance of the conservation area.
- 4.2 Agar Grove, to the south and east of the site, consists of three-storey semi-detached Victorian villas raised on basements and dating from the 1860s. Both sides of the street have strong building lines and unity of design, although this rhythm is interrupted by two long 1950s blocks of flats at nos. 33-47. St Augustine's Road has a similar uniformity comprising three storey semi detached Victorian villas with stuccoed fronts, dormer windows and raised entrances.
- 4.3 The application site originally housed a pair of 19th century villas with triangular front garden, which were demolished after the widening of the railway in 1898. It is currently a vacant site with no authorised use, although there have been some unauthorised uses in recent past such as a waste transfer and storage use, and car and caravan parking. The most recent lawful use of the site was as a builders yard on a temporary planning consent which has now expired.

5.0 ASSESSMENT OF THE PROPOSALS

- 5.1 It is my view that the appeal scheme fails to meet national and regional planning policy and guidance, and the Council's objectives as expressed in the policies contained within the London Borough of Camden Local Development Framework (November 2010) and Camden Planning Guidance. It is my view that there are no material considerations that indicate otherwise.

REFUSAL REASON 1

- 5.2 Reason 1 of the Council's refusal of planning permission for the development states that: *"The proposed development, by reason of its scale, massing and detailed design, would appear as an unsympathetic addition to the street scene and would fail to achieve the necessary quality of architectural design befitting of this prominent site. As such it would neither preserve nor enhance the character and appearance of the Camden Square Conservation Area contrary to policies CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies."*
- 5.3 This reason for refusal is expanded upon in Mortimer MacSweeney's Proof of Evidence, a Senior Conservation Officer at the London Borough of Camden. I have read his proof of evidence and agree with its contents. The proposal does not preserve and enhance the Conservation Area and therefore does not comply with the Development Plan. It causes harm to the Conservation Area which is a designated heritage asset.
- 5.4 The development fails to conserve the designated heritage asset, Camden Square Conservation Area, in a manner appropriate to its significance, so that it can be enjoyed for its contribution to the quality of life of this and future

generations, a requirement which is one of the Core Planning Principles of the NPPF.

- 5.5 The local character of the area is characterised as a planned estate development of paired villas, terrace houses and with a few individual villas. In this context the scale and character of St Augustine's Road has a high degree of uniformity. The proposed building fails to respond sufficiently to local character and history, and reflect the identity of local surroundings as required by paragraph 58 of the NPPF.
- 5.6 The development is of significantly contrasting massing and design to the historic villas of its immediate context. It therefore fails to seek to promote or reinforce local distinctiveness consistent with paragraph 60 of NPPF.
- 5.7 With reference to paragraphs 65 and 134 of the NPPF, the harm caused to this designated heritage asset, Camden Square Conservation Area, is assessed by my colleague as Senior Conservation Officer with Camden Council. The public benefits of this development are acknowledged as providing housing, which in any case is likely be future use of the site. The scheme would bring no wider public benefits such as an on-site provision of affordable housing or providing new community uses / public open space within the local area. The site would be utilised and there will be 9 flats provided for market housing but these are not public benefits that can outweigh the harm caused to the designated heritage asset.
- 5.8 With reference to paragraph 137 of the NPPF this is acknowledged as an opportunity site for development within the conservation area to enhance and better reveal its significance. If a design proposal came forward that preserved those elements that make a positive contribution to the conservation area, or better reveal its significance, it would be favourably considered.

6.0 SECTION 106 OBLIGATIONS

6.1 As detailed above and in the Council's Rule 6 Statement of Case reasons for refusal 2 - 9 of the Council's Decision Notice may be addressed by an appropriate Section 106 Legal Agreement attached to any planning permission which might be granted on appeal or in conjunction with a subsequent revised scheme. This is without prejudice to the matters raised in the principal Reason for Refusal (No. 1).

6.2 Policy CS19 (Delivering and monitoring the Core Strategy) is central to all the matters covered under this section of my proof of evidence. This states in paragraph 19.14 that:-

“Where existing and planned provision of infrastructure, facilities and services are not adequate to meet the needs generated by the proposal, the Council will use planning obligations to secure measures to meet those needs.”

6.3 Planning obligations are either agreements negotiated in the context of planning applications between local planning authorities and persons with a registerable interest in a piece of land or a unilateral undertaking made by a landowner. Their purpose is to make acceptable development which would otherwise be unacceptable in planning terms. Obligations can be used to prescribe the nature of a development, to secure a contribution from a developer to compensate for loss or damage created by a development or to mitigate against a development's impact. Current government guidance on the application of Section 106 is contained within Circular 05/2005. The Community Infrastructure Levy (CIL) Regulations 2010 came into effect on 6 April 2010. The CIL regulations limit the use of planning obligations so that a planning obligation must only be sought where it meets all of the following tests:

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- Fairly and reasonably related in scale and kind to the development.

- 6.4 In terms of the financial contributions secured under the legal agreement the Council has an obligation to apply those contributions towards the purpose for which they were received. Circular 11/95 (attached in **Appendix 6**), advises in paragraph 83, that financial contributions cannot be secured by condition. The Council has therefore sought to secure contributions by s106 obligation.
- 6.5 The Council and appellant are in the process of agreeing a Section 106 legal agreement which would seek to resolve reasons for refusal 2 – 9. In the light of not agreeing and finalising a signed section 106 Agreement, the Council would confirm its position regarding reasons 2 – 9 as follows:

Reason for Refusal No. 2 – construction management plan

- 6.6 To overcome this reason for refusal the Council requires a S106 obligation requiring the appellants to submit to the Council for approval a Construction Management Plan setting out how the appellant will undertake construction of the development using good site practices in accordance with the Council's Considerate Contractor Manual to ensure the construction phase of the development has minimal impact on the surrounding environment and local occupiers and businesses.
- 6.7 The proposals include substantial works in relation to clearing the site and in the construction of the new building. In cases such as this where the construction impact is particularly significant Camden will seek to ensure that impact is properly managed by the developer through a construction management plan ("CMP") in accordance with policies DP20 (Movement of goods and materials) and DP26 (Managing the impact of development on occupiers and neighbours), specifically paragraph 26.10, and chapter 8 of CPG6 (Amenity).
- 6.8 A planning obligation, rather than a planning condition, is considered to be the most appropriate mechanism for securing a construction management plan (CMP) in this case for the following reasons:
- (i) the proposed works will involve the removal and delivery of a significant amount of material and have impacts beyond the appeal site. With

this and the fact that the appeal site is located within a predominantly residential area in mind, it is considered that in this case the “construction impacts” will be extensive and numerous and, accordingly, the level of detail the Council would seek to secure is far beyond the level of detail realistically achievable by way of a planning condition;

(ii) 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 Circular 11/95, where it states at Appendix B as an example of an unacceptable condition, is one requiring loading and unloading and the parking of vehicles not to take place on the highway, as it purports to exercise control in respect of a public highway which is not under the control of the appellant. In the interests of legal certainty, the Council considers that the CMP should be secured by planning obligation as opposed to a planning condition.

6.9 CIL Compliance: The CMP complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the impacts of the construction of the development as identified under the Development Plan for developments of the nature proposed. It will ensure that the effects of construction are managed in an appropriate manner.

6.10 Subject to a suitably worded bilateral s106 agreement to address this matter, Camden Council would formally withdraw Reason for Refusal No.2, and its objection to the appeal on this ground.

Reason for Refusal No. 3 – car-free housing

6.11 To overcome this reason for refusal the Council requires a S106 obligation that shall require that residents of the development shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be

granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

- 6.12 Policy DP18 (Parking standards and limiting the availability of car parking) states that the Council expects all development to be car free in the Central London Area. The reasons for this are to facilitate sustainability and to help promote alternative, more sustainable methods of transport. The site is located in the Camden Square controlled parking zone (CPZ). The ratio of parking permits to parking spaces in the CPZ is 0.74. This suggests that parking stress is an issue in this part of the Borough.
- 6.13 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.
- 6.14 CIL Compliance: The requirement is considered to be CIL compliant as it relates directly to the effects of the development, is necessary in planning terms, and is fairly and reasonably related in scale and kind to the development. This supports key principle 4 of the National Planning Policy Framework: Promoting sustainable transport.
- 6.15 Subject to a suitably worded bilateral s106 agreement to address this matter, Camden Council would formally withdraw Reason for Refusal No.3, and its objection to the appeal on this ground.

Reason for Refusal No. 4 – highways contribution

- 6.16 To overcome this reason for refusal the Council requires a S106 obligation requiring the appellant to pay a financial contribution towards highway and public realm improvement works adjacent to The Site. These works comprise repairing damage to footways, the removal of 2 redundant vehicular crossovers adjacent to The Site on Agar Grove and St Augustine's Road and

the removal and relocation of any street furniture (e.g. phone boxes, telecommunications cabinets, street name plates, traffic sign posts, lamp columns, bollards etc) in line with policies DP16 (The transport implications of development), DP17 (Walking, cycling and public transport) and DP21 (Development connecting to the highway network).

- 6.17 The estimate for this work, prepared by the Borough Engineer is £31,529. It is considered that this amount is justified given the size and scale of the development. A schedule of the required is attached in **Appendix 7**. It is noted that in the SOCG the Appellant agreed that if the planning application had been approved, it would have entered into a legal agreement with the Council to make a contribution of the required amount.
- 6.18 The Council maintains that a payment for highways work should be secured through a S106 agreement. The appellant has not advised whether they would agree to make appropriate financial contributions for necessary highway works. CPG8 (Planning Obligations) states that public highways works on Borough Roads are to be undertaken through a section 106 or 278 obligation. The guidance also states that the Council will secure payment for required works by preparing an estimate (including fees) for the scheme that the developer will be required to pay before commencing development. (paragraph 5.14). The most effective way of both securing sufficient payment and ensuring the works are carried out to the Council's procedures and standards is for a financial contribution to be paid by the developer on commencement of the development and secured by an obligation under S106. It is not possible to secure a financial contribution for highway works by condition as it relates to land outside the application site and is not under the control of the applicant. Further, Circular 11/95 advises that financial contributions cannot be secured by condition (paragraph 83).
- 6.19 CIL Compliance: The contribution is considered to be CIL compliant as it relates directly to the effects of the development, is necessary in planning terms, and is fairly and reasonably related in scale and kind to the development. This supports key principle 4 of the National Planning Policy Framework: Promoting sustainable transport.

- 6.20 Subject to a suitably worded bilateral s106 agreement to address this matter, Camden Council would formally withdraw Reason for Refusal No.4, and its objection to the appeal on this ground.

Reason for Refusal No. 5 – sustainable energy strategy

- 6.21 To overcome this reason for refusal the Council requires a S106 obligation requiring the appellant to secure the carrying out of the sustainability strategy as laid out in the Code of Sustainable Homes pre-assessment statement and a 32% reduction in carbon emissions as set out the Energy Statement.
- 6.22 The Agreement would require sustainability measures within the scheme to achieve Code Level 4 under the Code for Sustainable Homes meeting the policy requirements of Development Policy DP22 (Promoting sustainable design and construction). The submitted Code pre-assessment states that the scheme would achieve a least 58% in the Energy category, 83% in the Water category and a 37% in the Materials category.
- 6.23 Promoting a sustainable Camden is an integral element of the Council's Local Development Framework strategy. Core Strategy policy CS13 (Tackling climate change through promoting higher environmental standards) sets out a key part of our overall approach to tackling climate change, which includes promoting higher environmental standards in design and construction.
- 6.24 Given the requirement for a Code Level 4 under the Agreement can require technologies and measures that are provided, or used off-site a planning obligation, rather than a condition, is considered to be the most appropriate mechanism for securing a Sustainability Plan.
- 6.25 The Council requires the post construction review to be carried out by an impartial assessment body. The Agreement would also secure the on going maintenance and retention of the sustainability measures. This would not only be the responsibility of the developer, but that of subsequent owners and occupiers. Circular 11/95 (paragraph 82) on planning conditions clearly states that 'maintenance conditions' should not normally be imposed when

granting permission for the erection of buildings. In addition, in order to ensure compliance with the measures identified in any Code for Sustainable Homes assessment, the Council's standard procedure is to not permit occupation of the development until a satisfactory post-construction review has been provided and any issues identified in that review have been satisfactory addressed.

- 6.26 The Council considers that in view of the advice in Circular 11/95 and the level of detail required that a planning obligation would be the most appropriate tool to ensure on-going compliance with the Code for Sustainable Homes measures.
- 6.27 CIL Compliance: It is considered that the Sustainability Plan complies with the CIL Regulations as the necessary measures to be adopted in the plan help to ensure that the development is acceptable in planning terms as identified in the development plan and is directly related to the effects of the development. This supports key principle 10 of the National Planning Policy Framework: Meeting the challenge of climate change.
- 6.28 Subject to a suitably worded bilateral s106 agreement to address this matter, Camden Council would formally withdraw Reason for Refusal No.5, and its objection to the appeal on this ground.

Reason for Refusal No. 6 – public open space

- 6.29 To overcome this reason for refusal the Council requires a S106 obligation requiring the appellant to pay a financial contribution towards Camden's Open Space requirements and health and community facilities which will cover provision, maintenance and improvements to the open spaces and health and community facilities within the area.
- 6.30 Policy DP31 (Provisions of, and improvement to, open space and outdoor sport and recreation facilities), in paragraph 31.6 requires on-site provision towards public open space where a development includes 5 or more residential dwellings to meet additional demand. The development proposals

are unable to provide the required amount of public open space on site to mitigate the impact of the development on existing public open space provisions within the area. A financial contribution towards an off-site provision is sought in this instance.

- 6.31 The financial contribution is based on the capital cost of providing new open space, the cost of maintenance for the first five years and the cost for the open space team to administer the contribution and design schemes. CPG 6 (Amenity) states in paragraph 11.23, Figure 5, that 17sqm of open space is required for 2 bedroom units and that 25.2sqm of open space is required for 3 bedroom units. The calculation for a financial contribution towards public open space, as set out in CPG6, is based on capital costs (£663 for 2-bed flats and £1,326 for 3-bed flats) + maintenance costs (£561 for 2-bed flats and £832 for 3-bed flats) + design and admin (£80 for 2-bed flats and £159 for 3-bed flats) x by the number of units (2x 2 bed and 7x 3 bed flats). A financial contribution of £18,827 would therefore be required towards the provision of public open space.
- 6.32 It is noted that in the SOCG the Appellant agrees that if the planning application had been approved it would have entered into a legal agreement to make an open space contribution.
- 6.33 The most effective way of both securing sufficient payment is for a financial contribution to be paid by the developer on commencement of the development and secured by an obligation under a Section 106 legal agreement. It is not possible to secure a financial contribution for public open space by condition as it relates to land outside the application site and is not under the control of the applicant. Furthermore, as stated above, Circular 11/95 advises that financial contributions cannot be secured by condition.
- 6.34 CIL Compliance: The contribution is considered to be CIL compliant being necessary in planning terms as identified in the development plan to mitigate against the increased pressure on open spaces as a direct result of the extra demand created by the use of 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. This supports key principle 8 of the National Planning Policy Framework: Promoting healthy communities.

- 6.35 Subject to a suitably worded bilateral s106 agreement to address this matter, Camden Council would formally withdraw Reason for Refusal No.6, and its objection to the appeal on this ground.

Reason for Refusal No. 7 – education

- 6.36 To overcome this reason for refusal the Council requires a S106 obligation requiring the appellant to pay a financial contribution towards education within the area.
- 6.37 Policy DP15 (Community and leisure uses) requires development that results in any additional need for community facilities to contribute towards supporting existing facilities or providing new facilities.
- 6.38 The proposed development, which includes the provision of 9 new residential units, is likely to place an increased burden on educational facilities in the area. It is therefore recommended that, should permission be granted, a contribution would be required towards the provision of educational infrastructure in accordance with Policy CS19 (Delivering and monitoring the core strategy) and CPG8 (Planning Obligations). The contribution has been calculated in accordance with formula contained in the CPG. Contributions will not be sought for the 1 bedroom units as these units are unlikely to provide accommodation for children. The formula requires the provision of £2,213 per 2-bedroom unit and £6,322 per 3-bedroom unit therefore a contribution of £48,680 is required towards educational infrastructure. It is noted that in the SOCG, the Appellant agreed that if the planning application had been approved it would have entered into a legal agreement to make a contribution of £48,680.
- 6.39 CIL Compliance: It is considered that the contribution towards education complies with the CIL Regulations as the necessary measures to be adopted

in the plan help to ensure that the development is acceptable in planning terms as identified in the development plan and is directly related to the effects of the development. This supports key principle 8 of the National Planning Policy Framework: Promoting healthy communities

- 6.40 Subject to a suitably worded bilateral s106 agreement to address this matter, Camden Council would formally withdraw Reason for Refusal No.4, and its objection to the appeal on this ground.

Reason for Refusal No. 8 - pedestrian, cycling and environmental improvements contribution

- 6.41 To overcome this reason for refusal the Council requires a S106 obligation requiring the appellant to pay a financial contribution towards Camden's pedestrian, cycling and environmental improvements. The improvements to pedestrian and cycling facilities would be directly related to the proposed development. Residents would walk and cycle on roads in the near vicinity of the proposed development; specifically St Augustines Road and Agar Grove which links into the Camley Street cycle route.
- 6.42 Improvements to pedestrian and cycling facilities would be fairly and reasonably related to the proposed development. The financial contribution would be used to improve conditions for walking and cycling in the local area with a focus on the routes likely to be used by residents (as listed below).
- 6.43 In order to attempt to mitigate the wider impacts of the increase in trips, particularly on St Augustine's Road, Agar Grove, Camley Street, a financial contribution of at £18,000 would be required towards Camden's Pedestrian, Cyclist, Environmental and Safety Improvement Initiative. All of the schemes detailed in this section below could be delivered under Camden's Pedestrian, Cyclist, Environmental and Safety Improvement Initiative. The funding would be split between implementation of full schemes and as a contribution towards larger schemes. This is because a single development rarely generates enough impact by itself for a financial contribution from one development alone to fund an entire Pedestrian, Cyclist, Environmental and

Safety Improvement Initiative and consideration must be given towards the cumulative impacts on transport infrastructure; past, present, and future.

6.44 In context of this development site at 4 St Augustine's Road the following is an approximate breakdown of how the Pedestrian, Cycling and Environmental contribution would be allocated to local schemes:

- A contribution of £7,000 towards the installation of one sign in the immediate vicinity of the site towards Legible London which is a way finding initiative to encourage walking and cycling;
- Financial contribution of £7,000 towards road safety and environmental improvement schemes in connection to Camley Street and Agar Grove. This will assist in improving permeability, provide an increase in sustainable movements along these key north-south (Camley Street) and east-west (Agar Grove) routes and subsequently improve the environmental surrounds for pedestrians and cyclists.
- Contribution of £4,000 towards cycle network provisions within the locality of the site as part of the Council's aspirations to intensify the cycling network provision to increase cyclist activity.

6.45 Improvements to pedestrian and cycling facilities would be directly related to the proposed development. Residents would walk and cycle on roads in the near vicinity of the proposed development; specifically Agar Grove which leads to Camden Road Overground Railway Station and Camley Street which leads to St Pancras International Railway Station (and other roads in the Conservation Area).

6.46 Improvements to pedestrian and cycling facilities would be fairly and reasonably related to the proposed development. The financial contribution would be used to improve conditions for sustainable modes of travel in the local area with a focus on the routes likely to be used by residents (as listed above).

- 6.47 The Council maintains that a payment for Pedestrian, Cycling and Environmental works should be secured through a S106 agreement as this is the most effective way of both securing sufficient payment and ensuring the works are carried out to the Council's procedures and standards. It is not possible to secure a financial contribution for Pedestrian, Cycling and Environmental works by condition as it relates to land outside the application site and is not under the control of the applicant. Further, paragraph 83 of Circular 11/95 advises that financial contributions cannot be secured by condition.
- 6.48 Consideration had also been given to a contribution of £15,000 towards an electric vehicle charge point located on the public highway (on St Augustine's Road) which is shown on a number of the appellant's plans (including the Design and Access Statement). The Council's own evidence of the uptake and utilisation of existing on-street electric charge points has not demonstrated that these are being fully utilised. Therefore, as a result of this information, the £15,000 is no longer being sought by the Council as the installation of a charge point on-street cannot be fully justified and is no longer considered a necessary planning requirement.
- 6.49 CIL Compliance: It is considered that the contribution towards Pedestrian, Cycling and Environmental complies with the CIL Regulations as the necessary measures to be adopted in the plan help to ensure that the development is acceptable in planning terms and is directly related to the effects of the development. This is supported in CPG 8 for developments in excess of 1,000sqm and supports key principle 4 of the National Planning Policy Framework: Promoting sustainable transport.
- 6.50 Subject to a suitably worded bilateral s106 agreement to address this matter, Camden Council would formally withdraw Reason for Refusal No.8, and its objection to the appeal on this ground.

Reason for refusal No. 9 – deferred affordable housing contribution

- 6.51 To overcome this reason for refusal the Council requires a S106 obligation requiring the appellant to make a deferred financial contribution towards affordable housing within the borough.
- 6.52 Policies CS6 (Providing quality homes) and DP3 (Contributions to the supply of affordable housing) seek affordable housing contributions for developments with a capacity to provide 10 or more dwellings, with sites providing 1,000sqm (gross) of floorspace considered to have the capacity to provide 10 dwellings. The provision of affordable housing is calculated using a sliding scale starting at 10%, for sites with a capacity of 10 homes, 20% for site with a capacity of 20 homes, and rising to a maximum of 50%. As the proposed floorspace is 1,219sqm the Council would normally seek 12% of the floorspace to be affordable (149sqm). The council have accepted that the development cannot make an on site or off site contribution towards affordable housing and therefore a payment in lieu was considered appropriate in this case, which based on the calculations in CPG2 (Housing), which in would be 149sqm x £2,650 per sqm (the level of payment in lieu) = £394,850.
- 6.53 Accompanying the application was viability assessment which independently assessed for the council by BPS Chartered Surveyors. BPS considers that the applicant's viability assessment is reasonable and that an affordable housing contribution would not be viable based on the projected sales figures. The BPS report does point out that were sale prices to increase, or the site constraints were to cost less to overcome than expected, the scheme could become more profitable. Therefore it is considered appropriate that a deferred payment be added to the Section 106 Agreement, whereby a further viability assessment will be required once 50% of the units have been sold, and if sales prices have increased, or development costs were to have changed to the point where an affordable housing contribution would be viable, the Council would be entitled to the relevant contribution. Securing a deferred financial contribution towards affordable housing is supported by CPG2 (please see chapter 2 of CPG2 in ***Appendix 5***)

- 6.54 CIL Compliance: It is considered that deferred contribution towards affordable housing complies with the CIL Regulations as the necessary measures to be adopted in the plan help to ensure that the development is acceptable in planning terms as identified in the development plan and is directly related to the effects of the development. This supports key principle 6 of the National Planning Policy Framework: Delivering a wide choice of high quality homes.
- 6.55 Subject to a suitably worded bilateral s106 agreement to address this matter, Camden Council would formally withdraw Reason for Refusal No.9, and its objection to the appeal on this ground.
- 6.56 As these measures were already agreed between the Council and the Appellant to be dealt with by way of s106 obligations prior to the Committee's refusal it is not intended that refusal reasons 2 – 9 will be contested at the Inquiry.

7.0 CONDITIONS

7.1 A total of 14 conditions were agreed between the Council and the Appellant prior to the Council's refusal of the application. Please find below a list of proposed conditions in the event that the appeal should be allowed.

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

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

- 2 Detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the Council before the relevant part of the work is begun:

a) Typical details of new railings at a scale of 1:10, including materials, finish and method of fixing into the plinth.

b) Plan, elevation and section drawings, including jambs, head and cill, of all windows, and window and door openings at a scale of 1:10 with typical moulding, architrave and glazing details at a scale of 1:1.

c) A sample panel of all facing materials should be erected on-site and approved by the Council before the relevant parts of the work are commenced and the development shall be carried out in accordance with the approval given.

d) A sample panel of the proposed facing brick and brick boundary walls shall be erected on-site and approved by the Council before the relevant parts of the work are commenced and the development shall be carried out in accordance with the approval given. The panel must include facing brickwork demonstrating the proposed colour, texture, face-bond and pointing.

The relevant part of the works shall then be carried in accordance with the approved details

Reason: To safeguard the appearance and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies

- 3 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 proposed earthworks including grading, mounding and other changes in ground levels. 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 policy CS14 (Promoting high quality places and conserving our heritage) and CS15 (Protecting and improving our parks and open spaces & encouraging biodiversity) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.

- 4 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details, prior to the occupation for the permitted use of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting 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 policy CS14 (Promoting high quality places and conserving

our heritage) and CS15 (Protecting and improving our parks and open spaces & encouraging biodiversity) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.

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

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policies CS5 (Managing the impact of growth and development) and CS18 (Dealing with our waste and encouraging recycling) of the London Borough of Camden Local Development Framework Core Strategy, and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 6 Before the development commences, details of secure and covered cycle storage area for 18 cycles shall be submitted to and approved by the local planning authority in writing. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and thereafter permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies.

- 7 Piling or any other foundation designs using penetrative methods shall not be permitted unless a piling method statement detailing the type of piling to be undertaken and the methodology by which such piling will be carried out

including measures to prevent and minimise the potential for damage to subsurface water or sewerage infrastructure, and the programme for the works, has been submitted to and approved by the Local Planning Authority in writing in liaison with the relevant utility providers. The piling shall be undertaken in accordance with the approved method statement.

Reason: To safeguard existing below ground public utility infrastructure and controlled waters in accordance with the requirements of policy CS13 of the London Borough of Camden Local Development Framework Core Strategy.

- 8 Prior to the commencement of any works on site, details demonstrating how trees to be retained shall be protected during construction work shall be submitted to and approved by the Council in writing. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policy CS15 (Protecting and improving our parks and open spaces & encouraging biodiversity) of the London Borough of Camden Local Development Framework Core Strategy.

- 9 Prior to first occupation of the buildings, detailed plans showing the location and extent of photovoltaic cells to be installed on the building shall have been submitted to and approved by the Local Planning Authority in writing. The cells shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of policy CS13 (Tackling climate change and promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and policy DP22 (Promoting sustainable design and construction) of the London Borough of Camden Local Development Framework Development Policies.

- 10 Before the development commences details of an appropriate acoustic glazing system and acoustically rated passive air intake systems shall be provided for the building in accordance a scheme to be first approved by the local planning authority. The use shall thereafter not be carried out other than in complete compliance with the approved scheme.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 11 Prior to the commencement of works, full details of all excavations and earthworks to be carried out within 10 metres of the railway undertaker's boundary fence shall be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be caused out in accordance with the approved details.

Reason: To protect the ongoing safety of the railway line in accordance with policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP16 (Transport Implications of developments), DP20 (Movement of good and materials) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 12 Prior to occupation of any of the units, windows to the rear staircase shall be obscure glazed and fixed shut, and permanently retained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 13 The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units.

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 CS6 (Providing quality homes) of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 (Lifetime homes and wheelchair homes) of the London Borough of Camden Local Development Framework Development Policies.

- 14 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; 1913-00-SK-0100 Rev P02; 0101 Rev P01; 0102 Rev P01; DR-0101 Rev P02; 0102 Rev P02; 0103 Rev P03; 0104 Rev P03; 0105 Rev P02; 0106 Rev P02; 0401 Rev P02; 0402 Rev P02; 0601 Rev P02; 0602 Rev P02; 0603 Rev P02; 0604 Rev P02; 0610 Rev P02; Design and Access Statement by CZWG Architects dated February 2013; Daylight and Sunlight Report by GL Hearn dated 20th February 2013; Code for Sustainable Homes Report by Callao Housing Consultancy dated January 2013; Energy Statement by SRS Partnership dated 27th February 2013; Planning Statement by Cunnane Town Planning dated February 2013; Viability Assessment by Douglas Birt Consulting dated June 2013

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

8 CONCLUSION

- 8.1 The appeal is against the London Borough of Camden's refusal of planning permission for the erection of five storey building comprising 9 residential units (2x 2 bedroom and 7x 3 bedroom flats) (Class C3).
- 8.2 The primary Reason for Refusal (1) states that the proposed development, by reason of its scale, massing and detailed design, would appear as an unsympathetic addition to the street scene and would fail to achieve the necessary quality of architectural design befitting of this prominent site. As such it would neither preserve nor enhance the character and appearance of the Camden Square Conservation Area. This is expended upon in Mortimer MacSweeney's Proof of Evidence.
- 8.3 The public benefits of this development are acknowledged as providing housing, which in any case is likely be future use of the site. The scheme would bring no wider public benefits such as an on-site provision of affordable housing or providing new community uses / public open space within the local area. The site would be utilised and there will be 9 flats provided for market housing but these are not public benefits that can outweigh the harm caused to the designated heritage asset.
- 8.4 This proof provides robust justification for Council's case in respect of reasons for refusal 2 - 9 of the application for planning permission and demonstrates how each required planning obligation complies with CIL Regulations and the NPPF.
- 8.5 For the above reasons, the Inspector is respectfully requested to dismiss the appeal.

LIST OF APPENDICES (attached as a separate document)

Appendix 1	Decision Notice for application 2013/1210/P
Appendix 2	Inspectors Report for appeal ref: APP/X5210/A/09/2110690
Appendix 3	National Planning Policy Framework
Appendix 4	Policy DP31 (Provision of, and improvements to, open space and outdoor sport and recreation facilities) from the Development Policies Document of London Borough of Camden Local Development Framework
Appendix 5	Camden Planning Guidance 2013 - CPG1 (Design), CPG2 (Housing), CPG3 (Sustainability)
Appendix 6	Government Circular 11/95: Use of conditions in planning permission
Appendix 7	Highways Estimate for application 2013/1210/P