



Appeal Decision

Inquiry opened on 22 May 2012

Site visits made on 25 May and 1 October 2012

by Andrew Pykett BSc(Hons) PhD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1 November 2012

Appeal Ref: APP/X5210/A/11/2167190

Reservoir site, Gondar Gardens, London NW6 1QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Linden Wates (West Hampstead) Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref: 2011/0395/P, dated 24 January 2011, was refused by notice dated 21 June 2011.
 - The development proposed is the redevelopment of the existing reservoir structure to provide 16 residential units, associated parking, refuse storage and landscaping, and use of the surrounding land and rear of the site for open space (nature reserve).
 - The inquiry sat for 6 days on 22-24 May, 27, 28 September and 1 October 2012.
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Preliminaries

1. At the application stage the proposal was refused planning permission for a total of 16 reasons. These included a number of matters which were subsequently resolved at the appeal stage by the submission of further information and obligations made under section 106 of the above Act¹. In view of these the council withdrew its objections to the scheme as expressed in refusal reasons 6, 7, 8, 9, 10, 11, 12, 13, 14 and 16. I have taken this into account and refer to the obligations later in this decision.
2. The application was accompanied by an Environmental Statement (ES) submitted in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. It comprises 17 Annexes and a Non-Technical Summary. I have taken account of the contents of the ES in the determination of this appeal.
3. At the appeal stage the principal parties submitted a Statement of Common Ground (SoCG). It covers: the site and its surroundings; the planning application history; the reasons for refusal; matters in agreement and dispute; the draft conditions; together with 66 Appendices, including the ES. The Statement also refers to the relevant planning policy context, comprising: The *National Planning Policy Framework* (NPPF); *The London Plan* and relevant Supplementary Planning Guidance; the *Camden Core Strategy 2010* and the *Camden Development Policies* and relevant Supplementary Planning Guidance.
4. During the processing of the appeal an application was made by the Gondar and Agamemnon Residents Association (GARA) for Rule 6(6) status. The relevant status was granted in March 2012, and the Association took a full part in the inquiry. I have taken account of its evidence.

¹ See Documents 32 and 33

5. I carried out 2 formal site visits to the appeal site and its surroundings. In May I went into the redundant reservoir and onto the immediate surrounding land. In October I visited 4 residential properties in the surrounding streets – Gondar Gardens to the north, Agamemnon Road to the east, Hillfield Road to the south, and Sarre Road to the west.

Decision

6. The appeal is allowed and planning permission is granted for the redevelopment of the existing reservoir structure to provide 16 residential units, associated parking, refuse storage and landscaping, and use of the surrounding land and rear of the site for open space (nature reserve) at Reservoir site, Gondar Gardens, London NW6 1QG in accordance with the terms of the application, Ref: 2011/0395/P, dated 24 January 2011, and the plans submitted with it, subject to the conditions included in the schedule at the end of this decision.

Main Issues

7. On the basis of the evidence I have received, the representations made, and my visits to the site and its surroundings, I consider there are 5 main issues in this case. They are:
 - (i) the effect of the proposed development on the character and appearance of the site and its surrounding area;
 - (ii) the ecological impact of the proposal;
 - (iii) the structural condition of the redundant reservoir;
 - (iv) the form and content of the proposal in relation to:
 - the provision of affordable housing,
 - the density and mix of the proposed dwellings, and
 - the design of the scheme within its townscape context;and, if necessary;
 - (v) whether the project justifies the obligations cited above taking account of the contents of Regulation 122 of the Community Infrastructure Regulations 2010.

Reasons

8. The appeal site lies in the north-west inner suburbs – an area of London which was developed in the later years of the nineteenth century and the early years of the twentieth century. The covered reservoir itself preceded the construction of the surrounding residential development. It was built in 1874. Although the western frontage of the site is open to the north/south section of Gondar Gardens, the other 3 sides of the site back onto the rear gardens of properties in Gondar Gardens (to the north), Agamemnon Road (to the east) and Hillfield Road (to the south). The western side of Gondar Gardens opposite the site frontage backs onto a number of garages and outbuildings falling within the rear curtilages of properties in Sarre Road. There are 3 rather larger apartment blocks – 2 close to the north-west corner of the site (Chase Mansions and St Elmo Mansions), and one close to the south-west corner (South Mansions). The appeal site is thus virtually surrounded by housing, although for the most part the dwellings turn their backs to the land.

9. The now redundant reservoir was evidently sited to take advantage of a relatively elevated location, and in comparison with Gondar Gardens and the Gondar Gardens dwellings, the appeal site is up to about 2m above their levels. I understand the excavated material necessary for the construction of the reservoir was deposited at the eastern end of the site, and this land is notably higher (by up to about 7m) than the dwellings and their gardens in Agamemnon Road and Hillfield Road. Both parts of the site – above the reservoir roof and the spoil area – are characterised by a cover of neutral grassland, but at the foot of the slope along the eastern edge and around the south-east corner there is a belt of trees (mainly sycamore). These were made the subject of a Tree Preservation Order in 2003.
10. Although largely invisible in the local townscape, I saw on my first visit that the former reservoir is an impressive structure when seen from the inside. It is about 92m in length and 53m in width, with an internal height of up to just under 7m. It is a brick structure with a concrete floor, which I gather has a capacity of 28,000m³ of water. The capacity is limited by an overflow close to its south-east corner. The interior comprises brick pillars and arches at 6m intervals with a brick barrel roof. At its most shallow there is about 650mm of clay and topsoil above the roof together with a waterproof membrane.
11. The appeal scheme envisages the removal of the reservoir roof and much of the internal supporting structure. The walls and their buttresses along the sides of the structure would however be retained together with some of the pillars and arches. On the basis of a 12m X 9m module, the 16 dwellings would be inserted into the space created in the form of 2 terraces – with equal numbers of dwellings on the north and south sides of the structure. The dwellings would be 3 stories in height, so that about half the top storey would protrude above the existing ground level.
12. The space between the 2 terraces would be open with vehicular access to each dwelling being obtained at the lower level (B-2 level, equivalent to the floor of the existing structure). The principal means of pedestrian access would be at B-1 level via a system of elevated walkways. The main living areas of the dwellings would be at this level, with the bedrooms at the top of each house (ground level). To the rear of each house there would be a courtyard garden at B-2 level backing onto the existing reservoir wall, with a greenhouse at B-1 level. Vehicular access to the site would be provided via a car lift at the western end of the southern terrace close to the entrance/exit off Gondar Gardens. Pedestrian access to the walkways would also be obtained via the car lift or via stairs. There would be a refuse and recycling centre close to the western end of the northern terrace. These would be set behind and within formal gardens fronting onto Gondar Gardens. The dwellings would be roofed with green and brown roofs together with south-facing photovoltaic panels.
13. With the exception of the points of access, the frontage to the site would be defined by relatively modest railings. Between the railings and new buildings and around the rest of the perimeter, 1.8m high railings or fences would be installed with gates to control access to the walkways, the car lift, the refuse centre, and the undeveloped land to the sides and rear. This would be the principal means of securing the land. The unprotected edge of the former reservoir itself would be defined by a 1.3m glass balustrade. It is intended that the rear part of the site, together with narrower strips along its northern and southern boundaries, would become a dedicated nature reserve. Access to this land would be restricted with the area being managed for the benefit of its wildlife interest.

Character and appearance

14. It is evident both from the record and from the evidence submitted at the inquiry that, since the closure of the reservoir, the future of the appeal site has been the

subject of debate for some time. My attention has been drawn to the Inspector's Report into objections to the Replacement Unitary Development Plan (UDP). The UDP inquiry was conducted in 2004/5. My colleague discusses the future of the site at paragraphs 11.2.2, 11.2.3, and 13.12.1 to 13.12.5 of the Report.

15. Amongst other matters, he concluded that, notwithstanding its 'natural' external appearance, the reservoir structure constituted previously developed land within the terms of the definition now included in Annex 2 of the NPPF. The area surrounding the reservoir falls within its curtilage and, as a result of the definition, it too forms previously developed land. Although the presumption in favour of the redevelopment of previously developed land in preference to the development of greenfield land is not now as pervasive, it is nevertheless retained in paragraph 17 of the NPPF as one of the core planning principles. My predecessor referred in this context to the urgent need to find more sites for housing development, but, in accordance with the principle, the preference for redevelopment has to be tempered if the site concerned is of high environmental value.
16. I am in no doubt that such value can be derived from both the ecological value of a site within its own terms, and/or from the contribution which it might make to amenity in the broadest sense – including residential amenity. In this context my colleague referred to the extensive views into the site from the surrounding houses. Although taken individually these are private views, they amount collectively to a considerable public asset and a 'green lung' providing local amenity. I agree with this description and assessment. Having further discussed the ecological interest of the land, he recommended the land should remain in the Schedule to the UDP as private open space (as well as being designated as a Site of Nature Conservation Interest - SINC).
17. This protection is now expressed in Policy CS15 of the *Camden Core Strategy 2010*. The plan recognises that open space can fall into 2 categories: that which is open to the public (and which can provide for sport and recreation), and private open space – to which there is no or limited public access (such as, for example, railway embankments). The appeal site falls into the latter category and the first purpose of the policy is that such spaces will be protected.
18. I saw on my second visit that, especially from the rear windows of the upper floors on the Gondar Gardens houses, the appeal site provides an attractive component of the prospect to the south and south-east. The site provides a similar benefit to the outlook from houses in Sarre Road. From the houses in Hillfield Road and Agamemnon Road the visibility of the site is lessened by the differences in levels, intervening trees, and the distances from the relevant windows (and roof gardens). The same observation was made at the inquiry by GARA, and by other interested persons. The subterranean construction of the reservoir ensures that, although previously developed land, there is no interruption to visibility, and the existence of the open space permits extensive views towards the centre of London (from the Gondar Gardens houses) and Hampstead (from the Sarre Road houses). I gather that during the night the same area results in a welcome and perhaps unexpected area of dark which complements the cityscape beyond. Although the topography does not permit equivalent views in alternative directions from the Agamemnon Road or Hillfield Road houses, there is an attractive prospect across the site from road level in Gondar Gardens to the west. The land falls immediately to the east of the site before rising again; so that some of the higher parts of Hampstead are clearly visible just over about 1.5kms to the north-east.
19. The appellant calculates that the dwellings would result in the creation of 321m² of additional gross area per unit – equivalent to 5,136m² in total. Both individually and

collectively therefore, the dwellings would be fairly substantial. But I believe it does not follow that they would have an equivalent effect on the openness of the appeal site. Only some 1.5m of the upper floors of the dwellings would project above the existing level of the reservoir roof, and the rear walls of the houses would be between just under 7m (minimum) and 23m (maximum) from the boundary of the site. In addition, though with the exception of the apartments in South Mansions and Chase Mansions, the Gondar Gardens and Hillfield Road houses have relatively long gardens. Many of the gardens include trees of various sizes which act as a further interruption to visibility. Although the houses in Agamemnon Road have smaller gardens, visibility into and across the site from these locations is curtailed by the protected trees along the eastern boundary of the land.

20. As my predecessor observes in paragraph 13.12.1 of his Report, the site is unusual. Its history and appearance has resulted in its being defined as both previously developed land and as open space falling within the protective terms of Policy CS15 of the *Camden Core Strategy*. Had it actually been used as a park or recreation ground it might have been excluded from the first definition, but I understand that, with the exception of a pre-war period when the eastern part of the site was laid out as tennis courts, there has been no public access to or use of the land. The impetus behind the introduction of previously developed land was both to encourage its reuse and to protect greenfield sites from unwelcome development pressure. It is understandable in this context that my predecessor, whilst acknowledging the possibility that the assessment of the nature conservation interest of the land might change, considered nevertheless that the circumstances suggested some part of the site may be suitable for development – though he evidently considered the scale then proposed was excessive².
21. I consider the current appeal scheme to be modest in comparison with the project submitted to the UDP inquiry. I recognise nevertheless that, in comparison with its potential³ openness, the development proposed would be an inevitable contrast, and it cannot be considered to constitute the protection of the open space. In addition to the collective private views referred to by my colleague, the visibility and existence of the scheme would be obvious from Gondar Gardens (which constitutes a public vantage point) to the west. Its presence would however be alleviated by the ingenious design of the scheme and the limited extent by which it would project above ground level. I saw on my visit that, although from the higher level windows in the Gondar Gardens and Sarre Road houses the proposed development would be clearly visible, this effect would be counter-balanced by the enhanced breadth of the prospect as a whole at this level. I recognise the presence of the proposed development would vary from the many windows overlooking the land, but taking all these matters into account, I conclude in relation to this main issue that the proposed development would have a limited adverse effect on the character and appearance of the site and its surrounding area. It would thus conflict to a degree with the purpose of paragraph (a) in the first component of Policy CS15.

Ecology

22. Policy CS15 is effectively concerned with a number of related issues; for example, it seeks both to protect open spaces and to encourage biodiversity. The second component of the policy aims to protect and improve sites of nature conservation and biodiversity interest, in particular the habitats and biodiversity identified in the Camden and London Biodiversity Plans. Similar purposes are included in Policy 7.19 of *The London Plan*. The actual and potential interest of the land on this basis is recognised (at paragraphs 11.2.2-3 and 13.12.3-5) in the UDP Inspector's Report.

² See paragraph 11.2.3 of the UDP Inspector's Report. The scheme then proposed is indicated in Document 22.

³ At the time of my visits the site of the former reservoir was surrounded by security hoardings.

23. My predecessor recommended on the basis of the submissions he had received that the site's designation as a Borough II SINC was correct, and it is included in Map 8 of the *Camden Core Strategy*. The site was first notified in 2004, and the designated area includes both the reservoir roof and the open land principally to its east. As with the open space designation, most of the frontage to Gondar Gardens is omitted from the designated area. Be that as it may, the citation refers to the site as an undisturbed covered reservoir with neutral grassland vegetation, with a moderate diversity of common wild flowers. Reference is made to butterflies and bats and to the small areas of woodland providing habitat for common birds⁴. Most significantly, the site is identified as the only known location in Camden for slow worms. The designation also refers to the restraint on access to the site for members of the general public.
24. The site was the subject of 30 ecological surveys in 2008-10, but was found to include only a low number of slow worms. There was agreement between the parties that the reservoir roof itself would not constitute a particularly attractive location for the species, but the south and east sides of the land are considered highly suitable. It was acknowledged at the inquiry that slow worms would readily travel between the site and adjacent gardens where they would be likely to find suitable features for hibernating, foraging and basking opportunities.
25. At the application stage the ES included a Reptile Mitigation Method Statement. This shows a preferred location where the slow worms have been mostly found and it includes the south-facing bank in the south-east corner of the site. It is proposed the site would be improved by the removal of scrubby vegetation, the installation of hibernacula⁵, and the creation of a mosaic of grass heights for basking/cover during different weather conditions. The area would need to be subsequently managed, especially to avoid the succession of scrub and ruderal vegetation. The Statement also includes a method for the installation of reptile exclusion fencing to prevent any slow worms within the gardens from straying into the construction area. A system of temporary refuges would also be installed before works begin so that any slow worms on the site could be translocated. The details of these requirements could be secured by the imposition of an appropriately worded condition and its subsequent implementation.
26. The council acknowledges that the appellant's Ecological Action Plan (which is also included in the ES and seeks to make provision for the slow worms) does have biodiversity merits, but it considers the enhancements would be insufficient mitigation for the loss of approximately 4,600m² of the designated habitat and the wider benefit it provides. It argues that the area of the site identified for redevelopment could contribute to the formation of a successful SINC even if the roof of the reservoir did collapse. Similarly, GARA also argues that size is a determining factor in nature conservation value, and that the reduction in the size of the SINC would inevitably reduce its potential for the realization of its conservation value.
27. My attention has been drawn to the benefit of a mosaic of habitats that are linked within a wider network of suitable sites. This would facilitate the movement of individuals between metapopulations of slow worms and a better mixing of genes. However, there was a level of agreement between the parties that the slow worm community at and surrounding the appeal site was small and inevitably isolated. The prospect that the site might make a contribution to a habitat corridor (as cited in

⁴ Although it would appear the trees referred to at the western end of the site (which have now been felled) did not actually fall within the designated area.

⁵ Small holes in the ground filled with logs, bricks and stones, with cut vegetation above under a layer of soil and upturned turves.

paragraph (h) of Policy CS15) is therefore remote. The council records the view that without management the slow worm habitat would develop sub-optimal conditions.

28. I recognise that the redevelopment of the reservoir itself would effectively deny potential routes across the SINC which representatives might have followed, but the denser vegetation is to be found in the eastern part of the site and along its southern and northern boundaries and in the adjacent gardens. It is on this basis that I found the appellant's argument that the slow worms would in any event be more attracted to these areas to be convincing. Subject to the implementation of an appropriate scheme and the regulation of access, I am unconvinced that the slow worms would be adversely affected by the scheme as a whole – rather the reverse.
29. Although the slow worm population was the focus of concern at the SINC, the presence of other forms of wildlife was discussed at the inquiry. In particular, I gather the site is used by birds, bats and butterflies. The appellant commissioned a survey of bats, both inside the reservoir and on the appeal site generally, in the summer of 2010. Although the reservoir includes numerous potentially suitable cracks and crevices there was no evidence of any form of occupation. The potential access points have all been blocked. The survey and other records indicate the presence of bats on the appeal site generally, though their numbers were low and they were neither roosting nor foraging on the site. The main attraction appears to be the trees at the eastern end of the site and the garden trees to the north and south. These would be unaffected by the proposed development. The behaviour of bats can be affected by lighting⁶. Annex E of the Sustainability Statement submitted as part of the ES records an external lighting strategy for the scheme. It is intended that light spill from the development should be minimised so that any adverse effect on the nocturnal activities of bats would also be reduced.
30. Bird surveys were carried out on the site in the spring and summer of 2011. A total of 23 bird species were recorded on or close to the site. The majority however were using the gardens and vegetation close to the site boundaries. The roof of the reservoir itself was observed to be in use by starlings, but this is a common and widespread species in London. I conclude that the extent of the adverse effect of the scheme on birdlife would be limited. Indeed, the submitted Ecological Action Plan includes proposals for the management of the trees especially at the eastern end of the site, together with the installation of bird nesting and bat roosting boxes. The grassland area, principally to the east of the reservoir structure but also along the northern and southern boundaries, would also be subject to a management regime to promote a varied structure. This would render the area more attractive to invertebrates, including butterflies.
31. In the Inspector's Report into the UDP inquiry my predecessor refers to the prospect of additional biodiversity surveys with a view to them informing greater understanding of the nature conservation interest of the land. The appellant has commissioned survey work and our knowledge is now enhanced and refined. In the specific case of the current proposal, the extent to which the integrity of a SINC was synonymous with its designated area was discussed. Proposal 70 of the Mayor's Biodiversity Strategy seeks, amongst other matters, to ensure that there is no net loss of SINC's. Similarly, paragraphs D and E of Policy 7.19 of *The London Plan* specifies a graduated approach to the manner in which development proposals should be considered against identified sites. Policy CS15 of the Core Strategy is similarly structured.
32. I believe that in many cases the integrity of a site will be identical with the preservation of its boundaries, but it may not always be the case. The important

⁶ See Document 10
www.planningportal.gov.uk/planninginspectorate

consideration must be the detailed manner in which the site is occupied and used rather than the geographical extent of its designation. On the basis of the evidence I have received in this case, for example, the surrounding domestic gardens appear to make a greater contribution to the nature conservation interest of the area than the reservoir roof – even though the former do not fall within the SINC and the latter does. I note also that paragraph Dc of Policy 7.19 is of flexible construction permitting a fairly wide interpretation. Taking all these matters into account I conclude the scheme complies with the requirements of paragraph E2 of the policy – the impact would be minimized and mitigation supplied.

33. I have taken account of the representations made and of the nature conservation interest of the locality, and concluded that the attention which would be paid to the eastern part of the appeal site (and to a lesser extent its northern and southern boundaries) would constitute a benefit of the scheme. I consider the ecological interest of the site as a whole would be enhanced and improved and that in this respect the limited harm identified under the first main issue would be outweighed.

Reservoir structure

34. Both the principal parties to the inquiry considered the former reservoir to be an interesting and special structure. Indeed, the appellant describes it as a unique site. I saw on my first visit that the interior of the building is certainly very distinctive – a quality derived in no small part from its enclosure and the 91 pillars supporting uniform arches and barrel roofs. The council considers the building to be of sufficient interest and character to constitute a non-designated heritage asset as cited in paragraph 135 of the NPPF. I note however in this context that a request for the building to be included on the list of buildings of special architectural or historic interest was declined by English Heritage.
35. Notwithstanding the appellant's enthusiasm for the building, it evidently did not recognise a consequential requirement that it should be retained unaltered. It considered the condition of the building was such as to give rise to an impetus for works to be undertaken. The council and GARA, on the other hand, see no such imperative. Although it is recognised that the building will inevitably require attention in the future, they see no need for any urgency. Thus evidence was submitted by both principal parties concerning the condition of the structure – especially in relation to the condition of the roof and the ingress of water.
36. Both the principal parties have obtained engineering advice concerning the condition of the building, and I received comprehensive evidence on the subject during the inquiry. There is a degree of agreement that there is little evidence of significant structural failure, and I saw on my visit that, for its age, the building appears to be in a generally good condition. However, differences emerged on the basis of the extent to which water was able to penetrate the roof.
37. There is no dispute that in 1989 the former owners of the building (Thames Water) installed a bentonite clay membrane covering the entire area of the reservoir roof. As recorded above, there is soil and clay both above and below the membrane, and the purpose of the membrane would have been to prevent surface water from percolating through to the brick roof of the reservoir. I understand the bentonite expands when wet, forming a water-proof barrier. Accumulations of rain water would thus have percolated sideways off the roof of the structure. I gather the reservoir contained potable water, and the necessity of preventing the ingress of rain water or surface water is self evident.
38. The bentonite layer is, of course, hidden from view, as is the brick roof of the structure. Representations were made on GARA's behalf that the membrane may

have been punctured by, amongst other operations, the erection of security hoardings designed to prevent access onto the roof. I gather the hoardings were erected on the advice of public liability insurers. In contrast however, I also understand that the grass roof of the reservoir is regularly mown by machine – an unwise practice if the roof is in danger of imminent collapse. Be that as it may, there is agreement between the parties that water is getting into the reservoir, and, although the weather was dry at the time of my first visit, I saw a substantial puddle in the south-east corner of the structure. The council's engineering witness reported that on one of his visits to the reservoir after a week of heavy rain, he saw significant amounts of water entering through about half the structural bays. The rate of leakage observed varied from steady dripping to a steady stream equivalent to a running tap⁷.

39. The reservoir is essentially a large sealed tank, and on behalf of the appellant it was argued that water could only get into the structure if there had been some deterioration in the bricks and/or mortar, resulting in voids through which the water could flow. I acknowledge that this must be so, and conclude that the passage of time is having an inevitable effect on the permeability of the structure. The parties agreed that the structure would deteriorate with time, but the council considers that even if there is a partial collapse, this would not be incompatible with the designation of the land as either open space or as a SINC. Such a course of events would simply result in the site becoming attractive to an alternative biological regime, and the extent to which it was able to contribute to the environmental amenity of the surrounding dwellings would not be compromised. In effect, the council argues that the condition of the building does not, and should not contribute to the pressure for the redevelopment of the land.
40. Although in ecological terms I have some sympathy for the council's view, I do not believe such a future would be appropriate or acceptable in relation to the wider environment. I cannot see any likelihood of the building being conserved, and the planning history of the site to which I have referred above clearly points towards a form of redevelopment. Indeed, in my view this would have applied even had the structure remained water-tight. It follows that I consider the debate over the condition of the structure to have been peripheral to the determination of the appeal. My predecessor at the UDP inquiry clearly considered some form of redevelopment was likely to be appropriate, and it is in this context that I now turn to consider the form and content of the proposed development.

Affordable housing

41. Both Policy 3.11 of *The London Plan* and Policy CS6 of the *Camden Core Strategy 2010* seek to encourage and maximise the delivery of affordable housing. The council's aim is to seek to ensure that 50% of the borough-wide target for additional self-contained homes is provided as affordable housing, and additional guidance has been adopted in the form of Supplementary Planning Guidance (*Camden Planning Guidance 2: Housing*) to assist in achieving this objective. The requirement to continue to use the planning system to generate affordable houses is retained in paragraph 50 of the NPPF. It is recognised however that the provision of affordable houses on site can sometimes prove difficult to achieve and provision exists for mechanisms to be adopted to secure provision off-site. Much will hinge on the nature of the site and the extent of what can be achieved. A large site would evidently lend itself to a variety of different forms of development where different mixes of housing provision can be accommodated.

⁷ See paragraph 4.8 of Document 13
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42. In this case however, I agree with the appellant that the constraints on the site are considerable. The land covers a relatively modest area; it is a designated SINCE and recognised open space; it has been the subject of debate and discussion at the UDP inquiry; and, most recently, an application for planning permission for frontage residential development has been refused⁸. The appellant draws particular attention to the unique quality of the existence and appearance of the former reservoir, and the scheme seeks to take advantage of both the outline of the structure and a proportion of the building itself. It is in this context that the appellant refers to the critical status of the project as a design-led scheme. I recognise and acknowledge this aspect of the appeal and I share the appellant's concern that this, perhaps rather traditional assessment of the purpose of the planning system, enjoys a higher status than the potential to manipulate the mechanism in order to generate a particular quantum or proportion of affordable dwellings.
43. My attention was drawn in this context to the additional costs derived both from the design constraints and dimensions of the modular structure of the north and south sides of the building, together with the depth of the former reservoir. These render the lowest level inappropriate for principal living rooms, necessitate the need for a car lift, require specialised surface water drainage arrangements, and a number of additional items. Some of these aspects of the scheme would result in high construction costs, and others would be the cause of high service charges.
44. The manner in which the particular circumstances of a residential development site can have a substantial influence on its potential to generate affordable housing is recognised in the 11 criteria included, jointly, in Policy DP3 of the *Camden Development Policies* and in paragraph 3.14. The policy refers specifically to the character of the development and the site, and to the particular costs of development. Paragraph 3.14 provides more detail; including references to the practicality of on-site affordable housing management, the size of service charges, and the possibility that an off-site contribution would maximise the overall delivery of housing and affordable housing.
45. As the appellant observes, the particular character of the site within and defined by the walls of the redundant reservoir structure have a direct negative bearing on the potential coexistence of different property managers. It is a relatively confined area, and I agree with that assessment. I also accept that the estimated service charges of £231 per month (at 2010/11 prices) would render the scheme unacceptable to both affordable housing providers and tenants. The difficulty of seeking to combine market and affordable houses on such a site is recognised in paragraph 2.40 of *Camden Planning Guidance 2: Housing*. It records that the same service charges must apply where the same services are shared. The scheme inevitably includes substantial communal components, and I see little prospect that market housing on the land could ever be used to generate on-site affordable housing. I therefore conclude in relation to this issue that the appellant is justified in seeking to take advantage (by making a payment-in-lieu) of the exception included in Policy DP3 and paragraph 3.74 of *The London Plan*.

Density and mix

46. Policy 3.4 of *The London Plan* seeks to optimise the potential of housing sites within the city in relation to their location, character and accessibility, so that the maximum benefit is obtained from the sites which are available. Optimisation is obtained by reference to Table 3.2 of the plan with a general increase in density being measured against the number of habitable rooms per dwelling; the location of the site

⁸ See Document 19
www.planningportal.gov.uk/planninginspectorate

(suburban, urban and central); and the public transport accessibility level (PTAL) of the land – where higher densities are expected in the more accessible locations.

47. I saw on my visits to the site that, taking account of the 800m referred to in Table 3.2, the land does not have a high accessibility level. However, in accordance with the Notes to Table 3.2 the area has a distinctly urban character (terraced houses and mansion blocks) as opposed to a suburban setting (detached and semi-detached houses). Indeed, the council records that the existing density of development in the surrounding streets varies from 63 units/hectare in Hillfield Road (north) to 140 units/hectare in Agammenon Road (west). I also saw on my visits that many buildings in the area were either designed and constructed as flats or had been converted to form apartments, and this no doubt accounts in part for the relatively high densities identified.
48. On the basis of its designation, Table 3.2 specifies desirable density ranges of 35-65 units/hectare (urban) or 35-55 units/hectare (suburban). Subject to the inclusion or exclusion of the proposed site frontage landscaping, the scheme would generate 27 or 40 units/hectare. On the latter basis the scheme falls comfortably within the specified range, but on the former it would be below the optimised potential of the site. I have taken account of the contents of paragraph 3.28 of the plan that the mechanistic application of Table 3.2 would be inappropriate, but whether considered to be either urban or suburban, I see no justification for excluding the frontage of the site from the calculation. The frontage is an integral part of the scheme and I therefore agree with the council that there is a conflict with Policy 3.4. It follows that to the same extent the scheme conflicts with paragraph (e) of Policy CS1 of the *Core Strategy* and paragraph (a) of Policy DP2 of the *Camden Development Policies*.

Design and townscape

49. I turn now to consider the design and appearance of the scheme and the contribution which it would make to the townscape of its surroundings. Much emphasis was placed by the appellant on the special (even unique) quality of the existing building and site. I recognise this aspect of the case. Although I gather there are a number of similar structures in London, the form and appearance of the building is certainly unusual and distinctive. However, the individual quality of the building is essentially confined to its interior, with little to alert those on the outside to the appearance and character of the inside. Indeed, the existence of the former reservoir is evident only from the entrance, from a number of surface vents, and from the open space which it occasions.
50. It is not without irony that so much of the appellant's case is derived from the objective of making the most of the building whilst simultaneously proposing the demolition and removal of much of the structure. Be that as it may, I acknowledge that the outside walls and buttresses would be retained together with a number of the cruciform brick columns. Most of the retained structures would therefore be confined to the space between the rear of the dwellings and the reservoir wall. Although little of these elements of the original building would be visible from outside the site, they would nevertheless make a significant contribution to the appearance and character of the site to its residents. I also agree with the appellant that some of the detail of the architecture (the principal windows at B-1 level, for example) is inspired by the form of the reservoir. I am in no doubt that the subterranean location of the development and the retention of important parts of the structure would ensure that residents and visitors alike would appreciate the origin of the scheme. In this respect I note the council acknowledges that the proposal can be

described as 'an environmentally sustainable new housing development in an urban location, with high quality design contained in a visual low-key manner'⁹.

51. I agree with the council's assessment of the scheme as architecture, and I note the prominence attributed to high quality design as one of the core principles of the NPPF. In addition, paragraph 63 observes that great weight should be given to outstanding or innovative designs. In this respect I believe there is a substantial distinction to be made between the scheme suggested at the UDP Inquiry and the current proposal. In a similar vein to the views expressed by my colleague, I consider the former to have been out of scale and inappropriate, whereas I believe the current scheme to be complementary and self-effacing. It is on this basis that I attach significant weight to the benefit of the appeal.
52. The council's concern in relation to the design of the scheme derives, at least in part, from the prospective developer's objectives of both utilising the former reservoir building whilst seeking to retain the open character of the site. A number of consequences inevitably flow from the adoption of these parameters, but the council has specifically recorded its concern that a variety of unit sizes has not been incorporated into the scheme, and that the resultant design forms an inward looking enclave.
53. Policy DP5 of the *Camden Development Policies* is specifically concerned to promote the creation of mixed and inclusive communities by securing a range of self-contained homes of different sizes. Paragraph (b) expects a mix of large and small homes in all residential developments. Paragraph 5.4 of the plan defines large homes as those containing 3 or more bedrooms, and small homes as 1 or 2 bedroom dwellings. In its dwelling size priorities table the council indicates a very high need for 2 bedroom market units and 4 bedroom social rented units. The 4 bedroom market units which the scheme would provide is considered to satisfy only a medium need.
54. The appellant observes that the policy is expressed as an expectation, and that there is a need for dwellings of all sizes. Furthermore, paragraph 5.7 states that the council will be flexible when assessing development against the contents of the policy. Other factors to be taken into account are the character of the development, the site and the area. Where development involves the re-use of an existing building for example, this may limit the potential to provide a range of dwelling types. In the circumstances of this case I accept that the objectives to which I have referred place a considerable constraint on the extent to which the flexibility implied by Policy DP5 can be achieved. A scheme could doubtless have been prepared which would have complied more adequately with the contents and purpose of Policy DP5, but I doubt whether any part of the reservoir could have been retained. Although I therefore conclude the proposal conflicts with the letter of paragraph (b) of Policy DP5, I allocate only limited weight to this aspect of the case.
55. The purpose of Policy DP24 of the *Camden Development Policies* is to secure high quality design in general, while paragraph (d) specifically seeks the provision of visually interesting frontages at street level. My attention has also been drawn, in the context of designing out crime and the fear of crime, to paragraph 17.5 of the *Core Strategy*. It too seeks to promote active frontages which are both attractive and which allow streets to be overlooked. It also includes a limitation on development which restricts movement into or through a scheme – especially gated developments.

⁹ Paragraph 8.1 of Mr Sexton's Proof.

56. As with the mixture of house types considered above, a conventional scheme could have been designed with an open frontage to Gondar Gardens. However, such a scheme would have required the filling, or partial filling, of the reservoir and the openness which the current proposal seeks to retain would have been compromised. Although Policy DP24 might thereby have been satisfied, there would have been a greater conflict with paragraph (a) of Policy CS15. I recognise that the objective of re-using the reservoir structure would result in an inward looking development. The form and depth of the structure virtually dictates such an outcome. I accept that such an unconventional development also results in a requirement to restrain entry to the site.
57. The frontage of the site would include the pedestrian access, the vehicular access and car lift, and the refuse and recycling centre, with the houses themselves occupying fairly constricted sites thereafter. I have considered the land to the rear in the context of the second main issue, and in all the circumstances I see no overarching necessity to secure public access to the land. I recognise that the frontage itself would need to be secured by the installation of fencing or railings, but their impact could be ameliorated by appropriate tree and shrub planting. This could be secured by the imposition and implementation of appropriately worded conditions. In this case I consider the combined effect of the design of the scheme and the need to restrain access to the remainder of the land would be sufficient to justify an exception being made to the normal restraint included in paragraph 17.5. In this respect I see a distinction between the current case and the circumstances of the appeal decision¹⁰ at Gower Mews which was drawn to my attention.

Section 106 Agreements

58. As I have recorded in paragraph 1 above, a number of the matters about which the council was originally concerned have been resolved between the principal parties by means of Agreements made under section 106 of the above Act. The principal parties have made two Agreements. Save in one respect, they are identical. The Agreements specify the council's preference for the delivery of identified off-site affordable housing locations, but they also recognise that a financial contribution may be necessary if no site can be found. The difference is the definition of the affordable housing contribution at paragraph 2.3 of the definitions. The appellant favours that included in the first Agreement (Document 32), while the council favours that included in the second (Document 33). The first includes a payment-in-lieu of £5,419,250, and the second includes a sum of £6,805,200. I consider this difference in the first instance, followed by an assessment of the remaining provisions. At the inquiry the council provided a document¹¹ recording its view that the second Agreement complies with Regulation 122 of the Community Infrastructure Regulations 2010. This requires that obligations must be: (a) necessary to make the development acceptable in planning terms; (b) directly related to the development concerned; and (c) fairly and reasonably related in scale and kind to the development.
59. The requirement that the residential development of the site gives rise to a need for the provision of affordable housing is derived from the core principles of the NPPF, together with the more specific contents of paragraph 50 under the heading of 'delivering a wide choice of high quality homes'. I do not dispute the contents of paragraph 6.19 of the *Core Strategy* to the effect that Camden has a particularly large requirement for additional affordable homes, nor that this is part of the purpose of Policy CS6. Further advice is included in Policy DP3 of the *Camden Development*

¹⁰ APP/X5210/A/11/2143790

¹¹ Document 31

Policies and in Camden Planning Guidance 2: Housing and 8: Planning Obligations. Chapter 6 of the latter refers to affordable housing.

60. The difference between the parties is derived from the methodology for calculating the floorspace of the proposed dwellings. The council favours an off-site affordable housing contribution based on a total area of 5,136m², while the appellant favours a contribution based on 4,544m². The difference is contingent upon the inclusion or exclusion in the calculation of the proposed garages and bin/bike storage areas in each of the 16 dwellings. These are shown at B-2 level and, although no access is shown from the interior, both spaces are integral to each dwelling.
61. The appellant favours the smaller area on the basis that neither the garage nor the bin/bike storage area could be considered to form habitable space. The council on the other hand observes that each could be readily incorporated into the habitable space of the dwelling without the need for specific planning permission. The appellant counters this argument by observing that the use of the garages (and presumably the bin/bike storage areas) could be secured and protected by the imposition of an appropriately worded condition¹². Alternatively, the garages could be left as car ports. In any event, my attention is drawn to paragraph 2.23 of *Camden Planning Guidance 2: Housing* which records that in assessing the capacity of a scheme to contribute to the provision of affordable housing the council will take account of whether the additional area is capable of forming habitable space.
62. I have considered the opposing viewpoints. Although I note the appellant's objection that a condition (and/or a restrictive covenant) as described above could be imposed or the garages could be left as car ports, I do not consider this would resolve the matter. Much is made of paragraph 2.23. However, I read the relevant sentence of the paragraph as a potential relaxation in marginal cases where an additional 1,000m² of residential floorspace would not have the capacity to generate 10 affordable dwellings. I do not believe this applies to the current case. As I have recorded, the garages and bin/bike storage areas would be integral to each unit and would form important components of the B-2 level for each house, together with the media room to the rear. Although they may not constitute habitable rooms, they nevertheless are significant parts of the floorspace of each dwelling and they would be capable of forming habitable space. I believe furthermore that a condition to restrain the use of the floorspace would amount, at least in part, to an unjustified device, and would conflict with the presumption against such conditions included in paragraph 87 of DoE Circular 11/95 *The Use of Conditions in Planning Permissions*. I therefore agree with the council that on this basis the second section 106 Agreement (Document 33) is fairly and reasonably related in scale and kind to the development proposed. I recognise and acknowledge that both obligations have been agreed between the parties, but it follows that I consider the first Agreement (Document 32) is neither fairly nor reasonably related to the proposed development.
63. The Agreements include many other provisions to which I now turn.
64. The Agreements provide for a Construction Management Plan to regulate details of the works necessary to implement the development. I agree with the council that in such a residential area the construction impacts of the scheme render such a plan a necessity. I conclude the provision would also be directly related to the development, and that it would be fairly and reasonably related in scale and kind to the development.
65. The Agreements seek to promote both the generation of local employment and local procurement. Both provisions comply with the contents of *Camden Planning*

¹² See draft condition 24 in the SoCG.

Guidance 8: Planning Obligations for schemes costing in excess of £3m and £1m respectively. One of the purposes of the provision is to seek to bridge the skills gap between Camden's residents and the jobs on offer in the area, and to assist in the promotion of a successful and inclusive economy. I conclude these provisions are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

66. The undeveloped land to the east of the former reservoir, together with narrower strips to the north and south, is identified in the Agreements as retained habitat land. It is to be the subject of a habitat plan so that the land is secured in perpetuity as a properly managed and enhanced site – preferably by the London Wildlife Trust or similar organisation. The Agreements make specific provision for the protection of slow worms, for the provision of bat and bird boxes, for the ongoing management and monitoring of the land with the benefit of a Retained Habitat Contribution. Both the land and the plan are integral parts of the scheme as a whole and the provisions justify the conclusion I have reached in respect of the second main issue. I consider they are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.
67. The Agreements define an energy efficiency and renewable energy plan. The purpose of the plan is to reduce carbon energy emissions, including further details of the combined heat and power plant, metering of all low and zero carbon technologies, and measures to enable connection to a local energy network in the future. The requirement for such provisions is derived from a number of policies included in the development plan, and I conclude it is necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.
68. The purpose of the sustainability plan which is also included in the Agreements is to ensure that various sustainability measures are incorporated into the scheme to achieve at least Level 4 under the Code for Sustainable Homes. The plan requires monitoring work to be undertaken to confirm that the various environmental measures have been successfully implemented and thereafter maintained. The need for such a plan is derived in part from Policy CS13 (Tackling climate change through promoting higher environmental standards) of the *Core Strategy*. I conclude it is necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.
69. The Agreements include a Community Facilities Contribution of £62,720. The requirement and the amount is derived from a formula included in *Camden Planning Guidance* and a number of community facilities in the area have been identified. They are located at Siding's Community Centre, Broomsleigh Hall (used by the Community Association for West Hampstead), Fortune Green Play Centre, and the West Hampstead Library. The proposed development would inevitably generate some additional pressure on such community facilities, and the identified beneficiaries are all relatively close. I conclude the contribution is necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.
70. The Agreements include an Education Contribution of £261,184. The contribution is calculated in accordance with a formula included in *Camden Planning Guidance* and I understand the north-western part of the Borough is subject to particular pressures for primary provision. Three primary schools are identified – at Liddell Road, Mill Lane and Kidderpore Avenue, together with a new secondary academy at Swiss Cottage. As the council observes, the tendency towards independent schools makes it difficult to accurately plan for future provision. However, I note in this context that

the formula already includes a reduction to take account of those children in receipt of education not provided by the local education authority. The proposed development would inevitably generate some additional pressure on local education facilities, and the identified beneficiaries are all relatively close. On this basis I conclude the contribution is necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.

71. The Agreements include a Public Open Space contribution of £68,610. The contribution is calculated in accordance with a formula included in *Camden Planning Guidance* and the contents of the *Core Strategy* which identifies areas of public open space deficiency. The appeal site lies close to such an area, and, although it is intended the sum would be pooled, I understand there is some prospect of investment in Fortune Green – an open space not far from Gondar Gardens. The proposed development would inevitably generate some additional pressure on open space, and the identified beneficiary is relatively close. I conclude the contribution is necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.
72. There are two parts to the Highways Contribution - £33,777 is set aside for the reinstatement and repaving of the footway adjacent to the development site, and £5,000 is reserved subject to the outcome of the Car Club Feasibility Plan. The Agreements provide for the feasibility plan to be undertaken by the prospective developer with the objective of reducing the potential for future parking stress. I conclude the plan and contribution are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.
73. The scheme includes parking facilities for each dwelling. I saw on my visits that the area is subject to significant parking pressure, and the purpose of paragraph 4.12 of the Agreements is to prevent future residents from acquiring a local parking permit. The development would thus be car-capped. I conclude this provision is necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development.
74. I conclude in relation to this main issue that the second Agreement (Document 33) complies with the requirements of Regulation 122 of the Community Infrastructure Regulations 2010, and that its provisions add significant weight to the benefit of the scheme.

Other matters

75. A number of other matters were raised either by GARA or by interested persons. I have referred above to the parking stress experienced by local residents, and I note that parking restrictions are in force both in Gondar Gardens and other local streets. In Gondar Gardens a permit is required between 10:00 and 12:00 (midday), Monday to Friday, and GARA is concerned that residents of the proposed dwellings may be tempted to park overnight in the street in preference to using the car lift. I recognise that this might occur, and that there are few, if any, off-street parking spaces in the surrounding area. I agree with the appellant however, that in the event of any increase in parking stress the existing scheme is capable of revision. In any event, I would expect that the less stressful option for a new resident would be to utilise the facility included in the appeal proposal. I conclude the scheme would not conflict with the content or purpose of Policy DP19 (Managing the impact of parking) of the *Camden Development Policies*.
76. My attention has also been drawn to the contents of Policy DP16 (The transport implications of development). It seeks to ensure that new development is properly integrated with the transport network and is supported by adequate walking, cycling

and public transport links. I dispute neither GARA's assessment of the PTAL as 1, nor the use made by existing residents of their private cars. Nevertheless, I saw on my visit that there are good rail and underground links from a number of stations to the south and south-east of the appeal site, together with bus routes on Mill Lane, Shoot-Up Hill and Fortune Green Road. Both means of public transport provide good access to central London and elsewhere, and I conclude there is no conflict with Policy DP16.

77. The appeal site is a former underground reservoir the purpose of which was to retain potable water. The reservoir was enclosed and the danger of contamination by rain water or other surface water was thereby avoided. Over-filling of the reservoir was regulated by an overflow in the south-east corner of the structure. The appeal scheme includes the removal of the reservoir roof and the construction of 16 dwellings within the envelope of the building. An interested person raised the issue of the potential of the development to flood in the event of heavy rain.
78. This matter was considered at the planning application stage¹³. I understand the surface water management strategy for the scheme involves the utilisation of green roofs, the design of 16 rain-water harvesting systems to provide a total of 32m³ storage capacity, and the construction of a sump to provide a further 130m³ of storage. The sump will drain to the outfall at a rate of 8.7 litres per second. I gather the combined effect of the strategy would be to provide attenuation for a 6 hour storm of 25mm per hour. It is on this basis that I understand the Environment Agency withdrew its original objection, subject to the imposition of an appropriately worded condition¹⁴. I therefore raise no objection to the scheme on these grounds.

Conditions

79. I have considered the draft conditions suggested by the parties in the light of their respective comments and the advice included in DoE Circular 11/95. I have noted the reason(s) for each condition in the schedule and altered some of their contents in the interests of clarity and precision.
80. The only condition which gave rise to discussion at the inquiry, and which was not agreed between the parties, was that to which I have referred in paragraph 61 above. The condition was drafted by the appellant. It comprises three components: that the garages should be provided prior to occupation; that they should be retained only for use as garages; and, they should not be converted to habitable space. The reason for the condition is recorded as being to retain adequate levels of parking and the prevent on-street parking in accordance with Policy DP18.
81. As the parties observed at the inquiry, the condition is linked to the disagreement over the inclusion or exclusion of the garages (and the bin/bike storage areas) in the relevant space calculation for the generation of affordable houses in the section 106 Agreements. The reference in the draft condition to 'habitable space' indicates its purpose. I consider that, on its own, this would not be a necessary purpose for the imposition of a condition, and as such it would fail the first test of paragraph 14 of Circular 11/95.
82. The draft condition refers to Policy DP18 of the *Camden Development Policies* as part of its rationale. However, the thrust and purpose of this policy is to limit and minimise the availability of car parking spaces, and the protection of the spaces from alternative domestic uses would be inconsistent with the policy. In addition, I regard the car-capping provisions of the section 106 Agreements, together with the contents of the submitted plans, to constitute a sufficient and adequate response to the need

¹³ See Appendix D at Tab 15 of the ES.

¹⁴ See draft condition 15 in the SoCG.

for the management of cars occasioned by the proposal. It follows that I agree with the council that draft condition 24 is unnecessary.

Conclusion

83. The appeal site in this case lies in an intensively developed and built-up part of the city. The redundant reservoir formed part of the infrastructure of the city, but it is now surplus to requirements. I recognise that the occupants of residential property surrounding the site have established a close and legitimate interest in the appearance, use and character of the land. That is entirely understandable. However, I am in no doubt that when the possibility of the redevelopment of the land was considered by my predecessor at the UDP inquiry he concluded that this would be appropriate in the medium to long-term future.
84. I have considered the case in relation to the five main issues recorded in paragraph 7 above. In relation to the first I have concluded there would be some conflict with the open space protective purpose of Policy CS15. As with many planning decisions, issues and policies pull in different directions. In this case, Policy CS15 itself covers a number of different, but related issues, and the proposal falls to be considered against the contents of the policy, and the development plan, as a whole. I consider in relation to the second main issue that, notwithstanding the removal of the reservoir roof and the construction of the proposed dwellings, the project would improve the nature conservation and biodiversity value of the site as a whole in accordance with the relevant parts of Policy CS15. On balance, I believe this would outweigh the limited harm resulting from my conclusion in relation to the first main issue.
85. Notwithstanding the extent of the evidence submitted in relation to the structure and integrity of the reservoir – the third main issue, I fear this did not make a proportionate contribution to the outcome of the appeal. I believe the contribution which the site can make to the supply of new houses to be of greater significance and in this respect I have concluded that, if necessary, a payment-in-lieu towards the costs of providing affordable houses is justified under Policy DP3. On the other hand, I have concluded in relation to the density and mix of the development that the proposals conflict with Policies 3.4, CS1 and DP2. As far as the design and townscape impact of the scheme is concerned I have concluded there is conflict with paragraph (b) of Policy DP5, but that this is outweighed by the design quality of the project in relation to its context, and thus with the contents and purposes of Policy DP24.
86. The fifth main issue was not the subject of extensive discussion at the inquiry, but it includes a range of matters, all directly related to the proposed development, and which make a number of provisions to the benefit of the local community. Most directly, the obligation makes detailed provisions in the interests of the nature conservation and biodiversity of that part of the land which would remain undeveloped. It is by this means that the ecological value of the site would be preserved and enhanced. Similarly, the obligation makes provision for a substantial contribution towards the delivery of affordable housing in the Borough. These provisions add to the benefits of the proposal as a whole and I have concluded that, on balance, the benefits of the scheme outweigh its harm.
87. It is for the reasons given above that I have concluded the appeal should succeed.

Andrew Pykett

INSPECTOR

Schedule of Conditions

- 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 The details of all facing materials to be used on the building, shall not be otherwise than as those submitted to and approved in writing by the Council before any work is commenced on the relevant part of the development. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises 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 of the London Borough of Camden Local Development Framework Development Policies.

- 3 A sample panel at least 1m x1m in size of all facing brickwork demonstrating the proposed colour, texture, face-bond and pointing shall be provided on site and approved in writing by the Council before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The sample panel shall be retained on site until the work has been completed.

Reason: To safeguard the appearance of the premises 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 of the London Borough of Camden Local Development Framework Development Policies.

- 4 No lights, meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials or satellite dishes shall be fixed or installed on the external face of the buildings, without the prior approval in writing of the Council.

Reason: To safeguard the appearance of the premises 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 of the London Borough of Camden Local Development Framework Development Policies.

- 5 Prior to commencement of any development, (including any works of demolition, site setup, enabling works or relocation of services) the measures set out in the Reptile Mitigation Strategy shall be implemented in full and reports on the measures undertaken by a suitably quality and experienced expert shall be submitted to the Council's Nature Conservation Officer at least every four months for the duration of the works and for a period of 12 months subsequent to their completion.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and protected species in accordance with policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 6 No physical works of development (excluding works of demolition) 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 in writing by the Council. Such details shall include final details of all proposed earthworks including grading, mounding and other changes in ground levels. Such landscaping details to include final details of fencing and perimeter treatment to all boundaries of the site, including any necessary security and crime prevention measures required to prevent unwanted trespass to the areas of residential development and the designated open space behind. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 7 All hard and soft landscaping works shall be carried out to a high standard in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development. 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 Council gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a satisfactory standard of visual amenity in the scheme in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 8 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 guidelines and standards set out in BS5837:2005 "Trees in Relation to Construction".

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 9 By not later than the end of the planting season following the completion of the development hereby permitted, or any phase of the development, trees shall be planted on the land in such positions and of such size and species as may be agreed with the Council. Any trees removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees of a similar size and species to those originally required to be planted.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in

the scheme in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

- 10 Noise levels at a point 1m external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that plant/equipment at any sensitive facade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 11 Before the use commences, the car lift plant shall be provided with acoustic isolation and sound attenuation in accordance with the manufacturer's specifications. The acoustic isolation shall thereafter be maintained in effective order to the reasonable satisfaction of the Council.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

- 12 No development shall take place until a scheme of assessment and materials management and a detailed remediation scheme to provide both gardens and open space suitable for future use shall be submitted to and approved by the Local Planning Authority in writing. The schemes shall include mechanisms for revision and further approval in writing by the Council in the event that any additional significant contamination is discovered during development. The schemes as approved shall be implemented prior to first occupation of the development.

Reason: To protect future occupiers of the development from the possible presence of ground contamination arising in connection with the previous industrial/storage use of the site in accordance with policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 13 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) by the (No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) and Part 2 (Classes A-C) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the Council.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies CS14 and CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP26 of the London Borough of Camden Local Development Framework

Development Policies.

- 14 Prior to the first occupation of the development a plan showing details of bird and bat box locations and types and indication of species to be accommodated shall be submitted to and approved in writing by the Council. The boxes shall be installed in accordance with the approved plans prior to the occupation of the development and thereafter retained and maintained, unless prior written permission is given by the Council.

Reason: In order to secure appropriate features to conserve and enhance wildlife habitats and biodiversity measures within the development, in accordance with the requirements of the London Plan and policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 15 No physical development (excluding works of demolition) shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, including details of calculations and manufacturers specifications, has been submitted to and approved in writing by the Council. The scheme shall identify how the drainage scheme would ensure that a surface water discharge rate of 10 litres per second would not be exceeded. The scheme shall also include: details of how the scheme shall be maintained and managed after completion; the inclusion of back up/standby pumps; and details of the split level surface water storage system designed to reduce the volume of water which needs to be disposed of by pumping. The scheme shall be implemented in accordance with the approved details before the development is completed.

Reason: To reduce the rate of surface water run-off from the buildings and limit the impact on the storm-water drainage system in accordance with policies CS13 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 16 The development hereby permitted shall be carried out in accordance with the following approved plans : : 4870/T(90) P00 Rev P1 - Location Plan, POOD, P-2D; 4870/B20S01 Rev P1; T(20) E01 Rev P1, E02 Rev P1, E03 Rev P1, E04 Rev P1, P00 Rev P1, P01 rev P1, P-1 Rev P1, P-2 Rev P1, P100 Rev P1, SO1 Rev P1; JBA 10/35-01 Rev G; Planning Statement by Rolfe Judd dated January 2011; Environmental Statement by Peter Radmall Associates dated February 2011 comprising: Annex 2 - Construction Management Strategy; Annex 3 - Sustainability Statement with revised Appendix D (Rev B dated 03/06/11); Annex 4 - Air Quality Assessment; Annex 5 - Heritage Statement; Annex 6 - Structural Survey Report; including Appendix E: Addendum to Structural Survey Report by Dudley Walker dated 02/03/11 and Appendix F: Further Investigations into Structural Conditions of Redundant Reservoir by Dudley Walker dated May 2011; Annex 7 - Phase 1 Habitat Survey; Annex 8 - Bat Survey; Annex 9 - Reptile Survey; Annex 10 - Ecological Action Plan; Annex 11 - Reptile Mitigation Method Statement; Annex 12 - Flood Risk Assessment Statement; Annex 13 - Envirocheck Report; Annex 14 - Daylight and Sunlight Statement and further details 1379_20, 1379_21, 1379_22, 1379_28, 1379_29, 1379_30, 1379_31; Annex 15 - Noise and Vibration Assessment; Annex 16 - Landscape and Visual Impact Assessment; Annex 17 - Transport Statement; Environmental Statement Non-Technical Summary by Peter Radmall Associates dated February 2011; Breeding Bird Survey by James Blake Associates dated June 2011; Road Noise Impact Assessment by noise.co.uk dated 06/03/11; CHP Noise

Assessment by noise.co.uk Report No. 9384A-1; Letter from RSK Re: Gondar Gardens Surface Water Drainage Proposals dated 01/06/11; Letter from noise.co.uk Re: Noise Response dated 06/05/11; Letter from Royal Haskoning Re: Response to Transport and Highway Objections dated 28/04/11; and Letter from Royal Haskoning Re: Gondar Gardens dated 03/06/11.

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

- 17 Prior to commencement of the relevant part of the development a plan showing details of the green roof including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for an initial scheme of maintenance shall be submitted to and approved in writing by the Council. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason:

To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13, CS14, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23, DP24 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 18 Prior to commencement of development (excluding works of demolition) details of proposed slab levels, in relation to the existing and proposed levels of the site and the surrounding land, shall be submitted to and approved in writing by the Council. The development shall not be carried out other than in strict accordance with the details thus approved.

Reason: In order to ensure that the height of the development is no greater than indicated on the approved drawings, so as to protect the amenity enjoyed by nearby residential premises, in accordance with the requirements of policy CS1 and CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 19 Prior to the commencement on the relevant part of the development hereby approved details of all external lighting to include location, design, specification, fittings and fixtures (including means of reducing light spillage) shall be submitted to and approved in writing by the Council. The buildings shall not be occupied until the relevant approved details have been implemented. Following occupation at no point shall high level external lighting fixtures be installed within the perimeter of the residential site (including the rear gardens).

Reason: To safeguard the appearance of the premises and the character of the immediate area and to conserve biodiversity by minimising light pollution in accordance with the requirements of policies CS14, CS15 of the London Borough of Camden LDF Core Strategy and DP24 of the London Borough of Camden LDF Development Policies.

- 20 Prior to the commencement of any works which may affect bats or their habitat, a detailed mitigation strategy shall be submitted to, and approved in writing by the Council. The works shall be implemented in accordance with the approved strategy.

Reason: In order to secure appropriate features to conserve and enhance wildlife habitats and biodiversity measures within the development, in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

- 21 The lifetime homes features and facilities and 10% wheelchair adaptable units, 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 and shall be permanently maintained and retained thereafter.

Reason: To ensure that the internal layout of the building is acceptable with regards to accessibility by future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

- 22 Prior to first occupation the refuse and recycling storage facilities shown on the drawings hereby approved shall be provided. All refuse and recycling storage facilities shall be permanently maintained and retained thereafter.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS18 of the London Borough of Camden Local Development Framework Core Strategy and DP26 of the London Borough of Camden Local Development Framework Development Policies.

- 23 The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of the basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. The appointment shall be confirmed in writing to the Council prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To protect the structural stability of the host building and neighbouring buildings, in accordance with policies CS5 and CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24, DP26 and DP27 of the London Borough of Camden Local Development Framework Development Policies.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Megan Thomas	of Counsel, instructed by the London Borough of Camden
She called:	
Ms Kate Mitchell MSc	Nature Conservation Officer, London Borough of Camden
BSc(Hons) MIEEM	
Mr Tim Attwood BSc CEng	Technical Director, Conisbee, Consulting Civil and Structural Engineers
MIStructE	
Mr Gavin Sexton BEng	Principal Planning Officer, London Borough of Camden
MA	

FOR THE APPELLANT:

Mr Russell Harris QC	instructed by Rolfe Judd
He called:	
Mr Charles Graham	Design Director, Rolfe Judd
BArch(Hons) DipArch	
RIBA	
Dr Odette Robson	Head of Ecology, James Blake Associates
BSc(Hons) PhD MIEEM	
Mr Malcolm Reuby CEng	Managing Director, Reuby & Associates Ltd
FIStructE MICE	
Mr Andrew Leahy BSc	Bespoke Property Group
MIoD	
Mr Jon M Roshier	Rolfe Judd Planning Ltd
BSc(Hons) MPhil MRTPI	

FOR THE GONDAR AND AGAMEMNON RESIDENTS ASSOCIATION (GARA):

Ms Emma Dring	of Counsel, instructed by GARA
She called:	
Mr Mitch Cooke	Managing partner, Greengage Environmental LLP
BSc(Hons) MIEEM AIEMA	
CEnv	
Mr David Yass	Chairman GARA, and local resident
Mrs Christine McCormick	Local resident
MA	

INTERESTED PERSONS:

Mr Hugh McCormick	Local resident
Mr Mark Stonebanks	Chairman, Hillfield & Aldred Roads Residents Association and local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Council's Notice of Inquiry and circulation list
- 2 Brief opening submissions on behalf of the appellant
- 3 Outline of opening on behalf of the council
- 4 GARA's opening statement
- 5 Statement of Common Ground
- 6 Supplemental Planning Proof by Mr Roshier
- 7 Email exchange and record of meeting with London Wildlife Trust, by GARA
- 8 Land Registry title and plan, by GARA
- 9 Reptiles, from London Biodiversity Partnership 2005, by GARA
- 10 Impact of Lighting on Bats, by GARA
- 11 Letter dated 7 April 2011, by Mark Stonebanks, Chair Hillfield and Aldred Roads Residents' Association
- 12 2 photographs, by GARA
- 13 Rebuttal Proof by Mr Attwood
- 14 Extract from *Connecting with London's nature* The Mayor's Biodiversity Strategy 2002, by the council
- 15 London Borough of Camden Biodiversity Action Plan, 1 December 2009
- 16 Target progress across plans
- 17 London-weather.eu 1988, by the appellant
- 18 London-weather.eu 1997, by the appellant
- 19 Refusal of planning permission dated 23 May 2012 (Ref: 2012/0521/P)
- 20 Email exchange dated 23 May 2012, by the appellant
- 21 Email dated 6 June 2011, by the council
- 22 Covered reservoir at Gondar Gardens, Architect's Development Strategy 2004, by the council
- 23 Email dated 9 May 2012, by the council
- 24 Extract from the Panel Report on the *Draft Replacement London Plan* dated March 2011, by the council
- 25 Policy DP1 Mixed use development, by the council
- 26 Letter dated 3 August 2012, by GARA
- 27 Letter dated 9 August 2012, by the appellant
- 28 Letter dated 25 September 2012, and Tables, by the appellant
- 29 6 photographs submitted by Mr McCormick
- 30 Statement and enclosures by Mr McCormick
- 31 Section 106 Agreement and the CIL Regulations, by the council
- 32 Section 106 Agreement dated 1 October 2012
- 33 Section 106 Agreement dated 1 October 2012
- 34 Closing submissions for GARA
- 35 Closing submissions for the council
- 36 Closing submissions for the appellant