

PLANNING SERVICES**TOWN & COUNTRY PLANNING (DETERMINATION BY INSPECTORS)
(INQUIRIES) RULES 2000****RULE 6 STATEMENT OF CASE
FOR PUBLIC INQUIRY COMMENCING ON 24TH November 2014**

APPEAL SITE

New End Nurses Home, 29 New End, London NW3 1JD

APPELLANT

Karawana Holdings Ltd

SUBJECT OF APPEAL

Appeal against London Borough of Camden's refusal of Planning Permission for 'Erection of a 7 storey block to provide 17 self contained residential units (Class C3), (comprising 2 x studio, 5 x 2 bedroom, 6 x 3 bedroom, and 4 x 4 bedroom units) with associated roof terraces, plus new vehicular access and basement parking for 17 cars; new pedestrian access, refuse store and substation on front boundary; green roofs; communal open space and landscaping, following demolition of existing nurses' hostel (Sui Generis)'.

COUNCIL REFERENCES: 2012/3089/P

PLANNING INSPECTORATE REFERENCE: APP/X5210/A/14/2218243

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1.0 SITE AND SURROUNDINGS

- 1.1 The appeal site is located on the north side of New End, on land sloping steeply upwards away from the road, and on the west side of Christchurch Passage, a pedestrian alleyway that connects New End with Christchurch Hill. The appeal site is bounded by Christ Church to the north and by properties facing Elm Row, Hampstead Square and New End to the west. The appeal site is situated in the designated heritage asset of Hampstead Conservation Area (in the New End/New End Square Area of Sub Area 2).
- 1.2 The Hampstead Conservation Area Statement refers to “the building’s overbearing quality as it looms over the street.” The Statement classifies the building as detracting from the Hampstead Conservation Area.
- 1.3 The property consists of a T-shaped vacant nurses’ home dating from the 1950’s which is 5 storeys in height at front but at rear, due to steeply sloping topography, only 4 storeys high.
- 1.4 The building has been vacant since 2005 and contains 75 single bedrooms arranged in a typical cluster flat layout with communal bathrooms and kitchens plus ground floor communal rooms and facilities. The lawful use is thus ‘Sui Generis’ hostel. The hostel was originally used in conjunction with New End hospital opposite which was later vacated and sold in 1986 for residential redevelopment. The hostel itself was later sold by the Royal Free Hospital in 2005.
- 1.5 The whole of the appeal site has several trees and shrubs including a mature horse chestnut tree on the frontage next to no.27 to the west. The rear of the site behind the rear wing and adjoining Christchurch Passage is an overgrown

garden with derelict tennis court which is designated as Private Open Space (no.157) in the LDF.

1.6 The following listed buildings (designated heritage assets) are in close proximity to the site:

- Lawn House (grade II);
- Nos. 10-14 Elm Row (grade II);
- Christ Church (grade II);
- Christ Church Primary School (grade II);
- Hampstead Parish Workhouse, now known as Kendall's Hall (grade II);
- nos. 10, 12 & 14 New End (grade II).

1.7 The appeal site is situated along the one-way section of New End, which runs in an easterly direction from Heath Street to the junction with Well Road. The site is located in an accessible location near bus routes and the underground station but is classified as having a PTAL rating of 3 (moderate). The appeal site also lies within the Hampstead Archaeological Priority Area.

3.0 APPEAL APPLICATION DETAILS

- 3.1 The appeal is against the London Borough of Camden's refusal of application for planning permission. The planning application reference 2012/3089/P was received on 13 June 2012 seeking planning permission for the following development: *Erection of a 7 storey block to provide 17 self contained residential units (Class C3), (comprising 2 x studio, 5 x 2 bedroom, 6 x 3 bedroom, and 4 x 4 bedroom units) with associated roof terraces, plus new vehicular access and basement parking for 17 cars; new pedestrian access, refuse store and substation on front boundary; green roofs; communal open space and landscaping, following demolition of existing nurses' hostel (Sui Generis).*
- 3.2 The application was registered on 15 June 2012 having been valid from 13 June 2012.
- 3.3 A site notice advertising the application was erected on 22 June 2012 (expiring on 13 July 2012) and a press notice published in the Ham & High newspaper on 5 July 2012 (expiring on 26 July 2012).
- 3.4 Written notification was produced to be sent to Hampstead Conservation Area Advisory Committee (CAAC), Heath and Hampstead Society and Councillors Kirsty Roberts, Chris Knight and Linda Chung on 20 June 2012. Written notification was sent to 98 neighbours on 20 June 2012.
- 3.5 During the consultation, 438 objections were received from various nearby addresses. Objections were also received from Hampstead CAAC, Superintendent of the Heath, Heath & Hampstead Society, Flask Walk Neighbourhood Association and Rudall Crescent Residents Association.

Petitions were received from Heathside School, Christchurch School and local residents. These responses have already been forwarded to the Planning Inspectorate.

3.6 During the course of the application the applicant (now appellant) submitted various revisions and additional supporting information to the planning application, summarised as follows:

Revision 1 (September 2012) - *no re-consultation*

- Lifetime homes features shown on flat layouts;
- Revised cycle parking in basement;
- Reduction in 3rd floor terrace overlooking Christchurch Passage and proposed obscure glazing for windows on both side elevations;
- Additional information/clarification on daylight study;
- Additional comparative studies on front elevation;
- Additional information for independent engineers' BIA review;
- Revised plans for relocated onstreet parking bays.

Revision 2 (May 2013) – *re-consultation with all respondents*

- Revised position of western wall at basement, ground and 1st floors to allow retention of adjoining listed wall buttresses;
- Associated revised BIA, Arup review report, daylight report, heritage report.

3.7 During the course of the application it was considered necessary to undertake a formal period of re-consultation owing to the amendments submitted by the

applicant. Written re-notification was sent to 170 neighbours on 11 June 2013. Written re-notification was also sent to Hampstead Conservation Area Advisory Committee (CAAC), Heath and Hampstead Society, Flask Walk Neighbourhood Association, Rudall Crescent Residents Association, Heath Drive Association on 11 June 2013.

3.8 During the re-consultation, 35 objections were received from various nearby addresses. Objections were also received from the Heath & Hampstead Society. These responses have already been forwarded to the Planning Inspectorate.

3.9 The application was reported to the Development Control Committee on 28 November 2013. The officer level recommendation was to Grant Planning Permission, subject to a number of conditions and the applicant entering into a Section 106 Legal Agreement for the following;

- Final Demolition and Construction Management Plan, including noise, vibration and air quality assessment and mitigation measures;
- Construction Working Party set up with local community and schools;
- Car-capped dwellings;
- Highway works contribution of £54,000, for repaving the footway directly adjacent to the site with York stone paving slabs, level thresholds with public highway, new crossover, changes to on street parking bays (as shown on drawing no. 2011-1007-CR-004), kerb build-out and drainage, and associated costs of Traffic Management Order; such implementation to be prior to occupation of flats;

- Pedestrian, cycling, environmental and public realm improvements contribution of £12,000;
- Education facilities contribution of £134,973;
- Offsite affordable housing contribution of £750,000;
- Deferred housing contribution (to a cap of £3,933,504);
- Post-construction review to show achievement of CfSH targets and implementation of renewable energy facilities.

3.10 The Development Control Committee resolved to refuse the application and a decision notice was duly issued on 16 December 2013. There were six substantive reasons for refusal (Reasons 1 to 6) and a further five reasons relating to Section 106 matters. The six reasons in full were:

3.11 **Reason 1.** The proposed development, by virtue of its design, bulk and massing, would detract from the character of the streetscene and townscape and would fail to preserve and enhance the character and appearance of the Hampstead Conservation Area and the setting of nearby listed buildings, contrary to policy 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.

3.12 **Reason 2.** The proposed development, in the absence of any onsite affordable housing and of sufficient justification for this lack of provision in accordance with the Council's targets, and in the absence of a legal agreement to secure affordable housing, would fail to ensure the provision of the required amount of affordable housing for the scheme, 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 and policy DP3 (Contributions to the supply of affordable housing) of the London Borough of Camden Local Development Framework Development Policies.

3.13 **Reason 3.** The proposed development, by virtue of the provision of new car parking in the basement, and in the absence of a legal agreement to secure car-free housing units, would be likely to contribute unacceptably to increased traffic generation, parking stress and congestion in the surrounding area and create an over-dependence of use on motor vehicles, which would fail to promote more sustainable and efficient forms of transport, contrary to policies 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 policies DP17 (Walking, cycling and public transport), DP18 (Parking standards and limiting the availability of car parking) and DP19 (Managing the impact of parking) of the London Borough of Camden Local Development Framework Development Policies.

3.14 **Reason 4.** The proposed development's basement flats, by reason of their location and layout, would fail to provide an adequate level of outlook to the detriment of the amenities of future residential occupiers, contrary to 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.

3.15 **Reason 5.** The proposed development and its associated excavation works would result in the removal of a number of trees on the site which are considered to have a high amenity value in the townscape, which would be detrimental to the character and appearance of the streetscene and conservation area, contrary to policy CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) of 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.

3.16 **Reason 6.** The proposed development, by virtue of its scale and size and the level of excavation associated with its new basement accommodation, and the consequent associated impact of works and traffic throughout the demolition and construction period, would be harmful to the amenities of neighbouring

occupiers and the area in general, contrary to policies CS5 (Managing the impact of growth and development) and CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policies DP20 (Movement of goods and materials), DP21 (Development connecting to the highway network) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

3.17 An informative was also recorded on the decision notice, stating: *Without prejudice to any future application or appeal, the applicant is advised that reasons for refusal nos. 7 - 11 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.*

3.18 An appeal was lodged against this decision, with the start date being 17 June 2014.

4.0 RELEVANT PLANNING HISTORY

- 4.1 It is intended that the basic planning history will be set out in detail in the Statement of Common Ground.

5.0 PLANNING POLICY FRAMEWORK

- 5.1 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

- 5.2 The Local Development Framework (LDF) was formally adopted on 8th November 2010. The policies of relevance to the appeal site as a whole, having regard to all material considerations are listed below:

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 through 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)
- CS17 - Making Camden a safer place
- CS18 - Dealing with waste
- CS19 (Delivering and monitoring the Core Strategy)

LDF Development Policies

- DP2 - Making full use of Camden's capacity for housing
- DP3 - Contributions to supply of affordable housing
- DP4 - Minimising loss of affordable housing
- DP5 - Housing size mix
- DP6 - Lifetime homes and wheelchair homes
- DP9 - Student housing, bedsits and housing with shared facilities
- DP16 - Transport implications of development
- DP17 - Walking, cycling and public transport
- DP18 - Parking standards and the availability of car parking
- DP19 - Managing the impact of parking
- DP20 (Movement of goods and materials)
- DP21 (Development connecting to the highway network)
- DP22 (Promoting sustainable design and construction)
- DP23 (Water)
- DP24 (Securing high quality design)

- DP25 - Conserving Camden's heritage
- DP26 (Managing the impact of development on occupiers and neighbours)
- DP27 (Basements and lightwells)
- DP28 (Noise and vibration)
- DP29 - Improving access
- DP32 – Air quality and Camden's clear zone

Supplementary Planning Guidance

- 5.3 Where appropriate, the Council will also rely on supplementary planning guidance as set out in the Camden Planning Guidance 2013 (CPG) and Hampstead Conservation Area Statement insofar as it is material to the determination of the appeal (see Section 8 for further details).

London Plan

- 5.4 At the time of the planning application decision the adopted regional plan was the Mayor's London Plan, which was adopted in July 2011. This remains the most up to date adopted regional plan. The following London Plan policies were most relevant to the Council's decision to refuse planning permission at this site:

- 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
- 5.2 Minimise Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 6.1 Strategic Approach
- 6.3 Assessing Effects of Development on Transport Capacity
- 6.5 Funding Crossrail and other Strategically Important Transport Infrastructure
- 6.9 Cycling
- 6.10 Walking
- 6.11 Smoothing Traffic Flow and Tackling Congestion
- 6.12 Road Network Capacity
- 6.13 Parking
- 7.1 Building London's Neighbourhoods and Communities
- 7.2 Inclusive Environment
- 7.3 Designing out Crime
- 7.4 Local Character

- 7.6 Architecture
- 7.7. Location and Design of Tall and Large Buildings
- 7.8 Heritage Assets and Archaeology
- 7.14 Improving Air Quality
- 7.15 Reducing Noise and Enhancing Soundscapes
- 7.16 Biodiversity and Access to Nature
- 7.21 Trees and Woodlands
- 8.2 Planning obligations

5.5 Where appropriate the Council will also rely on supplementary planning guidance to the London Plan, such as the Housing Supplementary Planning Guidance (2012) insofar as it is material to the determination of the appeal (see section 8 for further details).

National Planning Policy

5.6 The Council has also taken into account the National Planning Policy Framework 2012, adopted on 27 March 2012 and National Planning Practice Guidance.

5.7 The Council will expand upon and amplify the policies of the LDF upon which it bases its decision, to demonstrate that the appeal application is unacceptable.

6.0 SUBMISSIONS

6.1 The Council considers the main issues in the planning appeal to be as follows:

A. Reason 1 (Design, bulk, massing)

6.2 The main issues to consider include the effect of the proposal on the setting of the adjacent listed buildings, and the surrounding area, with particular reference to the Hampstead Conservation Area.

6.3 The Council considers that the differences between the scale and massing of the existing and proposed would be detrimental to the character of the streetscene and townscape, in particular the character and appearance of Hampstead Conservation Area.

6.4 The Council will demonstrate that the proposed design in contrast to the existing building fails to preserve or enhance the character and appearance of the site and would therefore fail to contribute to the character and appearance of the area.

6.5 The scale and design of the proposed building results in a prominent feature, unrelated in scale and form to nearby listed buildings. The Council's case will demonstrate that the setting of the adjoining listed buildings is of great importance and should not be harmed by unsympathetic neighbouring development.

6.6 In addition to the issues relating to the character and appearance of the conservation area and to the setting of nearby listed buildings and its significance, the Council's case will also demonstrate that the proposals fail to respond to the local distinctiveness of the historic environment.

B. Reason 2 (Affordable Housing)

- 6.7 Camden seeks to ensure that everyone has the opportunity to live in a decent home at a price they can afford in a community where they want to live. Camden's Local Development Framework therefore identifies housing as the priority land use for the borough (para 1.8 of the Core Strategy). There is a particularly large requirement for additional affordable homes.
- 6.8 The Council's policies regarding affordable housing (CS6 and DP3) expects all residential developments with a capacity for 10 or more additional dwellings to make a contribution to the supply of affordable housing. The Council will demonstrate that in the absence of any on-site provision for affordable housing, the proposed development fails these policy tests.
- 6.9 Furthermore, the Council will demonstrate that in the absence of sufficient justification for this lack of provision, the proposed development fails the policy tests set out in (CS6, CS19 and) DP3.

C. Reason 3 (Basement car parking)

- 6.10 The Council is committed to excellence in delivering sustainable development in the borough and seeks to approve developments that contribute to this key National and local level policy consideration. The Council considers that the inclusion of a new basement car park level to facilitate a ratio of 1:1 private car parking does not promote sustainable development and is detrimental to the Council's focus on minimising congestion and addressing the environmental impacts of travel.

6.11 The Council's policies regarding sustainability in connection to transport (CS11, CS19, DP17, DP18, DP19 and CPG7) seeks to promote car-free developments to ensure that the creation of additional car parking spaces do not have negative impacts on parking, highways or the environment. In particular, car-free developments are sought where the impacts would harm highway safety and hinder pedestrian movements, add to on-street parking demand where on-street spaces cannot meet existing demand and require detrimental amendments to existing or proposed Controlled Parking Zones.

6.12 The proposed development, by providing new basement car parking accommodation at a ratio of 1:1, does not support the underlying sustainable approach to development. The provision of the new basement car park will introduce new private motor vehicle movements, increase the level of private vehicle movements in the area and will require detrimental changes to the parking arrangements on the public highway network to facilitate the new access.

6.13 Further, the Council will demonstrate that the proposed development has not sought to prioritise sustainable travel in terms of the wider environmental impacts such as minimising congestion impacts, and has instead sought to create an over-dependence on the use of private motor vehicles, contrary to policies.

D. Reason 4 (Outlook)

6.14 The amenity of potential occupiers of the proposed residential units is a key consideration in the assessment of any development. The Council's policies

relating to amenity (CS5, DP26 and CPG6) aim to protect the quality of life of occupiers and neighbours by only granting planning permission that does not cause harm to amenity and outlook from new developments should be designed to be pleasant. The Council will demonstrate that the outlook from the basement flats is unacceptable and is contrary to policy.

E. Reason 5 (Tree removal)

6.15 The Council expects all developments to consider existing natural features such as trees and aims to preserve trees which contribute to the character of a conservation area. The proposed development would result in the loss of a number of trees on the site which are considered to have a high amenity value in the townscape. This would be detrimental to the character and appearance of the streetscene and conservation area which is contrary to policies CS15, DP24 and DP25. The Council will provide evidence to demonstrate that the proposed tree removals are unacceptable and are contrary to policy.

F. Reason 6 (Amenity impact of construction)

6.16 The Council's policies regarding construction and amenity (CS5, CS11, CS19, DP20, DP21, DP26, CPG6 and CPG7) expects all impacts arising from developments comprising, but not limited to, the following to be managed through an agreed Construction Management Plan in order to minimise the impacts on the local area:

- more than 10 residential dwellings,
- basement development,

- developments which give rise to particular 'on site' issues arising from the construction process,
- development where the construction process has a significant impact on adjoining properties particularly on sensitive uses
- developments that are likely to give rise to significant noise and other disturbance due to their location and anticipated length of demolition, excavation or construction period and
- where development constraints arising from the layout impact on the surrounding highway road network,

6.17 Camden seeks to manage the impact of construction on the amenity of the local area to ensure developments do not represent a risk in terms of air quality, vehicle and plant emissions, construction noise and vibration. Camden also seeks to manage the impact of construction vehicle traffic on the highway network to ensure developments do not damage nearby properties or the amenity of residents and local businesses.

6.18 Camden's Local Development Framework, therefore identifies amenity as an area to be addressed by developers in the borough (CS5, CS11, DP26, DP28 and DP32). Protecting amenity, is a key part of successfully managing growth in Camden.

6.19 The proposed development, by virtue of its scale and size, and the consequent associated impact of works and traffic throughout the demolition, excavation and construction period, would be harmful to the amenities of neighbouring residents, businesses, schools and the area in general. The provision of the lower ground level to provide a new basement car park in particular creates the

need to extensively excavate, which when the steep topography of the slope is taken into account, increases the impacts further.

6.20 The Council will demonstrate that the proposed development has not considered the amenity of local people in terms of the quantum of excavation required and the corresponding impact of construction vehicle movements that are required to facilitate the development.

6.21 Further, the Council will demonstrate that the proposed CMP fails to demonstrate that the proposed development can be carried out without causing serious disruption to the amenity of local people and the operation of the surrounding highway network.

G. Reasons 7 to 11 (Section 106 items).

6.22 The Council also refused to grant planning permission due to the absence of a suitable section 106 legal obligation to secure various items. The Council will co-operate with the appellant prior to the submission of evidence to prepare a legal agreement to address these reasons for refusal of the planning application.

6.23 Government guidance on planning obligations is contained within the Community Infrastructure Levy (CIL) Regulations 2010 which came into effect on 6 April 2010 and the National Planning Policy Framework (particularly paragraphs 203-206) and the National Planning Policy Guidance.

6.24 Reason 7 (Sustainability)

The Council will provide evidence to demonstrate that the requirements are justified against planning policy (LDF policies CS13, CS16, CS 19, DP22, DP23 and DP32) and meet the tests laid out in the NPPF and NPPG and the CIL Regulations 2010. In the absence of an appropriate planning obligation to secure a sustainability and energy plan, the appeal scheme is considered to be unacceptable. CPG 3 sets out the approach the Council take to secure sustainability and energy requirements. Promoting a sustainable Camden is an integral element of the Council's Local Development Framework. Policy CS13 sets out a key part of the Council's overall approach to tackling climate change, which includes tackling higher environmental standards in design and construction. Policy DP22 provides details of the sustainability standards. The Council expects all new residential new build developments to achieve Code for Sustainable Homes' level 4 as well as 50% targets in the 3 sub categories of energy, water and materials. This proposal is for new build residential units and therefore these requirements apply. Conditions are normally used to secure retention and maintenance of measures (such as cycle parking for example), however, the S106 seeks to secure the ongoing review and management of a variety of measures which may be revised and amended during the lifetime of the development. This goes beyond the PINS model condition and could not legally be achieved by condition.

6.25 Reason 8 (Education)

The Council will provide evidence to demonstrate that the requirements are justified against planning policy (LDF policies CS10, CS19 and DP15) and meet the tests laid out in the NPPF and NPPG and the CIL Regulations 2010. In the

absence of an appropriate planning obligation to secure an education contribution, the appeal scheme is considered to be unacceptable. The proposed development, which includes the provision of 17 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 and Camden Planning Guidance 8 – Planning Obligations. The proposed contribution of £134,973 has been calculated in accordance with formula contained in the CPG. This would be secured through the S106 legal agreement.

6.26 Reason 9 (Highway works)

The Council will provide evidence to demonstrate that the requirements are justified against planning policy (LDF policies CS11, CS19 and DP17, DP21) and meet the tests laid out in the NPPF, the NPPG and the CIL Regulations 2010. In the absence of an appropriate planning obligation to secure a highways contribution, the appeal scheme is considered to be unacceptable. Officers identified in the course of assessing the application that, in order to mitigate against the impact of construction of the appeal scheme, works would be required to repave the footway around the site, provide a new vehicular cross over, make changes to on street parking bays, kerb build out alterations and drainage and the associated costs of any necessary Traffic Management Order amendments. The estimate for this work as prepared by the Borough Engineer is £54,000. This would be secured through the S106 legal agreement.

6.27 Reason 10 (Pedestrian, cycling and environmental works)

The Council will provide evidence to demonstrate that the requirements are justified against planning policy (LDF policies CS11, CS19, DP16, DP17 and DP21) and meet the tests laid out in the NPPF, the NPPG and the CIL Regulations 2010. In the absence of an appropriate planning obligation to secure a contribution to pedestrian, cycling and environmental works, the appeal scheme is considered to be unacceptable. Given the scale of the site and of the proposed development it is considered that a contribution of £12,000 should be secured via a S106 legal agreement to mitigate against the impact of the appeal scheme on the surrounding transport network and to encourage sustainable and efficient modes of transport.

6.28 Reason 11 (Construction Management Plan).

The Council will provide evidence to demonstrate that the requirements are justified against planning policy (LDF policies CS5, CS11, CS19, DP19, DP20, DP21 and DP26) and meet the tests laid out in the NPPF, the NPPG and the CIL Regulations 2010. Notwithstanding the Council's case in respect of reason for refusal 6, if permission were to be granted, in the absence of an appropriate planning obligation to secure a construction management plan, the appeal scheme is considered to be unacceptable as it would be likely to cause traffic disruption and general highway and pedestrian safety concerns, as well as harm to the amenities of local people and the area generally. This is primarily owing to the confined nature of the highway network within the Hampstead Conservation Area within which the site is located. It further reflects the

constrained nature of New End and the surrounding highway network providing access to the site, combined with the predicted level and type of vehicles requiring access for the associated construction works to be carried out to build the proposed development.

6.29 The Council takes a pragmatic view on whether a condition or planning obligation is the most appropriate mechanism for securing a CMP. Under s70 of the Town and Country Planning Act 1990, conditions can only be lawfully imposed on the grant of planning permission for regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any such land. However, 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 to secure the CMP. It is also true that as a matter of planning practice in Camden the level of detail required and secured through a planning obligation is usually greater and more specific than through a condition. This is an important consideration in respect of a CMP which should be seeking to tailor requirements to managing the specific construction impacts arising from a particular development.

7.0 APPROPRIATE CONDITIONS

- 7.1 In accordance with Government advice and without prejudice to the Council's case, appropriate planning conditions for the proposal will be set out in the statement of common ground.

8.0 DOCUMENTS

- 8.1 The Council may refer to all or part of the following list of legislation, national planning guidance, plans and documents and any other it considers relevant, having regard to the Appellant's case to be identified in its Statement of Case or any other change of circumstances:

- Acts of Parliament and Statutory Instruments
- Government Advice, especially Circulars issued by DCLG (or its predecessors) including, but not restricted to the following:
 - National Planning Policy Framework 2012
 - National Planning Practice Guidance
- London Borough of Camden, Local Development Framework (2010)
- London Borough of Camden, Camden Planning Guidance (2011)
- London Borough of Camden, Hampstead Conservation Area Statement (2001)
- Mayor of London, London Plan (2013)

- Mayor of London, Supplementary Planning Guidance, including Housing (2012) and Shaping neighbourhoods: Character and Context (Draft 2013).
- DETR and CABI - By Design - Urban Design in the planning system: towards better practice (2000)
- London Borough of Camden's Transport Strategy 2011
- Camden's Considerate Contractors Manual
- Guidelines for the Environmental Assessment of Road Traffic
- Correspondence and notes in connection with the applications (from London Borough of Camden files, the applicants, external bodies and third parties).
- Relevant Inspector's appeal decisions

8.2 The Council reserve the right to refer to other documents in response to the Appellant's case should it prove necessary to do so.

8.3 Documents will be made available for inspection online at the following link, using the planning application reference 2012/3089/P:

<http://planningrecords.camden.gov.uk/Northgate/PlanningExplorer17/GeneralSearch.aspx> or at Council Offices, 5 St Pancras Square, London N1C 4AG.

Please be advised that if an appointment is made at least 24 hours prior to their arrival, that it will be ensured that documents are ready for inspection. The Council Offices are open 0900-1700 Monday to Friday.