

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED) SECTION 78

ATHLONE HOUSE, HAMPSTEAD LANE, LONDON, N6 4RU

APPELLANT'S STATEMENT OF CASE

ATHLONE HOUSE LIMITED

**PLANNING APPLICATION REFERENCE:
2013/7242/P**

JUNE 2014

CONTENTS

| | |
|--|-----------|
| 1. INTRODUCTION..... | 4 |
| 2. DESCRIPTION OF THE SITE AND SURROUNDING AREA | 5 |
| 3. RELEVANT PLANNING HISTORY..... | 5 |
| 4. PREVIOUS APPEAL..... | 6 |
| 5. PROPOSALS..... | 8 |
| 6. PLANNING POLICY CONTEXT..... | 9 |
| 7. THE APPELLANT'S CASE..... | 10 |
| 8. THIRD PARTY REPRESENTATIONS | 46 |
| 9. CONDITIONS AND S106 | 64 |
| 10. CONCLUSIONS | 65 |

Appendices

Appendix 1 –Site Description

Appendix 2 –Planning History

Appendix 3 – Summary of Scheme Changes

Appendix 4 – Relevant Planning Policies

Appendix 5 –Interpretation of materially larger

Appendix 6 – Appeal decisions (NPPF Materially Larger)

Appendix 7 – Appeal decisions (NPPF Para 89, exemption no. 6)

Appendix 8 – Suggested draft conditions

Appendix 9 – Draft Statement of Common Ground

Appendix 10 – Core Documents

Appendix 11 – Letter from David Peters dated 6 May 2014

**Appendix 12 – Price and Myers response to Renaissance Planning's
Objection on behalf of the City of London dated 10th January 2014**

Appendix 13 – Updated costings by Selway Joyce

**Appendix 14 – Savills Supplementary Building Condition Statement
dated June 2014**

Appendix 15 – Letter from Withers dated June 2014 in respect of the on-going maintenance of Athlone House

Appendix 16 – Robert Chitham statement dated

Appendix 17 – Professor David Watkin’s supporting statement dated

Appendix 18– Energy Statement

Appendix 19 – Correspondence with Residents of Caenwood Court

Appendix 20 – LB Havering and LB Sutton Policies in respect of replacement dwellings and materially larger

Appendix 21 – Letter from Jacobs dated 11 June 2014 in respect of parking numbers

| | |
|---|---|
| PLANNING APPLICATION REFERENCE: | 2013/7242/P |
| DATE OF INQUIRY: | TBC |
| SITE ADDRESS: | ATHLONE HOUSE, HAMPSTEAD LANE, LONDON, N6 4RU |
| PLANNING APPLICATION DESCRIPTION OF DEVELOPMENT: | THE DEMOLITION OF ATHLONE HOUSE AND ERECTION OF REPLACEMENT 8 X BEDROOM HOUSE TOGETHER WITH UNDERGROUND PARKING, PLANT AND ASSOCIATED LANDSCAPING |
| APPELLANT: | ATHLONE HOUSE LTD |
| LOCAL PLANNING AUTHORITY: | LONDON BOROUGH OF CAMDEN |

1. INTRODUCTION

- 1.1 This Statement of Case is submitted on behalf of Athlone House Ltd (“the appellant”). It relates to an appeal against non-determination of planning application reference 2013/7242/P, which was submitted to the London Borough of Camden (LBBC) in November 2013 and which was for the demolition of Athlone House and its replacement with an 8 bedroom single dwelling house (Class C3) together with underground parking and other ancillary accommodation.
- 1.2 The Appellant relies on the documents submitted with and in support of the planning application. Reference is made to the submission documents where appropriate.

2. DESCRIPTION OF THE SITE AND SURROUNDING AREA

- 2.1 A description of the site and the surrounding area is provided in Appendix 1 of this statement.

3. RELEVANT PLANNING HISTORY

- 3.1 The site's planning history and relevant history for nearby sites is summarised in Appendix 2.

4. THE PREVIOUS APPEALS SCHEME

- 4.1 The Inspector's 2011 decision found the proposed replacement dwelling to be of a high quality and acceptable design that would preserve and enhance the character and appearance of the Conservation Area and would not harm views from Hampstead Heath. However, he considered that it was too large relative to the dwelling it replaced for the purposes of Metropolitan Open Land policy.
- 4.2 This decision is a material consideration, and, whilst not binding, it was made by an architect inspector after a three week long inquiry and is a recent and relevant consideration of the issues affecting this site and the building that has now been vacant for some 14 years. The proposals were the subject of extensive evidence which was subject to comprehensive analysis and scrutiny.
- 4.3 The conclusions of the inspector include the following: the building's heritage qualities are described at **paragraphs 7-9** and remain unchanged. **Paragraphs 17 and 61** conclude that there is no realistic prospect of forcing the owner to carry out the refurbishment. **Paragraphs 35 – 37** conclude that the individual contribution made by Athlone House to the significance of the conservation area is positive, but limited. **Paragraph 38** concludes that the character of the conservation area is diverse and that in principle a replacement contemporary building of sufficient quality could preserve and enhance its character and appearance at least as much as, if not much more than, the existing building. The proposed design and its impact are assessed at **paragraphs 39-41**. **Para 42** concludes that the character and appearance of the Fitzroy Park part of the conservation area would not be affected. **Paragraphs 43 and 44** conclude that the tests of PPS5 HE9.2 (as applied at the time in accordance with English Heritage guidance) were met including the absence of a realistic alternative and the benefits of the proposal. **Paragraph 46** considers the effect on the setting of the Highgate Conservation Area in Haringey to the north and concludes that it would preserve and enhance the character and appearance of that conservation area. **Paragraph 47** concludes that the proposals would preserve and enhance the character and appearance of the Highgate Conservation Area and would not conflict with relevant development plan policies or other advice.
- 4.4 With regard to the effect on surrounding open space, **paragraph 51** considers the effect of the proposed external materials and in particular the Bath stone and

copper cladding, concluding that not a great deal of weight should be given to the alleged brightness of the new house as a negative factor. **Paragraph 55** considers the criticisms made of the design approach, concluding that the proposed architectural style is of high quality and that a vehicle for self-expression is appropriate at the site. **Paragraphs 50, 53, 54 and 57** consider in detail the impact on views and conclude that the proposal would not diminish the character, appearance or setting of surrounding open space and would not conflict with relevant policy in that respect.

- 4.5 Turning to impact on MOL, with reference to the former test in annex c of PPG2, **paragraphs 21 and 22** conclude that the increase in visible bulk on the then designated site as a whole would diminish openness. On the test in paragraph 3.6 of PPG 2 for a replacement dwelling, **paragraphs 25 and 26** conclude that the proposal for Athlone House represented a significant increase in size comparing it against the building as it existed in 2003 and the 2005 consented scheme. **Paragraph 27** concludes that the increase in size would be apparent and that the harm to the openness of the MOL would be substantial.
- 4.6 Having found that the proposal comprised inappropriate development for the purposes of MOL policy, in respect of 'very special circumstances' **paragraphs 62-68** recognise the proposal's benefits, including its architectural quality, the restoration of the grounds and gardens; the contribution towards London's role as a world city and economic recovery, the additional affordable housing contribution, sustainability improvements, the ending of a long period of uncertainty and the need to support sustainable economic recovery. However these were not found clearly to outweigh the substantial harm to the MOL as concluded would result from those proposals so as to amount to 'very special circumstances' in that case.

5. THE PROPOSALS¹

- 5.1. The design retains the overall approach endorsed at the last appeal, but applies it to result in a building that is both actually and perceptually significantly smaller. The smaller building will continue to be of exceptional architectural quality. This should accordingly support a positive decision on the basis of the conclusions in the 2011 appeal decision. The publication of the NPPF (supported by the PPG) has introduced a revised heritage policy for conservation areas. The policy applying to the redevelopment of previously developed sites in the green belt / MOL is also revised. Both these policy revisions reinforce the case for a positive decision.
- 5.2. There is no basis for considering the 2011 decision to be flawed or unsound. It involved a thorough and comprehensive examination and assessment of the relevant issues. Significant weight should be given to the principle and desirability of consistency in decision making (North Wiltshire DC v SSE 1993 65 PCR 137).
- 5.3. The proposed house sits in the same position as the existing house and is of similar height. The design changes that have been made, including those to address the reason for the previous appeal being dismissed – namely actual/perceived size and scale - are summarised in Appendix 3.
- 5.4. Staff accommodation will be provided within the existing Caen Cottage and Gate House buildings. Both of these benefit from planning permission for their conversion and for Caen Cottage an extension to provide residential accommodation. As at the last appeal, the appellant would not carry out the permitted extension to Caen Cottage should this appeal be granted, which would reduce the overall amount of additional floor space at the site by 58.3 sqm (GEA). This is proposed to be secured by way of a condition.

¹ There is now no need for a separate conservation area consent as it is covered by the application for planning permission.

6. PLANNING POLICY CONTEXT

- 6.1. Section 38 of the Planning and Compulsory Purchase Act 2004 (PCPA), requires that the determination of any planning application shall be in accordance with the development plan unless material considerations indicate otherwise.
- 6.2. The Development Plan for the site comprises:
- (a) The London Plan 2011;
 - (b) Camden's Core Strategy 2010-2025 (adopted November 2010);
 - (c) Camden's Development Policies DPD 2010-2025 (adopted November 2010);
 - (d) Camden's Site Allocations DPD (2013); and
 - (e) The London Borough of Camden Local Development Framework Proposals Map 2010.
- 6.3. Relevant policies are summarised at Appendix 4 of this statement.
- 6.4. The NPPF sets out the presumption in favour of sustainable development (para. 14). Proposals that accord with the development plan should be approved without delay. If the development plan is out of date, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits assessed against the NPPF policies or the development is restricted by specific policies in the NPPF. It will be demonstrated that the proposal would accord with the development plan and in any event insofar as the policies are out of date as set out above there would not be any adverse impact which would significantly or demonstrably outweigh the benefits of the proposals which would not be restricted by any specific policy in the NPPF. On either basis planning permission should be granted.
- 6.5. In that relevant DPDs are pre-NPPF and in some material respects inconsistent with its policies, it is considered that the better policy analysis for this appeal is to start with NPPF (and the PPG so far as relevant) and to consider the Development Plan policies and other material considerations in that context.

Where there is inconsistency between DPD policy and the NPPF, the NPPF is to be afforded greater weight (NPPF para 215).

7. THE APPELLANT'S CASE

- 7.1. This is an appeal against non-determination and so there are no stated reasons for the deemed refusal. This statement of case therefore relies upon and adds to where appropriate, the supporting material submitted with the planning application. The appellant reserves the right to submit supplementary submissions and additional material as appropriate once the Council states what its position is.
- 7.2. It was accepted by the previous inspector that there is no reasonable prospect of the existing house being restored in line with the 2005 consented scheme. Nothing has happened in the meantime to change this position, and this remains the appellant's case, which is supported by an up to date costings plan, a supplementary building condition statement and a supplementary market evidence statement (Appendices 11, 13 and 14) submitted herewith. The 2005 consented works to refurbish Athlone House does not provide a sustainable or realistic option for the site's future.
- 7.3. The current proposals represent the only identified achievable and realistic option for the sustainable future use of the site. This is not a speculative application but is for the present beneficial owner, whose requirements and those of his family have fed into the design and who is committed to carry them out for his beneficial occupation and use if permission is granted.
- 7.4. NPPF paragraph 17 sets out 12 core planning principles. The proposed development complies with these where they are relevant:

Plan led

- 7.5. So far as the policies are up-to-date the proposal would accord with the relevant development plan policies.

Enhance and improve the places in which people live their lives

- 7.6. The proposals would demonstrably improve this part of the conservation area and meet this objective.

Economic Benefits

- 7.7. This aim is reinforced by the London Plan. **Policy 1.1** encourages development that contributes to making London an internationally competitive and successful city. **Policy 2.1** supports development that retains and extends London's role as a world city and a gateway to Europe and the UK. **Policy 2.9** seeks to realise the potential of inner London, so that the City's recent economic and demographic growth is sustained. **Policy 4.1** promotes development that contributes to London as being a suitable location for European and other international agencies and businesses.
- 7.8. At the local level **Policy CS8 (d) of LB Camden's Core Strategy** encourages development that supports local enterprise development, employment and training schemes for Camden residents.
- 7.9. The appeal site is ideally suited to the development of a prestigious residence. The current proposal would deliver this, providing a family house for a high net worth family. Such a house would not only be entirely in keeping with the spirit of the original house, but it would make a positive contribution to London's economy, and its role as a World City.
- 7.10. The proposal will support sustainable economic development in the short, medium and long term. The construction of the replacement dwelling will create a number of local jobs and the appellant is committed to introducing an incentive whereby locally skilled workers will be employed. It is proposed to secure this by way of a condition (Appendix 8).
- 7.11. The development will facilitate good leverage in terms of employment generation and economic multiplier effects – the benefit to the wider economy arising from the construction process is expected to be £80,514,00 of direct, indirect and induced economic activity. Employment will also be generated by the ongoing use of the property. It is envisaged that 6 staff would live on-site with other employees living off site. In addition to employment generation, the development proposal will attract significant capital investment (about £30m or more in

construction expenditure alone, before multiplier effects). Further, research demonstrates that the owners of expensive properties, such as that proposed, contribute significantly to London's economy through associated expenditure and through the economic activity with which they are involved directly or through investment providing a further catalyst to the economic success of London, including the Central Activities Zone (CAZ), and the country as a whole.

- 7.12. A further benefit is in the support of specialist skills and craftsmanship required for the quality of construction and associated works forming part of the appeal proposal.
- 7.13. The proposal will meet the aspirations and objectives of this core principle of the NPPF and also the relevant aspirations of the Development Plan.

High Quality design and good standard of amenity

- 7.14. This principle is expanded in **chapter 7 of the NPPF**, which attaches importance to the design of the built environment, specifying that good design is a key aspect of sustainable development, and should contribute positively to making places better for people.
- 7.15. At the regional level, **Policy 3.5 of the London Plan** relates to the quality and design of new housing and seeks to ensure that all new development enhances the quality of local places. **Policy 7.1** provides that new development should be designed to ensure that the layout, tenure and mix of uses interface with surrounding land and improve access to relevant infrastructure. Development should enable people to live healthy lives and new buildings should help reinforce the character, legibility, permeability and accessibility of the neighbourhood. **Policy 7.2** seeks to ensure that developments incorporate inclusive design whilst **policy 7.3** seeks to reduce the opportunities for criminal behaviour. **Policy 7.4** seeks to ensure that new buildings streets and open spaces provide a high quality design.

- 7.16. At the local level, **Policy CS14 of the Core Strategy** requires development of the highest standard of design, including the promotion of high quality landscaping. **Policy DP24 of the Development Policy Document** echoes CS14(a) in seeking the highest standard of design. The supporting text explains that, “The Council is committed to design excellence and a key strategic objective of the borough is to promote high quality, sustainable design”.
- 7.17. **Camden’s Design Supplementary Planning Guidance** CPG 1 highlights the Borough’s commitment to design excellence, specifying that development proposals should consider:
- The context of a development and its surrounding area;
 - The design of the building itself;
 - The use of the building;
 - The materials used; and
 - Public spaces.
- 7.18. This proposal would create a building of the highest architectural quality, the essential qualities of which were fully endorsed in the 2011 appeal decision. This is set out in the Design and Access Statement. Dr Mervyn Miller, in his supporting Heritage Statement, considers the proposed form, footprint, design and materials to be entirely appropriate for its context and its design values to be outstanding. Robert Chitham’s supporting statement (Appendix 16) provides that “[Robert] Adam’s recent *oeuvre* has been based on rigorous reinvestigation of classical form coupled with a high degree of individual invention”. Professor Watkins supporting statement in Appendix 17) attests to the proposal as representing an outstanding example of an individual approach to breathing life into the 2,000 year old classical language of architecture.
- 7.19. With regards to amenity, the proposal would deliver accommodation of the highest standard. No adverse impact by way of overlooking, loss of light or enclosure would result. Additional planting is proposed at the boundary with Caenwood Court when compared with the 2005 consented scheme, thereby enhancing the interrelationship between the two sites.

- 7.20. Overall, the proposed modern classical design approach is of the highest quality and is consistent in architectural approach to that of the previous appeal scheme. It is entirely suitable for the site, replacing one grand individual building with another. In this regard, the proposed works are in accordance with the relevant national, strategic and local planning policy.

Promoting the vitality of our main urban areas

- 7.21. The appeal site has lain unused for many years with adverse consequences for local residents, for users of Hampstead Heath and the surrounding area, and for passers-by. It is important that it is brought back into beneficial use and in a way that will ensure that it is well maintained and that the grounds are properly kept and managed. The proposed development would achieve this, replacing the existing vacant and degraded Athlone House with a residence that is usable and suited to the standard of living required by the end occupier. It will enhance the vitality of this part of Highgate and meet this aim of the NPPF. The alternative is the prospect of a further prolonged period of uncertainty and deterioration.

Climate change

- 7.22. This is expanded upon in **Chapter 10 of the NPPF**, which sets out the government's strategy to meet the challenge of climate change, flooding and coastal change, and encourages local planning authorities to plan for a low carbon future.
- 7.23. **In the London Plan Policy 5.2** requires development to make the fullest contribution to minimising carbon dioxide emissions in accordance with the energy hierarchy:
- 1. Be lean: use less energy;*
 - 2. Be clean: supply energy efficiently;*
 - 3. Be green: use renewable energy.*
- 7.24. It requires new residential buildings to achieve a 40% carbon improvement on 2010 Building Regulations.

- 7.25. **Policy 5.3** relates to sustainable design and construction and seeks to ensure that development demonstrates that sustainable design standards are integral to development and the minimum standards set out in the Mayor's SPG are met.
- 7.26. **Policy CS13 of the Core Strategy** specifies that the Council require all development to take measures to minimise the effects of, and adapt to, climate change, encouraging all development to meet the highest feasible environmental standards that are financially viable during construction and occupation.
- 7.27. The proposal will provide a 44% carbon reduction over Building Regulations 2010 requirements as well as achieving a minimum CFSH level 4 , creating a more sustainable and energy efficient dwelling than could result were the 2005 consented scheme to be implemented. A revised Energy Statement is enclosed, which sets out how this carbon reduction will be achieved (Appendix 18).
- 7.28. The development proposal has been designed to accord fully with the provisions of national, regional and local climate change policy.

Natural environment

- 7.29. **Paragraph 109 of NPPF** seeks to conserve and enhance the natural environment and minimise impacts on, and provide net gains in biodiversity where possible. **NPPF paragraph 118** *inter alia* encourages the improvement of biodiversity in and around developments. **Chapter 11 of the NPPF** specifies that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 7.30. **Policy 7.19 of the London Plan** encourages development that adopts a proactive approach to protecting, enhancing, creating and managing biodiversity in support of the Mayor's Biodiversity Strategy.
- 7.31. **Policy CS15 of the Core Strategy** seeks to protect and improve sites of nature conservation and biodiversity.

- 7.32. **Camden's Design Planning Guidance (2013)** specifies that Camden's trees and green spaces are integral to its character and that landscape design and green infrastructure should be fully integrated into the design of schemes from the outset.
- 7.33. **Camden's draft Local List** identifies the grounds of Athlone House as a natural feature or landscape having historic and townscape significance.
- 7.34. The gardens of the proposed replacement house have been designed and will be managed to include: recreation of a parkland setting in keeping with the defined Conservation Area character and enhancement of its existing character by means of further planting and management of existing trees; biodiversity enhancements; restoration of historic garden features; reinforcement of peripheral woodland boundary and sustainable urban drainage systems to control surface water and attenuate surface flow.
- 7.35. As set out in the Historic Landscape Appraisal submitted with the application, the gardens of Athlone House are of historic significance and a heritage asset in their own right, and their restoration is highly desirable. In addition the grounds form part of the larger Hampstead Heath Site of Metropolitan Importance for Nature Conservation (SMINC). The proposed restoration will enhance both their heritage value and their bio-diversity and this would be to a greater extent than with the 2005 scheme.
- 7.36. The proposed enhancement of the grounds surrounding Athlone House will help to conserve and positively to enhance the wildlife interest of the grounds as part of the SMINC . The proposed works will also add to the historic and townscape significance of the grounds to Hampstead. The proposed works are in full accordance with national, regional and local planning policy in this respect.

Brownfield land

- 7.37. **Paragraph 111 of the NPPF** emphasises this core principle and specifies that local authorities should encourage the effective use of land by re-using land that

has been previously developed (Brownfield land), provided that it is not of high environmental value.

- 7.38. At the local level, **Paragraph 13.7 of the Core Strategy** specifies that the efficient use of land and buildings will reduce pressure to develop undeveloped 'Greenfield' sites.
- 7.39. The proposals comprise the redevelopment of previously developed land and would preserve and enhance the natural environment. The proposed works meet this aim of the NPPF.

Heritage

- 7.40. **Chapter 12 of the NPPF** (paragraphs 126 – 141) specifies that local planning authorities should implement positive strategies for the conservation of the historic environment. A fuller policy analysis is set out later in this statement.
- 7.41. **Policy 7.8 of the London Plan** relates to heritage assets and requires development to respect heritage assets conserving their significance by being sympathetic to their form, scale, materials and architectural detail.
- 7.42. **Policy CS14 of the Core Strategy** sets out the Council's priority to ensure that Camden's places and buildings are attractive, safe and easy to use by *inter alia*: preserving and enhancing Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens.
- 7.43. The supporting text (para.14.3) acknowledges that, *"As well as preserving this rich heritage, we should also be contributing to it by making sure that we create buildings of equally high quality that will be appreciated by future generations."*
- 7.44. **Policy DP25 of the Development Policy Document** states that in order to maintain the character of Camden's conservation areas, the Council will

- a. take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas;
- b. only permit development within conservation areas that preserves and enhances the character and appearance of the area;
- c. prevent the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area where this harms the character or appearance of the conservation area, unless exceptional circumstances are shown that outweigh the case for retention;
- d. not permit development outside of a conservation area that causes harm to the character and appearance of that conservation area; and
- e. preserve trees and garden spaces which contribute to the character of a conservation area and which provide a setting for Camden's architectural heritage.

7.45. The requirement for exceptional circumstances contained in **subparagraph (C) of policy DP25** has been overtaken by paragraph 138 of the NPPF and the guidance in the PPG. The implications of this are addressed later in this statement.

7.46. **The Highgate Conservation Area Appraisal and Management Plan (HCAAMP)** provides an indication of the Council's approach to the preservation and enhancement of the Highgate Conservation Area. The Plan includes Athlone House as representative of the large private villas which formerly occupied the Fitzroy Park sub-area of Highgate. which itemised a number of features that have long since been removed. By selecting this rather than the 1998 revision by Bridget Cherry, which prefaced the description with the comment 'Much simplified', this misleadingly infers that these ornamental features still exist, inflating its attributes as a potential contributor to the conservation area. It notes that the house overlooks the Heath and suggests that it is visible in long views from Kenwood House (which it is not). However there is intervisibility to and from the Stable Field, which is outside the grounds of

Kenwood House, but lies within the Kenwood House Registered Historic Park and Garden. As such the house is said to be a positive contributor to the Conservation Area. The plan goes on to note its redundancy as a hospital and that the buildings are empty and at risk due their vacant and deteriorating condition. It also notes that demolition of many of the curtilage structures has started for the redevelopment scheme which includes 'the refurbishment of the main house as a luxury 21st century single family dwelling.' Athlone House is noted later in the plan as a building which detracts from the character of the area and would benefit from enhancement because of the vacant buildings on the site.

- 7.47. **Camden's Design Planning Guidance (2013)** at paragraph 3.9 deals with demolition in conservation areas and explains that the Council will follow the guidance in PPS 5, Core Strategy CS 14 and Development Policy 24 (presumably intending DP 25). On that basis it states that the total demolition of buildings within conservation areas without substantial justification would not usually be allowed. As explained in Appendix 4 and in this statement, the relevant policy in DP25(c) seeking exceptional circumstances and the approach under PPS 5 as required by English Heritage guidance has been superseded by the NPPF and in particular the approach in paragraph 138. In the circumstances this supplementary advice should be qualified in that respect.
- 7.48. **The Haringey Conservation Area Character Appraisal and Management Plan 2013 (HCACAMP)** identified views across the Heath and the grounds of Kenwood as contributing to the character of Hampstead Lane. It does not refer specifically to Athlone House.
- 7.49. It is acknowledged in the HCAAMP that large villas form part of the character of the conservation area. Robert Chitham reflects on this in his supporting statement (Appendix 16). The high quality new building, which is appropriate for its setting, would replace the existing worn out building and together with the proposed landscape restoration and enhancement, would preserve and enhance the character and appearance of the Highgate Conservation Area together with preserving the setting of the adjoining Highgate (Haringey) conservation area and the Kenwood Registered Historic Park and Garden. That conclusion is consistent with the conclusions of the inspector in the 2011 appeal. Analysis in respect of

the impact of the proposals on the designated heritage assets against the relevant policy provisions is considered later in this statement.

- 7.50. For all the above reasons the proposal would preserve and enhance the character and appearance of the conservation area and otherwise accord with the relevant policies which would support the grant of permission in line with the statutory duty under **section 72(1) of the Listed Building Act 1990 (the LBA)**.

Sustainable location and supporting services

- 7.51. The site is served by public transport and has a full range of community and other facilities and infrastructure accessible to it. We consider the advice on promoting sustainable transport in section 4 of the NPPF later in this statement.
- 7.52. In the light of the above the proposal would attract the presumption in favour of sustainable housing under paragraph 49 of the NPPF.

Impact on Metropolitan Open Land (MOL)

- 7.45. National policy towards Green Belt is contained in the NPPF, and the **London Plan (Policy 7.17)** confirms that MOL is to be treated as though it were Green Belt. The fundamental aim of Green Belts is to prevent urban sprawl by keeping land permanently open. There is a presumption against inappropriate development.
- 7.46. **Policy 7.17 of the London Plan** specifies that the Mayor strongly supports the current extent of MOL, its extension in appropriate circumstances and its protection from development having an adverse impact on the openness of MOL. In this regard the strongest protection should be given to MOL and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt. Essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL.
- 7.47. **Policy CS15 of the Core Strategy** seeks to protect open spaces designated in the open space schedule as shown on the Proposals Map, including MOL. The

policy pays specific attention to preserving and enhancing the historic, open space and nature conservation importance of Hampstead Heath and its surrounding area by:

- protecting the MOL, public and private open space and the nature conservation designations of sites;
- taking into account the impact on the Heath when considering relevant planning applications;
- protecting views from Hampstead Heath and views across the Heath and its surrounding area;

7.48. The London Plan and Camden's Core Strategy policies pre-date the NPPF Detailed policy guidance in respect of development in MOL is set out in the PPG and so, given the absence of detailed guidance in this respect at the regional and local level, the provisions of the NPPF are relevant to this case.

7.49. **Para 89 of the NPPF** provides that local planning authorities should regard the construction of new buildings as inappropriate in Green Belt but lists exceptions to this. There are two exceptions relevant to this proposal:

- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*
- *... the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

Replacement building

7.50. The policy is changed from the policy previously in paragraphs 3.4 and 3.6 of PPG 2 which related only to dwellings, while the NPPF exception applies to any replacement building so long as it remains in the same use. However in the present case that is not material in that Athlone House is in any event a dwelling.

That was its use on the 1st July 1948 and it would remain the relevant use with cessation of the intervening institutional use.

- 7.51. There is no Government guidance on how “materially larger” is to be assessed. However, the Courts have considered the application of this part of the policy (See Appendix 5 of this statement). Size is the primary test, but not the only one. The addition of “materially” allows for the exercise of judgement and common sense. Such judgement should focus upon the purpose of the Green Belt/MOL: i.e. to maintain openness.
- 7.52. The comparative measurements² are as follows:

Table 1: Comparative Measurements for Athlone House

| Athlone House Measurements May 2014 | | | |
|--|---|-------------------------------|-------------------------|
| Floor | Size of Scheme (sq m) | | |
| | 2003 (A) - Building without institutional extensions | Previous appeal scheme | Current proposal |
| Basement (GIA) | 226 ³ | 1918 | 522 |
| Footprint (GEA) | 1450 | 1307 | 1078 |
| GEA Total without basement | 2751 | 3033 | 2497 |
| GEA Total including basement | 2996 | 4951 | 3019 |
| Hardstanding | 2126 | 1838 | 1846 |

² The proper baseline against which the comparison is to be made is with the building as it existed in 2003(A) – without institutional extensions. The comparative measurements that are set out in the planning application statement reflect the originally submitted scheme, which had a 12% increase in floorspace over the building as it existed in 2003(A). During the determination process, amended drawings were submitted that reduced the size of the basement by 63sqm. The building has been remeasured with additional atria voids excluded, in accordance with RICS Guidance 2007. This reduces the increase to 1%.

³ A measured survey undertaken in 2014 has confirmed the size of the basement

% Difference

| | Previous appeal scheme compared with 2003 (A) | Current proposal compared with 2003 (A) | Current proposal compared with previous appeal Scheme |
|---------------------------------------|--|--|--|
| Footprint Total | -10% | -25.6% | -17.5% |
| GEA Total (without basement) | 10.2% | -9.3% | -17.7% |
| GEA Total (including basement) | 65.25% | 0.8% | -39% |
| Hardstanding | -13.5% | - 13.2% | + 0.5% |

7.52. The proposed building represents a reduction of footprint of 25.6% compared with the 2003(A) baseline and a reduction of 17.5% compared with the appeal scheme. There is a 13.2% reduction in hard standing compared with the 2003(A) baseline.

7.53. It sees the total floorspace reduced by 39% from the appeal scheme. Above ground floorspace is 9.3% less than the 2003(A) scenario and there is only a 1% increase in total floorspace from the 2003(A) scenario - an increase significantly below the LBC's 'rule of thumb' of 10%⁴. Further, given that the additional floorspace is entirely within a basement directly below the house and with no external manifestation, the additional floorspace within the basement is of no significance, noting that the Courts have established, when considering how to

⁴ Two recent appeal decisions, included at **Appendix 5** have considered, in the absence of a definition of 'materially larger' in the NPPF, the provisions in the relevant local development plan policy when considering whether a replacement building was inappropriate development. In these cases, the relevant local policy accepted that replacement dwellings can be larger in size than the original dwelling by 30% and 50% respectively and not be 'materially larger'. This was applied by the Inspectors even though the policies pre-date the NPPF. Two London Boroughs define what they consider to be a materially larger replacement dwellings in MOL – The London Borough of Sutton (Development Policies DPD – Policy DM15) consider up to 30% increase in size of the original dwelling, and the London Borough of Havering (Core Strategy Policy DC45) consider up to a 50% increase in cubic capacity than the original dwelling to not be materially larger. Copies of these policies are included at **Appendix 20**. They both pre-date the publication of the NPPF.

deal with a basement, the fact that it is below ground (and thus may have no effect on openness) will be a matter to be taken into account in the exercise of the judgement (see Appendix 5 of this statement). If this approach is accepted, there is no relevant increase in floorspace at all.

7.54. Of note is that the GLA's report dated 5th March 2014 forming part of its representation on the application at paragraph 39 invites the appellant to come forward with 'a revised and smaller proposal that very closely matched the scale and size of Athlone House as it existed when its hospital use ceased (circa 2,750 sqm GEA)'. This is the size of the building as it existed above ground but without the hospital extension (see table 1 above). The current proposal is for a building some 9.3% smaller than this.

7.55. Further, the proposed building has seen its scale, bulk and mass reduced and its articulation increased from the appeal proposal, which directly responds to the Inspector's comments in para 27 of his decision in relation to the harm from the appeal scheme on the openness of the MOL. The volumetric comparisons reflect the difference in overall bulk and mass:

Volumetric Comparisons (sq m)

| | 2003(A) | Previous appeal scheme | Current proposal |
|---|----------------|-------------------------------|-------------------------|
| Volumetric Comparisons (without basement) | 14,141 | 13,443 | 11,416 |
| Volumetric Comparisons (including basement in GIA) | 15,047 | 22,247 | 13,312 |

% Difference

| | Previous appeal scheme compared with 2003 (A) | Current proposal compared with 2003 (A) | Current proposal compared with Previous appeal scheme |
|---|--|--|--|
| Volumetric Comparisons (without basement) | -4.9% | -19.27% | -15.08% |
| Volumetric Comparisons (including basement in GIA) | 47.8% | -11.53% | -40.16% |

7.56. The proposed volume of the replacement building is 11.53% less than the 2003(A) baseline in total. Above ground, which we contend is the more relevant consideration when considering impact on openness, it is 19.27% smaller in size than the building as it existed in 2003. There is a 40.16% volume reduction compared with the previous appeal scheme.

7.57. Overall, the size of the proposed replacement building will have no harmful impact on the openness of the MOL, given that it would occupy substantially the same site and be of substantially the same scale, mass, bulk and height as the existing building in 2003. An 11.53% reduction in volume and only a 1% increase in floorspace is proposed over the overall volume / floorspace. This negligible increase in floorspace has no external manifestation, being invisible in the basement. Thus it is submitted that taken overall the proposal would not be materially larger than the building it replaces and it is therefore in accordance with the first exception under para 89 of the NPPF, and also in accordance with the London Plan and local planning policy. It would therefore constitute appropriate development for the purposes of paragraphs 87 and 88 of the NPPF.

The partial or complete redevelopment of a previously developed site

7.58. This is also changed from the previous policy in PPG 2 paragraph 3.4 and Annex

C, which related to the site identified in the local plan (in the present case for the purposes of the 2011 appeal and the 2005 permission the site was identified in the former Camden UDP as policy LU1 including the land to the east which no longer forms part of the site). The new policy in the NPPF is directed to a previously developed site and sets the test whether the redevelopment would have a greater impact on the openness of the Green Belt (here the MOL) and the purpose of including land in it. In the present case that would be to safeguard the countryside and check the unrestricted sprawl of large built up areas. The glossary in the NPPF defines previously developed land by reference to the curtilage of the developed land but a previously developed site is not necessarily limited to curtilage as such. In the present case the relevant previously developed site is the appeal site with the blue edged land comprising the Gate House and Caen Cottage, which in any event would comprise the present curtilage of Athlone House.

- 7.59. On the effect on openness and the related purpose of the MOL, recent appeals, (summarised in Appendix 7) have established that the visible manifestation of the proposal is a primary consideration when assessing it against this NPPF test and considering whether it has a greater impact on the openness of the Green Belt/MOL.
- 7.60. As set out in the Landscape Visual Impact Assessment (LVIA), the perceived visual impact of the proposed building will not be of larger mass when viewed from local streets or from the Heath. On the contrary it will generally have a smaller perceived mass. Any impact on openness of MOL would be negligible.
- 7.61. Whilst perceived impact is the primary test when considering this second NPPF test, comparative measurements across the appeal site's curtilage (the previously developed site) are as follows:

Table 2: Comparative measurements (GEA M2) within the PDS curtilage*

| | 2003 | Previous appeal scheme | Current proposal⁵ |
|-----------------------------|-------------|-------------------------------|-------------------------------------|
| Footprint | 1649 | 1566 | 1273 |
| Floorspace | 3281 | 5179.4 | 3247.4 |
| Floorspace without basement | 3036 | 3261.4 | 2725.4 |

* Athlone House, Caen Cottage and the Gate House

% Difference

| | Previous appeal scheme compared with 2003 | Current proposal compared with 2003 |
|-------------------------------------|--|--|
| Footprint Total | -5% | -22.8% |
| GEA Total | 57.9% | -1% |
| GEA Total (without basement in GIA) | 7.4% | -10.2% |

7.62. The figures show that, in 2003, the total footprint of the current curtilage was 1,649 sq m, with total floorspace of 3,262 sqm. The previous appeal scheme would have increased the footprint to 1566 sq m which, was still 5% smaller than the starting figure. The current proposal sees a 22.8% reduction in footprint from 2003. In terms of total floorspace the previous appeal scheme involved an increase of 57.9% over the 2003 floorspace. The current proposal sees a 1% reduction in total floorspace from 2003. Moreover, disregarding the basement (which is appropriate given that it has no external manifestations and thus no impact on openness), there is a 10.2% reduction from 2003.

⁵ As at the previous appeals, the appellant proposes, by way of a condition, that the approved extension at Caen Cottage will not be implemented. This results in a 58.3 sqm (GEA) reduction in floorspace on site, which is taken into account in the comparative figures.

Volumetric Comparisons (sq m) within PDS curtilage

| | 2003(A) | Previous appeal scheme | Current proposal |
|---|----------------|-------------------------------|-------------------------|
| Volumetric Comparisons (without basement) | 15,330 | 14,778 | 12,283 |
| Volumetric Comparisons (including basement in GIA) | 16,236 | 23,582 | 15,071 |

% Difference

| | Previous appeal scheme compared with 2003 (A) | Current proposal compared with 2003 (A) | Current proposal compared with Previous appeal scheme |
|---|--|--|--|
| Volumetric Comparisons (without basement) | -3.6% | -19.88% | -16.88% |
| Volumetric Comparisons (including basement in GIA) | 45.25% | -7.18% | -36.09% |

- 7.63. The proposed volume of the buildings within the PDS curtilage are 7.18% less than the 2003(A) baseline in total. Above ground, which again we contend is the more relevant consideration when considering impact on openness, they are 19.88% smaller in size than the buildings as they existed in 2003. There is a 36.09% volume reduction compared with the previous appeal scheme.
- 7.64. It can and should therefore be concluded that the proposed replacement dwelling would not have a greater impact on the openness of the MOL or the purpose of including land within the MOL than the existing development of the site. There would be no additional encroachment on countryside and no additional sprawl of urban land. Thus the development would therefore also constitute appropriate

development for the purposes of MOL policy under this exception.

- 7.65. By way of comparison with the basis for the 2011 appeal decision, applying the original MDS site as designated by the now superseded Policy LU1 and the previous approach under PPG2 paragraph 3.4 and Annex C, the comparative measurements would be as follows:

Table 3: Comparative measurements (GEA M2) across the previous MDS site

| | 2003 | 2005 permission | Previous appeal scheme | Current proposal |
|-----------------------------|-------------|------------------------|-------------------------------|-------------------------|
| Footprint | 4962 | 3788 | 4099 | 3870 |
| Floorspace | 7437 | 13050 | 15582 | 13591.7 |
| Floorspace without basement | 7192 | 9834 | 10634.7 | 10096.7 |
| Hard Standing | 7950 | 5137 | 5965 | 5814 |

% Difference

| | 2005 consent compared with 2003 | Previous appeal scheme compared with 2003 | Previous appeal scheme compared with 2005 permission | Current proposal compared with 2003 | Current proposal compared with 2005 permission |
|-------------------------------------|--|--|---|--|---|
| Footprint Total | -24% | -17% | 8% | -22% | 2% |
| GEA Total | 75.5% | 109.5% | 19.4% | 82.8% | 4.2% |
| GEA Total (without basement in GIA) | 36.7% | 47.9% | 8.1% | 40.4% | 2.7% |
| Hard Standing | -35.4% | -24.9% | 16.1% | -26.9% | 13.2% |

- 7.66. The figures show that, in 2003, the total footprint of the site was 4,962 sq m, with total floorspace of 7,437 sqm. The scheme consented in 2005 involved a total footprint of 3,788 sq m, which was only 76% of the 2003 footprint, but its floorspace was 13,050 sq m - a 75.5% increase over the 2003 total floorspace. The previous appeal scheme would have increased the footprint to 4,099 sq m which, at 82.6%, was still nearly a fifth smaller than the starting figure, and 8% larger than the 2005 consent. The current proposal sees a 22% reduction in footprint from 2003 and only a 2% increase over the 2005 consented scheme. In terms of total floorspace the previous appeal scheme involved an increase of 109.5% over the 2003 floorspace and an increase of 19.4% over the 2005 consent. The current proposal sees a 4.2% increase in total floorspace over the 2005 consent. Disregarding the basement, there is a 2.7% increase. With regards to hard standing, the current proposals see a 31.23% reduction from 2003.
- 7.67. Whilst the figures would have been instructive⁶, the overriding consideration was whether the proposed development (taken together with the development that has already been implemented) would have a greater effect on openness, or on the purposes of the land being designated as Green Belt/MOL. .
- 7.68. The proposed development would therefore also have come within the former exception in PPG 2 as appropriate development.
- 7.69. For the purposes of the NPPF the overall conclusion should be that the proposal would in fact come within two of the exception categories and by virtue of either of those would constitute appropriate development.

Very special circumstances

- 7.70. NPPF Paragraphs 87 and 88 provide that inappropriate development should not be approved unless the potential harm to the Green Belt/MOL by reason of inappropriateness and any other harm is clearly outweighed by other

⁶ By way of background, this is to be consistent with previous inspector's analysis.

considerations (which is the definition of ‘very special circumstances’). That was the approach of the Inspector in 2011 where he concluded that the proposals constituted inappropriate development and that the other considerations were insufficient clearly to outweigh the harm to the MOL which he had identified. In the present case, should the Inspector disagree that the proposals are appropriate development, then we would submit that other considerations that would clearly outweigh any harm to the MOL would include the following:

- Securing a viable future and beneficial use for this important site;
- Contributing to the local economy and London’s role as a world city;
- Creating architecture and an overall development of outstanding quality;
- Preserving and enhancing the two character or setting of the two Conservation Areas and the setting of the Grade II* registered Park and Garden;
- The restoration of the grounds of Athlone House;
- The preservation and enhancement of the landscape and amenity value of the MOL and the Heath and its setting;
- Providing a highly sustainable and energy efficient dwelling; and
- Enhancing the biodiversity value of the SMINC

7.71. Whilst the 2011 Inspector’s decision determined that the harm to the MOL was not clearly outweighed in that case, this conclusion had regard to the extent of harm from the substantially larger building that was then proposed. The current proposal is for a significantly smaller building, so were this to be considered inappropriate development, then it follows that the above benefits should be considered proportionately having regard to the lesser harm.

The effect on views from Hampstead Heath and other relevant areas of open space

7.72. **NPPF paragraph 109** seeks to protect and enhance valued landscapes.

7.73. **The London Plan Policy 7.11** seeks to protect the vistas towards strategically important landmarks. That includes the panorama from Kenwood to Central London. Policy 7.12 provides for guidance to be given through the London View

Management Framework 2012 (the LVMF). The LVMF identifies location 3A as the view from the Kenwood gazebo location towards St Pauls as the relevant protected vista.

- 7.74. Subparagraph **(e) of policy CS14 of the Core Strategy** specifies that the Borough Council will seek to protect important local views. **Policy CS15 of the Core Strategy** seeks to preserve and enhance the importance of Hampstead Heath and its surrounding area by protecting views from Hampstead Heath and views across the Heath and its surrounding area.
- 7.75. The 2011 Inspector's decision, at paras. 53 and 57, concludes that the views from the Heath and other nearby open spaces would not be unacceptably affected.
- 7.76. This revised proposal sees a reduction in the building's scale and bulk, which serves to reduce any visual impact of the proposed building from all viewpoints and make it further blend into the wooded landscape.
- 7.77. A LVIA⁷ was submitted with the planning application, which considers the impact of the proposed dwelling on surrounding views. The views assessed were agreed with LBC.
- 7.78. The overall conclusion is that the proposed dwelling's impact on the character, appearance and setting of the surrounding open space would not be harmful. Rather the proposed development would preserve and enhance the historical, open space and nature conservation importance of Hampstead Heath and would comply with the relevant national, regional and local planning policies. Further there would be no effect on the protected vista for the purposes of policy 7.11 of the London Plan or the LVMF.

The effect of the proposed development on designated and other heritage assets

⁷ As explained in para 1.1.2 of and appendix IV to the LVIA the assessment was correctly carried out in accordance with the 2002 Guidelines. However evidence will be given to demonstrate that assessment in accordance with the 2013 Guidelines would have reached the same overall conclusions.

- 7.79. The relevant NPPF and Development Plan Policies are set out above and in Appendix 4. They are referenced below in so far as relevant to the assessment of the impact of the appeal proposals on designated and other heritage assets.
- 7.80. The previous appeal decision concluded that in its ‘currently dilapidated, unoccupied state’ and with ‘the loss of fabric and architectural detail caused by long institutional use’ the contribution of Athlone House, as an undesignated heritage asset, had been diminished so that as a damaged unlisted building its contribution to the conservation area was ‘positive but limited’. The inspector went on to conclude that the development which was proposed through that appeal would preserve and enhance the character and appearance of the Highgate Conservation Area and the setting of the conservation area to the north.
- 7.81. The then current national heritage policy, contained in PPS5, has since been replaced by the NPPF. Camden Policies CS14 and DP25 are based on old national planning policy provisions and where in conflict are to that extent overtaken by the provisions of the NPPF and NPG (as noted above, part (c) of policy DP25 is inconsistent with the NPPF provisions).
- 7.82. Paragraph 132 of the NPPF considers impact on designated heritage assets. The relevant designated heritage assets comprise LB Camden’s Highgate Conservation Area and the setting of Kenwood House’s Grade II* registered park and of the adjacent Haringey Conservation Area.
- 7.83. Of relevance to the appeal proposal is that PPS5’s policy HE9.5 on positive buildings in conservation areas, as noted and applied by para 37 of the 2011 appeal decision, has been replaced by para 138 of the NPPF. Para 138 of the NPPF now makes it explicit that the test to be applied under paragraphs 133 or 134 of the NPPF depends on whether the loss of a building that has a positive contribution would result in substantial or less than substantial harm to the conservation area as whole – this is confirmed in the PPG. While this distinction was not addressed in PPS5 Policy HE9.5, English Heritage issued a guidance note dated 11th July 2010 to the effect that the test in HE9.2 was to apply (equivalent to what is now paragraph 133 of the NPPF and therefore applied by

the 2011 inspector – see para.37 of the appeal decision). Notwithstanding the application of that test under the then policy HE 9.2, the 2011 inspector concluded that with the replacement of the existing house on the site by the proposed new house the character and appearance of the conservation area would be preserved and enhanced. We suggest that, if he had not been constrained as he saw it by the English Heritage note in any event to apply policy HE 9.2, the inspector would have in fact concluded that the proposals would have involved less than substantial harm to the conservation area – indeed it was his conclusion that there was no harm (i.e. the character and appearance was preserved) and the overall effect was to enhance the conservation area.

- 7.84. The submitted heritage statement should be seen in the context of the foregoing. Exceptional circumstances are no longer required as a matter of policy. Moreover since the application was made the PPG has confirmed the approach to be taken in accordance with paragraph 138 of the NPPF. The heritage statement at paras 7.6 - 7.9, considers the proposed demolition of Athlone House under the provisions of NPPF paragraphs 132 – 135 and 138, and concludes (at para 7.8) that the replacement of Athlone House with the proposed dwelling would not result in substantial harm to the significance of the Highgate or Haringey Conservation Areas or the Registered Historic Park/Garden. Therefore, in so far as there is any harm, the test under para 134 would apply – namely that where less than substantial harm results, any harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 7.85. The heritage statement concludes that the loss of the existing building is justified and that the replacement dwelling together with the restoration of the historic grounds will bring significant enhancement of the character and appearance of its immediate setting and the Highgate Conservation Area and to the setting of the Haringey conservation area. It will preserve the setting of the Kenwood Registered Historic Park and Garden and Hampstead Heath. The proposed development constitutes a high quality example of modern classical architecture with landmark quality with appropriate form, massing, materials and details. These constitute public benefits, which were endorsed in para 43 of the 2011

appeal decision. To this should be added the other considerable public benefits of the proposal referred to above.

- 7.86. Thus the proposed development is in full accordance with national, London wide and local heritage policies so far as relevant. The grant of planning permission for the proposal would accordingly support the duty under the LBA s 72(1).

Transport, access and parking

- 7.87. **Section 4 of the NPPF** deals with transportation aspects, encouraging the provision of sustainable modes of transport.
- 7.88. **Policy 6.3 of the London Plan** specifies that development proposals should ensure that impacts on transport capacity and the transport network, at both a corridor and local level, are fully assessed.
- 7.89. **Policy CS11 of the Core Strategy** encourages development proposals that minimise congestion and addresses the environmental impacts of travel.
- 7.90. **Policy DP 18 of the Development Policies** specifies that the Council will seek to ensure that developments provide the minimum necessary car parking provision. The Council's parking standards confirm that a maximum of 1 space per dwelling is deemed to be acceptable.
- 7.91. Camden's Transport Supplementary Planning Guidance CPG 7 identifies that despite Camden benefitting from excellent transport provision the borough faces considerable transport challenges, including congestion and poor air quality. Consequently, the guidance seeks to minimise car use. Furthermore, the guidance provides detailed car parking space standards and the required car parking dimension measurements.
- 7.92. The transport statement, prepared by SKM Colin Buchanan concludes that the scheme will have a negligible impact upon the local transport network. The

proposed four car parking spaces⁸, whilst in excess of the general standards set out within Policy DP18 and Appendix 4, are appropriate having regard to the nature and location of the proposal and is a reduction on the provision of 15 car parking spaces (6 within the garage), as permitted in 2005. The site is served by regular buses with a stop immediately beside the drive entrance. The site is located about 1km from Highgate High Street and Highgate Tube station. As indicated above, it has access to the full range of community and other facilities and services.

Sustainability and Renewable Energy

- 7.93. The NPPF specifies that sustainability should be seen as a golden thread running through both plan-making and decision-taking.
- 7.94. Policy 5.2 of the London Plan requires development to make the fullest contribution to minimising carbon dioxide emissions in accordance with the energy hierarchy:
1. *Be lean: use less energy;*
 2. *Be clean: supply energy efficiently;*
 3. *Be green: use renewable energy.*
- 7.95. **Policy 5.2 of the London Plan** requires residential buildings to achieve a 40% carbon improvement on 2010 Building Regulations. In April 2014 the GLA published the new Greater London Authority guidance on preparing energy assessments, which states that *“from 6 April 2014 the Mayor will apply a **35 per cent Carbon reduction** target beyond Part L 2013 of the Building Regulations - this is deemed to be broadly equivalent to the 40 per cent target beyond Part L 2010 of the Building Regulations, as specified in Policy 5.2 of the London Plan for 2013-2016”*.
- 7.96. **Policy 5.3 of the London Plan** of the London Plan relates to sustainable design and construction and seeks to ensure that development demonstrates that

⁸ The transport statement refers to 3 parking spaces; however this makes no difference to the overall conclusions of the statement. This is confirmed in a letter by Jacobs (formerly SKM Colin Buchanan) that is included at Appendix 21.

sustainable design standards are integral to development and the minimum standards set out in the Mayor's SPG are met

- 7.97. As set out within **Policy CS13 of the Core Strategy**, the Council will require all development to take measures to minimise the effects of, and adapt to, climate change and encourage all development to meet the highest feasible environmental standards that are financially viable during construction and occupation by ensuring buildings and spaces are designed to cope with, and minimise the effects of, climate change.
- 7.98. **Policy DP22 of the Development Plan Document** promotes sustainable design and construction and will expect new build housing to meet Code for Sustainable Homes Level 3 by 2010 and Code Level 4 by 2013 and encouraging Code Level 6 (zero carbon) by 2016.
- 7.99. **Camden's Sustainability Planning Guidance** CPG3 highlights the Council's commitment to reducing carbon emissions in the Borough. The authority propose to do this by, implementing large scale projects such as installing decentralised energy networks alongside smaller scale measures, such as improving the insulation and energy performance of existing buildings.
- 7.100. The proposed building has been designed to achieve a minimum of Level 4 of the Code for Sustainable Homes. It will be a thermally efficient building that will also incorporate energy-generating renewable technology in the form of solar thermal panels at roof level. A 44% CO2 reduction over Building Regulations Part L1A 2010 will be achieved – a performance in excess of the 2005 permitted scheme conversion and the London Plan target.
- 7.101. The proposals make good use of the existing site and its existing resource. They utilise the existing landscape and restore many of the historic features. Existing structures are retained such as the Milner Folly, , the Pulhamite Ravine, the dropping well, footpaths, and the Jekyll rose garden. Water attenuation will be provided by the proposed lake with controlled surface water runoff.

- 7.102. Linear areas are retained or created to enable species migration (rough grassland areas.) The landscape has been designed to be low maintenance and to minimize inputs.
- 7.103. All hard surfaces have been designed to be permeable, using such treatments as gravel and semi-permeable bound gravel. Building products will be sustainably sourced, and post-development management will emphasise recycling and on-site composting and re-use of plant material.. During the demolition and construction phase, all suitable materials will be evaluated for re-use as part of hard landscape treatments.
- 7.104. As demonstrated above, the development of a replacement building is in full accordance with the sustainability policies of the NPPF, the London Plan and Camden's Development Plan.

Biodiversity

- 7.105. **Paragraph 109 of NPPF** applies seeking to minimise impacts on and promoting net gain in biodiversity. That would include the SMINC of which the site is part and for which the proposals would secure overall enhancement. NPPF paragraph 118 encourages the improvement of biodiversity in and around developments.
- 7.106. **Policy 7.19 of the London Plan** encourages development that adopts a proactive approach to protecting, enhancing, creating and managing biodiversity in support of the Mayor's Biodiversity Strategy. Policy 7.17 D provides for strong protection for SMINCs.
- 7.107. **Policy CS15 of the Core Strategy** seeks to protect and improve sites of nature conservation and biodiversity, in particular habitats and biodiversity identified in the Camden and London Biodiversity Plans in the borough by protecting trees and promoting the provision of new trees and vegetation, including additional street trees.
- 7.108. **Camden's Sustainability Planning Guidance** CPG 3 highlights that development can harm biodiversity directly by destroying or fragmenting habitat,

or indirectly by altering local conditions for species. Conversely, sensitively designed developments can increase connectivity between urban habitat patches, and contribute to landscape scale conservation and enhancement of biodiversity.

- 7.109. The proposals respect the ecological interest including the retention of areas of acid grassland, the woodland and the pond. The grounds would be maintained and enhanced for the benefit of wildlife, amenity and the historic landscape interests, and would be subject to a landscape management plan, to be secured by way of condition. Mitigation measures are proposed to enhance the overall biodiversity value of the grounds, and accommodate the requirements of protected species such as grass snake, bats and nesting birds. All trees identified as of high quality are to be retained.
- 7.110. The proposals would enhance biodiversity within the SMINC with further enhancement included around the house, outside the SMINC, including through securing longer term management (PPG para 17) and therefore comply with NPPF para 118. The proposals would conserve and positively enhance the wildlife interest of the grounds as part of the larger Hampstead Heath SMINC.
- 7.111. Overall the proposals would conserve and positively enhance the wildlife interest of the grounds as part of the Site of Metropolitan Importance for Nature Conservation and generally. In this regard, the proposed works are in full accordance with the NPPF and the Development Plan.

Amenity of Neighbours

- 7.112. The NPPF paragraph 17 seeks a good standard of amenity for all existing and future occupants of land and buildings. The London Plan strategic vision at paragraph 1.56 and following seeks to ensure a good, enduring and sustainable quality of life. That includes as part of the strategic policy 1A securing a good quality environment. These objectives are demonstrably delivered as part of the proposed development.

- 7.113. **Policy DP26 of the Development Plan Document** specifies that the Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity.
- 7.114. **Camden's Amenity Supplementary Planning Guidance CPG 6's** objective is sustainably to manage growth so that it avoids harmful effects on the amenity of existing and future occupiers and to nearby properties. In this regard, the guidance provides information on the following amenity issues:
1. Air quality
 2. Contaminated land
 3. Noise and vibration
 4. Artificial light
 5. Daylight and sunlight
 6. Overlooking, privacy and outlook
 7. Construction management plans
 8. Access for all
 9. Wind and micro-climate
 10. Open space, outdoor sport and recreation facilities
- 7.115. With regard to impact on residential amenity, the proposal is situated in a position such that it will not adversely impact upon the amenity of any neighbouring properties by way of loss of light or privacy, an unacceptable sense of enclosure, light spillage, wind/micro-climate, their enjoyment of outdoor space, or noise and vibration. The application submission includes a Construction Management Plan, which sets out the measures that would be incorporated during this process to minimise potential disturbance. The site is not on contaminated land. Further, additional planting is proposed along the boundary with Caenwood Court, which would further mitigate against these potential impacts. The other aspects of the guidance in so far as they are relevant are met through the proposals.
- 7.116. The proposed development would be in full accordance with national, strategic and local planning policy in these respects.

Hydrology

7.117. **Section 10 of the NPPF** identifies the need to meet the challenge of climate change, flooding and coastal change. **Paragraph 99** specifies that Local Plans should take account of climate change over the longer term, including factors such as flood risk, coastal change, water supply and changes to biodiversity and landscape. New development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure. **Paragraph 103** specifies that local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- Development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

7.118. **Policy 5.12 of the London Plan** specifies that the Mayor will work with all relevant agencies including the Environment Agency to address current and future flood issues and minimise risks in a sustainable and cost effective way. Policy 5.13 supports the use of sustainable drainage.

7.119. **Policy DP23** of the Camden DPD specifies that the Council will require developments to reduce their water consumption, the pressure on the combined sewer network and the risk of flooding.

7.120. With regards to impact on the hydrological and hydrogeological setting, a flood risk assessment and a basement impact assessment were submitted with the application. The basement impact assessment assessed the impact of the

proposed basement on groundwater flow. It included a review of a report by LBH Wembley dated December 2010 in response to a report dated 30th November 2009 by Haycock Associates on behalf of the City of London submitted as part of their representations for the last appeal. The LBH Wembley report was part of the evidence submitted on behalf of the appellants for the purposes of the 2011 inquiry but in fact no witness was called because its conclusions were not challenged. The LBH Wembley report formed part of the updated assessment submitted with the current application. It reported monitoring of groundwater from a number of boreholes and concluded that the basement structure will not intercept the groundwater table such that it will not have an impact on groundwater flow, and further the proportion of hard standing around the development will not be significantly increased and as such should not have an impact on surface water flow. The proposals will not have an effect on the local hydrology. In any event it is proposed to incorporate a subsoil drain around the perimeter of the basement, which will prevent the build-up of surface water behind the retaining walls. A letter from Price Myers the consulting engineers is attached at Appendix 12 which addresses the reiteration of the same point on behalf of the City of London referred to later in this Statement of Case.⁹

- 7.121. The Flood Risk Assessment that was submitted in support of the original planning application concludes that the proposals will not affect the local hydrology, as the site is in flood zone 1, whilst the proposed new basement will be constructed in essentially low permeable ground conditions (Claygate Member of the London Clay). Consequently, the proposed development will not increase the flood risk from groundwater on site or the surrounding areas. The proposed works are therefore in full accordance with the relevant regional and local planning policy in respect of hydrology.

Overall Assessment against the relevant policy provisions

- 7.122. In light of the above, it is concluded that the proposal would be in accordance with the NPPF and the relevant Development Plan policies so far as consistent with the NPPF. This conclusion accords with and is consistent with the

⁹ By email dated 28 April 2014 the Council requested a review of the BIA and in an email dated 16th June 2014 provided a copy of the review. So far as necessary, a further statement will be submitted to address the points raised in this review.

conclusions in the 2011 appeal decision. Under NPPF paragraph 14 the development proposals should be approved without further delay as according with the development plan. Further, in so far as it is relevant, planning permission should in any event be granted and the appeal allowed because there are no adverse impacts of doing so which would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole and the proposals would not conflict with MOL or heritage policy so as to preclude the grant of planning permission. Thus in accordance with section 38(6) of the PCPA the appeal should be allowed as being in accordance with the development plan and there being no material considerations to indicate otherwise.

8. THIRD PARTY REPRESENTATIONS

- 8.1. We now deal with points raised in statutory responses and by third parties that have not been addressed in the preceding sections.

English Heritage

- 8.2 English Heritage object to the development proposal on the grounds that the demolition of Athlone House would cause substantial harm to the conservation area. They disagree with the 2011 appeal decision that the contribution made by Athlone House to the conservation area is 'positive but is limited'. They further provide that LB Camden should have regard to paragraph 130 of the NPPF and whether there is evidence of deliberate neglect.
- 8.3 English Heritage's contentions should be rejected – their reasoning for substantial harm has not changed from the issues considered in the 2011 appeal decision and directly conflicts with its conclusions that, although demolition without replacement would harm the conservation area, development with the proposed replacement would mean that the overall effect would be to preserve and enhance the character and appearance of the conservation area. .
- 8.4 In this regard English Heritage's stance that the proposed replacement dwelling will cause substantial harm and is therefore unacceptable has failed to respect the Inspector's conclusions.
- 8.5 Their comment that views of Athlone House from Kenwood House are limited partly due to the materials used in its construction successfully blending into the landscape – needs to be seen in the context that it was never the intent for the original building to blend into the landscape. The materials when new were comprised of bright red brick with contrasting light stone dressings. Principally, the building was built to be showy and stand out in all views. It also conflicts with the Inspector's conclusions at paragraph 51 of the decision letter in the light of the extensive evidence as to the proposed materials and their effect in terms of initial specification and over time.

- 8.6 In response to their comment about deliberate neglect for the purposes of NPPF paragraph 130, the building has been maintained in an appropriate and watertight manner in accordance with the 2005 consent's S106 requirements. Details in respect of the how the building has been maintained, to satisfaction of regular site visits from LB Camden are set out in a statement, enclosed in Appendix 15. This is corroborated by the supplementary building condition statement, enclosed in Appendix 14. Similar allegations were made at the 2011 appeal but it is evident that they were not accepted by the inspector in the light of the evidence given on behalf of the Appellants.

Greater London Authority (GLA)

- 8.7 The GLA object on the grounds that the proposed development is inappropriate development in the MOL. They go onto say that no very special circumstances have been demonstrated to justify the departure from the planning policy.
- 8.8 The proposed footprint and gross external floor areas of the replacement building referenced at para 10 of the GLA's report are incorrect. The correct areas are less than those considered by the GLA and are set out below:

| Athlone House Measurements | | | |
|-------------------------------------|---|-------------------------------|-------------------------|
| Floor | Size of Scheme (sq m) | | |
| | 2003 (A) - Building without institutional extensions | Previous appeal scheme | Current proposal |
| Basement (GIA) | 245 | 1918 | 522 |
| Footprint (GEA) | 1450 | 1307 | 1078 |
| GEA Total without basement | 2751 | 3033 | 2497 |
| GEA Total including basement | 2996 | 4951 | 3019 |
| Hard standing | 2126 | 1838 | 1846 |

- 8.9 At para 13 the 2003 GEA of all buildings was 7,418 m2 and of Athlone House 2977 m2. In para 15 the figures are again incorrect.
- 8.10 At para 30 the GLA report states that Athlone House as it existed in 1999 had a GEA of 2,751 sqm. This is incorrect – it was the above ground floorspace in 1999 that was 2,751 sqm. The total floorspace (including the basement) was 2,977 sqm. The current proposals are 3,019 m2 including the basement. Therefore the increase is 42 m2 or 1%. The GLA's subsequent size comparisons with the proposal are also inaccurate.
- 8.11 In respect of paragraph 31, as explained earlier, the current proposal would involve an increase of 4.6% over what was permitted in 2005. However that in any event was as assessed under the former policy in PPG2 and annex C which has been replaced by the NPPF.
- 8.12 At paras 35 and 39 the GLA report suggests that the applicant should come forward with a smaller proposal that would 'very closely match the scale and size of Athlone House as it existed when its hospital use ceased' for which it gives a floorspace of circa 2,750 sqm GEA. As noted above, the total floorspace when the hospital use ceased was 2,977 sqm without the hospital ward extensions. This was also the size of the house in 2003. As set out in Table 1 of this statement, the total floorspace proposed is 3,019 sqm, which represents only a 1% increase in the total floorspace from the building as it existed when the hospital use ceased.
- 8.13 The proposal is therefore considered to comply with the approach set out in the GLA report. In any event it would constitute appropriate development in the MOL for the reasons set out above and earlier in this statement of case.

Consultee: Renaissance Planning on behalf of the City of London Corporation.

- 8.14 The City of London Corporation raise objections to the proposed demolition and re-development of Athlone House on the grounds that the proposals constitute

inappropriate development in the MOL, the impact on views from the Heath and the conservation area, inadequate justification for the loss of the existing building and impact on the hydrology of the Hampstead Heath ponds.

- 8.15 In respect of the MOL objection they contend that the correct approach to test whether the proposal is inappropriate development is to compare the proposals with the original building as it existed on 1st July 1948. However this misapplies the NPPF policy as the comparison is with the building to be replaced and whether the replacement is materially larger. The proposals are not for an extension or addition to an existing building and so the original building is not the relevant benchmark. In any event, if comparison was to be based on the floorspace on 1st July 1948, the floorspace at that time was 3043sqm GEA (as agreed at the previous appeal). The proposal is smaller than this (3019 M2) and so would not be materially larger in any event.
- 8.16 With regards to impact on views, the 2011 Inspector's decision at paragraphs 50, 53, 54, and 57 considered in detail the impact on views and concluded that it was acceptable. The visual impact of the current proposal would be less – there is a reduction in the building's scale and bulk, which serves to reduce the visual impact of the proposed building from all viewpoints and makes it further blend into the wooded landscape. While the viewpoints were agreed with the Council officers, they were representative to enable comparison. The inspector refers to views of the building being seen mostly 'in a kinetic or moving experience.' There was and is no suggestion that views are limited to the specific viewpoints that have been appraised.
- 8.17 Contrary to the suggestion of the City, the replacement of the present tower with one to the north would move it further out of the view from the Heath to a position where it would be screened or views would be filtered to a greater extent. The suggestion that in its new position the tower would be more prominent from the Heath is wholly unjustified and in conflict with the evidence. Further, and as noted in our response to English Heritage, the original brick and stone works were of bright and light colour. Were they to be cleaned and restored to their original state as part of the refurbishment, the existing building's visual presence would increase. With regard to the emphasised quotation from the CAAMS it was

agreed at the last inquiry, as can be seen on site, that the spire of St Michael's is not seen behind Athlone House in views from the Heath.

- 8.18 In response to the City's concern that insufficient justification has been presented to justify the demolition of the existing house since the 2005 approval, extensive evidence including as to the building condition and the cost of refurbishment was provided to the 2011 inquiry on the basis of which the inspector concluded that there was no realistic prospect of the owner being forced to carry out the refurbishment. An updated building condition report (2012) was submitted with the application, which demonstrates that, although the building has been maintained in accordance with the S106 requirements, it remains in a dilapidated state and that significant works would have to be undertaken to refurbish it. A supplementary building condition statement dated June 2014 is included in Appendix 14 and confirms that Athlone House is in materially the same condition as evidenced by the 2012 summary condition report, although as a result of the regular ongoing maintenance and associated works, that the general condition of the structure and fabric of Athlone House appears to have been stabilised since 2012.
- 8.19 At the 2011 inquiry costing of the 2005 consented scheme was the subject of discussion between witnesses acting for the Appellant and the Council leading to an agreed statement and schedule of costings, recorded by the inspector in the range £14m – 21 m. The Council's figure of some £14 m was based on an approach which sought partial repair and replacement, such as of the windows which on the Appellant's evidence was inappropriate and unrealistic. It is evident that the inspector supported the Appellant's approach in that respect where he concluded at DL 61 that 'it is extremely likely that a new owner would wish to take advantage of its unlisted status by replacing existing features with new in a way which would ensure a reasonable maintenance-free life.' That would support the Appellant's figure of what was then some £21 million. That figure has now been updated to £24 million as shown on the accompanying costings by Selway Joyce, of the capital required to refurbish the existing Athlone House. Knight Frank's Market report confirms that the market is such that the existing building, even refurbished in accordance with the 2005 planning permission, remains an unrealistic development for the relevant market having regard to its cost and its inadequacies as set out in the report and reflected in the conclusions of the 2011

Inspector. Knight Frank have also provided an updated opinion in a letter dated 6 May 2014 (included in Appendix 11), which confirms the inspector's conclusions as set out above and that the renovation of the existing building (in accordance with the 2005 permission) is unlikely to meet the requirements of the high net worth individual or to justify the expenditure of renovation. Conversely, the revised replacement dwelling proposal would meet the requirements of the beneficial owner, a high net worth individual and would be delivered.

- 8.20 The City repeat the assertions made for the 2011 appeal as to the effect on groundwater and the ponds referring again to the 2009 Haycock report. As pointed out above, this was directly addressed in the evidence adduced at the last inquiry and at that time not challenged by the City so that the evidence did not have to be called. The evidence submitted with the application included the report produced at the last inquiry and remains unchallenged. A further response to the City of London's alleged harm to groundwater flows has been prepared by Price and Myers and is included in Appendix 12. It responds to their assertions, a number of which are factually incorrect, and confirms that the proposed enlarged basement would be wrapped with a free flowing medium draining collar which creates a free flowing medium in which groundwater can move in whatever direction it chooses around Athlone House. Therefore, if the groundwater at this point does naturally flow towards the ponds, the basement excavation will have no detrimental effect on this natural drainage route. This is in effect repeating what was already set out in the submitted basement impact assessment and provided at the last inquiry, which dealt directly with the Haycock report. The City has produced no fresh evidence to substantiate their assertions.¹⁰.

Haringey Borough Council

- 8.21 Haringey Borough Council object to the development proposal on the grounds that the loss of Athlone House, a non-designated heritage asset, would cause significant harm to the character and appearance of the conservation area. Furthermore, the Borough Council assert that the design of the replacement dwelling would be out of context with the area and thus they suggest that the works would impact adversely on views into and out of Highgate Conservation

¹⁰ Reference is made to the recently submitted review of the BIA above.

Area in Haringey. The Council also questions the extent of the works required and suggest that there has been neglect for the purposes of NPPF para 130.

- 8.22 As noted above, Appendix 15 confirms that the building has been maintained in accordance with the 2005 S106 agreement, that it has been kept watertight and that there has been no deliberate neglect. The supplementary building condition statement (Appendix 14) confirms that as a result of this, the condition of the building appears to have stabilised since the 2012 building condition report was produced. The cost estimate is for the works required to carry out the permitted scheme, which remains unrealistic as explained above.
- 8.23 The Borough Council's suggestion that the demolition of the building would cause significant harm to the conservation area is not consistent with the conclusions of the Inspector in 2011, as the Council acknowledge. Moreover it fails to take into account or appreciate the qualities of the replacement building, in accordance with the considered conclusions of the 2011 inspector in that respect. The assertion that the proposed building would be 'much larger and bulkier' and the design criticisms repeat the same criticisms that were made in 2011 and rejected by the inspector on that occasion. The Appellant has properly followed the lead from the conclusions of the inspector on the last occasion in revising the proposals, the subject of the present appeal.
- 8.24 The design approach is entirely appropriate in this context, as analysed by the 2011 inspector at paras 37-41 of his decision letter leading to his conclusion that it would preserve and enhance the character and appearance of the conservation area and not conflict with heritage policies including any effect on the setting of the Haringey conservation area to the north. The original Athlone House was, in the words of the inspector, *'a strong architectural statement...cloaked in a colourful, effusive envelope. It was intended to impress when it was built.'* (decision letter para 41). The inspector went on to comment that the proposed development would not appear out of place when seen in the same context.

Hampstead CAAC

- 8.25 While recognising the reduction in size of the present proposal, Hampstead CAAC object to the development proposal on the grounds that the replacement dwelling would impact adversely on the views from Hampstead Heath. Furthermore, the CAAC do not agree that an owner would not find it worthwhile to restore the original building.. They raise concern about dominance of the building and light pollution. They suggest that the proposal would conflict with a number of development plan policies.
- 8.26 Notwithstanding the subjective nature of the CAAC's design comments, the original Athlone House was, in the words of the inspector, '*a strong architectural statement...cloaked in a colourful, effusive envelope. It was intended to impress when it was built.*' (decision letter para 41). The inspector went on to comment that the proposed development would not appear out of place when seen in the same context.
- 8.27 With regards to views from the Heath, as comprehensively analysed by the 2011 inspector at paras 50-57 of the decision letter, the proposed development would not be inappropriate in or harmful to the views from the Heath so far as they are obtained of the site and the development.
- 8.28 For the reasons set out earlier, there is no realistic prospect of restoration on the basis of the 2005 consent or otherwise, as acknowledged by the 2011 inspector in paras 17 and 61 of the decision letter. There has been no new evidence to demonstrate the contrary.
- 8.29 For the reasons set out above and in line with the conclusions of the 2011 inspector that the proposal would preserve and enhance the character and appearance of the conservation area, replacement of the existing house with the proposed new dwelling would accord with relevant heritage policy and the duty under LBA s. 72(1).
- 8.30 Regarding CAAC's reference to light pollution, any building on this site will create light spill, including the existing house whether occupied as a dwelling or in

institutional use and even if the 2005 permission was implemented . Furthermore, the replacement dwelling will be screened by existing and proposed planting, therefore limiting the impacts of any light spill. It is proposed that external lighting is controlled by condition. There was no equivalent condition imposed on the 2005 or 2006 planning permissions.

- 8.31 In the circumstances the grant of planning permission would not conflict with the policies as alleged.

Heath and Hampstead Society

- 8.32 The Society object to the development proposal on the grounds that the replacement dwelling would be materially larger than the existing house. Consequently, the Society are of the opinion that the proposed works would impact adversely on the openness of the MOL. The Society go on to object to the design of the replacement building, suggesting that the proposed architectural design of the dwelling would be out of keeping with the character of Hampstead Heath. The Society object to the failure of the appellant to implement fully the S106 Agreement, in particular the failure to restore Athlone House. Finally it suggests that as the inspector did not list the written objection letters he can be taken to have disregarded them.

- 8.33 In response to the MOL impact, the Society use the current building as a benchmark. However, this is inappropriate as indicated in the 2011 appeal decision. The existing building is an artificial representation of the dwelling house and reflects the demolition of parts of the dwelling in 2003 in partial implementation of the 2005 planning permission. As set out above, the appropriate baseline is the building as it existed in 2003 without the institutional extensions. On that basis the proposal, including the basement is only 1% larger¹¹ and excluding the basements there would be a reduction of 9.3%¹².

- 8.34 In response to the inspector's conclusions which are criticised, as set out above, the Inspector gave the proposals a detailed and thorough assessment against the relevant planning policies, having due regard to all the relevant issues and

¹¹ See table 1 above and the comparative floor areas of 2996 m2 existing and 3019 m2 proposed.

¹² See table 1 above and the comparative floor areas of 2751 m2 existing and 2497 m2 proposed

material considerations. The criticism over the choice of the colour of the Bath stone was directly addressed in the 2011 appeal decision at para.51 and has been considered earlier.

- 8.35 The appellant continues to comply with the S106. The Phase 2 works (restoring the house) are not realistically enforceable. This is addressed in paras 17 and 69 of the 2011 appeal decision. In the former paragraph the inspector concluded that there was no realistic prospect of forcing the owner to carry out the refurbishment under the s 106 agreement. In the latter he states that he:

“... appreciates that many interested persons expected the S106 agreement attached to the 2005 consent, and its successors, to ensure the future of Athlone House as a refurbished dwelling. However, there was nothing in that agreement to prevent the new apartments at Caenwood Court being completed and occupied without completing the refurbishment of Athlone House; and nothing to prevent sale of part of the site. There was nothing to prevent the submission of a new planning application in what the appellant considered were changed circumstances.”

- 8.36 Both those conclusions were and continue to be sound and based on the evidence examined at the inquiry and which remains valid.
- 8.37 Putting heritage assets to viable use is supported in the NPPF at paras 126, 131 and 134.
- 8.38 The costs of the refurbishment scheme as consented were agreed at the 2011 inquiry to be in the range £14-21 million depending on the approach adopted as set out above. The upper figure which would be the more realistic would now be over £24 m. This has been prepared on an objective basis by quantity surveyors consistent with the costs evidence produced and examined at the last inquiry.¹³ The inspector's conclusions were on the basis of the bracket of costs agreed between the parties.

¹³¹³ This involved extensive meetings between the quantity surveyors on both sides so that the differences were clearly identified with an agreed range of £14 – 21 m depending on the extent of the work required as recorded by the inspector at para 61 of the decision letter. That cost was consistent with typical costs of comparable refurbishment at £6-7,000 per m² and rather higher in Central London (£11,000 per m²).

- 8.39 As to the suggestion that the inspector disregarded the written objections in 2011, the letters were all collated and put before the inspector (including those before the Council in the questionnaire). So far as relevant they were commented on and addressed in the oral evidence that was given. The Society in its closing drew specific attention to the written objections. There is no basis for concluding that any written objection was disregarded by the inspector.

Highgate Society

- 8.40 The Highgate Society object to the alleged impact that the development proposal will have on the MOL, Hampstead Heath, the principle of demolishing an unlisted building of merit, the design of the development and sustainability grounds.
- 8.41 MOL - The Society's methodology for assessing the impact of the proposal on MOL is incorrect. The Society use the existing dwelling as a benchmark for comparison. As stated earlier, the previous Inspector considered the building as it existed in 2003(A) and as consented in 2005 as comparators on which to determine the impacts on MOL. It is further acknowledged in the Inspector's decision (paras 17 and 61) that there is no realistic prospect of forcing the owner to develop the 2005 permission and that, if it were to be fully implemented, significant alterations would be required as the 2005 consent would be highly unlikely to provide the space or room layout demanded. The question of the updated costs and the inadequacies of the 2005 consented scheme or refurbishment has been addressed earlier. It is plain that the inspector's conclusions remain sound in these respects.
- 8.42 For these reasons, using the 2005 consented scheme as a realistic baseline scenario is unsound. Instead, the 2003(A) scenario, as used in the previous inspectors report, is the appropriate baseline.
- 8.43 The appellant's analysis with respect to whether the proposed dwelling is materially larger fully acknowledges and includes the areas that result with the basement. The proposed basement will not be visible and so will have no actual impact on the openness of the MOL. In any event, including the basement area results in only a 1% increase in floorspace over the 2003 building.

- 8.44 Impact on Hampstead Heath – As set out earlier, the existing facades of the house have weathered over the course of time, dulling down the external appearance. Athlone House was built, as an expression of opulence. If the building was to be renovated, the existing materials would be cleaned to their previous bright and light tones. This would increase its visual presence, making it stand out more from the backdrop of the Heath as it once did.
- 8.45 The current proposals use natural materials, and like the existing building, they will weather over time. The principle of this approach respects the original building and its concept. The inspector's conclusions at paragraph 51 were based on the detailed evidence given in this respect including the nature and treatment of the proposed elevational materials. It is proposed that a condition is imposed requiring the submission and approval of the Bath stone and copper facing materials to be used. The suggestion by the Society that it is proposed to use 'glaring white stone' is wholly unfounded and contrary to the evidence and the conclusions of the 2011 inspector. If accepted as accurate by any member of the public, it could well undermine the perception of the impact of the proposal on its surroundings.
- 8.46 Impact on the Highgate Conservation Area – The inspector concluded as part of the previous Appeal Decision that the significance of Athlone House had become dilapidated and unoccupied and that the loss of fabric and architectural detail caused by long institutional use had diminished its contribution to the conservation area so that its contribution to the significance of the conservation area was positive but limited. He went on to conclude that as a whole the development which was proposed would preserve and enhance the character and appearance of the Conservation Area. The Inspector's decision therefore concluded that the demolition and replacement of Athlone House of the design and form proposed was acceptable in heritage terms. Our assessment against current policy in the NPPF and PPG is set out earlier in this statement and confirms that the proposals would preserve and enhance the character and appearance of the conservation area and otherwise comply with heritage policies.

- 8.47 As to Heritage and Design Matters we have addressed Development Policy 25(c) and the requirement for exceptional circumstances earlier in this statement of case. It is clear that no weight should now be given to that part of the policy consistently with paragraph 138 of the NPPF.
- 8.48 Regarding the Victorian Italianate Gothic style of Athlone House as it exists, it is important to note that the building has never been considered to be of sufficient quality for statutory listing, despite several attempts to do so. The Standing Building assessment 2005, to which the Society refers, had earlier concluded that “they are none of them sufficiently interesting, unusual or well enough preserved in their original state to be statutorily listed.”
- 8.49 Regarding the physical features of the building and the remaining historical fabric, a supplementary statement prepared by Sean Monie and included at Appendix 14 confirms that his building conditions report submitted with the application remains valid including that much of the building’s historical fabric has been lost as a result of weathering and extensive works that have been undertaken to the dwelling over the past 70 years.
- 8.50 The Society’s statement that the building can be ‘easily and sympathetically restored’ is unsupported as demonstrated earlier in this statement and contrary to the conclusion of the 2011 inspector in that respect. The letter from Sir David Chipperfield, which was produced by the Athlone House Working Group (AHWG), of which the Society was part at the 2011 inquiry, does not make any assertion in respect of the feasibility or otherwise of restoration or refurbishment of the existing house.
- 8.51 As explained earlier, evidence will be adduced to demonstrate that the proposed development would be of economic value, directly and indirectly, locally, to London and to the economy as a whole.
- 8.52 The Society’s claim that the proposed replacement dwelling is of poor design is unjustified and contrary to its position at the 2011 inquiry, when as a member of the AHWG represented by counsel it made no criticism of the quality of the design in its evidence or in submission to the inspector. The assertions now

made are directly contrary to the considered conclusions of the 2011 inspector as referred to above. The assertion that it would be out of context repeats the criticism made in 2011 and rejected by the inspector for the reasons set out in the decision letter.

8.53 Sustainability – As set out in the updated Energy Statement at Appendix 18 it is proposed to achieve a carbon emissions reduction of 44% over Building Regulations 2010 requirements, which is in excess of the London Plan target. The proposals will achieve a minimum of code level 4.

8.54 The technologies proposed for the site include:

- a ground source heat pump.
- 10m² solar thermal panels.
- 60m² Photovoltaic panels.

8.55 Other Reasons for Refusal –The S106 requirement is being complied with – the building is being maintained in a weather tight state and security guards are present on site to prevent any further damage or squatters entering the property. The conclusions of the inspector on similar assertions made at the last inquiry have been set out earlier in this statement of case. A statement setting out how the building has been maintained is attached at Appendix 15.

8.56 Refurbishment costs and condition of the existing house – this has been addressed earlier in this statement of case. The report from the structural engineer Mr Jon Avent is addressed below. The Appellants are not aware of any report from a conservation architect submitted by the Society.

8.57 The 2011 appeal decision – in respect of paragraph 39 of the decision letter the Inspector was correct to note that there was an acknowledgement by all of the quality of the design proposed. Professor Tavernor called on behalf of the City of London gave evidence to that effect as confirmed in its closing at para 20. Camden Council made no criticism of the design as such, as set out in its closing at paras 76-79. This is confirmed in the Appellant's closing para 41 and footnote

29. In its closing by Counsel the AHWG, which included the Society, made no criticism of the quality of the design proposed.

8.58 There is no basis for any of the criticisms of the 2011 reasoning, which was soundly based on the evidence adduced and submissions made. So far as necessary, the Appellants will refer to the proofs and documents put in evidence together with the daily transcript of the proceedings, which was available to inspector and all parties to the inquiry.

8.59 Statement of Community Involvement – a comprehensive Statement of Community Consultation was submitted as part of the planning application. The Public Exhibition was held on 20th and 21st July 2012 at Highgate United Reform Church, South Grove, Highgate N6 6BA. The event was well advertised - by way of a letter issued to over 1,100 households in the surrounding area, a letter to the local groups, an advertisement in the 'Ham and High' on 12th and 19th July 2012 and a press release to the local media.

Jon Avent on behalf of the Highgate Society

8.60 Jon Avent's objection in respect of the building condition is based on a desktop study without an inspection of the building.

8.61 The Savills summary condition report is what it states it to be, that is a factual summary of the main areas of disrepair to both the internal and external structure and fabric of Athlone House at a specific point in time. Photographs were included in the conditions report to support the text in respect of elevations defects.

8.62 As to para 2.03 the survey is of the condition. It did not purport to deal with a commentary on the architectural or other importance of the elements that were present or missing. However the survey does identify where original items were missing on, for example, the eastern elevation. The particular chimney to which reference is made is the sole surviving chimney with its original height, but it was not originally constructed to the same design detailing as the others which had special patterned brick details.

- 8.63 As to para 2.04, apart from the staircase there is very little of the internal features that has survived intact. The cornice shown in the photograph is likely to have been formed in the early twentieth century when the domed extension was added. Moreover the details of the building condition were the subject of detailed examination and broad agreement at the 2011 inquiry. The 2012 report is consistent with the findings in the earlier building condition report in November 2010.
- 8.64 As to para 2.05 significance in this respect relates to significance as part of the building condition and the requirement for work to be done. That is amply reflected by the costs assessment of what is required and was, as referred to above, the subject of detailed discussion and consideration at the 2011 inquiry.
- 8.65 As to para 2.06 there is clear evidence of structural movement of the building including the insertion of ties to the gable walls and straps to the north elevation. There has also been work undertaken recently to structural elements including strapping and additional support.
- 8.66 As to para 2.08 the report is a building condition report. It does not seek to establish whether or not it is beyond economic repair, which would depend on the cost of the required work and the availability of a market to support the cost of carrying it out.
- 8.67 It will be appreciated that the assessment of heritage value is set out in the heritage statement submitted with the application. Matters of cost and market demand and value were also dealt with in the statements submitted with the application. They were all comprehensively addressed as part of the 2011 inquiry in light of which the inspector reached the conclusions to which we have referred. There is nothing that has arisen since which would undermine his conclusions in that respect.
- 8.68 Matters relating to heritage policy have been addressed earlier in this statement of case and are not repeated here.

Quod on behalf of the residents of Caenwood Court.

- 8.69 Relevant correspondence is enclosed at Appendix 19
- 8.70 Objections have been raised to the scheme on the grounds that the demolition of Athlone House would result in a the loss of a building that makes a positive contribution to Hampstead, the house has been deliberately neglected, the proposed replacements dwelling would result in overdevelopment of the site, the proposed construction access would cause disruption and congestion, some aspects of the proposed landscaped tree planning would obscure views and outlook, the proposed refuse collection point is not suitable, the proposed pond has the potential to flood, the potential impact of the proposed basement and the proposed design of the gate entrance.
- 8.71 Several of these matters have been fully addressed above. The remainder of the objections are discussed below.
- 8.72 Construction access – a comprehensive construction and traffic management plan was submitted as part of the original planning application. A condition is proposed that would require submission and approval of the plan before the works commence. The management plan has a specific section 4.1 setting out how the appellant will maintain neighbourly relations, including the circulation of regular newsletters and information in respect of the works and their progress and the use of a contact book whereby nearby residents can voice any concerns. In addition all deliveries will be managed on a ‘just-in-time’ basis. Deliveries will be carefully planned, pre-booked and managed on site to ensure no back up of vehicles outside of the property and timed to cause no disruption to the neighbours. Delivery movements will be controlled by the designated traffic marshal to ensure minimum disruption to traffic flow and safety of pedestrians and general public.
- 8.73 Tree planting – the design team have consulted with Caenwood Court residents in relation to our client’s proposals. Various aspects of the boundary planting were discussed, including (i) the choice of pine species; (ii) retention of views from certain Caenwood Court apartments across the southern part of the Athlone

grounds; and (iii) the potential to extend proposed temporary screening further to the north during the construction phase.

- 8.74 The Appellant's landscape architects revised the boundary planting proposed for the southern part of the boundary with Caenwood Court in order to protect views from certain apartments towards the Heath. It was suggested by residents that this might be achieved by 'breaking up' the proposed tree line. This has been addressed in the proposals by: (a) varying the species at that part of the boundary (to make it seem more like the Heath); (b) ensuring that the height of the boundary trees is reduced and (c) scattering the trees at varying distances from the southern end of boundary.
- 8.75 Details of landscaping are required by the proposed conditions to be submitted and approved before the works commence.
- 8.76 Refuse collection point – consultation was undertaken with the Borough Council's Environmental Transport officer, to identify the best location to house refuse for collection. It was agreed that the proposed location is the most suitable, as the Borough Council already collect Caenwood Court refuse from this area. There is no basis for the suggestion that this arrangement would cause any unacceptable impact on the amenity of Caenwood Court residents.
- 8.77 Surface water flooding – SUDs are proposed for the new pond to the east of the proposed house. The submitted flood risk assessment undertakes detailed analysis in respect of the impact of the proposals on surface water drainage and concludes that there is no unacceptable flood risk as a result of the development and that the policies in the NPPF are met. A condition is proposed for the submission and approval of a drainage and SUDs system before the commencement of development.
- 8.78 Basement impact - the nearest development with a basement (Caenwood Court) is over 100 m away. A Basement Impact Assessment Report was submitted in support of the planning application. The report assessed whether the development will affect the stability of neighbouring properties, confirming that the proposed structure will not affect the local hydrogeological setting, such that it will

not cause an increase in groundwater levels on the upstream side and should have no effect on neighbouring properties¹⁴.

- 8.79 Gate Design - it is proposed that the design details of the gate should be submitted and approved before the commencement of the relevant part of the works.

Montague Evans on behalf of Beechwood House

- 8.80 The proposed replacement dwelling is situated 65m from the boundary with the end of Beechwood's rear garden. The distance between the buildings is 261m. The proposals would not result in an unacceptable degree of overlooking. However additional planting is proposed along this boundary, as shown in the submitted soft landscaping plan. Details of landscaping are required to be submitted and approved before the works commence.

9. CONDITIONS AND S106

- 9.1 A set of draft conditions is included at Appendix 8 and a draft Statement of Common Ground is included at Appendix 9. The documents to be referred to are set out in Appendix 10. The appellant does not consider it necessary for this proposal to be accompanied by a S106 Agreement.

¹⁴ Reference is made above to the BIA review provided to the Appellant by the Council on 16th June 2014, to which a response will be provided as appropriate.

10. CONCLUSIONS

10.1 The appeal proposal would:

- a. Respond to the conclusions of the 2011 appeal decision in a manner which would support the grant of permission in accordance with his conclusions and with regard to current planning policies and other material considerations;
- b. Not have an adverse effect on MOL, and would satisfy both the exception tests to which attention has been drawn; alternatively there are very special circumstances justifying the grant of planning permission;
- c. Preserve and enhance the character and appearance of the Highgate Conservation Area and the settings of the conservation area in Haringey and the registered park and garden to the west (the only relevant designated heritage assets in the vicinity);
- d. Bring significant overall public benefit including the restoration of the grounds and its heritage features;
- e. Cause no harm to views to or from Hampstead Heath, other open land and other significant viewpoints;
- f. Deliver a range of significant public benefits including delivering a scheme of outstanding architectural quality and high sustainability; economic and employment benefits including support for skilled crafts; benefit to London's World City status; enhancement of the overall heritage value of the site; increased biodiversity; improved landscape quality; sustainability gains and the long overdue development of this site enabling its beneficial use and the best and most sustainable use of existing resource ; and
- g. Would accord with the relevant development plan policies (and all other material considerations) and the policies in the NPPF (having regard to the advice in the PPG).

For all these reasons, among others, the Inspector is requested to allow the appeals and grant planning permission to enable this beneficial development to proceed without further delay.