

**TOWN & COUNTRY PLANNING ACT 1990
(AS AMENDED)**

**THE TOWN & COUNTRY PLANNING (INQUIRIES
PROCEDURE) (ENGLAND) RULES 2000 (SI 2000/1625)**

**SUMMARY
PROOF OF EVIDENCE
of
JOE CUNNANE**

In connection with an appeal lodged by Zen Developments Ltd against the refusal of the London Borough of Camden Council to grant planning permission for the erection of a part 3, 4 and 5 storey building with basement, comprising 21 residential units (3x 1 bed, 13x 2 bed and 5x 3 bed), including a basement swimming pool and the formation of a refuse and recycling storage area adjacent to Heath Drive and conversion of existing garage to bike storage following demolition of the existing dwelling house, at;

**38 Heath Drive
Camden
NW3 7SD**

PINS ref: APP/X5210/A/14/2215857
LPA ref: 2013/7355/P
CTP ref: PR/CJ/5543/Heath Drive/Appeal/PoE Summary

Date: July 2014

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Appendices

SEE SEPARATELY BOUND APPENDICES CONSISTING OF:

- 1 Dr Chris Miele CV (June 2014)
- 2 Decision Notice (26 February 2014)
- 3 Selected application drawings, as agreed in the Statement of Common Ground, May 2014
- 4 Conservation and Design comments extracted from the Delegated Committee Report (February 2014)
- 5 Screenshot from Planning website of London Borough of Camden website - showing boundaries of surrounding Conservation Areas (taken July 2014)
- 6 Relevant extract from the Redington/Frognaal Conservation Area Appraisal
- 7 Map of the West End Green Conservation Area
- 8 Heritage Statement produced by Montagu Evans (November 2013)
- 9 Relevant extract from Camden's draft Local List and selection criteria (October 2013)
- 10 Section 12 'Conserving and enhancing the historic environment' extract from the National Planning Practice Guidance (March 2014)
- 11 Barnwell Manor Wind Energy Limited vs East Northamptonshire District Council, Court of Appeal Decision ([2014] EWCA Civ 137)
- 12 English Heritage guidance, *The Setting of Heritage Assets* (2011 revised June 2012)
- 13 Extract from English Heritage Guidance *Conservation Principles* (2008)
- 14 English Heritage Guidance *Understanding Place: Conservation Area Designation, Appraisal and Management* (2011 revised June 2012)
- 15 Email from J Litherland (27 June 2014)
- 16 Independent Assessment of BIA, LBH Wembley, (June 2014)
- 17 Updated Basement Impact Assessment, Soiltechnics, (29 June 2014)

1.0 Introduction

- 1.1 The combined Proofs of Evidence demonstrate complete compliance with all relevant aspects of the Development Plan. The combined Proofs of Evidence have demonstrated that the development would be sustainable within the terms of Paragraph 14 of the Framework. Further details of the appeal site, surroundings and planning history can be found in my full Proof of Evidence, together with a summary of my experience and qualifications.
- 1.2 For the avoidance of doubt, I have maintained the section and paragraph numbering found in my full Proof of Evidence.
- 1.3 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004) and the Framework, in particular Paragraph 14, I am of the professional opinion that planning permission should be granted for this proposal, and accordingly I ask the Inspector to allow the Appeal.

5.0 Planning Assessment

- 5.1 Within Section 5.0 I have assessed the planning merits of this proposal in full, demonstrating compliance with each of the relevant Development Plan policies agreed within the Statement of Common Ground. I have also made reference to the Proofs of Evidence of Mr Gree, Dr Miele and Mr Birt.

6.0 Striking the Planning Balance

- 6.1 The appeal relates to the erection of a part 3, 4 and 5 storey building with basement, comprising 21 residential units (3x 1 bed, 13x 2 bed and 5x 3 bed), including a basement swimming pool and the formation of a refuse and recycling storage area adjacent to Heath Drive and conversion of existing garage to bike storage following demolition of the existing dwelling house.
- 6.2 Wherever possible, the Appellant has worked with the Council to address any outstanding issues in order to minimise the scope of this Inquiry. Following minor amendments to the scheme, the revision of the Basement Impact Assessment and the

Council's agreement to Appellant's contribution to Affordable housing, the sole issue in dispute is agreed to be:

1. Whether the proposed development as a whole would preserve or enhance the character or appearance of the Conservation Area.

6.3 The combined Proofs of Evidence of Mr Green and Dr Miele assess, in detail, whether the proposed development successfully preserves or enhances the character or appearance of the Conservation Area, and conclude that this is achieved.

6.4 In assessing the proposed demolition of the existing dwelling, one must apply a balancing exercise between the potential detriment to the conservation area and the numerous and significant planning benefits outlined within this proof. These can be summarised as follows:

- Complete compliance with all relevant aspects of the development plan.
- Ability to accommodate an additional 20 residential units, making the most of the site's capacity for development whilst continuing to provide a high standard of accommodation and amenity space.
- Provision of housing at a density more appropriate for the urban context of the site.
- Provision of a replacement building which relates better and responds more positively to neighbouring buildings and the surrounding built environment.
- Contributions to the supply of Affordable Housing, transport capacity and community infrastructure.
- The site is situated within a highly sustainable location, is easily accessible by public transport, and puts no pressure upon existing car parking arrangements.

- Retention of existing trees, which are the site's main contributor to the character of the Redington/Frognal Conservation Area.

6.5 It is clear in this instance that the benefits listed above significantly outweigh any need to retain a building of no great significance to the Redington/Frognal Conservation Area. The existing dwelling holds little historic value, and is not a notable example of historic architecture. The dwelling is not listed nor is it a designated Building of Townscape Merit, and should not be afforded any significant level of protection, other than the need to preserve or enhance the character or appearance of the Conservation Area. As has been demonstrated that the proposed development achieves this. Alternatively to the extent that any harm is considered to arise to the conservation area as a result of the proposal whilst any such harm should be afforded considerable weight (following the Court of Appeal's judgement in the *Barnwell Manor Wind Energy Ltd v. East Northants DC, English Heritage and National Trust* 2014] EWCA Civ 137) there would in my view be greater weight attributable to the benefits provided by the proposal and therefore permission should nonetheless be granted. I have demonstrated in this proof, in particular in my assessment of Policy CS14, that if very limited harm arises from demolition of the existing dwelling it is clearly outweighed by the merits of the replacement building and the planning benefits arising from the development.

Conclusions

- 6.6 The Appellant is willing to accept the imposition of appropriate, reasonable and necessary conditions upon the granting of planning permission, and is also willing to enter into a legal agreement with the Council. by way of a Unilateral Undertaking under S106 of the Act addressing the objections cited in reasons for refusal 6-14.
- 6.7 In this Proof I have demonstrated that the proposal which forms the subject of this appeal is sustainable form of development and accords fully with the development plan and supplementary guidance. In accordance with the advice contained at paragraph 14 of the NPPF I conclude that the development should be approved without delay and that this appeal should be allowed.