

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

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

**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

Date: July 2014

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## Appendices

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- 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
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- 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

### *Qualifications and Experience*

- 1.1 I am Joseph Christopher Cunnane. I have an honours degree in Urban Geography, a Diploma in Town Planning and I am a corporate member of both the Royal Town Planning Institute and the Irish Planning Institute. I have over 30 years of experience within the town planning field. I am Senior Partner in Cunnane Town Planning (“CTP”), a town planning consultancy practice I founded in 1985.
- 1.2 CTP advises a number of national and international clients and local planning authorities (“LPAs”) in the UK from offices in London and Manchester. CTP’s sister company, Cunnane Stratton Reynolds Ltd, of which I am a founding Director, also advises a similar range of private and public sector clients from offices in Dublin, Galway and Cork.
- 1.3 I have represented commercial client companies and local planning authorities throughout England on a wide range of public local inquiries for S78 appeals and local plan inquiries over the past 30 years.
- 1.4 The evidence which I have prepared and provide for this appeal reference APP/X5210/A/14/2215857 (in this proof of evidence) is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed herein are my true and professional opinions.

## **2.0 Site and Surroundings**

- 2.1 The appeal site comprises a 1,595 sqm plot of land situated at the junction of Finchley Road and Heath Drive, Hampstead. The existing building comprises a two storey structure with dormers at roof level, and forms a detached 6 bedroom dwelling. Historic map evidence indicates that the property was built in the interwar period and includes a large garden, 2x garages (1x single and 1x double), and a driveway. The site is unusual in that the dwelling is set back in the north-eastern corner of the site, to create a large front garden with only a small external space to the rear. Further details about the design and significance of the dwelling can be found in the Heritage Statement and in the Proof of Dr Miele.
- 2.2 The roadside perimeter of the site is bounded by a brick wall and 2 sets of gates providing vehicular access from both Finchley Road and Heath Drive. Given the high level of traffic along Finchley Road, the primary vehicular access to the site is perceived to be via Heath Drive. The perimeter is also bounded by shrubbery and a number of well-established London Plane trees, which heavily obscure views of the existing dwelling. Further details about the Condition of Trees within the Curtilage of the site can be found in the Arboricultural Report.
- 2.3 The appeal site is situated within a predominantly residential area. The nearby dwellings vary in scale to represent the significance of the road with which they are most strongly associated. With the exception of the appeal site, the buildings at the junction of Finchley Road are large, substantial buildings built in the style of a mansion. These buildings are five storeys in height with an exposed basement level. The majority of buildings along Finchley Road are typically 3-5 storeys in height whilst the buildings on Heath Drive vary from 2-3 storeys.
- 2.4 The aforementioned ‘mansion’ buildings at the junction of Finchley Road (Avenue Mansions and Albermale Mansions) are built in a specific architectural style with a strong roadside frontage. They are constructed in brick with stone detailing and feature octagonal towers on the most prominent corners of the buildings. The contribution made by these buildings to the character of Finchley Road is outlined in the Heritage Statement and the Proof of Dr Miele.

- 2.5 The appeal site is situated within a highly accessible location, achieving a PTAL rating of Level 5. Bus Stops are located within 75 m of the site along Finchley Road, serving route numbers 13, 82, 113, N13 and N113. Rail links are also available from Finchley Road & Frognal Station (London Overground) (720m south east), Finchley Road Station (Jubilee and Metropolitan Lines) (1,160m south east), and West Hampstead (London Overground and Jubilee Line) (710m south)
- 2.6 The surrounding area is well served by local shops and services. The appeal site is served by a number of convenience stores running along the opposite side of Finchley Road, 60 m north-west of the appeal site, and there is further choice within a designated Local Centre situated 150 m south-east of the site.
- 2.7 The appeal site forms part of the Redington/Frognal Conservation Area. The property is situated on the edge of this designation, which ends at the perimeter of the site. This prominent location is considered to form a gateway leading into the Conservation Area via Finchley Road. The opposite side of Finchley Road forms the West End Green/Parsifal Road Conservation Area.

### 3.0 Planning History

3.1 The appeal site is the subject of the following planning history:

<b>Reference:</b>	2013/7355/P
<b>Proposal:</b>	Erection of a part 3, 4 and 5 storey building with basement, comprising 21 residential units (3x 1 bed, 13x 2 bed, 5x 3 bed), including a basement swimming pool and the formation of a refuse and recycling storage area adjacent to Heath Drive and retention of existing garage to bike storage following the demolition of the existing
<b>Decision:</b>	Refuse
<b>Date:</b>	26/02/2014
<b>Reference:</b>	8894006
<b>Proposal:</b>	Prune 3 Limes and 3 Planes
<b>Decision:</b>	Part Approve/Part Refuse
<b>Date:</b>	17/03/1988
<b>Reference:</b>	TPBR7313/EES/MMW
<b>Proposal:</b>	The erection, in principle, of a block of flats on the site of 38 Heath Drive, Hampstead.
<b>Decision:</b>	Conditional
<b>Date:</b>	30/09/1946
<b>Reference:</b>	8562
<b>Proposal:</b>	To erect a new two storey addition to the house over a portion of the space at the rear of the premises known as No. 38 Heath Drive, Hampstead.
<b>Decision:</b>	Conditional
<b>Date:</b>	16/01/1936

## **4.0 Planning Policy**

- 4.1 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the Development Plan, against which the appeal scheme is to be determined, comprises the London Plan, the Camden Core Strategy and the Camden Development Policies. Policy LU1 of the Camden UDP remains part of the development plan but is not relevant to this appeal as the site is not included within the Schedule of Land Use Proposals contained within this policy. The following policies of the development plan are considered relevant, and have been agreed within the Statement of Common Ground:

### **London Borough of Camden Core Strategy**

#### **Policy Description**

##### **CS1 Distribution of growth**

The Council will seek to focus development in suitable locations and achieve sustainable development, opportunities and benefits to make Camden an attractive place to live, work and visit. It will promote appropriate development in highly accessible locations and limit growth elsewhere. The Council will encourage development to make full use of its site, while still taking into account its overall impact.

##### **CS3 Other highly accessible areas**

The Council will promote appropriate development in the highly accessible areas of Central London and the town centres of Camden Town, Finchley Road/Swiss Cottage, Kentish Town, Kilburn High Road and West Hampstead, including appropriate edge of Centre Locations. These areas are considered to be suitable locations for the provision of homes.

##### **CS5 Managing the impact of growth and development**

Development will need to meet the full range of objectives set out in the Core Strategy and other LDF documents, with particular consideration given to uses that meet the needs of Camden's population, providing sustainable buildings of the highest quality, and by protecting and enhancing the environment, heritage and amenity of the area.



**CS6 Providing quality homes**

The Council will make full use of Camden's capacity for housing by maximising the supply of additional housing, providing 4,370 self-contained homes between 2007 and 2017, and 6,550 self-contained homes between 2010 and 2025. The Council will seek to secure high quality affordable homes, with at least 50% of these targets providing affordable homes. A contribution to affordable homes may be required where it is found that it is not feasible to provide them on site.

**CS10 Supporting community facilities and services**

The Council will work with its partners to ensure that community facilities and services are provided for Camden's communities and people who work in and visit the borough.

**CS11 Promoting sustainable and efficient travel**

The Council will promote the delivery of transport infrastructure and the availability of sustainable transport choices in order to support Camden's growth, reduce the environmental impact of travel, and relieve pressure on the borough's transport network.

**CS13 Tackling climate change through promoting higher environmental standards**

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. The Council will also promote local energy generation and networks, and will make Camden a water efficient borough and minimise the potential for surface water flooding.

**CS14 Promoting high quality places and conserving our heritage**

The Council will ensure that Camden's places and buildings are attractive, safe and easy to use by requiring development of the highest standard of design that respects local context and character; 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; promoting high quality landscaping and works to streets and public spaces; seeking the highest quality landscaping and works to streets and public spaces; seeking the highest standards of access in all buildings and places requiring schemes to be designed to be

inclusive and accessible; and by protecting important views of St Paul's Cathedral and the Palace of Westminster from sites inside and outside the borough and protecting important local views.

**CS15 Protecting and improving our parks and open spaces and encouraging biodiversity**

The Council will protect and improve Camden's parks and open spaces.

**CS16 Improving Camden's health and well-being**

The Council will seek to improve health and well-being in Camden

**CS18 Dealing with waste and encouraging recycling**

The Council will seek to make Camden a low waste borough.

**CS19 Delivering and monitoring the Core Strategy**

The Council will work with Camden's Local Strategic Partnership and its other partners to deliver the vision, objectives and policies of the Core Strategy.

**London Borough of Camden Development Policies**

**Policy Description**

**DP2 Making full use of Camden's capacity for housing**

The Council will seek to maximise the supply of additional homes by expecting the maximum appropriate contribution to the supply of housing on sites that are underused or vacant, and by resisting alternative development of sites considered particularly suitable for housing.

**DP3 Contributions to the supply of affordable housing**

The Council will expect all residential developments with a capacity for 10 or more additional dwellings to make a contribution to the supply of affordable housing. The Council considers that a floorspace of 1,000 sq m (gross) is capable of accommodating 10 family dwellings, and will expect that all residential developments that would provide an additional floorspace of 1,000 sq m (gross) to make a contribution to the supply of affordable housing.

**DP4 Minimising the loss of affordable housing**

The Council will resist development that would involve a net loss of affordable housing floorspace.

**DP5 Homes of different sizes**

The Council will contribute to the creation of mixed and inclusive communities by securing a range of self-contained homes of different sizes. All residential development should contribute to meeting the priorities set out in the Dwelling Size Priorities Table.

Dwelling Size Priorities Table					
	1-bedroom (or studio)	2-bedrooms	3-bedrooms	4-bedrooms or more	Aim
Social Rented	Lower	Medium	High	Very high	50% large
Intermediate affordable	Lower	Very high	Medium	Medium	10% large
Market	Lower	Very high	Medium	Medium	40% 2-bed

**DP6 Lifetimes homes and wheelchair housing**

All housing developments should meet Lifetime Homes standards. 10% of homes developed should either meet wheelchair housing standards, or be easily adapted to meet them.

**DP15 Community and leisure uses**

To help meet increased demand for facilities, the Council will expect developments which result in any additional need for community or leisure facilities to contribute towards supporting existing facilities or providing for new facilities.

**DP16 The transport implications of development**

The Council will seek to ensure that development is properly integrated with the transport network and is supported by adequate walking, cycling and public transport links. The council will resist and development that fails to assess and address any need for movements to, from and within the site; additional transport capacity off-site; and safe pick-up, drop-off and waiting areas for taxis, private cars and coaches.

**DP17 Walking, cycling and public transport**

The Council will promote walking, cycling and public transport use, and developments should make suitable provisions for this. Where appropriate, development will also be

required to provide for interchanging between different modes of transport. This may include improvements to footways and cycleways, signage, seating, cycle parking, workplace showers and lockers, safe road crossings, bus stops, shelters and timetable information. The council will resist development that would be dependent on travel by motor vehicles.

**DP18 Parking standards and limiting the availability of car parking**

The Council will seek to ensure that developments produce the minimum necessary car parking provision. The Council will expect car free development in the Central London Area, the town centres, and other areas within Controlled Parking Zones that are easily accessible by public transport.

**DP19 Managing the impact of parking**

The Council will seek to ensure that the creation of additional car parking spaces will not have negative impacts on parking, highways or the environment.

**DP20 Movement of goods and materials**

The Council will seek to minimise the movement and the impact of movement of goods and services by road. It will expect development that would generate significant movement of goods or materials both during construction and operation to minimise the movement of goods and materials by road, and consider the use of alternatives such as rail and canal links.

**DP21 Development connecting to the highway network**

The Council will expect developments connecting to the highway to ensure the use of the most appropriate roads by each form of transport and purpose of journey, in accordance with Camden's road hierarchy; avoid direct vehicular access to the Transport for London Road Network (TLRN) and other Major Roads; and avoid the use of local roads by through traffic.

**DP22 Promoting sustainable design and construction**

The Council will require development to incorporate sustainable design and construction measures. Schemes must demonstrate how sustainable development principles have been incorporated into the design and proposed implementation. Development should also include green or brown roofs and green walls wherever

suitable. New build housing should meet Code for Sustainable Homes Level 4 by 2013. The development should be resilient to climate change and include appropriate adaptation measures.

**DP23 Water**

The Council will require developments to reduce their water consumption, the pressure on the combined sewer network and the risk of flooding.

**DP24 Securing high quality design**

The Council will require all developments to be of the highest standard of design and will expect developments to consider the character, setting, context, form and scale of neighbouring buildings. It should also consider the quality of materials used, the provision of a visually interesting frontage, the appropriate location for building services and equipment, existing natural features, hard and soft landscaping, the provision of amenity space and overall accessibility of the development.

**DP25 Conserving Camden's heritage**

In order to maintain the character of Camden's conservation areas, the council will take account of the conservation area statements, appraisals and management plans. The Council will only permit development that preserves or enhances the character or appearance of the area.

**DP26 Managing the impact of development on occupiers and neighbours**

The Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to the amenity of both its occupants and neighbours.

**DP27 Basements and lightwells**

In determining proposals for basement and other underground development, the Council will require an assessment of the scheme's impact on drainage, flooding and groundwater conditions and structural stability, where appropriate. The Council will only permit basement and other underground development that does not cause harm to the built and natural environment and local amenity, and does not result in flooding or ground instability.

**DP28 Noise and vibration**

The Council will seek to ensure that noise and vibration is controlled and managed and will not grant planning permission for development likely to generate noise pollution, or development sensitive to noise locations with noise pollution, unless appropriate attenuation measures are provided.

**DP31 Provision of, and improvements to, open space and outdoor sport and recreation facilities.**

To ensure the quantity and quality of open space and outdoor sport and recreation facilities in Camden are increased and deficiencies and under provision are not made worse.

**DP32 Air quality and Camden's clear zone**

The Council will require air quality assessments where development could potentially cause significant harm to air quality.

**The London Plan**

The London Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London. London boroughs' local plans need to be in general conformity with the London Plan, and its policies guide decisions on planning applications by councils and the Mayor. Relevant Policies include 3.3 (Increasing Housing Supply), 3.4 (Optimising Housing Potential) and 3.4 (Quality of Design and Housing Developments), all of which seek to maximise the provision of good-quality homes across London as a whole.

**The National Planning Policy Framework**

The framework acts as guidance for local planning authorities and decision-takers, both in drawing up plans and making decisions about planning applications.

**Relevant Planning Guidance****Redington/Frogna Conservation Area Statement**

The appraisal and management strategy defines and analyses what makes the Redington and Frognal conservation area 'special' and provides important information to local residents, community groups, businesses, property owners, architects and developers about the types of alterations and development that are likely to be acceptable or unacceptable in the conservation area.

### **Camden Planning Guidance**

The London Borough of Camden has published detailed advice on how it will apply planning policy. These comprise 8 different documents which cover all aspects of planning. The relevant CPG's include *CPG1 Design*, *CPG2 Housing*, *CPG3 Sustainability*, *CPG4 Basement*, *CPG6 Amenity*, *CPG7 Transport*, and *CPG8 Planning Obligations*.

### **GLA Housing SPG**

The SPG provides guidance on how to implement the housing policies in the 2011 London Plan (LP). In particular, it provides detail on how to carry forward the Mayor's view that "providing good homes for Londoners is not just about numbers. The quality and design of homes, and the facilities provided for those living in them, are vital to ensuring good liveable neighborhoods". It is informed by the Government's National Planning Policy Framework and by its Housing Strategy for England.

## **5.0 Planning Assessment**

5.1 Following the decision to refuse planning permission, the Appellant has engaged with the LPA in an attempt to resolve outstanding matters, and to narrow the scope of this Inquiry. The decision notice (Appendix 2) sets out 14 reasons for refusal, and is accompanied by an informative which advises that reasons for refusal 6-14 could be overcome by entering into a Section 106 Agreement. Over the course of the appeal proceedings the Appellant has sought to address these issues by way of a S106 Planning Obligation.

5.2 On Friday 27 June 2014 the LPA emailed Cunnane Town Planning LLP (Appendix 15) to notify that it no longer wished to pursue the reason for refusal relating to affordable housing.

5.3 A revised Basement Impact Assessment was also submitted to the LPA to overcome reason for refusal 4, but there was insufficient time for the LPA to review this prior to the deadline for the Statement of Common Ground. The LPA has since appointed LBH Wembley Geotechnical and Environmental to undertake an independent review of the revised BIA, the results of which are discussed within this Proof.

5.5 In finalising the Statement of Common Ground, the parties agreed that the outstanding issues needing to be addressed by this inquiry can be reduced to the following statements:

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

(See Reasons 1 and 2 of the Refusal); and

2. Whether affordable housing could be provided on site.

(See Reason 6 of the Refusal).

Since agreeing the Statement of Common Ground, the Council has withdrawn its objection and has agreed to the proposed payment-in-lieu.

### ***Compliance with the Development Plan***



- 5.6 The following section will demonstrate complete compliance with all relevant aspects of the development plan (as agreed in the Statement of Common Ground), and that there are no material considerations which would justify setting the development plan aside.

5.7 **CS1 Distribution of Growth**

Compliant. The development will result in the provision of residential accommodation within a highly accessible location along Finchley Road (PTAL: 5). The development will make full use of this underdeveloped site, whilst continuing to provide occupants with a good quality of accommodation and amenity; to protect the amenity of neighbouring occupiers; and to respect the character and setting of the Redington/Frognaal Conservation Area. The density is within the density matrix and the units exceed the minimum floorspace standards set out within the London Plan.

5.8 **CS3 Other Highly Accessible Areas**

Compliant as above. The site is designated PTAL 5, the second highest accessibility level achievable in Greater London.

5.9 **CS5 Managing the Impact of Growth and Development**

Compliant. The development provides 20 additional residential units which will help meet the long term needs of Camden's population, and will provide a replacement building of the highest quality and levels of sustainability. The design of the replacement building takes into account the character of surrounding environment and successfully preserves, if not enhances the character of the Redington/Frognaal Conservation Area. Further details as to how this is achieved is set out in the Proofs of Mr Green and Dr Miele.

5.10 **CS6 Providing Quality Homes**

Compliant. The development provides a suitable mix of 21 residential units on an underdeveloped site, helping to maximise the supply of housing within the Borough. The viability report and Proof of Evidence produced by Mr Birt demonstrate that a suitable payment-in-lieu towards the supply of affordable housing. The rejection in refusal reason 6 has now been withdrawn and a contribution to off-site affordable

housing is incorporated with the S106 Unilateral Undertaking accompanying this appeal.

The development proposals provide, on average, 3.1 habitable rooms per unit. According to the Density Matrix contained within Table 3.2 of the London Plan, Urban Sites achieving a PTAL rating of 4-6 should aim to achieve a density of between 55-225 units per hectare. The development will provide 21 units on a 0.16 ha site, equating to 131 units per hectare. This density is approximately mid-way between the suggested range, maximising housing potential whilst at the same time avoiding any undue strain on existing infrastructure and creating an entirely adjoining development in respect of its relationship with neighbouring properties.

The Draft Further Alterations to the London Plan (January 2014) clearly state that London's population is likely to increase significantly more than was anticipated in the past, and so unpredictably that it is no longer realistic to set specific housing targets over the plan period, and instead the revisions set out a 'direction of travel' or suggested range that will be updated periodically.

Estimates of London's population have increased from 1.3 million to 2 million over the plan period up until 2036. Such a dramatic increase means that the estimated need for housing has risen from 32,210 to 42,000 over the plan period, a figure which will be reviewed once more in 2019/20.

Policy 3.3 of the London Plan will be revised to emphasise the need for this housing, and promotes the sensitive renewal of existing residential areas, especially in areas of good transport accessibility. The scheme will contribute to meeting this need in an entirely sustainable form of development.

**5.11 CS10 Supporting Community Facilities and Services**

Compliant. The relevant financial contributions are secured by way of a Unilateral Undertaking under S106.

**5.12 CS11 Promoting Sustainable and Efficient Travel**

Compliant. The relevant financial contributions and restrictions upon resident parking permits are secured by way of a Unilateral Undertaking, and the relevant access, cycle

parking and servicing areas are provided in line with DP16, DP17, DP18, DP19, DP20 and DP21.

**5.13 CS13 Tackling Climate Change by Promoting Higher Environmental Standards**

Compliant. The replacement building has been designed to meet Code for Sustainable Homes Level 4.

**5.14 CS14 Promoting High Quality Places and Conserving Our Heritage**

Compliant. The proposed development includes the highest standard of design which has recognised and responded to the local context and character from the outset. As demonstrated in the Proofs of Mr Green and Dr Miele, the proposals successfully enhance the character and appearance of the site, thereby making a positive contribution to the Redington/Froggnal Conservation Area as a whole. Whilst I accept that the demolition of the existing dwelling would cause very limited harm to the Conservation Areas as a whole, the case for retention would be outweighed, in my opinion, by the benefits outlined within this proof.

Any potential detriment caused by demolition of the existing dwelling is significantly outweighed by the following planning benefits:

- 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/Froggnal Conservation Area.

**5.15 CS15 Protecting and Improving our Parks and Open Spaces and Biodiversity**

Compliant. The relevant financial contributions are secured by way of a Unilateral Undertaking under S106

**5.16 CS16 Improving Camden's Health and Well-being**

Compliant. The relevant financial contributions are secured by way of a Unilateral Undertaking under S106

**5.17 CS18 Dealing with Waste and Encouraging Recycling**

Compliant. The proposed development provides adequate facilities for the storage and collection of waste and recycling.

**5.18 CS19 Delivering and Monitoring the Core Strategy**

Compliant. The Council will secure investment into infrastructure, facilities and services by way of a Unilateral Undertaking under S106.

**5.19 DP2 Making full use of Camden's Capacity for Housing**

Compliant. The proposals help to maximise the supply of housing within the borough by redeveloping the site to provide residential accommodation at a more suitable density. As set out in my assessment of Policy CS6, there is an urgent need for Housing across London as a whole, and so it is essential that all new development maximises housing potential consistent with creating a sustainable and neighbourly form of development and preserving or enhancing the character or appearance of the Conservation Area.

**5.20 DP3 Contributions to the Supply of Affordable Housing**

Compliant. The viability report produced by Douglas Birt Consulting concludes that it would not be feasible to provide affordable housing on-site, and that instead a contribution to the Council's affordable housing fund should be secured by way of a Legal Agreement. In an email dated 27 June 2014 (Appendix 15) the Council have

agreed that a payment in lieu of £300,000 followed by a deferred contribution if appropriate, based on a renewed viability assessment would be acceptable.

**5.21 DP4 Minimising the Loss of Affordable Homes**

Compliant. The loss of the existing 9 bedroom dwelling is offset by the provision of 21 new dwellings, providing a more suitable and affordable range of unit sizes.

**5.22 DP5 Homes of Different Sizes**

Compliant. The development will provide 3x 1 bed, 13x 2 bed and 5x 3 bed units which are in line with the priorities set out in Policy DP5. Specifically, the Council aim to ensure that at least 40% of new residential development is 2 bed. The development proposals provide 61% 2 bed units. All units exceed the Minimum Floorspace Standards set out in Table 3.3 of the London Plan.

**5.23 DP6 Lifetime Homes and Wheelchair Housing**

Compliant. The development proposals have been designed to meet Lifetime Homes standards, and whilst the provision of wheelchair accessible/adaptable units was originally overlooked, a revised layout was submitted and agreed within Paragraph 2.7 of the Statement of Common Ground.

**5.24 DP15 Community and Leisure Uses**

Compliant. The relevant financial contributions are secured by way of a Unilateral Undertaking under S106

**5.25 DP16 The Transport Implications of Development**

Compliant. The development takes full account of the surrounding highway capacity and provides no on or off-street car parking, the development will be car-free, with access to parking permits restricted. The appropriate number of cycle parking spaces, and a suitable pick-up, drop-off, loading and unloading area is provided and accessed via Heath Drive.

**5.26 DP17 Walking, Cycling and Public Transport**

Compliant. The development has promoted the use of more sustainable modes of transport by restricting access to car parking and by providing adequate cycle parking

facilities. The site is classified as PTAL Level 5, as a range of transport options are within easy walking distance of the site.

**5.27 DP18 Parking Standards and Limiting the Availability of Car Parking**

Compliant. The development will be car free, with access to resident parking permits restricted by way of a Unilateral Undertaking under S106.

**5.28 DP19 Managing the Impact of Parking**

Compliant. The development will be car free, with access to resident parking permits restricted by way of a Unilateral Undertaking under S106.

**5.29 DP20 Movement of Goods and Materials**

Compliant. The development will not generate any significant need for heavy goods vehicles. Occasional loading and unloading can be accommodated on the proposed forecourt.

**5.30 DP21 Development Connecting to the Highway Network**

Compliant. The development promotes the sustainable use of walking, cycling and public transport, limits access to car parking and therefore minimising the amount of traffic generated.

**5.31 DP22 Promoting Sustainable Design and Construction**

Compliant. The proposals have been designed to achieve Lifetime Homes and Code for Sustainable Homes Level 4.

**5.32 DP23 Water**

Compliant. The proposals have been designed to achieve Code for Sustainable Homes Level 4. Although details of sustainable urban drainage solutions have not been detailed in this submission, the Council agree that this could be secured by way of condition.

**5.33 DP24 Securing High Quality Design**

Compliant. The Proofs of Evidence of Mr Green and Dr Miele set out the design process, and demonstrate how the character, setting and context of the area have influenced the final scheme. The development takes full account of the sites

Conservation Area designation, uses appropriate materials, provides visual frontages which respond positively to the Heath Drive/Finchley Road settings, and provide appropriate landscaping and amenity space.

**5.34 DP25 Conserving Camden's Heritage**

Compliant. The Appellant appointed Dr Miele to fully appreciate the context of the site and to help formulate an appropriate design. As stated in my assessment of Policy CS14, any potential harm caused by the demolition of the existing dwelling is outweighed by the planning benefits of the replacement building.

**5.35 DP26 Managing the Impact of Development on Occupiers and Neighbours**

The Delegated Report identifies only minor impacts to the privacy of adjoining buildings, which can be resolved through the use of obscured glazing where necessary and secured by condition. An independent Daylight and Sunlight Assessment has also confirmed that there would be no detrimental impact upon the levels of daylight and sunlight reaching neighbouring properties.

**5.36 DP27 Basements and Lightwells**

Expected to be compliant. Reason for Refusal 5 states that the Basement Impact Assessment failed to demonstrate that the development would structural stability of neighbouring properties would not adversely impact upon the local water environment and drainage. The Appellant is working worked with the Council to resolve this issue prior to the Inquiry, by commissioning an independent assessment of the BIA (Appendix 16). The review concluded that, in order to comply with Policy DP27, a revised BIA would need to include:

- A site investigation designed to address all the issues of potential concern.
- A quantitative Ground Movement Analysis.
- An assessment by appropriately qualified persons of all potential impacts, including any potential cumulative impacts.
- A reasoned Construction Methodology and details of any mitigation required.
- A monitoring and contingency plan.

These points have been addressed by Soiltechnics, and a revised BIA is submitted along with this Proof of Evidence at Appendix 17. The Council will confirm their agreement with this document in due course. It is not anticipated that the issue of the BIA will need to be discussed at length during the Inquiry.

**5.37 DP28 Noise and Vibration**

Compliant. The Noise Impact Assessment identified key noise source impacting upon the development is from road traffic via Finchley Road. The development will be constructed using an appropriate specification of acoustic glazing.

**5.38 DP31 Provision of, and Improvements to Open Space and Outdoor Sport and Recreation Facilities**

Compliant. The relevant financial contributions are secured by way of a Unilateral Undertaking under S106.

**5.39 DP32 Air Quality and Camden's Clear Zone**

Complaint. An independent Air Quality Assessment was commissioned and concluded that the development would not have a detrimental impact upon air quality, but noted that some degree of pollution will be generated during the construction phase. Mitigation of this pollution will be secured through the Construction Management Plan.

**Compliance of Development Plan with NPPF**

5.40 Paragraph 14 of the NPPF advises LPAs to approve development proposals which accord with the development plan without delay. In my evidence, and in that of my colleagues Mr Birt, Mr Green and Dr Miele, we address the issues in dispute and demonstrate compliance with the development plan. I conclude therefore that this proposal should be approved without delay.

5.41 Paragraph 50 advises LPAs to plan for a mix of housing. The London Borough of Camden has done just that and this proposal accords with the mix that Policy DP5 advises.



5.42 Paragraphs 56-68 set out the advice relating to ‘good’ design. This guidance is addressed within the Proof of Mr Green and Dr Miele.

5.43 I now turn my attention to address the advice in paragraphs 203, 204 and 206 of the framework in relation to conditions and Section 106 obligations.

5.44 I consider that the London Borough of Camden Core Strategy and Development Management Policies are up to date and broadly in accordance with the NPPF thereby affording them the full weight of development plan policy and ensuring sustainable development.

## **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/Frogna 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/Frogna 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.