

APPEAL STATEMENT

**REINSTATEMENT OF THE PUBLIC HOUSE FAÇADE AND
EXTENSION AND ALTERATION TO THE PROPERTY TO
ACCOMMODATE B1/A2 USE AT BASEMENT AND GROUND
FLOOR LEVELS AND 8 RESIDENTIAL UNITS AT FIRST,
SECOND AND THIRD FLOOR LEVELS (C3 USE)**

At

147 KENTISH TOWN ROAD, LONDON, NW1 8PB

ON BEHALF OF

147 KENTISH TOWN ROAD LTD

FEBRUARY 2015

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1.0 INTRODUCTION

- 1.1 This Appeal Statement is submitted on behalf of the appellant, 147 Kentish Town Road Ltd. The appeal is made against the decision of the London Borough of Camden Council ("the LPA") to refuse planning permission in respect of proposals at 147 Kentish Town Road, London, NW1 8PB.
- 1.2 The planning application was submitted to the LPA on 18th September 2014 and sought permission for the reinstatement of the public house façade, and extension and alteration to the property to accommodate B1/A2 use at basement and ground floor levels and 8 residential units at first, second and third floor levels (C3 use) (Council ref: 2014/5900/P).
- 1.3 The proposal supports the Government's objectives to bring empty buildings back into use, increasing housing and office supply and securing the efficient use of land. A high quality living environment is proposed with employment space below. Sustainable construction measures and energy efficient design are integral features of the scheme, whilst the façade is to be retained at the request of the Council and local residents.
- 1.4 We are requesting that this appeal is dealt with by way of written representations as the application is for less than 10 residential units, it is not located within the Conservation Area and has no impact on any statutory Listed Buildings. Furthermore, the scheme is fully compliant with local and national policy. Therefore, we consider a hearing or Inquiry would not be necessary.

Officer Recommendation

- 1.5 The application recommended for approval but refused by Members at Committee on 22nd January 2015.
- 1.6 The proposal was worked up in consultation with Officers. The case Officer's report to Committee recommended approval as follows:

"This proposal is considered to overcome the previous reasons for refusal and would meet the requirements of the Enforcement Notice on the site. Considering that the architectural integrity of the building is within the elevations themselves, through balancing the overall harm vs the benefit of the scheme of bringing this building back into use, the retention of the front façade and the demolition of the rest of the building in this instance is considered reasonable. The proposal will retain the character and appearance of the wider street scene. The development is considered to be an appropriate land use and of a design that would provide a high quality contemporary addition to the wider area. The proposal is considered to be an appropriate form of development which would accord with the relevant policies of the Local Development Framework. A Section 106 legal agreement is recommended to be secure and it is considered any impact of the development would be suitably mitigated.

Planning Permission is recommended subject to a S106 Legal Agreement covering the following Heads of Terms:-

- 2.1 Car Free*
- 2.2 Open Space Contribution of £9,458*
- 2.3 Educational Contribution of £13,278*
- 2.4 Code for Sustainable Homes Post Construction Review*
- 2.5 Construction Management Plan*
- 2.6 Highways Contribution of £14,653*
- 2.7 Travel Plan*
- 2.8 Retention and Implementation of the front façade*
- 2.9 Basement Construction Plan"*

The Decision

- 1.7 Although the Case Officer recommended approval, members voted 3:6, with one abstention, to refuse the application at Committee on 22nd January 2015 the following ten reasons:

1. *"The proposed development by virtue of its height, scale, and detailed design would have an adverse impact on the character and*

appearance of the surrounding street scene and local area and would have an adverse impact on the amenity enjoyed by neighbouring residents to the north, namely those within properties on Castle Street in terms of outlook and increased sense of enclosure. The application is therefore contrary to policies CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving our heritage), DP24 (Securing high quality design), DP25 (Conserving Camden's heritage) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Core Strategy and Development Policies 2010.

- 2. The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies CS11 (Promoting sustainable and efficient travel), CS19 (Delivering and monitoring the Core Strategy) and DP18 (Parking standards and limiting the availability of car parking) of the London Borough of Camden Core Strategy and Development Policies 2010.*
- 3. The proposed development, in the absence of a legal agreement for securing contributions for public open space, would be likely to contribute to pressure and demand on the existing open space in this area contrary to policies CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Core Strategy and Development Policies 2010.*
- 4. The proposed development, in the absence of a legal agreement securing a contribution towards educational infrastructure, would place an unacceptable strain on local educational resources, contrary to policies CS10 (Supporting Community Facilities and Services) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy.*

5. *The proposed development, in the absence of a legal agreement to secure measures to incorporate environmental sustainability measures (including provision of on-site renewables), in its use of energy, water and resources, including the submission of post-construction reviews, would be contrary to policy CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and DP22 (Promoting Sustainable Design and Construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.*
6. *The proposed development, in the absence of a legal agreement to secure a construction management plan, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting Sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy), DP20 (Movement of goods and materials), DP26 (Managing the impact of development on occupiers and neighbours), DP28 (Noise and vibration) and DP32 (Air Quality and Camden's Clear Zone) of the London Borough of Camden Core Strategy and Development Policies 2010.*
7. *The proposed development, in the absence of a legal agreement securing a highways contribution, would be likely to give risk to damage to the public highway and fail to ensure that the footway ties the development contrary to policies CS11 (Promoting sustainable and efficient travel), CS19 (Delivering and monitoring the Core Strategy) and DP21 (Development connecting to the highway network) of the London Borough of Camden Core Strategy and Development Policies 2010.*
8. *The proposed development, in the absence of a legal agreement securing a Travel Plan, would fail to mitigate the impact of development created by increased trips, contrary to policies CS11*

(Promoting sustainable and efficient travel), DP16 (The transport implications of development) and DP17 (Walking, cycling and public transport) of the London Borough of Camden Core Strategy and Development Policies 2010.

9. *The proposed development, in absence of a legal agreement securing the retention and implementation of the front façade, would fail to demonstrate that the proposal would maintain the structural stability of the front façade, and would not, in turn, have an adverse impact on the character and appearance of the surround street scene and local area. The proposal is therefore contrary to policies CS14 (Promoting high quality places and conserving our heritage) and DP27 (Basements and Lightwells) of the London Borough of Camden Core Strategy and Development Policies 2010.*

 10. *The proposed development, in absence of a legal agreement securing a Basement construction plan would fail to demonstrate that the proposal would maintain the structural stability of the retained front facade, and would not adversely impact the local water environment and drainage. The proposal is thereby contrary to policy CS14 (Promoting high quality places and conserving our heritage), CS19 (delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP23 (Water), DP24 (Securing high quality design), DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.”*
- 1.8 The London Borough of Camden make available the Committee meetings via webcast on their website. Attached at **Appendix 1** is the Committee meeting transcribed.
- The Focus of this Appeal***
- 1.9 This Appeal Statement focuses on matters relating to the scale, height and detailed design of the proposals, as highlighted by the first reason for refusal.

- 1.10 Reasons for refusal 2 – 10 can be overcome by entering into a S106 legal agreement with the Council. Recent planning guidance has been published in relation to affordable housing and other tariff based contributions, which we have detailed in Section 7 of this Statement.
- 1.11 Other planning matters are not rehearsed in detail within this Statement because the principle of the proposal, i.e. the partial demolition of the building, loss of A4 floorspace and provision of residential accommodation, was considered acceptable and did not form a reason for refusal. Attached at **Appendix 2** is a list of those matters which we will seek to agree with the Council following the lodging of this appeal.

2.0 SITE CONTEXT AND PLANNING HISTORY

Site Context and Surrounding Area

- 2.1 The site is located within the London Borough of Camden and is approximately 0.03 hectares in area and predominantly flat. The site runs along both Kentish Town Road and Castle Road. A Site Location Plan is attached at **Appendix 3**.
- 2.2 The former Castle Public House is a three storey building with basement and attic room located at the corner of Kentish Town Road and Castle Road (Figure 1). The building includes a part single / part two storey rear addition with yard. The building was formerly used as a bar and music venue.



Figure 1: Image of existing building

- 2.3 The area is characterised by mixed use properties with general commercial/retail uses at ground floor and storage or residential uses on the upper floors. The majority of buildings surrounding the site are between two and seven storeys.
- 2.4 To the west of Castle Road are two three-storey properties with commercial uses on the ground floor, one of which is owned by our Client, 147 Kentish

Town Road Limited. On the opposite side of Castle Road are residential properties which have residential windows facing the application site.

- 2.5 To the north is a three storey building, with ground floor in use as a funeral directors, which flanks a traditional terrace of three storey properties with retail uses at ground floor level, along Kentish Town Road.
- 2.6 To the south is a two storey building used for retail purposes. This was the former South Kentish Town Underground Station entrance that opened in 1907 but closed in 1924. Beyond a passageway to the south is a four storey building with café use at ground floor and beyond this continues the terrace properties that line Kentish Town Road consisting mainly of two and three storey buildings, each with commercial and retail uses at ground floor.
- 2.7 On the eastern side of Kentish Town Road is a short terrace of four storey buildings in commercial use on the ground floor. To the south of these at the junction with Royal College Street is a mansion block of part five / part six storey residential properties.
- 2.8 At the apex of the junction of Kentish Town Road and Royal College Street is a three storey building with roof accommodation and office space at ground and basement levels (currently used by Ringleys). The buildings adjacent to the south increase in height to part five / six and part seven storey.

Site Accessibility

- 2.9 The site has excellent accessibility and is rated at PTAL 6b. Camden Road overground is 470 metres away, Camden Town underground is 650 metres away, and Kentish Town overground is 670 metres away. A total of thirteen bus routes pass within 500 metres of the site, going on to serve both Central and Outer London areas.

Site Allocation

- 2.10 The site is located within an Archaeological Priority Area, within Kentish Town Centre and within a Town Centre Secondary Frontage.

- 2.11 The property is not Listed or within a Conservation area. The Council have published a Draft Local List (October 2013), which identifies No. 147 Kentish Town Road as Locally Listed. There is currently an Article 4 over the property with regards to its demolition.

Recent Site Planning History

Application

- 2.12 A previous application for the demolition of the former, derelict Public House and erection of a mixed use development was refused by the Council in March 2014 (reference: 2013/5568/P). The proposal was for the:

"Redevelopment of existing former public house (A4 use) including enlargement of the existing basement plus five storey mixed use building comprising office space (A2/B1) at basement/ground floor levels and 9 self-contained residential flats (C3 use) at upper floors comprising 1x1 bed, 6x2 bed and 2x3 bed including basement level cycle storage and solar panels on the roof following demolition of existing building (A4 use)".

- 2.13 The application was refused on 12 grounds including on the basis that the demolition of the existing building would result in the *"loss of a significant local landmark building"* and *"local heritage asset"* that *"contributes positively to the local streetscape"*. The Council also refused the proposals based on the design stating that the *"height, bulk, mass scale and detailed design would have an adverse impact"* on both the character and appearance of the surrounding street scene and local area as well as on the amenity enjoyed by neighbouring residents on Castle Street.

Appeal

- 2.14 Subsequently an appeal was submitted for non-determination that was dismissed in May 2014 (appeal reference: APP/X5210/A/14/2211254). The Appeal is clear in that it is only the quality of the replacement building that prevents demolition of the existing building with modest heritage interest.

At paragraph 14 of the Appeal Decision (found at **Appendix 4**), the Inspector notes:

"Having taken account of the evidence presented at the Hearing and the attractive design and age of the building, I consider that it has a degree of heritage interest which needs to be taken into account in determining this appeal. In the context of the proposal for a replacement building which I consider to be unacceptable, there is insufficient merit to outweigh the, albeit modest, heritage interest in the existing building".

Article 4 Direction & Enforcement

- 2.15 Although the property is not listed or within a Conservation Area, an Article 4 Direction was served on the property with regards to its demolition on 3rd June 2013, a copy of which is attached at **Appendix 5**.
- 2.16 Some work had been undertaken on the property prior to the Article 4 direction and the building being identified within the Councils Draft Local List. This included the removal of the roof, window surrounds and cornices.
- 2.17 The Council served an enforcement notice on the 4th June 2013 and although this was appealed by our client, the Inspector determined that the appeal should not succeed and the enforcement notice should be upheld. As this decision was issued on the 27th March 2014, the breach of planning control required re-instating these features by the 27th September 2014.
- 2.18 Further information in relation to the Article 4 Direction and Enforcement Notice can be found in Section 3.

Other Relevant Applications

3A Castle Road

- 2.19 An application (reference: 2014/2831/P) was submitted for the "erection of a mansard roof extension, and a rear second floor extension above back addition to replace an existing terrace with a new terrace formed to roof of revised back addition" at Flat 3A which lies adjacent to the application site.

- 2.20 The mansard roof extension was set behind the parapet and measures 3.1 metres in height. The proposals sought to enlarge the existing 2 bed self-contained flat to a 3 bed self-contained flat.
- 2.21 The Officer's delegated report refers to the Castle Public House site and notes at paragraph 2.3 that a significant gap of 8m exists between the site and the public house site.
- 2.22 The application for the roof extensions to 3 Castle Road was approved under delegated powers on the 11 August 2014. It was considered that the roof extension would not create any "*significant loss of light to neighbouring properties*".

141 to 145 Kentish Town Road

- 2.23 An application (reference: 2013/6368/P) was submitted for the "erection of a mansard roof extension to provide 3 residential units (1x1 bed and 2x 2 bed) (Class C3), and erection of associated bin and bike storage in Castle Place at ground floor level" at 141 to 145 Kentish Town Road which lies adjacent to the application site.
- 2.24 The mansard roof extension is set behind the parapet and it is noted within the officer's report that the mansard would be tiled and the pitch of the mansard would be sloped at an angle of 70 degrees.
- 2.25 The application was approved under delegated powers in December 2013 and is subject to a S106 Legal agreement. It was considered that the proposed roof extension is "sensitively designed and appropriate in the context of the main building". It was also considered that the extension would not have a significant impact on the residential amenity of existing neighbours.

3.0 ARTICLE 4 DIRECTION & ENFORCEMENT NOTICE

- 3.1 As previously explained above, the Council issued an Article 4 Direction on 3rd June 2013 removing permitted development rights for the demolition of 147 Kentish Town Road. Prior to this, some works had been undertaken.
- 3.2 The Council served an Enforcement Notice on the 16th July 2013 as they considered that these works required planning permission. The notice required the applicant *"Within a period of 2 months (to) completely reinstate the roof, timber sash, windows, rusticated quoins, window, architraves with projecting cornices at first floor, bracketed sills and cornice at second floor and cornice at roof level"*.
- 3.3 Following the issuing of the Article 4 Direction and Enforcement Notice our client at the request of the Council ensured that the building was water tight and then ceased work. The Enforcement Notice was appealed by our client, with the Inspector determined that the appeal should not succeed and the enforcement notice should be upheld (Appeal Ref: APP/X5210/C/13/2201362). As this decision was issued on the 27th March 2014, the breach of planning control required re-instating these features by the 27th September 2014. A copy of the Appeal Decision is attached at **Appendix 6**.
- 3.4 The planning application subject to this current appeal included proposals to re-instate those features removed prior to the Article 4 Direction being issued, including retaining the existing façade. It was accepted that due to the works included within this scheme, it meant that the roof could not be reinstated in conjunction with the wording of the enforcement notice (Paragraph 6.27 of the Officer's Report). The Council held the enforcement in abeyance, awaiting the determination of this application
- 3.5 The application was refused at Committee against Officer recommendation. When asked by Members what would happen with the enforcement case should the application be refused, the Head of Development Management responded by stating *"We wouldn't look to take enforcement action until*

the end of the appeal period lapsed, six months". When asked whether this was because they were not allowed to, he responded by stating "*Because in the event that the appeal was successful, us issuing an enforcement notice to remedy the work could be seen to be unreasonable. And there could be a costs implications, but with all those previous decisions, there was subsequently applications, appeals etc which extended the time period, which is often the case and extends the enforcement period*". Furthermore, we received confirmation in writing that the Council would not progress with the enforcement until after the appeal period was finished.

- 3.6 Notwithstanding this, the Council, issued a Letter of Alleged Offence on 28th January 2015, to our client for non-compliance with the enforcement notice.

4.0 PRE-APPLICATION ADVICE & COMMUNITY ENGAGEMENT

Pre-application Advice

- 4.1 Following the previous schemes determination 147 Kentish Town Road Limited appointed new architects and new planning agents.
- 4.2 Pre-application advice meetings were held with Camden Council's Planning and Conservation Officer's on 28th May 2014 and 25th June 2014 to discuss the proposals for the reinstatement of the public house façade, and extension and alteration to the property to form offices and flats.
- 4.3 The purpose of the meeting held on the 28th May 2014, was to discuss the way forward following the dismissal of the appeal on the 8th May 2014. It was agreed that prior to submitting a further application for the demolition and re-development of the site, alternative options for development should be presented to the Council. In June 2014, four options were presented for the Council's comment.
- 4.4 In addition, close communication between our client and Council Officers has occurred via email correspondence and telephone conversations throughout the process to determination. Our client has sought to overcome all of the Council's concerns in relation to the proposals and specific details of the design, which consequently resulted in Planning Officer's recommending the application for approval.

Community Engagement

- 4.5 The following local community groups were invited to an exhibition held on Thursday 3rd July 2014 to provide details of the revised proposals:
- Transition Kentish Town
 - South Kentish Town CAAC
 - Bartholomew Estate and Kentish Town CAAC
 - Bartholomew Area Residents Association
 - Inkerman Area Residents Association
 - Kentish Town Neighbourhood Forum

- Kelly Street Residents Association

- 4.6 In addition, our client also contacted the local Ward Councillors (Councillor Patricia Callaghan, Councillor Richard Cotton and Councillor Lazzario Pietragnoli) to invite them to the second consultation events to find out about the revised proposals. As well as being the Mayor of the Borough, Ward Councillor Lazzaro Pietrangoli is also a member of the Development Control Committee.
- 4.7 In order to achieve targeted and meaningful engagement with the immediate neighbours of the site, a leaflet inviting local residents to a second consultation meeting on Thursday 24th July was distributed to households on Castle Road, and to the residents associations and groups listed above.
- 4.8 Details of the pre-application advice and community engagement exercises can be found in the Statement of Community Involvement document, submitted in support of the planning application.

5.0 APPEAL PROPOSALS

- 5.1 The proposals involve for the reinstatement of the public house façade and extension and alteration to the property to accommodate over 400 sqm of commercial office space at basement and ground floor levels and 8 residential units at first, second and third floor levels.
- 5.2 In line with the NPPF, the scheme has been designed in consultation with the Council, Residents Associations, local residents and local businesses (further details are set out within the supporting Statement of Community Involvement).
- 5.3 For information, the residential accommodation will comprise the following:

Table 1: Residential Accommodation Schedule

Unit Type	Quantity
1 Bed	2
2 Bed	6
Total	8

- 5.4 Two 2-bed and one 1-bed flats are provided at both first and second floor levels. The remaining two 2-bed flats are provided within the new lightweight roof extension at third floor level. There will be a new lift shaft provided internally which will provide access to all levels from basement to the third floor. The entrance to the flats will be provided via a new entrance on the Castle Road elevation.
- 5.5 At basement and ground floor levels, over 400 sqm office floorspace will be provided as our client requires more space locally. It is anticipated that additional space will accommodate more staff and provide a modern meeting space which is currently not accessible to them at their offices on Royal College Street.

- 5.6 Light wells and Luxcrete rooflights will be provided at ground floor level to provide light into the basement. This has been confirmed as acceptable by the Council and Transportation team in pre-application discussions.
- 5.7 The windows on the ground floor will be opened up on the Kentish Town Road elevation and this arrangement would continue to the Castle Road frontage. This component of the design seeks to emulate the existing window arrangement in 1910 and seeks to provide light into the office space (see historic photo below).



Figure 2: Image of building in 1910 showing historic window arrangement

- 5.8 The proposal takes many of its proportions from the existing building, whilst remaining subservient, allowing for the former public house to retain its status as a local landmark. A traditional approach is taken to the elevations, as this allows for the existing not to be over powered by the new addition.
- 5.9 The proposal follows the footprint and the hierarchy of the existing building, with larger windows diminishing towards the upper floors. This suits the commercial function of the lower floor with its need for higher floor to ceiling

heights, whilst also creating an active frontage, completing and befitting the street scene.

5.10 Through the design, reference is also made to the fenestration of 3 Castle Road, with transoms added to the new windows to mirror the proportions.

5.11 A contemporary approach has been taken to the roof extension. However, this is kept low behind the existing building parapet, allowing the proposal to remain an understated addition whilst giving the new building an identity of its own.

5.12 As noted, the proposed development will be car free with very good accessibility (PTAL 6b) to public transport routes. However, there will be cycle storage provided at ground floor level. A facility for 20 cycle stands will be provided in line with policy requirements (14 for the residential units and 6 for the commercial unit).

5.13 All units are designed to Lifetime Homes 2010. The London Housing Design Guide (August 2010) and CPG1 'Design' and CPG2 'Housing' have also been used to create a high quality residential accommodation.

5.14 Further details of the scheme are provided in the Design and Access Statement that was submitted in support of the planning application.

6.0 PLANNING POLICY FRAMEWORK

6.1 The statutory development plan for the area comprises the Core Strategy (adopted 2010), Camden Development Policies DPD (adopted 2010) and the adopted Camden Planning Guidance documents.

6.2 The policy and guidance documents reviewed comprise both national and local guidance are listed below:

National Policy

6.3 National Planning Policy Framework (NPPF) (March 2012);

6.4 National Planning Policy Guidance (NPPG) (March 2014).

Local Policy

6.5 Core Strategy (2010);

6.6 Camden Development Policies DPD (2010).

Local Guidance

6.7 Camden Planning Guidance documents CPG1 Design, CPG2 Housing, CPG3 Sustainability, CPG4 Basements and Lightwells, CPG5 Town Centres, retail and employment, CPG6 Amenity, CPG7 Transport, CPG8 Planning Obligations.

6.8 The proposals are compliant with policy outlined in the National Planning Policy Framework and policy at a local level and this is demonstrated in Section 7 of this report.

6.9 In addition, Government Ministerial Statements should also be considered a material consideration in determining this appeal.

7.0 THE APPELLANT'S CASE

7.1 This section responds to the principle of development and then considers the Council's reasons for refusal in turn.

7.2 In addition, as previously explained **Appendix 2** is a list of those issues that have not formed a reason for refusal and therefore, we will be seeking agreement from the Council that these are non-issues.

Principle of Development

7.3 The proposal supports national and local policy objectives to bring empty commercial buildings back in to use, increasing housing supply whilst providing an element of employment space. The residential unit would contribute towards meeting the minimum housing provision targets of 665 additional residential units per year for Camden, as set by the London Plan.

7.4 As a high quality, mixed use scheme that ensures the efficient use of the site in an accessible location, the proposal constitutes "sustainable development" and provides a range of benefits in accordance with the NPPF. Paragraph 49 of the NPPF identifies that "*housing applications should be considered in the context of the presumption in favour of sustainable development*".

Reason for Refusal 1

7.5 The LPA's first reason for refusal states that:

"The proposed development by virtue of its height, scale, and detailed design would have an adverse impact on the character and appearance of the surrounding street scene and local area and would have an adverse impact on the amenity enjoyed by neighbouring residents to the north, namely those within properties on Castle Street in terms of outlook and increased sense of enclosure. The application is therefore contrary to policies CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving our heritage), DP24 (Securing high quality design), DP25 (Conserving Camden's heritage) and

DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Core Strategy and Development Policies 2010.”

- 7.6 The scheme has been designed to be sensitive to, and compatible with, the scale and character of its surrounding. The proposals are wholly in accordance with the development plan including Policies CS5 (Managing the impact of growth and development), CS14 (Promoting high quality places and conserving our heritage), DP24 (Securing high quality design), DP25 (Conserving Camden's heritage) and DP26 (Managing the impact of development on occupiers and neighbours).
- 7.7 Following the refusal of the planning application, for the purposes of assisting the Inspector in determining the appeal, Daria Wong Architects have prepared several CGI drawings, showing the scale and bulk of the proposal. In addition, as there was some debate in relation to materials, as discussed further in this Appeal Statement, the CGIs have sought to show different options that can be achieved and can be addressed through an appropriately worded condition. These images can be found at **Appendix 7**.
- 7.8 Only selected parts of the policies cited in the reason for refusal are considered to be of relevance to the appeal case. Leaving aside the scheme's wider compliance with the development plan which is not disputed by the LPA, the scheme is considered to comply with these specific aspects of the named policies as follows.

Policy CS5 (Managing the impact of growth and development)

- 7.9 Policy CS5 seeks to manage the impact of growth and development in Camden with particular consideration given to seven criteria (a-f). The proposals provide residential and employment space, both of which meets the needs of Camden's population in accordance with criterion (a).
- 7.10 Ringley Ltd is a local Chartered Surveying business based in Kentish Town. In the ten year period from 2003 to 2013, the company has grown

substantially from 14 people to 75. The company requires more space locally to accommodate a further 50 people and to provide modern meeting space, which is currently not available at Royal College Street. The company are currently using public local halls for meetings as there is insufficient space in the office. The company are not estate agents but Chartered Surveyors. There are two agents out of a total of 75 members of staff.

- 7.11 Our client wishes to occupy the proposed office space basement and ground floor level (which would assist in the current office shortage experienced by the company). Therefore, the proposals provide the infrastructure and facilities needed to support Camden's population and those who work in the Borough in accordance with criterion (b).
- 7.12 The Sustainability and Energy statement submitted in support of the planning application demonstrates that the proposed development demonstrates compliance with the carbon reduction targets of The London Plan and also details of how the scheme could achieve Code Level 4. Therefore, the proposals are in accordance with criterion (c) by providing a sustainable building of the highest quality.
- 7.13 Criterion (d) requires the protection and enhancement of the environment and heritage and the amenity and quality of life of local communities. The Castle Public House is not a Statutory Listed Building and is not located within a Conservation Area. The Council have published a Draft Local List (October 2013), which identifies No. 147 Kentish Town Road as Locally Listed. It should be noted that the appeal site was not designated as Locally Listed prior to the Article 4 Direction or the enforcement notice being issued, and therefore, at the time of the works undertaken to the façade, the building had no protection.
- 7.14 The previous application that was dismissed at Appeal in May 2014 (appeal reference: APP/X5210/A/14/2211254). In our opinion, it is clear in that it is only the quality of the replacement building that prevents demolition of

the existing building with modest heritage interest. At paragraph 14 of the Appeal Decision, the Inspector notes:

"Having taken account of the evidence presented at the Hearing and the attractive design and age of the building, I consider that it has a degree of heritage interest which needs to be taken into account in determining this appeal. In the context of the proposal for a replacement building which I consider to be unacceptable, there is insufficient merit to outweigh the, albeit modest, heritage interest in the existing building".

- 7.15 The proposals retain the existing façade, to include the reinstatement of those parts of the building that have been removed prior to the Article 4 Direction being issued and therefore, goes beyond what is required by the appeal decision and responds to local concerns. The design has been progressed through detailed discussions with the Council in order to create a building, which protects and enhances the environment and heritage of the area. It is of a high quality design to warrant the demolition of the rest of the public house, and therefore, is in accordance with Criterion (d). This is also the view of the Case Officer, who states in Paragraph 6.19 of the Officer's Report the following:

"Of key importance is the retention and restoration of the particularly fine former Castle Public House façade. Through this proposal the façade will now continue to stand as a historic landmark in Kentish Town lending a sense of place and contributing to the local distinctive character. Considering that the architectural integrity of the building is within the elevations, through balancing the overall harm vs the benefit of the scheme of bringing this building back into use, the retention of the front façade and the demolition of the rest of the building in this instance is considered reasonable. The proposal will retain the character and appearance of the wider street scene."

- 7.16 The sensitivity of the site in relation to the surrounding neighbours and residents of Kentish Town has been a key consideration in the preparation of this scheme. In support of this, as previously explained the façade has

been retained at the request of the Council in response to residents' concerns that this 'historic' building will be lost. The previously refused scheme involved complete demolition and was considered to appear dominant and overbearing when seen from residential properties on the other side of Castle Road. As stated in Paragraph 6.31 of the Officer's Report "*It is considered that this present scheme seeks to overcome these concerns through providing a lower building and one which is not considered to dominate the neighbouring buildings*".

7.17 In addition, a Sunlight and Daylight Report has been submitted in support of the application. It states that "*insofar as light from the sky is concerned, the scheme is wholly BRE compliant. Insofar as sun lighting is concerned, the scheme is virtually wholly BRE compliant*". There is one flank window in 3 Castle Road which is marginally below BRE guide lines. The dwellings opposite all pass BRE guidelines. The proposals have fully considered the impact on occupiers and neighbours in accordance with Criterion (e).

7.18 Overall, the proposals seek to contribute towards a strong and successful community by balancing the needs and characteristics of the local areas and the needs of the development. This is in accordance with Criterion (f). The proposals are therefore, compliant with Policy CS5 and the appeal should not be dismissed on this basis.

Policy CS14 (Promoting high quality places and conserving our heritage)

7.19 The criteria for Policy CS14 overlaps with the criteria in Policy CS5. Criterion (a) requires development to be of the highest standard of design that respects the local context and character. In addition to those points raised above, it is important to note that during the pre-application process, four options were presented to the Council. This included a more traditional design to mirror that of the retained façade, and the current scheme that includes a contemporary design to the rear.

7.20 The Council's preference was to include contemporary features in the design. As such our client progressed a scheme where the rear element of

the corner property is to have a similar fenestration detailing to that of the retained façade. The design of the property to the rear acts as an architectural link with the solid and generous proportions of the masonry and fenestration of the former pub however it remains subordinate in that the roof level is stepped down below the Kentish Town building and the fenestration of the roof level is also stepped down. It was the view of the case officer that:

"This proposed scheme involved the full restoration of the former Castle Public House façade which is suffering structurally and deserves to be restored. The existing rear yard is generous and scope to develop this part of the site is considered acceptable as the proposed rear extension would sit in line with the buildings along Castle Road and would not dominate or detract from the corner building or the wider streetscene."

- 7.21 To summarise, the design has evolved through discussions with the Council and achieves a high standard and quality appropriate to the local context and character. As such, the proposals are in accordance with Criterion (a) and (c).
- 7.22 Furthermore, as previously explained the site is not within a Conservation Area and the building is not statutory listed. It is proposed that the building be locally listed. The scheme retains the existing façade, which is the part of the building which has the historic merit and therefore, fully respects Camden's heritage in accordance with Criterion (b).
- 7.23 The proposals will fully comply with lifetime home standards and the bedrooms are to be suitable for or easily adaptable for wheelchair users. With the exemption of unit 6 (due to the heights of the cills on the retained façade), all units will be lifetime homes compliant and therefore, designed to be inclusive and accessible for all in accordance with criterion (d).
- 7.24 The proposals do not have any impact on important views and as such, criterion (e) does not apply.

7.25 To summarise, the proposals are in accordance with Camden's aim to ensure that places and buildings are attractive, safe and easy to use and is fully compliant with Policy CS14.

DP24 (Securing high quality design)

7.26 As per the above two policies, Policy DP24 also overlaps with Policies CS5 and CS14, and therefore, where appropriate the assessment of the scheme against certain criteria will be summarised.

7.27 As assessed and described above, the proposals consider and respect the character, setting and context of the neighbouring buildings and area, which was agreed by the Council. The design also considers the character and proportions of the existing building.

7.28 In terms of scale, the building proposed will be three storeys in height with a fourth storey set back. The Officer's Report in Paragraph 6.25 states that *"The existing rear yard is generous and scope to develop this part of the site is considered acceptable as the proposed rear extension would site in line with the buildings along Castle Road and would not dominate or detract from the corner building or the wider streetscene"*. Furthermore, the Officer concluded in her report the following:

"The proposal will retain the character and appearance of the wider street scene. The development is considered to be an appropriate land use and of a design that would provide a high quality contemporary addition to the wider area. The proposal is considered to be an appropriate form of development which would accord with the relevant policies of the Local Development Framework."

7.29 In terms of materials, the front building is to include materials that resembled the retained façade, with yellow stock brick proposed for the new rear extension, at the request of officers. However, Councillors did not share this view and requested render similar to that of the existing building, and the adjacent buildings at 3 and 5 Castle Road.

7.30 The Officer's Report set out a number of Conditions including Condition 3, which requires "*All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application*", and Condition 12 which requires "*A sample panel (1.5m X 1.5m) of the facing brickwork to the new build rear element of the scheme demonstrating the proposed colour, texture, face-bond and pointing shall be provided on site and approved in writing by the local planning authority...*".

7.31 Therefore, in order to respond to Councillors concerns it is suggested that in the event approval is forthcoming, Condition 12 state "*A sample panel (1.5m X 1.5m) of the facing brickwork or render to the new build rear element of the scheme...*"

7.32 Furthermore, as previously stated the scheme is accessible to all and as such, the scheme is wholly in accordance with Policy DP24.

Policy DP25 (Conserving Camden's heritage)

7.33 Policy DP25 seeks to maintain the character of Camden's conservation area; preserve or enhance the borough's listed building; protect the remains of archaeological importance and protect other heritage assets including Parks and Gardens of Special Historic Interest.

7.34 The Appeal site is not located within a conservation area and it is not a Listed Building. Therefore, Criteria (a) to (g) are not considered of relevance to this appeal.

7.35 The site is located in an Archaeological Priority Area and therefore, a desk-based archaeological study was submitted in support of the planning application. This indicates that while the site is located on a historic corridor of development, later developments on the site, in particular dating from the Victorian era, have compromised any archaeological remains. The appellant is willing to agree to a condition to ensure that archaeologist would inspect and oversee the works at regular intervals

(Condition 11 of the Officer's Report) and therefore, is in accordance with this part of the policy.

- 7.36 As previously explained, the Council published a Draft Local List of buildings in October 2013, which identifies No. 147 Kentish Town Road as Locally Listed. This document has not been adopted; however, the site does currently constitute a non designated heritage asset in the view of the NPPF. Furthermore it is important to note that this document was released after the Article 4 Direction was issued, and as such, at the time of the works undertaken to the façade, there was nothing to protect it.
- 7.37 Nevertheless, the applicant has sought to respect this heritage asset at the request of the Council, Councillors and local residents by retaining the façade. This together with the modest redevelopment provides an option that both conserves and enhances this part of Camden and its conservation and heritage. Therefore, the scheme is also compliant with Policy DP25.
- 7.38 Paragraph 135 of the NPPF states that *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of harm or loss and significance of the heritage asset."*
- 7.39 For the reasons as set out above and below, the benefits to this proposal significantly outweigh any harm or loss of part of this non-designated heritage asset.

Policy DP26 (Managing the impact of development on occupiers and neighbours)

- 7.40 Policy DP26 seeks to protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity. The Council in their decision to recommend the application for approval were satisfied that there would be no impact upon resident's

amenity and the current scheme has successfully sought to overcome those previous concerns with regards to the bulk and dominating appearance of the previous scheme. Notwithstanding this, Councillors disagreed and asked for this to be included as a reason for refusal.

7.41 The proposal has no impact on privacy and overlooking; shadowing and outlook; or sunlight, daylight and artificial light levels as supported by the Daylight & Sunlight Survey. This concluded that *"insofar as light from the sky is concerned, the scheme is wholly BRE compliant. Insofar as sun lighting is concerned, the scheme is virtually wholly BRE compliant"*.

7.42 In addition, the proposed flats would all exceed the minimum space standards as required by The London Plan. All flats would also have usable layouts to maximise functionality and liveability for future occupiers. The Council considered that *"the proposal is in line with DP26 and provides an acceptable standard of accommodation"* (Paragraph 6.10 of the Officer's Report), and as such, this should not constitute a reason for the dismissal of this appeal.

7.43 To summarise, for the reasons as set out above, the proposal is entirely in accordance with the Development Plan, particularly Policies CS15, CS14, DP24, DP25, and DP26. Therefore, this appeal should be allowed.

Reason for Refusal 2 – 10

7.44 Reasons for refusal 2 – 10 are in relation to the absence of a Section 106 Agreement. Note that since the refusal of the planning application, the Council have not been able to provide a draft S106 for the purposes of our appeal submission and Statement of Case. Some of those matters listed below, we will seek to resolve ahead of the submission of the S106 to the Inspector, which are also listed in **Appendix 2**.

7.45 The Planning Officer recommended approval subject to a S106 Legal Agreement covering the following Heads of Terms:-

- Car Free;

- Open Space Contribution of £9,458;
- Educational Contribution of £13,278;
- Code for Sustainable Homes Post Construction Review;
- Construction Management Plan;
- Highways Contribution of £14,653;
- Travel Plan;
- Retention and Implementation of the front façade;
- Basement Construction Plan.

7.46 Since the time the planning application was submitted, Government Guidance in relation to affordable housing and tariff based contributions has been published and are now a material consideration in the determination of this planning application.

7.47 Paragraph: 012 Reference ID: 23b-012-20141128 of the National Planning Policy Guidance (NPPG) states *"There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development.*

- *contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm."*

7.48 In addition, the Ministerial Statement titled 'Business, innovation and Skills', published on 28th November 2014 states that *"Due to the disproportionate burden of developer contributions on small-scale developers, for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought"*. It continues:

"By lowering the construction cost of small-scale new build housing and home improvements, these reforms will help increase housing supply. In particular, they will encourage development on smaller brownfield sites

and help to diversify the house building sector by providing a much-needed boost to small and medium-sized developers.”

- 7.49 In addition the Ministerial Statement also states “A financial credit, equivalent to the existing gross floor space of any vacant buildings brought back into any lawful use or demolished for re-development, should be deducted from the calculation of any affordable housing contributions sought from relevant development scheme. This will not however apply to vacant buildings which have been abandoned”.
- 7.50 The proposals are for the development of 8 flats and 400sqm of commercial floorspace (GIA total is 1173.3sqm). The existing floorspace is 463sqm, creating a net increase of 710.3sqm. Although we note that the above does refer specifically to affordable housing contributions, the purpose of this new guidance is to make smaller schemes making the best use of brownfield land more viable and therefore, this new guidance should apply. As such, where the conditions have required the provision of affordable housing or other tariff based contributions, we request that this is not required by the S106 Agreement.
- 7.51 In addition, during pre-application discussions, the appellant provided the LPA with a viability assessment. Based on a scheme that did not include the retention of the façade, the proposals would have proven unviable. Following this, the decision was taken to retain the façade at a cost of approximately £300,000, thus making the scheme more unviable.
- 7.52 It is therefore considered that those S106 requirements as set out in Paragraph 7.57 below should not be included.

Reason for Refusal 2, 5, 6, 8 and 10

- 7.53 Reason for refusal 2, 5, 6, 8 and 10 relate to the absence of a legal agreement to meet the Council’s standards with respect to:
- Car –free housing;
 - Environmental sustainability measures;

- Construction management plan;
- Travel plan; and
- Basement construction plan.

7.54 The appellant is willing to sign a Legal Agreement that responds fully to reasons 2, 5, 6, 8 and 10 to be submitted in accordance with the appeal timetable.

Reason for Refusal 9

7.55 Reason for refusal 9 relates to securing the retention and implementation of the front façade. The applicant does not object to this being a requirement as it forms part of the appeal scheme; however, this also forms the requirement of Condition 14, which states the following:

"For the avoidance of doubt, the fabric of the northern and eastern façade of the public house building shall be retained as part of the development hereby permitted."

7.56 It is therefore considered that there is no need to include this as part of the S106 where the façade's retention is secured via condition.

Reasons for Refusal 3, 4 and 7

7.57 Reason for refusal 3, 4 and 7 relate to the absence of a legal agreement to meet the Council's standards with respect to:

- Public space contributions;
- Education contributions; and
- Highways contributions.

7.58 In accordance with the NPPG and the Ministerial Statement published on 28th November, it is considered that those tariff based contributions sought above should not be required, and the S106 should not include these. We will seek to agree this with the Council prior to the appeal determination, but at the time of writing have not yet seen a draft S106 agreement.

8.0 CONCLUSIONS

- 8.1 The proposals support the Government's objective to bring empty buildings back into use, to increase the supply of housing and secure the efficient use of land. A high quality living and working environment is proposed with sustainable construction measures and energy efficient design being integral features of the scheme.
- 8.2 The scheme has been carefully designed to respect its context and setting within Kentish Town, with particular consideration given to the retention of the existing façade at the request of the Council and local residents.
- 8.3 The proposal provides a high standard of living for future occupiers, whilst having no harmful impact upon the privacy, daylight or sunlight of existing residents within the vicinity.
- 8.4 The applicant is willing to enter into a S106 Legal Agreement to address those other reasons for refusal that are reasonable, following the publication of national guidance.
- 8.5 The proposed mixed used development scheme would deliver a high quality design and ensure a good standard of amenity for future residents in accordance with the requirements of the NPPF, NPPG and the Development Plan.
- 8.6 The proposal is supported by The London Borough of Camden Planning and Conservation Officers, as shown in their decision to recommend the application for approval. In accordance with Paragraph 14 of the NPPF, "*At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision-taking*". It continues:

*"For **decision-taking** this means: approving development proposals that accord with the development plan without delay;"*

- 8.7 In summary, the proposal is entirely in accordance with local and national policy and as such, this appeal should be allowed.

APPENDIX 1
COMMITTEE MEETING TRANSCRIBED

APPENDIX 2
MATTERS TO BE AGREED WITH COUNCIL

APPENDIX 3
SITE LOCATION PLAN

APPENDIX 4

APPEAL NOTICE APP/X5210/A/14/2211254

APPENDIX 5
ARTICLE 4 DIRECTION

APPENDIX 6

APPEAL NOTICE: APP/X5210/C/13/2201362

APPENDIX 7

CGIs