



Statement of Case

Sir Richard Steele Public House
97 Haverstock Hill, London, NW3 4RL

LPA Planning Reference: 2014/1367/P
Kieron Hodgson – BA (Hons) MTP MRTPI

Iceni Projects Limited on behalf of
Faucet Inn Ltd

ICENI PROJECTS LIMITED
ON BEHALF OF FAUCET INN
LTD

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APPENDICES

A: Planning policy (extracts) referred to in the Statement of Case

1. QUALIFICATIONS

- 1.1 My name is Kieron Hodgson. I am a qualified town planner, having obtained a Bachelor of Arts degree in Town and Country Planning and a Master's degree in Town Planning from the University of the West of England. I have been a full member of the Royal Town Planning Institute since January 2004. I am a Director in the firm of Icen Projects Ltd (Iceni), 114-116 Charing Cross Road, London WC2H.
- 1.2 I have been involved in advising on planning matters in London and elsewhere throughout my professional career.
- 1.3 I have advised landowners, developers and occupiers of commercial, residential, educational and other property on all aspects of the plan making and development management processes and have given evidence on planning matters at appeal and Examination. I have held planning posts within the public and private sector.
- 1.4 I am familiar with the appeal site and the surrounding area.
- 1.5 I have advised the appellant on the proposed change of use of the upper floors and associated matters of the appeal site since its inception.
- 1.6 I understand my professional duty regarding the conduct of this appeal and have complied, and will continue to comply, with that duty. I confirm that the information provided within this Statement of Case identifies all facts which I regard as being relevant to the opinion that I have expressed. I believe that the facts stated within this Statement of Case are true and that the opinions expressed are correct.
- 1.7 I have prepared this Statement of Case in conjunction with the appellant whom the representative is Mr Steve Cox, Managing Director of Faucet Inn Ltd. Mr Cox has provided detailed information in regard to the current use of the upper floors of the appeal site and comments on matters of general viability concerning the appeal site.
- 1.8 Faucet Inn Ltd is an experienced operator of circa twenty public houses in London and the South East. A London living wage employer, Faucet Inn is not a chain but an ever growing eclectic collection of venues: traditional English pubs, beautifully designed modern bars, as well as boutique hotels.

- 1.9 Formed out of genuine passion for the pub industry, Faucet Inn is a family business and the owner Mr. Steve Cox is still very much involved in the day to day running of the business.

2. SUBJECT MATTER OF THE APPEAL

- 2.1 The appellant lodges an appeal against the refusal of planning permission by Camden London Borough Council (“the Council”).
- 2.2 An application for planning permission was submitted by the appellant to the Council on 19 February 2014.
- 2.3 The application proposed the change of use of first and second floors of the site from Class A4 (Public House) to self-contained Class C3 (Residential) dwellings, and associated minor external alterations.
- 2.4 The planning application was registered and made valid by the Council on 19 March 2014. The planning application was given the planning reference: 2014/1367/P.
- 2.5 The proposed development was described within the confirmation of validation as follows:
- 2.6 *‘Change of use of the first and second floors from public house (Class A4) to create 2x 1 bedroom and 2x bedroom flats (Class C3); extension and relocation of existing kitchen extract flue and associated works’.*
- 2.7 The proposals are described in the submitted application material.
- 2.8 Officers considered the proposals acceptable and a recommendation was made to grant planning permission subject to conditions and the signing of a Section 106 legal agreement.
- 2.9 The application was considered by Committee on 6 November 2014. It was resolved to refuse planning permission against Officer recommendation.
- 2.10 The reasons for refusal are contained in the decision notice, dated 26 November 2014.

3. SCOPE OF EVIDENCE

- 3.1 The main thrust of my evidence is the consideration of the application against the statutory development plan and other material planning considerations.
- 3.2 I set out my evidence under the following headings:
- 3.3 Chapter 4 - Description of the Locality;
- 3.4 Chapter 5 - Description of the Appeal Site;
- 3.5 Chapter 6 - Planning History;
- 3.6 Chapter 7 - Development Plan Policy;
- 3.7 Chapter 8 - National Planning Guidance;
- 3.8 Chapter 9 - Proposed Development;
- 3.9 Chapter 10 - Principal Planning Considerations;
- 3.10 Chapter 11 - Housing Considerations (including amenity/design);
- 3.11 Chapter 12 - Other Material Considerations;
- 3.12 Chapter 13 - Permitted Development Rights;
- 3.13 Chapter 14 - Conclusions;
- 3.14 Chapter 15 - Declaration.

4. DESCRIPTION OF THE LOCALITY

- 4.1 The London Borough of Camden (“Camden”) is a fascinating and exceptional local authority area. Covering land in central London, it embraces many public institutions, commercial businesses of international and national significance, operates as a centre for tourism and culture and many splendid public spaces, parks, streets and squares.
- 4.2 There is also a wide range of people living within Camden, some temporarily, some permanently. At one extreme are the wealthy and internationally mobile and, at the other those in acute housing need. Residents are found in the defined Central Activities Zone (CAZ) living alongside the wide variety of uses noted above, as well as in the remainder of Camden’s urban and suburban neighbourhoods located north of the CAZ.
- 4.3 The appeal site is located roughly central within Camden. The locality is residential in character and appearance, commensurate with its location outside of the defined CAZ.
- 4.4 Camden contains a substantial number of conservation areas, which cover the majority of the administrative area. The site is located within the Eton Conservation Area. This part of Haverstock Hill and the conservation area is characterised by terraced buildings containing a mix of commercially active uses at ground floor level with residential (Class C3) located on the upper floors. Page 20 of the Eton Conservation Area Appraisal recognises this as being an important characteristic of the area. The character of the area is confirmed in the buildings next door and on the adjacent side of the road all of which contain commercial uses at ground floor level with residential above. Given this character, the site is well located for facilities, amenities and services.
- 4.5 The application site is located between the London Underground stations of Chalk Farm to the south and Belsize Park to the north. The site has a very high level of public transport accessibility (PTAL) rating of 4.

5. DESCRIPTION OF THE APPEAL SITE

- 5.1 The appeal site is 97 Haverstock Hill, London NW3 4RL which functions as the Sir Richard Steele Public House. It is located on the east side of Haverstock Hill. The building is not listed, is not contained on a local list and is not a building deemed of local merit however, it is located within the Eton Conservation Area, as noted previously.
- 5.2 The building is a traditional public house (Class A4). All of the existing building is used as a public house (Class A4) and ancillary space. The main entrance to the public house is from Haverstock Hill. The ground floor contains the main bar areas and toilets at the rear, along with a small pub kitchen and access to the basement cellar. The first floor is accessed via the ground floor bar and consists of a further upstairs bar, toilets and rooms used for ancillary purposes including an office and storage.
- 5.3 The second floor of the building is a flat. This is used as living accommodation for the manager. It is not a separate planning unit and can only be accessed through the public house at first floor level.

6. PLANNING HISTORY

- 6.1 The planning history of the appeal site is set out within the Committee report. In summary:
- 6.2 A planning application (Council planning reference: 2013/4715/P, submitted 24 July 2013) seeking change of use of the upper floors to Class C3 (residential) was withdrawn on the advice of Officers. Officers considered that further supporting information was required.
- 6.3 Concurrent with the above application, the appellant submitted a Certificate of Lawfulness application (Council planning reference: 2013/4719/P). The appellant sought to establish that the use of the upper floors as ten public house rooms would be lawful and that no material change in use would occur, requiring planning permission. The Council considered that a change of use would occur and would take the building into Sui Generis use and that planning permission would be required. The Council declined to issue a Certificate on 19 September 2013.
- 6.4 The appellant submitted two planning applications to the Council on 19 February 2014, independently seeking planning permission for residential use, and hotel (public house rooms) use of the upper floors.
- 6.5 The appellant seeks only to appeal the residential scheme at this current time. The residential use application was given the Council planning reference of 2014/1367/P upon its registration.
- 6.6 The application was progressed through statutory consultation. No statutory consultees were notified due to the small size of the site and the domestic nature of the proposals.
- 6.7 The report to Committee sets out that twelve objections were received. The content of these are also summarised in the Committee report.
- 6.8 Officers recommended that planning permission should be granted. It is worth noting that both the residential and hotel (public house rooms) applications were both recommended for approval by Officers.

- 6.9 The application was reported to Committee on 6 November 2014 and Members resolved to refuse planning permission. The decision notice dated 26 November 2014 sets out four reasons for refusal.
- 6.10 The report to Committee for application (2014/1367/P) sets out the Council's assessment of the application, and the appellant does not dispute the considerations therein.

7. DEVELOPMENT PLAN POLICY

- 7.1 Development Plan Policy for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 is contained within:
- 7.2 The London Plan (July 2011). This includes 'revised minor early alterations', which were published on 11 October 2013 and draft 'further alterations', which were published on 14 January 2014 (and have subsequently been through public examination)
- 7.3 Camden's Local Development Framework Core Strategy (2010), and
- 7.4 Camden's Local Development Framework Development Policies Development Plan Document 2010-2025 (2010)
- 7.5 Which together I refer to as the Development Plan (DP).
- 7.6 The DP policies of particular relevance to the determination of these appeals are set out in the decision notice.
- 7.7 Section 38(6) of the 2004 Act requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.8 As noted in Paragraph 7.2 above, the Mayor of London is bringing forward a replacement for the London Plan. On the 15 January 2014 the Mayor published Draft Further Alterations to the London Plan (FALP) for a 12-week period of public consultation. The consultation closed on 10 April 2014. An Examination in Public (EIP) took place in September 2014 and the Inspector's report was published in December 2014. Final publication of the FALP is expected in spring 2015.
- 7.9 The FALP have been prepared primarily to address key housing and employment issues emerging from an analysis of census data released since the publication of the London Plan in July 2011. This data indicates a substantial increase in the capital's population and as a consequence an increasingly acute requirement to make the best use of available land to create new homes. This emerging policy is material given the housing considerations raised by this appeal.

7.10 The FALP policies have been through formal public consultation and public examination and therefore this emerging draft policy can be afforded significant weight.

8. NATIONAL PLANNING GUIDANCE

- 8.1 I do not recite national policy in my Statement of Case. I have addressed national policy when considering the planning issues set out in my Statement of Case.

9. THE PROPOSALS

- 9.1 A full description of the proposals is set out within the covering letter submitted as part of the planning application, and within section 2 of the Committee report. The proposals can be summarised as follows:
- 9.2 The change of use of the first and second floors to Class C3 (residential) use and the formation of residential units (2x 2 bedroom units and 2x 1 bedroom units).
- 9.3 The retention of the public house use at ground floor and basement (cellar).
- 9.4 The use of the public house garden as private amenity space for the residential units.
- 9.5 The formation of a smoking shelter within the curtilage of the public house for use by patrons of the public house.
- 9.6 The relocation of the existing kitchen flue, and associated works.
- 9.7 External alteration to the building is very limited except that mentioned above.
- 9.8 Application drawings show the existing and proposed general arrangement at first and second floor levels.
- 9.9 Application drawings show the existing and proposed general arrangement of the ground floor in regard to the garden and the proposed smoking shelter.
- 9.10 Application drawings show the minor alterations proposed to the rear elevation.
- 9.11 A full list of the application drawings and material submitted in support of the application is provided within the planning decision notice for 2014/1367/P dated 26 November 2014, and in the Schedule of Essential Supporting Documents.
- 9.12 The appellant offered to secure car-free development and pay a financial contribution towards highways works through the imposition of a Section 106 legal agreement, which was signed ahead of the Committee meeting.

10. PRINCIPAL PLANNING CONSIDERATIONS

10.1 The following paragraphs are offered as a summary of the principal elements of the appellant's case, for the benefit of the Inspector. I address the specific reasons for refusal in Paragraph 10.18 onwards.

Changing Nature and Use of Public Houses

10.2 At a national and London level, as noted in Paragraph 4.48 of the FALP, public houses have been subject to a rapid rate of closure.

10.3 The reasons for the closures are reflective of changing demographics and behaviours including the way in which people chose to spend their leisure time and most importantly, where individuals and communities purchase alcohol and socialise as a result. The rise of the supermarket and the increased availability of cheap alcoholic drinks for purchase and consumption at home is a large contributing factor in a declining pub trade.

10.4 At a local level, the Sir Richard Steel Public House is not immune from the above-mentioned factors and closure remains a risk when operating costs and overheads are factored against site and operator group profit.

Need for Alternative Use

10.5 In some instances, public houses need to address part-alternative use because closures are becoming frequently unavoidable without allowing for an element of change and/or creating a new or additional income stream. The planning system can help achieve this in many instances.

10.6 However, restrictions borne of well-meaning planning policy to protect public houses and/or unfavourable planning committee decisions can sometimes prevent appropriate planning solutions from maintaining and retaining the public house asset.

The Lawful Use of the Site

10.7 The existing lawful use of the building is a public house (Class A4). This includes all floors, including the first floor and the ancillary manager accommodation at second floor. Appendix A, the premises licence, along with Appendix B comprising a summary of the (historic) planning history which supports the lawful use of the site, attach the planning application covering letter.

The Site is Not a Community Facility and the Public House Use Will Remain

- 10.8 The public house is not a community facility. The Council suggests that the premises may be some sort of community facility and refer to Core Strategy Policy CS10 (Supporting community facilities and services) development Policy DP15 (Community and leisure uses) in the first reason for refusal.
- 10.9 Core Strategy Policy CS10 specifically defines those land uses considered to be 'community uses'. These include: education and training facilities; schools; adult learning; higher and further education; facilities for young children and young people; facilities for older people; faith facilities; sport and leisure facilities; arts and cultural facilities; public toilets; and, policing and emergency services. The policy does not reference public houses as being community uses. As such, the appeal proposal results in no conflict with Policy CS10.
- 10.10 Development Policy DP15 makes reference to preventing the loss of public houses however, the proposals involve the retention of the public house use. It is accepted that the proposals would entail the concentration of public house use/activity to the ground floor (and basement).
- 10.11 I contend that the site is a public house that provides an opportunity to meet and socialise as per the primary and intended function of a public house. This includes the first floor of the public house that operates as an additional 'saloon' bar area.
- 10.12 I contend that the proposals are in accordance with development plan policy. The existing public house use will not cease upon the change of use of the upper floors, and therefore the primary function of the site will remain.
- 10.13 Change of use of the upper floors is required to ensure the longer time viability of the public house, to maintain, manage and enhance the public house for future generations.

Viability

- 10.14 Primarily, public houses are businesses - although they do fulfil an important local role, historically being at the heart of local communities across the UK. However, being a business, revenue and viability are critical elements necessary to sustain the entity in the short, medium and long term.

- 10.15 Whilst the ground floor public house use maintains steady trade, the first floor bar area is not used to its full extent. It does not warrant continued public house use and does not add to the revenue of the public house.
- 10.16 The appellant undertook a review of its portfolio and an assessment of its assets. Conversion of the upper floors would be favourable at the appeal site. As a sensible business, and to ensure the ongoing profitability of the public house, such a review was deemed prudent – and one where the public house operation can be focused to the ground floor without impacting upon its viability or functionality.

Permitted Development Rights

- 10.17 Public houses are being converted to other A Class uses under permitted development rights. It is a trend seen in urban as well as rural locations and it is symptomatic of the factors summarised in Paragraph 10.2 to 10.16 of my evidence. The appeal site could be converted to Class A1, A2 and A3 alternative land uses without the need for planning permission. It could also be converted to Class B1 (temporary) use. This is expanded upon in Section 13 of my evidence but is an important material consideration in the context of the ‘loss of public house’ issue.

Reason for Refusal 1

- 10.18 Moving to matters associated with the Council’s first reason for refusal:
- 10.19 *“The proposed development would harmfully compromise and undermine the services and facilities that the existing public house and its garden provide in supporting the needs of the local community and its ability to contribute to the Camden’s cultural heritage, contrary to Policy CS10 (Supporting community facilities and services) of the London Borough of Camden Local Development Framework Core Strategy, policies DP15 (Community and leisure uses) and paragraph 70 of the National Planning Policy Framework 2012 and policy 4.8 of the Draft Further Alterations to the London Plan January 2014”,*
- 10.20 I firstly reiterate the points made in my preamble, above, which relate to:
- 10.21 The factors associated with a declining pub trade.
- 10.22 The poor trading of a pub, particularly the first floor saloon bar.
- 10.23 The need for an appropriate alternative use as a result of declining trade.

- 10.24 The existing lawful use of the site is Class A4 public house across all floors.
- 10.25 The site is not a community facility, as such as reasonably defined in normal English and as defined in the statutory development plan, it is a Class A4 public house.
- 10.26 The Class A4 public house use would remain at ground floor and basement (cellar) levels in any event.
- 10.27 Viability of the public house use is secured through diversifying the site's income.
- 10.28 Permitted development rights exist which would allow for a permitted change to other A Class uses.
- 10.29 In light of my evidence above and in addressing the Council's first reason for refusal, I first comment on Core Strategy Policy CS10. It is apparent that the Council considers that the site operates as some form of community facility by citing Policy CS10 in the first reason for refusal. I have reviewed Core Strategy Policy CS10 and I cannot see any reference made to public houses in the policy or within its supporting text. The policy makes specific reference to education and training facilities; schools; adult learning; higher and further education; facilities for young children and young people; facilities for older people; faith facilities; sport and leisure facilities; arts and cultural facilities; public toilets; and, policing and emergency services.
- 10.30 Given a comprehensive list of community uses are described specifically within a policy, I suggest that if public house (Class A4) uses were considered to be community facilities then the Council would have also added them to the list and included them within Policy CS10.
- 10.31 Because public house (Class A4) are not listed as a community facility, their loss cannot be considered to compromise and undermine the needs of the local community, in accordance with a policy of the statutory development plan. In this respect, the appeal proposals
- 10.32 Development Policy DP15 states that the Council will resist the loss of local public houses that serve a community role, unless alternative provision is available nearby or it can be demonstrated to the Council's satisfaction that the premises are no longer economically viable for public house use. I consider that the appeal proposals would not conflict with this policy as the public house use will remain as part of the proposals.

- 10.33 Paragraph 4.48 of the London Plan FALP is related to plan making and I question its relevance for use in the decision making process, in this instance.
- 10.34 The NPPF at paragraph 70 states that to “deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: plan positively for the provision and use of shared space, community facilities (such as...Public Houses)” to enhance the sustainability of communities and residential environments.
- 10.35 I acknowledge the above paragraph and comment that it is related both to policy formulation as well as for use in development management. In my view, the latter would somewhat conflict with the intentions of permitted development rights which I discuss later in my evidence. Overall, I concur with the Officer’s consideration at Paragraph 6.2.2 of the Committee report that the first floor is not an independent function room, rather a second bar that is available to any patron using the public house for drinking and eating.
- 10.36 It is to the appellant’s credit that the first floor has been used infrequently as a space for informal meetings and organised activities. A good public house business will seek ways to generate income and serve its patrons. However, these infrequent and informal meetings and activities could continue in the ground floor area of the public house. They could also take place in any of the other public houses in the vicinity.
- 10.37 By way of background, and for the avoidance of doubt, a booking system operates across the appellant’s public house portfolio. It is a basic diary function. Tables as well as spaces can be booked for a range of activities through the booking system, at a number of Faucet Inn’s sites.
- 10.38 I do not consider that the presence of a booking system lends weight to the notion that the first floor functions as a community facility. The appellant operates a basic diary function across the portfolio and other public houses are not considered to be a community facility. It is quite usual that public houses operate a booking or reservations system, especially for table bookings in ‘saloon bar’ areas such as the first floor area of the appeal site.
- 10.39 Furthermore, it would seem illogical to base any such assumption surrounding the presence of a booking system, and whether this would support the notion that the first floor operates as a community facility, on the presentation of data in respect of its regularity of use.

- 10.40 The first floor is used mostly in an informal manner as public house floorspace. It functions much like any other public houses in the locality – which is to provide a social meeting place and this will be preserved and concentrated at ground floor level, with the introduction of new uses at first and second floor levels.
- 10.41 From our review of the local and wider area, there are a number of public houses offering social meeting spaces. Furthermore, the public house use will remain at ground and basement levels so the public house will not be lost.
- 10.42 It is noted in the Committee report at Paragraph 6.2.3 that:
- 10.43 *'this space has been used by the local community and objectors state that the uses include a comedy club and a language class; however, it has not been demonstrated that this forms a distinct use to the wider public house'.*
- 10.44 I agree with the Officer's comment above and at Paragraph 6.2.3 of the Committee report, which states that:
- 10.45 *'consequently, the meetings referred to by local people appear to relate to the use of informal meeting space provided by the upstairs bar, which could take also place in the altered downstairs bar, albeit in a smaller area'.*
- 10.46 I agree with the Officer-level considerations contained at Paragraph 6.2.5 of the Committee report that the loss of the first floor component of the public house would not be contrary to Policy DP15 and, although trading would happen in a smaller area (on the ground floor only), it would not prejudice its continued operation as a public house.

Reason for Refusal 2

- 10.47 The second reason for refusal relates to matters associated with securing the amenity of future occupiers of the residential units. It states:
- 10.48 *"The appellant has failed to demonstrate that the proposed co-location of residential units and the public house would not cause harm to the residential amenity of the future occupants of the upper floor flats, contrary to Policy CS5 (Managing the impact of development) of the London Borough of Camden Local Development Framework Core Strategy and Policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies".*

- 10.49 I cross-refer to the application submission material that details all measures necessary to secure the amenity of future residents and was accepted by Officers during the assessment of the application.
- 10.50 I also cross-refer to the next section of my evidence which discusses design and amenity of the housing scheme in greater detail.
- 10.51 The Committee report discusses at Paragraph 6.2.4 that there is local concern that the use of the upper floors for residential use may subsequently result in complaints and curtail the operation of the remaining space for public house use. Officers considered that the garden area being given over to residential garden would reduce the space for outside activity and thus reduce the risk for noise and disturbance, which I concur.
- 10.52 It is commented in the Committee report at Paragraph 6.2.4 that a noise report was submitted as part of the planning application to demonstrate the degree of sound insulation required to allow the public house to operate according to existing license conditions. In addition, it was commented that an operational management plan was submitted to demonstrate how the public house use can occur without harm to the amenity of occupiers on the upper floors.
- 10.53 Overall, noise transference between floors, noise through windows, and that generated from the garden has been considered. I cross refer to Sections 11 and 12 of my evidence which offers further discussion on this point.
- 10.54 In conclusion, there is no reason why the public house and residential uses cannot successfully co-exist. Such situations are typical in London, the building already has (ancillary) residential use on the second floor, and there are numerous examples in the immediate vicinity and London where residential use is located above A Class uses.

Reason for Refusal 3 and 4

- 10.55 The third and fourth reasons for refusal concern parking mitigation and highways works:
- 10.56 *The proposed development, in the absence of a legal agreement to secure car-free housing for the residential units would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework and*

Policy DP18 (Parking standards and the availability of car parking) of the London Borough of Camden Local Development Framework Development Policies).

10.57 *The proposed development, in the absence of a legal agreement securing necessary highway works, would fail to secure adequate provision for and safety of pedestrians, 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) of the London Borough of Camden Local Development Framework Core Strategy and policies DP21 (Development connecting to the highway network) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.*

10.58 I comment that a Section 106 legal agreement was agreed and signed prior to committee in regard to securing car-free development and the payment of a financial sum towards necessary highways works.

11. HOUSING CONSIDERATIONS

- 11.1 I emphasise housing as a land use for particular comment.
- 11.2 Housing needs in London are acute and worsening. There is a critical need for more housing. This is recognised throughout the Development Plan and particularly within the Camden Core Strategy and the Mayor's FALP.
- 11.3 Paragraph 51 of the NPPF is clear that local planning authorities should bring back empty buildings into residential use. It is also clear that Councils should normally approve planning applications for changes to residential use and any associated development from commercial buildings where there is an identified need for additional housing in that area and provided there are not strong economic reasons for doing so. The appeal proposals would bring the upper floors into viable alternative use – fulfilling a critical aim of planning to increase housing supply.
- 11.4 The appeal proposal would therefore fulfil the requirements of this policy.
- 11.5 Permanent residential use is the priority use in Camden's Local Development Framework and Policy DP2 (Making full use of Camden's capacity for housing) states that the Council will seek to maximise the supply of homes in the borough.
- 11.6 The site is located outside of the CAZ as it is defined by both the Core Strategy and the London Plan. This area is predominantly residential in character. It is therefore an appropriate area for residential accommodation.
- 11.7 Accordingly, the Committee report notes at Paragraph 6.2.6 the principle of residential use is acceptable in this location subject to a suitable mix of unit sizes and standard of accommodation for future occupants.
- 11.8 The alternative use of the upper floors and the introduction of residential homes would make a positive material change to the character of the site, would be compatible with the prevailing residential character of the area and would be compatible with the amenity of neighbouring residential occupiers.
- 11.9 I therefore conclude that given the critical housing need in London, the dearth of available housing land and the reliance of the Council on the delivery of housing through the development of small sites, the housing considerations in this case are of

very considerable weight. This proposal would make a small but positive contribution to meeting local housing need in a suitable and sustainable location.

- 11.10 In this regard, the scheme provides four units in a 2x 2 bed and 2x 1 bed mix. As such, the scheme provides the type of dwellings considered to be in specific demand by the Council in accordance with Policy DP5 (Homes of different sizes).
- 11.11 The Committee report notes at Paragraph 6.5.1 that the quality of the proposed accommodation for future occupants is considered to be acceptable for the following reasons:
- 11.12 a) The proposed units would satisfy the London Plan and Camden Planning Guidance requirements for dwelling size and room sizes.
- 11.13 b) The proposal includes a Lifetimes Homes assessment which demonstrates how the proposal responds to the issue of accessibility. The proposal satisfies most of the criteria, with the exception of the inclusion of units adaptable for wheelchair use. However given the proposal relates to upper floors in an existing building of heritage importance, this is considered to be acceptable.
- 11.14 d) The two bed units would be dual-aspect and the glazing to all habitable rooms exceed 20% of the floor area. This helps to maximise light to the rooms.
- 11.15 e) The units have been designed to maximise aspect, the existing windows would remain and they are to a good standard.
- 11.16 f) The units would have exclusive access to the communal amenity space to the side of the property which was formerly the public house garden.
- 11.17 g) The proposal would have waste and recycling facilities to the rear of the building, these would be separate for the residential accommodation and the public house.
- 11.18 The Committee report notes at Paragraph 6.5.2 that Policy DP5 (Homes of difference sizes) seeks to ensure that all new housing provided is in line with the housing priorities for the borough. The paragraph notes that the proposal is to provide 2x two bedroom units and 2x one bedroom units – where the housing size priority is for market two bedroom units (50%), and the proposal therefore meets the target for priority housing in the borough.

- 11.19 The proposal would see the existing public house garden area being used as amenity space for the four flats and that the main entrance to the residential units would be via the garden area. This space would help to improve the standard of living for those living in the flats.
- 11.20 In conclusion, the provision of residential units is positive. The units will be high quality, self-contained and independently accessed. The units will meet all standards and comply with policy as set out in my evidence and in the Committee report.

12. OTHER RELEVANT MATERIAL PLANNING CONSIDERATIONS

Sustainable Development

- 12.1 The NPPF emphasises the importance of sustainable development as the core principle underpinning planning. The NPPF sets out a clear presumption in favour of sustainable development.
- 12.2 The development of the site makes the best and most efficient use of a previously developed Brownfield site in a highly accessible location (PTAL 4) and would make the best use of finite land resources, compatible with the key London Plan and key strategic policies in the Camden Core Strategy, particularly Policy CS6 (Providing quality homes).
- 12.3 The fabric of the building is optimised to adapt to potential impacts of climate change. This includes the provision of secondary glazing to all residential windows. The secondary glazing would improve the thermal properties of the building and would also improve the acoustics. All windows would be able to open to promote natural ventilation.

Design

- 12.4 The proposed conversion is design led and the design approach seeks to work within the character and existing plan form of the building to provide high quality, spacious units with good levels of natural daylight, while minimising partitioning and intrusions into the building.
- 12.5 The Residential (Class C3) land use is a good fit for the building and a good fit for the existing floor plan. The second floor of the building is currently being used as residential accommodation for the manager of the public house (Class A4). This demonstrates that the building is suitable as a place to live and that the existing plan form can practically accommodate residential use.
- 12.6 New developments are also required to attain specified floorspace and floor to ceiling height standards. The proposed flats will meet all the necessary design requirements relating to room sizes and floor to ceiling heights as set out in Camden Planning Guidance: Housing (2014).

- 12.7 The proposed changes to the public house are generally minor, and that the proposal would see alterations to the extract flue which would be raised to roof height on the south elevation as it currently sits just above the ground floor kitchen extension and would be encased with brickwork to match the existing building. Officers considered that the new position of the flue would be better for the occupiers of the flats as the fumes are discharged vertically away from the windows, and that the top of the cowl is to be no higher than the existing chimney; this would be done in order to match the appearance of the existing property and preserve the character of the conservation area.
- 12.8 A further change would be the addition of a smoking shelter which would be accessed from the street side. This access would be created from the street in order to protect the amenity of the users of the proposed flats.
- 12.9 To protect the amenity of future occupiers from noise and ensure the building's heritage value is maintained, the existing windows are to be retained with secondary glazing installed internally. Overall, Officers considered that the changes have been sensitively designed so as to preserve the character and appearance of the Eton Conservation Area.

Amenity

- 12.10 The proposal strives to achieve a high standard of amenity for occupants. The proposed residential units have good daylight and sunlight levels that comply with the requirements of BRE New Guidance for Daylight and Sunlight (2011).
- 12.11 The upper floors will have the same window arrangement as currently exist as ancillary Class A4 public house space. The new residential and hotel units would have the same cross street separation as its neighbours and is acceptable in privacy terms. There would be no light or outlook issues as a result of the physical alterations.
- 12.12 The current beer garden would be changed to provide a shared amenity space of the proposed residential units. As such, all of the proposed units would benefit from a generous outside amenity area. This amenity area would be private and for the use by residents of the proposed residential units.
- 12.13 The freehold of the proposed flats would be held by the appellant who also owns the public house (Class A4). The applicant therefore has a financial interest in both the public house (Class A4) and the flats (Class C3) above being successful. The applicant therefore has an interest to ensure that the amenity of the flats (Class C3)

above are not affected by noise emanating from the public house (Class A4) below and as such has taken steps detailed below to mitigate this noise impact.

Acoustics

- 12.14 The development does not propose any additional plant. The proposed residential units will be naturally ventilated. The current extraction unit for the kitchen will remain.
- 12.15 The scheme proposes a number of measures in order to ensure the proposed residential (Class C3) units are adequately acoustically insulated from the commercial (Class A4) use below.
- 12.16 Three acoustics reports accompanied the planning application. The reports investigate the fabric of the building, the internal sound insulation of the building and impact of the existing and proposed plant used for the kitchen extraction unit and flue.
- 12.17 The 'Preliminary Planning Compliance Report – Plant Units' found that the noise creation of the existing kitchen plant at its nearest residential receiver would be below the minimum background noise levels for both daytime and night time and therefore no sound mitigation measures would be required.
- 12.18 The 'Sound Insulation Investigation Report' makes a number of suggestions as to how to acoustically insulate the walls and floors between the flats. The report also endorses the Gyproc system that will be installed in the walls and between the ground floor public house and first floor residential units. The suggestions made in this report would be implemented in full.
- 12.19 All other precautions to mitigate the impact of noise on the proposed flats (Class C3) would also be taken thus satisfy Policy DP28 (Noise and vibration)
- 12.20 It is noted at Paragraph 6.4.3 of the Committee report that the impact on the prospective future residents of the proposed flats was also assessed and used test rooms to ascertain the impact of noise from the public house use below. The first test room was the first floor bar area and the second rooms were the second floor lounge, second floor bedroom or ground floor bar area. The report still looks at ways to improve the floors sound insulation. The findings of the report have suggested that internal sound insulation is required to a standard that would exceed the building regulations requirements. The precise detail is the subject of a recommended condition on both in order to safeguard the amenity of future occupiers.

Operational Management Plan

- 12.21 An Operational Management Plan has been prepared and was submitted as part of the planning application. The aim of the plan is address the operational and management issues with the public house (Class A4) and the proposed residential conversion (Class C3) of the upper floors, to ensure that the two uses are able to exist harmoniously with no adverse impacts being caused to the respective amenity of each.
- 12.22 The Operational Management Plan is based on detailed consideration of the day to day operation of the site to understand where conflicts may arise and to ensure these are mitigated against.

Car Parking

- 12.23 It is rare for new residential development in high density, accessible central London locations to be delivered with car parking, and in this respect I cross refer the Section 106 agreement that was agreed and signed with the Council ahead of the Committee meeting in regard to car-free development.
- 12.24 The proposed development is unable to provide any off-street parking spaces for the proposed residential (Class C3) units. Officers noted that there is no space outside of the site in order to provide parking off-street, and in addition, the creation of a new vehicular access off Haverstock Hill or the creation of on-street parking would be problematic, given the proximity of the site to the junction with Steele's Road, the area's designation as a Controlled Parking Zone and the need to ensure adequate short stay parking is retained in the area for the benefit of commercial businesses. Furthermore, the provision of car parking spaces would be contrary to the character of the area, as the vast majority of existing residential (Class C3) units have no dedicated off-street parking. The public house (Class A4) does not have a car park and so cannot practically accommodate off-street parking for the flats.
- 12.25 The site has a PTAL rating of 4 which indicates a good level of accessibility to public transport. It is likely therefore that the occupants of the proposed flats would use public transport and are unlikely to be car owners. To ensure that there are no adverse impacts on parking form the proposed residential (Class C3) units, a permit free section 106 agreement would be entered into.
- 12.26 Overall, the proposed car parking is in compliance with Policy DP18 (Parking standards and limiting the availability of car parking).

Cycle Parking

- 12.27 Four bike store spaces (one per flat) are proposed and are detailed on the submitted plans accompanying the planning application. As such, the proposed cycle parking arrangements are considered to be in compliance with Policy DP17 (Walking, cycling and public transport).

Waste and Recycling

- 12.28 Each of the proposed residential (Class C3) units would have designated areas to accommodate waste and recycling and that these areas are within the kitchen area of each unit and are outlined on the proposed plans accompanying the planning application.
- 12.29 The proposed waste and recycling arrangements are considered to be in compliance with Core Strategy Policy CS18 (Dealing with our waste and encouraging recycling), Policy DP26 (Managing the Impact of Development on Occupiers and Neighbours) and Camden Planning Guidance: Design (2014).

S106 Agreement

- 12.30 A signed legal agreement was submitted as part of the planning application that constitutes a material planning consideration.
- 12.31 The obligations therein are agreed as being acceptable in the event that planning permission is granted.
- 12.32 I consider that the proposed obligations meet the requirements of Section 122 of the Community Infrastructure Regulations.
- 12.33 The appeal proposals deliver the following planning benefits:
- 12.34 The change of use of underused public house floorspace.
- 12.35 The provision of new residential accommodation to complement the existing land use and architectural character of the locality outside of the Central Activities Zone (CAZ).
- 12.36 Increase the number of new homes in Camden in accordance with Policy priority and critical housing need.

- 12.37 Provide new homes incorporating high levels of amenity, including good levels of sunlight and natural daylight, ventilation and private amenity space.
- 12.38 Provide a suitable mix of residential accommodation.
- 12.39 A considered design approach.
- 12.40 Sustainable development in design, construction and future occupation.
- 12.41 Making the best and most efficient use of finite brownfield land resources by optimising the efficiency and development capacity of the site in the context of established planning and heritage constraints
- 12.42 The provision of dedicated and secure cycle parking.
- 12.43 I consider these material planning considerations should be afforded significant weight in relation to Section 38(6) tests having particular regard to the extent that the appeal proposals comply with Government guidance, strategic and local plan policy objectives.

13. PERMITTED DEVELOPMENT RIGHTS

- 13.1 Under the Town and Country Planning (Use Class) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995, Class A4 drinking establishments, such as public houses, benefit from permitted development rights.
- 13.2 Under the current regulations, Class A4 can change to Class A1 (Retail), Class A2 (Financial and Professional Services) and Class A3 (Food and Drink) uses without the need to obtain planning permission from the planning authority.
- 13.3 Furthermore, under new regulations introduced in May 2013, temporary changes of use can also occur, allowing 150sqm of Class A4 floorspace use to change to Class A1, Class A2, Class A3, and Class B1 (Business) uses – for up to 2 years (and is interchangeable with notification).
- 13.4 With the current permitted development rights in mind, the Class A4 use could be changed to Class A1, A2, A3 (permanent and temporary – the latter subject to caveats) and B1 (temporary) uses without the need to obtain planning permission.
- 13.5 As noted previously in my evidence, the appellant seeks to maintain the public house use and introduce residential use to the upper floors. I seek to demonstrate that in any case, the public house use could be lost under permitted development rights however, the appellant seeks to retain the public house and deliver new housing which is a planning policy benefit.

14. STATUTORY DUTIES

- 14.1 I refer to the statutory duties in respect of conservation areas. I have undertaken an assessment of the appeal proposals having regard to the statutory duties. I conclude that the appeal proposals would accord with the statutory duties.

15. CONCLUSION

- 15.1 I conclude that taken as a whole, this proposal represents thoughtful and appropriate development.
- 15.2 The public house use would be preserved in situ.
- 15.3 Much needed new homes would be created.
- 15.4 The scheme would be designed to a high quality with full regard to the responsibilities associated with amenity and sustainability.
- 15.5 The proposal would accord with the NPPF and Development Plan policy. The proposals would meet the statutory duties with regard to conservation areas.
- 15.6 I conclude therefore that the reasons for refusal are not justified and no harm would result from these proposals. On the contrary, I consider that there are planning benefits which would arise from completion of the proposed development.

16. DECLARATION

- 16.1 I confirm that insofar as the facts stated in this statement of evidence are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true professional opinion.
- 16.2 I confirm that my statement of evidence includes all the facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matter which would affect the validity of those opinions.
- 16.3 I confirm that my duty to the Inspector as an expert witness overrides any duty to those instructing or paying me that I have understood this duty and complied with it in giving my evidence impartially and objectively and I will continue to comply with that duty as required.
- 16.4 I confirm that I am neither instructed, nor paid under any conditional fee arrangement.
- 16.5 I confirm that I have no conflicts of interest.

