

Date: 10<sup>th</sup> December 2015  
Your Ref: APP/X5210/W/15/3135102  
Our Ref: 2015/2823/P  
Contact: Michael Cassidy  
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Mr Philip James  
The Planning Inspectorate  
Room 3/04  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Dear Mr James,

**Appeal by Warmhaze Ltd  
Site at 10-14 Belmont Street, London, NW1 8HH**

Thank you for your letter of 5<sup>th</sup> November 2015 concerning the above application.  
Please find set out below the London Borough of Camden's (LPA) Statement of Case.

**1.0 Introduction**

1.1 This appeal relates to an application (LPA reference 2015/2823/P) submitted on 19<sup>th</sup> May 2015 for the removal of certain conditions on planning permission reference 2014/3924/P (Erection of 3 x 4 storey replacement dwellinghouses following part demolition of the existing 3 storey houses with the existing front facades, side and internal structural walls being retained) granted on 19<sup>th</sup> May 2015.

1.2 The appellant has appealed on the grounds of non-determination under S78 of the Town and Country Planning Act 1990, as the LPA has failed to give notice of its decision within 8 weeks.

**2.0 The Site and Surrounding Area**

2.1 The appeal site comprises a 3-storey end terrace of 3 houses (Nos. 10, 12 and 14) located on the eastern side of Belmont Street. The buildings are of the late Georgian/early Victorian era and are neither listed, nor located within a conservation area. The adjoining former piano factory building (No.10a) to the south-west has, however, been identified as a Non-Designated Heritage Asset (local List). This neighbouring building is currently undergoing major redevelopment works to form commercial and residential premises.

2.2 The surrounding area comprises a mixture of building heights and uses. It is primarily a residential part of Camden with a mixture of 3-storey Victorian houses, post-war 8 to 22-storey housing blocks, garages and warehouses.

Originally the area comprised terrace houses arranged around a square. This urban form is still evident with many of the buildings on Belmont Street being survivors from this period. To the South of the site lies the Regent's Canal Conservation Area. Harmond Street Conservation Area lies to the East with West Kentish Town Conservation Area to the North. The closest listed buildings are the Roundhouse (Grade II\*) on the Southern side of Chalk Farm Road and Kent House (Grade II) to the East.

### **3.0 Appeal Proposal**

3.1 This appeal relates to an application (LPA ref. 2015/2823/P) submitted on 19<sup>th</sup> May 2015 for the removal of Conditions 4 (cycle storage specifications), 5 (lifetime homes features and facilities), 6 (green roof details), 8 (appointment of qualified chartered engineer), 9 (construction method statement), 10 (public highway reinstatement measures), 11 (maximum internal water use stipulations), 12 (sustainability statement) and 13 (energy statement) of planning permission reference 2014/3924/P granted on 19<sup>th</sup> May 2015.

3.2 The conditions referred to above are set out below:

#### Cycle storage specifications

4. The secure and covered cycle storage areas, providing 2 cycle spaces for each of the dwellinghouses, as shown on Drawings 150209-A(GA)100 and 150209A(GA)300 hereby approved shall be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies.

#### Lifetime Homes features and facilities

5. The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of any of the new residential units.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

#### Green roof details

6. Prior to the first occupation of the buildings a plan showing details of the green roof including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the

construction and long term viability of the green roof, and a programme for a scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13, CS14, CS15 and CS16 of the London Borough of Camden Local Development Framework Core Strategy and policies DP22, DP23, DP24 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

#### Appointment of qualified chartered engineer

8. The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies and policy DP27 (Basements and Lightwells) of the London Borough of Camden Local Development Framework Development Policies.

#### Construction Method Statement

9. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be kept on site and adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works

The Construction Method Statement shall also provide the opportunity for

the developer to consult with local residents about plans for construction providing them with an opportunity to voice any legitimate concerns about the proposals.

Reason: In order to protect the pedestrian environment and the amenities of the area generally and to ensure the continued free flow of traffic in the area in accordance with Policies CS5 and CS11 of the London Borough of Camden Local Development Framework Core Strategy and policies DP16, DP17, DP20 and DP26 of the London Borough of Camden Local Development Framework Development Policies.

#### Public highway reinstatement measures

10. The development shall not be occupied until all works to the public highway in Belmont Street, to include repaving the footway immediately adjoining the application site, have been carried out in accordance with details approved by the Local Planning Authority or by the Council as Highway Authority pursuant to Section 278 of the Highways Act 1980.

Reason: To safeguard the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Development Policies.

#### Maximum internal water use stipulations

11. The development hereby approved shall achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use. Prior to occupation, evidence demonstrating that this has been achieved shall be submitted and approved by the Local Planning Authority.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policy CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and policy DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.

#### Sustainability Statement

12. Prior to construction the development hereby approved shall submit a sustainability statement demonstrating how sustainable design principles and climate change adaptation measures have been incorporated into the design and construction of the development to be approved by the Local Planning Authority. Prior to occupation, evidence demonstrating that the approved measures have been implemented shall be submitted and approved in writing by the Local Planning Authority.

Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate in accordance with policies CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development

Framework Core Strategy and Policies DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.

### Energy Statement

13. Prior to construction the development hereby approved shall submit an energy statement demonstrating how a 20% reduction in carbon dioxide emissions beyond Part L 2013 Building Regulations in line with the energy hierarchy has been submitted to and approved in writing by the Local Planning Authority. Prior to occupation, evidence demonstrating that the approved measures have been implemented shall be submitted and approved in writing by the Local Planning Authority.

Reason: To ensure the development contributes to minimising the effects of, and can adapt to a changing climate in accordance with policies CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and Policies DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.

## **4.0 Status of Policies and Guidance**

- 4.1 The London Borough of Camden's Local Development Framework (LDF) was formally adopted on the 8th November 2010. The policies of relevance to the appeal proposal include the following:

### Local Development Framework Core Strategy

- CS5 Managing the impact of growth and development
- CS6 Providing quality homes
- CS11 Promoting sustainable and efficient travel
- CS13 Tackling climate change through promoting higher environmental standards
- CS14 Promoting high quality places and conserving our heritage
- CS15 Protecting and improving our parks and open spaces and encouraging biodiversity
- CS16 Improving Camden's health and well-being

### Local Development Framework Development Policies

- DP6 Lifetime homes and wheelchair housing
- DP16 The transport implications of development
- DP17 Walking, cycling and public transport
- DP18 Parking standards and limiting the availability of car parking
- DP20 Movement of goods and materials
- DP22 Promoting sustainable design and construction
- DP23 Water
- DP24 Securing high quality design
- DP26 Managing the impact of development on occupiers and neighbours

- DP27 Basements and lightwells
- DP32 Air quality and Camden's Clear Zone

4.2 The full text of the relevant policies has been sent with the questionnaire documents. The LPA has also referred to supporting guidance documents CPG2: Housing, CPG3: Sustainability, CPG4: Basements and lightwells and CPG6: Amenity. These Camden Planning Guidance documents have been subject to public consultation and were approved by the LPA in July 2015 and in the case of CPG6 in 2013. Copies of this guidance have also been sent with the questionnaire documents.

4.3 With reference to the National Planning Policy Framework 2012 (NPPF) and National Planning Practice Guidance (NPPG), the policies and guidance contained within Camden's LDF 2010 are up to date and fully accords with paragraphs 214 – 216 (Annex 1) of the NPPF and should therefore be given full weight in the decision of this appeal. The NPPF states that development should be refused if the proposed development conflicts with the local plan unless other material considerations indicate otherwise. There are no material differences between the council's policies and the NPPF in relation to this appeal.

## **5.0 Comments on appellants' grounds of appeal**

5.1 The appellant's purport that the imposed conditions are all unnecessary; irrelevant to planning; dealt with via other legislation; imposed on land outside of the appellant's control; and unenforceable. The appellant also disputes that the appeal proposal relates to 3 x 4 storey replacement dwellinghouses and considers it to be for extensions to existing houses. The grounds of appeal are summarised below in italics and addressed by the LPA beneath:

### *Condition 4 - Cycle storage specifications*

- *Condition 2 already secures cycle parking so a second reference is unnecessary.*
- *Policy DP24 (b) does not require cycle parking for this development.*
- *The condition is unenforceable, as the dwellings have been lawful for more than 100 years, and can and are, occupied. Furthermore, if the occupier was to remove the cycle standard these works would not be development as defined by S55 of the Act.*
- *There are no new units.*

### LPA Response

Condition 4 refers to Policies CS11 and DP17 within its 'Reason'. Policy DP24 referred to by the appellant is not cited as it relates to a requirement to secure high quality design within all developments rather than to cycle parking provision specifically.

Policy CS11 advises that the "*Council will promote the delivery of transport infrastructure and the availability of sustainable transport choices in order to support Camden's growth, reduce the environmental impact of travel, and relieve pressure on the borough's transport network*". Paragraph 11.13

accompanying the policy further states that “*as with walking, cycling is a sustainable means of travel that provides the opportunity to relieve congestion as well as promoting healthy, active lifestyles*”. It seeks to “*promote increased cycling in the borough by improving cycling facilities and routes*” and seeks to ensure that “*all opportunities are taken to maximise the availability of new cycle parking across the borough both in new developments and more widely in any areas where there is need for increased provision, such as at town and local centres*”.

Policy DP17 also states that “*the Council will promote walking, cycling and public transport use*” and in Paragraph 1.10 requires that high quality cycle parking be provided for new developments in accordance with the LPA’s parking standards referred to in Policy DP18 and set out in Appendix 2 which requires 1 storage or cycle parking space per new residential unit. The adopted London Plan March 2015, consolidated with alterations since 2011 seeks to secure the provision of 2 spaces for each of the proposed units.

Condition 4 requires the secure and covered cycle storage areas, providing 2 cycle spaces for each of the new replacement houses, as shown on approved Drawings 150209-A(GA)100 and 150209A(GA)300, to be provided in its entirety prior to the first occupation of any of the units, and for this to be permanently retained thereafter. Whilst Condition 2 requires the development to be carried out in accordance with these approved drawings, it does not secure the provision of these facilities prior to the occupation of the units or for it to be permanently retained thereafter.

In order to ensure that the development provides adequate cycle parking facilities, in accordance with the requirements of policies CS11 and DP17, that would be retained, it is considered that the condition should not be removed. As the appellant correctly points out the absence of the condition would allow the cycle storage areas to be removed as such works in itself “*would not be development as defined by S55 of the Act*”.

#### Condition 5 - Lifetime Homes features and facilities

- *Lifetime Homes no longer has a role to play in the Planning System, as internal layouts are now a building control matter and the Code for Sustainable Homes, which the standards sat within, has been cancelled.*
- *The condition is unenforceable, as any internal works would be exempt from planning control pursuant to S55 (2) of the Act.*

#### LPA Response

Policy CS6 seeks to provide, inter alia, “*a variety of housing types suitable for different groups, including families, people with mobility difficulties, older people, homeless people and vulnerable people*”. Paragraph 6.40 accompanying the policy requires dwellings to be “*specifically designed to address a wide-range of mobility difficulties without being tailored to the specific circumstances of a household*”. In order to achieve this, an expectation is set out within both policies CS6 and DP6 that all new dwellings be expected to meet Lifetime Homes Standards.

A Lifetime Homes Assessment was submitted with the original application (LPA reference 2014/3924/P) which demonstrated that it was possible to meet all 16 criteria and this was secured by Condition 5.

The LPA acknowledges that from 1st October 2015, it has not been able to apply Lifetime Homes conditions, housing designed in line with the LPA's wheelchair design guide, and space standards for dwellings as set out in CPG2 as the Code for Sustainable Homes, which the Lifetime Homes Standards sat within, has been cancelled. As such, no objection is raised to the deletion of condition 5.

New build residential developments must, however, now comply with the access standards in Part M of the Building Regulations. This includes parts 1 (Visitable dwellings), 2 (Accessible and adaptable dwellings) and M4 (3) wheelchair user dwellings. The LPA currently expects all new build housing development to go above that normally required under the Building Regulations with a requirement to also meet Building Regulations part M4 (2).

The LPA therefore considers that compliance with the access standards and the wheelchair housing referred to in Part M4 (2) of the Building Regulations should be secured by condition and would therefore request that Condition 5 be replaced with the following condition to ensure that the internal layout of the proposed replacement houses provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policies CS6 and DP6:

#### Replacement Condition

5. All units hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2).

Reason: To ensure that the internal layout of the buildings provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 of the London Borough of Camden Local Development Framework Development Policies.

#### Condition 6 - Green Roof details

- *Maintenance conditions are inappropriate in almost every circumstance.*
- *The condition is unenforceable, as the dwellings have been lawful for more than 100 years, and can and are, occupied.*

#### LPA Response

Condition 6 seeks to ensure that the green roof of each of the new replacement houses, as shown on approved Drawing 150209-A(GA)140, is suitably designed and maintained in accordance with the requirements of policies CS13, CS14, CS15, CS16, DP22, DP23, DP24 and DP32.

Policy DP22, paragraph 22.9 states "*Green and brown roofs and green walls*



*play important roles in achieving a sustainable development. They retain rainfall and slow its movement, provide additional insulation, provide valuable habitat to promote biodiversity, provide opportunities for growing food, reduce the heating up of buildings and the wider city and provide valuable amenity space. They should be designed to enable the benefits that are most suitable for the site. This will include ensuring a sufficient soil depth is provided and selecting the correct substrate and vegetation”.*

Paragraph 10.13 of CPG3 provides further guidance on what the LPA expects from green roof designs requiring the following information to be provided as part of the appeal proposal scheme:

- *a statement of the design objectives for the green or brown roof or green wall;*
- *details of its construction and the materials used, including a section at a scale of 1:20;*
- *planting details, including details of the planting technique, plant varieties and planting sizes and densities; and*
- *a management plan detailed how the structure and planting will be maintained.*

Without Condition 6 it will not be clear whether the green roof has been designed in accordance with the LPA’s policy requirements and there will be no requirement for it to be retained. As such, it is considered that this condition should not be removed.

#### Condition 8 (Appointment of qualified chartered engineer)

- *The BIA scoping report identified no hydrological issues in the vicinity of the site. The construction of the basement under the existing houses is Permitted Development.*
- *There are no party wall issues, as the three dwellings are within ownership of the applicants.*
- *Conditions shouldn’t seek to duplicate controls under other legislation, and the condition refers to building control.*
- *The condition is unenforceable, as the consent permits works as extension which wouldn’t require an engineer and therefore it doesn’t go to the heart of the works proposed.*
- *The condition is not precise or reasonable and should only be restricted to those relevant components – e.g. work should not start on the basement element until...*

#### LPA Response

The LPA accepts that the 2 BIA’s submitted with the original application raised no substantive hydrological issues in the vicinity of the site. On the basis that Condition 2 secures compliance with the recommendations of the approved BIA’s, no objection is raised to the deletion of this condition.

#### Condition 9 - Construction Method Statement

- *There is no demolition involved in the scheme, as defined by Shimizu*

- *Policy DP26 does not require any CMP. The amplification states that at 26.10 that it may require them. SOS advice against that imposing a condition to protect amenities has been longstanding for good reason.*
- *Works on-site are permitted development, pursuant to Part 4 of the GPDO 2015. Works off-site cannot be controlled by a condition.*
- *The Borough has control via other legislation in relation to hoarding (licensing), wheel washing (Section 149 of the Highways Act), Control of Pollution Act 1974.*
- *The condition is unenforceable, as restrictions seek controls on land outside of the Appellant's control.*
- *The condition is not precise and unclear.*

### LPA Response

The appeal conditions relate to a proposal for the erection of 3 replacement 4-storey dwelling houses and not extensions to the existing houses as the appellant alleges. As part of the works involved, the existing front facades, side and internal structural walls holding up the façade would be retained. The remaining parts of the existing houses would be demolished and rebuilt on a larger footprint with new basement floor levels being excavated under Nos.10 and 12, approximately 3.2m in depth below pavement floor level, and new third floors proposed at roof level.

Policy CS5 advises that *“the Council will manage the impact of growth and development in Camden”* and *“will protect the amenity of Camden’s residents and those working in and visiting the borough by...making sure that the impact of developments on their occupiers and neighbours is fully considered...and requiring mitigation measures where necessary”*.

Paragraph 16.20 of Policy DP16 also advises that where appropriate *“Construction Management Plans may be required to be submitted alongside planning applications. If these are not required in assessing a planning application but are still considered necessary to mitigate associated impacts, their submission will be secured”*.

Policy DP20 further seeks to protect the safety and operation of the highway and to minimize the impact of development during the course of construction. For some development this may require control over how the development is implemented (including demolition and construction) through a Construction Management Plan (CMP) or a Construction Method Statement (CMS) as it has been referred to in Condition 9.

Paragraph 26.10 of Policy DP26 further states that *“disturbance from development can also occur during the construction phase. Measures required to reduce the impact of demolition, excavation and construction works must be outlined in a Construction Management Plan. We will require Construction Management Plans to identify the potential impacts of the construction phase of the development and state how any potential negative impacts will be mitigated”*.

CPG6 provides further guidance advising that such CMP's are intended to *“manage on-site impact arising from demolition and construction”* and *“to*

*establish control over construction traffic and how this integrates with other construction traffic in the area having regard to cumulative effect". As identified in policy DP26 and CPG6 "Construction Management Plans may be sought for...basement developments" and developments "that could cause significant disturbance due to their location or the anticipated length of the, demolition, excavation or construction period".*

At the time of the original application, the LPA's Transportation Section requested that a CMP be secured in order to manage the potential impacts of the construction phase of the development and how any potential negative impacts will be mitigated. The LPA normally require a CMP to be secured by way of a S106 legal agreement. In this particular case, the appellant refused to enter into such an agreement.

Given the appellant has confirmed that they own much of the neighbouring land closest to the appeal site and they would have control over where site operatives and visitors to the site park; where plant and materials are loaded and unloaded; where plant and materials are stored; the security hoardings that would be erected and maintained; the siting of wheel washing facilities; what measures would be used to control the emission of dust and dirt during construction; and where waste resulting from demolition and construction works would be stored during the course of the development, it is considered appropriate for these measures to be secured by condition.

The LPA's primary concern is public safety but it also needs to ensure that construction traffic does not create (or add to existing) traffic congestion in the local area. The appeal proposal scheme has the potential to lead to a variety of amenity issues for local people (e.g. noise, vibration, air quality). The LPA would also need to ensure that the development can be implemented without being detrimental to amenity or the safe and efficient operation of the highway network in the local area.

In order to protect the pedestrian environment and the amenities of the area generally and to ensure the continued free flow of traffic in the area in accordance with Policies CS5, CS11, DP16, DP17, DP20 and DP26, the LPA consider that this condition should not be removed.

#### Condition 10 (Public highway reinstatement measures)

- *The land is off-site and not within the control of the Appellant.*
- *S278 are a creature of the Highways Act.*
- *The condition is unenforceable, as the dwellings have been lawful for more than 100 years, and can and are, occupied.*
- *The agreement provides a bond for the Highways Authority to do the works. The Appellant cannot compel them.*

#### LPA Response

The LPA accepts that the reinstatement works to the public highway in Belmont Street, to include repaving the footway immediately adjoining the application site, have subsequently (post the original decision by the Council on 19<sup>th</sup> May 2015) been secured as Highway Authority by way of a Highways

Works Agreement, dated 20<sup>th</sup> May 2015, pursuant to Section 278 of the Highways Act 1980. On this basis, no objection is raised to the deletion of this condition.

#### Condition 11 – Maximum internal water use stipulations

- *The ministerial statement of 25 March 2015 advises that this is now a matter for building control as of 30 September 2015.*
- *The condition is unenforceable, as the dwellings have been lawful for more than 100 years, and can and are, occupied.*

#### Condition 12 (Sustainability Statement)

- *The ministerial statement of 25 March 2015 advises that this is now a matter for building control.*
- *The Borough was advised before the issue of the decision that it was no longer lawful for them to impose such a condition.*
- *The condition is unenforceable, as the dwellings have been lawful for more than 100 years, and can and are, occupied.*
- *The condition lacks in precision as there are no targets to aim against as Code & BREEAM residential has been cancelled. It is a matter to be discharged via building regulations, as the Government has mandated.*

#### Condition 13 (Energy Statement)

- *The ministerial statement of 25 March 2015 advises that this is now a matter for building control.*
- *The LPA could impose a condition if the Local Plan included a target, but DP22 does not have any. The Ministerial Statement is clear that it is Local Plan, not Development Plan that must have the target.*
- *The condition is unenforceable, as the dwellings have been lawful for more than 100 years, and can and are, occupied.*
- *The LPA has applied the wrong part of building regs for extensions.*

#### LPA Response

The government has now withdrawn the Code for Sustainable Homes (aside from the management of legacy cases). However, this does not mean that the LPA has lost the ability to secure all sustainability measures.

The Ministerial Statement issued on 25 March states in the decision making section: *“from the date the Deregulation Bill 2015 is given Royal Assent until 30 September 2015, the government’s policy is that planning permissions should not be granted requiring, or subject to conditions requiring, compliance with any technical housing standards other than for those areas where authorities have existing policies on access, internal space, or water efficiency...Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance.”*

The new policy is therefore clear that LPA's are able to continue to apply policies relating to both energy performance and water efficiency. The section on plan making refers to the energy performance requirements that can be secured. It states: "*we would expect local planning authorities to...not set conditions with requirements above a Code level 4 equivalent. This statement does not modify the National Planning Policy Framework policy allowing the connection of new housing development to low carbon infrastructure such as district heating networks.*"

Conditions 11 and 13 relating to water efficiency and energy performance are therefore considered by the LPA to be compliant with the new policy and should be retained and attached to the original permission. The requirements of policies CS13, DP22 and DP23 (apart from the code) have no set levels/measures that a development must achieve. The sustainable design principles and climate change adaptation measures were formulated in policy to respond to the issues of the need to mitigate against and ensure development is adaptable to climate change, and furthermore, the London Plan 2015, consolidation with alterations since 2011 - following the Ministerial Statement, retains sustainable design and construction requirements under London Plan policy 5.3 (apart from reference to the code for sustainable homes which has been withdrawn).

An energy statement was not submitted with the original planning application. The above Ministerial Statement confirming withdrawal of the code stated that LPA's are able to set an equivalent standard for energy performance until the Planning and Energy Act is amended (anticipated to be 2016). As such the LPA requires any new residential development (adding 1 dwelling or more), such as the appeal proposal scheme, to achieve a 20% reduction in carbon emissions from the 2013 building regulations. Without Condition 13 securing this it will not be clear whether this policy requirement has been met.

In relation to Condition 12, the sustainability statement submitted with the original planning application was a Code for Sustainable Homes Pre-Assessment. Following the Housing Standards review, LPA's can no longer set technical standards for new build residential dwelling including requiring developments to meet Code for Sustainable Homes levels. However, all applications are still required to demonstrate that they meet sustainable design principles and climate change adaptation measures as noted in policy DP22 including (but not limited to) the measures outlined in the table accompanying this policy. The LPA does not consider these to be 'technical standards' as referred to in the Ministerial Statement. Without a revised sustainability statement being secured by Condition 12, it will not be clear whether this development is incorporating the measures required by policy DP22.

The NPPF and NPPG also still secures climate change mitigation principles (albeit that the Ministerial Statement states under the Housing Standard section that "this statement should be taken into account in applying the NPPF, and in particular the policies on local standards or requirements at paragraphs 95, 174, and 177, in both plan making and decision-taking"). It is therefore considered by the LPA that Conditions 11, 12 and 13 should not be removed.

## Conclusion

In conclusion, had the LPA been in a position to determine the application (LPA reference 2015/2823/P) it would have refused the application for the reasons set out within this appeal statement and given within the decision notice attached as Appendix 1.

The LPA considers that Conditions 4, 6, 9, 11, 12 and 13 originally attached to the original planning permission (LPA reference 2014/3924/P) meet the relevant 6 tests set out in Paragraph 206 of the NPPF, namely they are necessary; relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects. No objection would have been raised to the removal of Conditions 5, 8 and 10 for the reasons set out above.

The Inspector is therefore respectively asked to uphold the Council's policies, guidance and the advice contained in the NPPF and NPPG and to dismiss this appeal.

Should any further information or clarification of the above be required, please do not hesitate to contact Michael Cassidy on 020 7974 5666.

Yours Sincerely,

Michael Cassidy  
Principal Planner  
Regeneration and Planning  
Culture and Environment

Appendix 1 – Non-determination Decision Notice

## Appendix 1

Mr Kieran Rafferty  
KR Planning  
183 Seafield Road  
Bournemouth  
Dorset  
BH6 5LJ

Application Ref: **2015/2823/P**  
Please ask for: **Michael Cassidy**  
Telephone: 020 7974 **5666**

10 December 2015

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)  
**NOTIFICATION OF DECISION WHEN AN APPEAL HAS BEEN MADE**  
REFUSAL

Address:  
**10 -14 Belmont Street**  
**London**  
**NW1 8HH**

Proposal: Removal of conditions 4 (cycle storage specifications), 5 (lifetime homes features and facilities), 6 (green roof details), 8 (appointment of qualified chartered engineer), 9 (construction method statement), 10 (public highway reinstatement measures), 11 (maximum internal water use stipulations), 12 (sustainability statement) & 13 (energy statement) granted under reference 2014/3924/P dated 19/05/15.

The Council has considered your application and had an appeal not been made to the Secretary of State, would have refused Variation or Removal of Conditions for the following reasons:

Reasons for Refusal

- 1 In the absence of Condition 4 (Cycle storage specifications), the development would fail to provide adequate cycle parking facilities in accordance with the requirements of policy CS11 of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 of the London Borough of Camden Local Development Framework Development Policies.
- 2 In the absence of Condition 6 (Green roof details), the development would fail to ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13, CS14, CS15 and CS16 of the London Borough





of Camden Local Development Framework Core Strategy and policies DP22, DP23, DP24 and DP32 of the London Borough of Camden Local Development Framework Development Policies.

- 3 In the absence of Condition 9 (Construction Method Statement), the development would fail to protect the pedestrian environment and the amenities of the area generally and to ensure the continued free flow of traffic in the area in accordance with Policies CS5 and CS11 of the London Borough of Camden Local Development Framework Core Strategy and policies DP16, DP17, DP20 and DP26 of the London Borough of Camden Local Development Framework Development Policies.
- 4 In the absence of Condition 11 (Maximum internal water use stipulations), the development would fail to ensure that it contributes to minimising the need for further water infrastructure in an area of water stress in accordance with policy CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and policy DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.
- 5 In the absence of Condition 12 (Sustainability Statement), the development would fail to ensure that it contributes to minimising the effects of, and can adapt to a changing climate in accordance with policies CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and Policies DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.
- 6 In the absence of Condition 13 (Energy Statement), the development would fail to ensure that it contributes to minimising the effects of, and can adapt to a changing climate in accordance with policies CS13 (Tackling climate change through promoting higher environmental standards) of the London Borough of Camden Local Development Framework Core Strategy and Policies DP22 (Promoting sustainable design and construction) and DP23 (Water) of the London Borough of Camden Local Development Framework Development Policies.

Yours faithfully,



Ed Watson  
Director of Culture & Environment