

Appendix 1 – S106 Reasons for Refusal Justification

- 1.1 Reasons for refusal (RfR) 3 - 12 can be addressed by an appropriate S106 planning obligation. The Council is working with the appellant to prepare a legal agreement which addresses RfR 3 - 12 in respect of the planning appeal.
- 1.2 However, in the event that some/all matters cannot be agreed in this way then the Council provides the following evidence to demonstrate that the requirements are justified against relevant planning policy and meet the tests laid out in the Community Infrastructure Levy (CIL) Regulations 2010 in particular Regulation 122(2) which require that for a planning obligation to constitute a reason for granting planning permission it must be (a) necessary to make the development acceptable in planning terms, (b) directly related to the development, and (c) fairly and reasonably related in scale and kind to the development, and the National Planning Policy Framework (particularly paragraphs 203-206).

Reason 3 – Car Free

- 1.3 *“The proposed development, in the absence of a legal agreement securing it as car-free, 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 Core Strategy and DP18 (Parking standards and limiting the availability of car parking) and DP19 (Managing the impact of parking) of the London Borough of Camden LDF Development Policies”.*
- 1.4 The reasons for securing a ‘car free’ development are to facilitate sustainability and to help promote alternative, more sustainable methods of transport. The site has a public transport accessibility level (PTAL) of 6B (highest achievable rating) which confirms that it is easily/highly accessible by public transport. The site is also located in the Central London Area and is in close proximity to Tottenham Court Road underground station and various bus stops are also located nearby on Bloomsbury Street, New Oxford Street, Oxford Street and Tottenham Court Road.

- 1.5 The site is also located in the Holborn & Covent Garden controlled parking zone (CPZ) (CA-C). The Council's records indicate that parking stress is a significant issue with a ratio of parking permits to parking spaces of 1.08 (i.e. 108 parking permits issued for every 100 parking spaces). In order to ensure that the proposed scheme does not contribute to parking stress or add to existing traffic and environmental problems in the local area (e.g. traffic congestion, road safety and air quality), the development should be secured as 'car free' through a S106 agreement if the appeal were allowed.
- 1.6 This is in accordance with key principle 4 of the NPPF, Promoting sustainable transport, policies CS11, CS19 (specifically paragraphs 19.14 to 19.19), DP18 and DP19 of the LDF, CPG7 (specifically section 5) and CPG8 (specifically section 10, paragraphs 10.1 to 10.3).
- 1.7 Failure to secure a 'car free' development would encourage staff and visitors to travel by private motor vehicle. This would do nothing to promote sustainable transport. This would exacerbate existing traffic congestion, road safety and air quality problems which Camden and Transport for London are currently working to address.
- 1.8 A planning obligation is considered the most appropriate mechanism for securing the development as 'car free' (except for disabled and operational parking spaces) as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain 'car free'. The appellant would be required to ensure that future occupants are aware that they would not be eligible to obtain on-street parking permits from the Council, and that the Council will not grant planning permission for any subsequent development that incorporates additional car parking spaces, other than spaces designated for people with disabilities or operational requirements (e.g. off-street loading bays).
- 1.9 The level of control is considered to go beyond the remit of a planning condition. Furthermore, the S106 agreement is the mechanism used by the Council to signal that a property is to be designated as 'car free'.

- 1.10 The Appellant has confirmed a willingness to enter into a S106 agreement to secure a 'car free' development. The Council would then deem RFR 3 to have been resolved.
- 1.11 CIL Compliance: The 'car free' requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. This supports key principle 4 of the NPPF: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the parking provision for the site and impact on the surrounding highway network.

Reason 4 – Construction Management Plan

- 1.12 *"The proposed development, in the absence of a legal agreement securing a construction management plan, would be likely to give rise to conflicts with other road users and would fail to mitigate the impact on the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP20 (Movement of goods and materials), DP21 (Development connecting to highway network) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies".*
- 1.13 Policy DP20 seeks to protect the safety and operation of the highway network. For some development this may require control over how the development is implemented (including demolition and construction) through a Construction Management Plan (CMP).
- 1.14 A CMP outlines how construction work will be carried out and how this work will be serviced (e.g. delivery and removal of materials, set down and collection of skips

etc.), with the objective of minimising traffic disruption and avoiding dangerous situations for cyclists, pedestrians and other road users, and of minimising the impact on amenity of construction vehicle routes to and from the site. The scale, type and location of a development will dictate whether the impacts of servicing a development during construction are significant or not.

1.15 Section 8.8 of CPG6 states:

- Construction management plans are required for developments that are on constrained sites or are near vulnerable buildings or structures.
- They are essential to ensure developments do not damage nearby properties or the amenity of neighbours.

1.16 Section 8.8 of CPG6 also states that a CMP is usually required for sites that create 10 or more dwellings or 1,000sqm or more of floor space. The proposed development far exceeds this later threshold. The proposed development would result in a significant amount of construction vehicle movements in a Central London location. This would worsen existing traffic congestion issues in the local area.

1.17 However, the safety of road users, particularly vulnerable road users such as cyclists and pedestrians, is the Council's primary concern. This could potentially be a problem as pedestrian routes are located directly adjacent to the site on all 4 frontages. In addition, cycling flows are significant in the local area, particularly on Bloomsbury Street and Tottenham Court Road which form part of the London Cycle Network.

1.18 The site is located in the Central London Area where pedestrian flows are significant (e.g. Great Russell Street, Tottenham Court Road). Access to and from the site would be highly constrained for construction vehicles. It would appear likely that all construction vehicles would need to access the site directly from Adeline Place following Tottenham Court Road and Great Russell Street on their way to

and from the site. This is likely to have significant impacts on residential amenity in addition to the safe and efficient operation of the public highway in the local area.

- 1.19 The site is also located in close proximity to the Bloomsbury conservation area which is a quiet residential neighbourhood. The proposed works are likely to have an impact on residents' amenity (i.e. noise, vibration, air pollution). Local residents have objected to the proposed development on this basis.
- 1.20 Failure to secure a CMP would potentially have a severe impact on the safe and efficient operation of the public highway in the vicinity of the site. Construction vehicles arriving at or departing from the site on an unscheduled basis would exacerbate traffic congestion in the local area, particularly during peak periods. In addition, vulnerable road users, especially cyclists and pedestrians would be at significant risk without dedicated arrangements to provide for their safety.
- 1.21 Given the above points and noting that access to and from the site would be highly constrained, a CMP is required to manage and mitigate any impacts on the safe and efficient operation of the public highway in accordance with policies CS5, CS11 (specifically the summary page (page 100) and paragraphs 11.23 to 11.25), CS19 (specifically paragraphs 19.14 to 19.19), DP20 (specifically paragraphs 20.10, 20.13, and 20.14), DP21, DP26 (specifically paragraph 26.10), CPG6 (specifically section 6 (Construction management plans)) and CPG8 (specifically sections 3 (Amenity), 5 (Community Safety - specifically paragraphs 5.25 to 5.29) and 7 (Sustainability)).
- 1.22 The CMP would need to be secured as a Section 106 planning obligation if planning permission is granted. A planning obligation is considered to be the most appropriate mechanism for securing compliance with a CMP in this case simply because a considerable extent of the activity during construction could cause conflict with other road users or be detrimental to the amenity of the area and will necessarily take place outside the curtilage of the planning unit of the appeal site. Potential impacts for the proposed demolition/construction works which should be controlled by a CMP include traffic generation from removal and delivery of

materials to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users.

- 1.23 Under the Planning Act, conditions are used to control matters on land within the developers' control. However, a CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on-site but also around the site in order to minimise as far as reasonable the detrimental effects of construction on local residential amenity and/or highway safety on the nearby roads hence, using a condition to secure the type of off-site requirements usually included in a CMP would in this case be unenforceable.
- 1.24 Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to off-site requirements, particularly public highway (which is not land within the developers' control). As such, a S106 Agreement (rather than a condition) is the most appropriate mechanism. This is in accordance with PPG which states that conditions requiring works on land that is not controlled by the applicant often fails the tests of reasonability and enforceability. (PPG, Use of Conditions paragraph 9).
- 1.25 The Appellant has confirmed a willingness to enter into a S106 agreement to secure a CMP for the development proposed. The Council would then deem RFR 4 to have been resolved.
- 1.26 CIL Compliance: The CMP requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to managing impacts to neighbours and on the surrounding highways from construction at the site.

Reason 5 – Hotel Guest and Servicing Management Plan

- 1.27 *“The proposed development, in the absence of a legal agreement for securing a Hotel Guest and Servicing Management Plan, would be likely to generate adverse impacts upon the amenities of the area and neighbouring residential properties contrary to policies CS5 (managing impact of growth), CS11 (sustainable travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP14 (Tourism development and visitor accommodation), DP20 (Movement of goods and materials) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies”.*
- 1.28 The site is located in a busy Central London location. Access to and from the site would be highly constrained for delivery and servicing vehicles. The proposed scheme would not benefit from an on-site loading bay. This means that all deliveries and servicing activity would need to take place from the public highway.
- 1.29 It would appear almost certain that all deliveries and servicing activity would need to take place from the kerbside directly adjacent to the Adeline Place frontage. This is due to extremely limited opportunities for such activity to take place from Great Russell Street given there are extensive loading and unloading restrictions including bus stands located directly adjacent to the site.
- 1.30 It is proposed to service the development from Adeline Place where double yellow lines are in existence along the site frontage. These allow for a vehicle to stop in order to load/unload for an unlimited amount of time from the end of controlled hours (6.30pm) through to 11am the next day provided loading and unloading continues. Outside of these times, heavy goods vehicles (3.5 tonnes and above) can load for up to 40 minutes. The loading/unloading time for cars and light goods vehicles such as small vans is permitted for up to 20 minutes.
- 1.31 The hotel is intended to be serviced using the existing car park ramp off Adeline Place. A small electronic vehicle, which is to remain in the ramp service area, would

transport goods from the ground floor service entrance before depositing the goods in a designated service area at Level -4. An internal service lift between Level -4 and -5 is also proposed to reduce the time that service vehicles. These arrangements are intended to reduce the loading /unloading time of the service vehicle and limit the amount of time vehicles will wait on the public highway.

- 1.32 Deliveries and servicing activity to the appeal site will have an adverse impact on the amenities of the area and neighbouring residential properties in Bedford Place and Adeline Place if uncontrolled. It is, however, accepted that the appeal proposal would generate a low number of deliveries on a daily basis (an estimated 1-3 deliveries per day).
- 1.33 The impact of such deliveries could be mitigated by a Hotel Guest and Servicing Management Plan (HGSMP). The HGSMP would, however, need to be secured as a Section 106 planning obligation as it will seek to control off-site activities that will be undertaken on land outside the control of the developer in order to minimise as far as reasonable the detrimental effects on local residential amenity and a condition would in this case be unenforceable.
- 1.34 As such, a S106 Agreement (rather than a condition) is the most appropriate mechanism. This is in accordance with PPG which states that conditions requiring works on land that is not controlled by the applicant often fails the tests of reasonability and enforceability. (PPG, Use of Conditions paragraph 9).
- 1.35 In order to ensure that larger vehicles associated with the operation of the hotel are suitably managed and controlled, the HGSMP would include measures to manage (inter alia) the following issues:
- Servicing hours of operation (outside of peak times); and
 - Servicing vehicle approach and departure routes
- 1.36 Consultation responses at the time of the original application raised concerns with regards to the servicing hours, refuse storage and collection, servicing routes and

location, coach parking and implications for the West End project. There are currently servicing and coach drop-off/collection issues in the wider area related to the operation of the St Giles Hotel and the new Ecole Jeannine Manuel School on Bedford Square. This has led to a number of complaints from local residents due to double parking, blocking of residents bays, roads and drivers leaving engines idle causing noise and pollution.

- 1.37 A requirement to ensure that the booking system does not support guests as part of coach parties would need to be secured by S106 legal agreement, with appropriate measures such as a requirement to ensure bookings of no more than 8 people are supported via the booking arrangements in order to discourage coach parties arriving to the hotel and ensuring that the hotel would not advertise coach bookings. These measures would be covered within the HGSMF.
- 1.38 The Planning Inspector is respectfully requested to read the following extracts from Camden's Local Development Framework when assessing the need for the planning obligation requested:
- Core Strategy CS11 (Promoting sustainable and efficient travel); specifically the summary page (page 100) and paragraphs 11.23 to 11.25;
 - Core Strategy CS19 (Delivering and monitoring the Core Strategy); specifically paragraphs 19.14 to 19.19;
 - Development Policy DP20 (Movement of goods and materials); specifically paragraphs 20.7, 20.10 to 20.12, and 20.15 to 20.18;
 - Development Policy DP21 (Development connecting to the highway network);
 - Planning Guidance CPG7 (Transport); specifically section 4 (Delivery and servicing management plans); and
 - Planning Guidance CPG8 (Planning Obligations); specifically section 5 (Community Safety); specifically paragraphs 5.25 to 5.29.
- 1.39 The appellant is willing to sign a Section 106 planning obligation in respect of a HGSMF. The Council would then deem reason for refusal 5 to have been resolved.

- 1.40 CIL Compliance: The HGSMP requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the amenity impacts of the development as identified under the Development Plan for developments of the nature proposed. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to managing impacts to neighbours and on the surrounding highways from deliveries and servicing at the site.

Reason 6 – Public Open Space

- 1.41 *“The proposed development, in the absence of a legal agreement securing a contribution for new or improved public open space, would be likely to contribute to pressure and demand on the existing open space in this area, contrary to policy CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP31 (open space and outdoor recreation) of the London Borough of Camden Local Development Framework Development Policies.*
- 1.42 The NPPF seeks to secure the provision of adequate open space to meet local needs for open space. Paragraph 58 states that provision of green space and public open space should be incorporated in developments. Paragraph 73 states that high quality open spaces and opportunities for sports and recreation can make an important contribution to the health and well-being of communities.
- 1.43 Policies CS19 and DP31 and CPG 6 require all developments that increase the demand for public open space facilities to make an appropriate contribution to meeting that additional demand. Schemes considered to increase the demand for public open space include developments of 500sqm or more of floorspace that are likely to increase the resident, worker or visitor populations of the borough.
- 1.44 CPG6 indicates that hotels should make an open space contribution of 9sqm per single room and 18sqm per double room at a rate of £297 per single room and £593 per double room. This will initially be expected to be provided on site. This equates to 1494sqm for the development (166 single rooms x 9sqm). Where it is

not possible to provide this open space provision on site the preferred option would be to provide suitable open space off-site. If either of the above is not practical, a financial contribution to open space will be acceptable.

- 1.45 The appeal proposal does not include any on-site public open space. In circumstances such as this a financial contribution is required toward the provision, maintenance and improvement of open space. The financial contribution is based on the capital cost of providing new open space, the cost of maintenance for the first five years and the cost for the open space team to administer the contribution and design schemes.
- 1.46 In accordance with the formula set out in CPG8, a public open space contribution of £14,226 would be required for this development. Such a contribution would need to be secured by S106 obligation. This contribution would be in accordance with chapters 7 and 8 of the NPPF: Promoting healthy communities. The PPG advises that financial contributions cannot be secured by condition (paragraph 5).
- 1.47 The appellant is willing to sign a S106 agreement in relation to public open space. The Council would then deem RFR 6 to have been resolved.
- 1.48 CIL Compliance: The public open space contribution is considered to be CIL compliant is necessary in planning terms as identified in the development plan to mitigate against the increased pressure on open spaces as a direct result of the extra demand created by the occupation of the development. The contribution has been calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development. This supports key principle 8 of the NPPF: Promoting healthy communities.

Reason 7 – Highway works

- 1.49 *“The proposed development, in the absence of a legal agreement securing necessary contributions towards highway works would fail to make provision to restore the pedestrian environment to an acceptable condition, contrary to policies*

CS11 (sustainable travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP17 (walking, cycling and public transport) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies”.

- 1.50 Policy DP21 states that the Council will expect development connecting to the highway to repair any construction damage to the transport infrastructure or landscaping and reinstate all affected transport network links, road and footway surfaces following development. In order to cover the Council’s cost to repair any highway damage as a result of construction and to tie the development into the surrounding urban environment, a financial contribution should be required to repave the footway adjacent to the site in accordance with policy DP21.
- 1.51 The kerbs and footways directly adjacent to the site are likely to sustain significant damage as a direct result of the proposed development if the appeal proposal is allowed. In addition, the proposed scheme would require alterations to be made to the public highway directly adjacent to the site. The Council would have to undertake the highway works on completion of the development. This would include laying a new kerb and reconstructing the footways to appropriate levels. It would also include the removal of redundant vehicular crossovers adjacent to the Adeline Place frontage. This would have the added benefit of tying the completed development into the public highway in the general vicinity of the site. The Council would require the appellant to submit existing and proposed level plans for approval prior to any works commencing on site.
- 1.52 The Council does not have a budget to repair damage caused to the public highway as a direct result of development. It is therefore necessary to secure a financial contribution from the developer to cover the worst case scenario. This would involve the replacement of the existing kerbs and repaving of the footways directly adjacent to the site.
- 1.53 The appellant may argue that the public highway would not sustain any damage as a direct result of the proposed development. However, experience tells us that this

is simply not the case. The appellant would be in no position to give any such assurances to the Council. A contractor would likewise be unable to give any such assurances.

- 1.54 Failure to secure a financial contribution for highway works could place pedestrians at risk. For example, a damaged footway surface would constitute a hazard and could lead to claims against the Council for failing to provide an appropriately paved pedestrian route. This is a real possibility given that the Council does not have a budget to repair damage caused to the public highway as a direct result of development. In addition, the settlement of any such claims would most likely need to be funded at public expense. This would be unacceptable given that such claims would not materialise if the Council were in a position to repair any damage caused as a direct result of the development.
- 1.55 The financial contribution for highway works is based on a worst case scenario. It is acknowledged that contractors may choose to service the site in a considerate manner and that the actual extent of damage to the public highway could well be less than estimated for. However, the Council needs to cover itself against the possibility that all works estimated for would be required.
- 1.56 It is worth noting that the Council would only undertake highway works if deemed necessary. For example, highway works (other than those directly adjacent to the site) would not be necessary if the development did not cause any obvious damage to the public highway in the general vicinity of the development. In this case, the appellant would be able to request a refund from the Council on completion of the development.
- 1.57 A cost estimate for highway works has been provided by the Highways Delivery Team attached as **Appendix 5**. A sum of £35,160 would be required to remove the redundant vehicular crossovers, replace the kerbs and repave the footways adjacent to the site. A full breakdown of the cost estimate cannot be provided as it is based on the rates of our term contractor. These rates are commercially sensitive and are not therefore available for public inspection.

- 1.58 In summary, the Council would require a financial contribution of £35,160 for highway works to be secured as a Section 106 planning obligation if planning permission is granted. A Section 278 agreement would also be required between the appellant and the Council with respect to the actual delivery of the highway works. Such works would be arranged by our Highways Delivery Team and implemented by our term contractor. The Council would combine the Section 278 agreement within the Section 106 agreement for the purposes of clarity. It would also save the appellant the expense of having to pay the Council to prepare 2 separate legal agreements.
- 1.59 The Planning Inspector is respectfully requested to read the following extracts from Camden's Local Development Framework when assessing the need for the planning obligation requested:

- Core Strategy CS11 (Promoting sustainable and efficient travel); specifically the summary page (page 100) and paragraphs 11.9 to 11.12.
- Core Strategy CS19 (Delivering and monitoring the Core Strategy); specifically paragraphs 19.14 to 19.19.
- Development Policy DP21 (Development connecting to the highway network); specifically the summary page on page 96. This states that the Council will expect works affecting highways to:
 - Address the needs of wheelchair users and other people with mobility difficulties, people with sight impairments, children, elderly people and other vulnerable users;
 - Avoid causing harm to highway safety or hinder pedestrian movement and avoid unnecessary street clutter;
 - Contribute to the creation of high quality streets and public spaces; and
 - Repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces following development.
- Development Policy DP21 (Development connecting to the highway network); specifically paragraphs 21.8 to 21.13 (Works affecting highways).
- Planning Guidance CPG8 (Planning Obligations); specifically:

- paragraph 2.19 (Costs and fees)
- paragraphs 2.22 to 2.24 (Expenditure of funds)
- paragraph 5.6 (Works to streets, highways and public realm)
- paragraph 5.7 (Highway works)
- paragraph 5.8 (Level plans)
- paragraphs 5.9 to 5.13 (Agreement of highway works)
- paragraphs 5.14 to 5.19 (Payment for highways works)
- paragraphs 5.25 to 5.28 (Community Safety)

- 1.60 The Council maintains that a payment for highways work should be secured through a S106 agreement, which will also combine as an agreement under S278 of the Highways Act 1980. CPG8 states that public highways works on Borough Roads are to be undertaken through a S106 agreement or S278 obligation. The guidance also states that the Council will secure payment for required works by preparing an estimate (including fees) for the scheme that the developer will be required to pay before commencing development (paragraph 5.14).
- 1.61 The most effective way of both securing sufficient payment and ensuring the works are carried out to the Council's procedures and standards is for a financial contribution to be paid by the developer on commencement of the development and secured by an obligation under S106 agreement. It is not possible to secure a financial contribution for highway works by condition as it relates to land outside the application site and is not under the control of the applicant. The PPG advises that financial contributions cannot be secured by condition (PPG, Using Planning Conditions, paragraph 5).
- 1.62 The appellant is willing to sign a S106 agreement in respect of a public highway works contribution. The Council would then deem reason for refusal 7 to have been resolved.
- 1.63 CIL Compliance: The public highway works contribution identified is considered to be CIL compliant and is necessary in planning terms as identified in the development plan to mitigate against the increased impact that will be generated by the development. The contribution has been calculated taking into account the

particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development.

Reason 8 - Travel Plan

- 1.64 *“The proposed development, in the absence of a legal agreement securing a travel plan and associated monitoring and administrative costs for a period of 5 years, would fail to promote the use of sustainable means of travel, contrary to policies CS11 (sustainable travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP16 (transport implications of development) of the London Borough of Camden Local Development Framework Development Policies”.*
- 1.65 Policies CS11, CS19 and DP16 seek to promote sustainable development and ensure that development is properly integrated with the transport network and supported by adequate walking, cycling and public transport links with appropriate mitigation measures in place.
- 1.66 Transport for London guidance published in November 2013 also requires strategic level travel plans to be secured for hotel development (Class C1) of 100 beds or more. The proposed development (166 bedrooms) far exceeds this threshold. A strategic level travel plan would therefore need to be secured as a section 106 planning obligation if the appeal were allowed.
- 1.67 Such a Travel Plan should set out measures to promote the use of sustainable transport by future visitors and workers within the development. This would be updated by the developer or hotel operator on a regular basis if the hotel were built and occupied, with travel surveys of staff and visitors being carried out in the first, third and fifth year of occupation. This would be secured along with a monitoring and administration contribution of £6,020.

1.68 The Planning Inspector is respectfully requested to consider the following references from Camden's LDF already provided when assessing the need for the planning obligation requested:

- Policy CS11 specifically the summary page (page 100) and paragraphs 11.8 to 11.16;
- Policy CS19 specifically paragraphs 19.14 to 19.19;
- Policy DP16 specifically paragraphs 16.18 and 16.19;
- CPG7 specifically section 3 (Travel plans); and
- CPG8 specifically paragraphs 2.19 (Costs and fees), 2.22 to 2.24 (Expenditure of funds) and 10.4 (Travel Plans).

1.69 A planning obligation is considered the most appropriate mechanism for securing the Travel Plan as it relates to controls that are outside of the development site and the ongoing requirement of monitoring. The level of control is considered to go beyond the remit of a planning condition.

1.70 The appellant is willing to sign a S106 agreement in respect of the travel plan and associated monitoring and administration contribution of £6,020. The Council would then deem RFR 8 to have been resolved.

1.71 CIL Compliance: The securing of a Travel Plan and associated monitoring/administration contribution by S106 agreement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. This supports key principle 4 of the NPPF: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the impact on the surrounding highway network.

Reason 9 – Local employment and apprenticeships agreement and a local procurement code

- 1.72 *“The proposed development, in the absence of a local employment and apprenticeships agreement and a local procurement code will be likely to lead to the exacerbation of local skill shortages and a lack of training and opportunities for local residents and businesses, and would fail to contribute to the regeneration of the area, contrary to policies CS5 (Managing the impact of growth and development), CS8 (Promoting a successful and inclusive Camden economy) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP13 (Employment sites and premises) of the London Borough of Camden Local Development Framework Development Policies”.*
- 1.73 The proposed development is large enough to generate significant local economic benefits. Policy CS19 and Camden Planning Guidance state that in the case of such developments the Council will seek to secure employment and training opportunities for local residents and opportunities for businesses based in the Borough to secure contracts to provide goods and services.
- 1.74 CPG8 sets out in section 8 that the Council may require developers to assist with training and employment initiatives via the S106 Agreement where the development impacts on the availability of jobs for Camden residents. Included in the list is when the development is a major infrastructure or development projects involving significant construction contracts (e.g. over £3 million), which would apply to this scheme. This achieves the strategic requirements of policy CS8.
- 1.75 In line with CPG8, a range of training and employment benefits are required to be secured in order to provide opportunities during and after the construction phase for local residents and businesses. This package of recruitment, apprenticeship and procurement measures were agreed with the appellant at the time of the application and would be secured via a S106 agreement. Such measures included:

- A Local Employment Contribution of £7,990 to be paid in the event of receipt towards employment needs in the London Borough of Camden.
- An Employment and Training Plan setting out a package of measures to be adopted in order to maximise employment opportunities within the Development through (but not be limited to) the following:-
 - a) ensuring advertising of all construction vacancies exclusively through Kings Cross Construction Centre for a period of no less than one week before promoting more widely;
 - b) to ensure a 20% local employment target during the Construction Stage;
 - c) to ensure the provision of no less than three construction apprentices; or such number if greater that shall equate with one apprentice per £ three million build costs;
 - d) make provision during the Construction Phase for no less than three work placements (with no less than 1 work placements for 14-16 years year olds);or such number as is required;
 - e) ensure delivery of a minimum of two supplier capacity building enterprises within the London Borough of Camden to tender for the contracts to include organising, supporting and promoting the event as well as provision of venue and refreshments for the events;
 - f) ensure delivery of a minimum of two end use apprenticeships or such number if greater as may be required by the Council's Economic Development team;
 - g) That the contractor sign up to the Camden Local Procurement Code; and

- h) A Construction Apprentice Support Contribution the sum of £1,500 per construction apprentice to be paid and to be applied by the Council to support the recruitment and training of a construction apprentice.

- 1.76 There is an identified skills gap between Camden residents and the jobs on offer in the Borough. Currently, only 23% of the workforce in Camden is resident in the Borough. Local employment and training initiatives can open up job opportunities for people from many sectors of the community, who may otherwise find it difficult to access employment offered by existing and new businesses, helping to bridge the identified skills gap. Such benefits can help to alleviate the recognised impacts that major development and construction works can bring.
- 1.77 The appellant is willing to sign a S106 agreement in relation to the above training and employment benefits identified. The Council would then deem RFR 9 to have been resolved.
- 1.78 CIL Compliance: The securing of the above training and employment benefits would comply with the CIL Regulations as it ensures that the development is acceptable in planning terms to facilitate the inclusion of local training opportunities during the construction of the development. The creation of local employment and business opportunities will reinforce neighbourhood renewal objectives and improve the sustainability of the local economy. This supports key principle 1 of the NPPF: Building a strong competitive economy.

Reason 10 – Pedestrian, cycling and environmental improvements

- 1.79 *“The proposed development, in the absence of a legal agreement for securing a contribution towards pedestrian, cycling and environmental improvements, would fail to contribute to supporting sustainable modes of travel, enhance the public realm or mitigate highways concerns, contrary to policies CS14 (Promoting high quality places and conserving our heritage), CS11 (Promoting sustainable and efficient travel), CS17 (Making Camden a safer place) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality*

design), DP16 (The transport implications of development) and DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies”.

- 1.80 Policy DP17 states that development should make suitable provisions for pedestrians, cyclists, public transport and wider environmental improvements.
- 1.81 The development would introduce new visitors and workers to the area and the Council aims to encourage walking and cycling as the primary mode of transport for short journeys. The Council is committed to improving cycling and pedestrian routes in the area.
- 1.82 Given the scale of the proposed development and in order to ensure it makes suitable provision to address the increase in trip rates generated by the visitors and workers of the development, which would have an impact on the surrounding footways and public transport facilities, a financial contribution totalling £333,500 is required towards Pedestrian, Cycling and Environmental Improvements in the local area. This would be used to help to mitigate against such impacts while also helping to encourage sustainable transport choices. This could be used towards cycle improvement schemes or other public realm improvements in the local area. Improvements to pedestrian and cycling facilities would be directly related to the proposed development. Site users would walk and cycle on roads in the near vicinity of the proposed development.
- 1.83 As part of the overall amount sought, a financial contribution of £200,000 would be put towards the London Cycle Hire scheme. As part of the proposal, 24 visitor cycle parking spaces are proposed on Adeline Place and 8 staff spaces within the building in order to achieve the Camden and revised London Plan requirements for the proposed use. The staff parking does not meet Camden standards for staff parking, but due to the restrictions of the site and that this is an improvement from no facilities being available for staff currently, a shortfall in principle is considered to be acceptable.

- 1.84 The development, however, is likely to increase operational pressure on cycle hire in the area. Transport for London (TfL) has highlighted that the nearest Cycle Hire docking stations are amongst the busiest on the network and operate at capacity or close to it. TfL has requested that a financial contribution towards locating an additional Cycle Hire docking station adjacent to the appeal site be sought.
- 1.85 The introduction of additional cycle hire facilities in the local area would help to mitigate against the cycle parking proposals for the site which fail to meet the minimum requirements of the London Plan. They would also help to encourage staff and visitors to cycle as an alternative to using private motor vehicles and taxis. It is also worth noting that any trips made by cycle hire bicycles would help to minimise the impact of the development on an already overcrowded and congested public transport network.
- 1.86 The remaining £133,500 of the financial contribution would be put towards further pedestrian, cycling and environmental improvements for the local area. This is required to allow the Council to improve facilities for cyclists and pedestrians in the local area with the intention of maximising the number of trips associated with the development either on foot or by bicycle.
- 1.87 The introduction of such pedestrian, cycling and environmental improvements in the local area would help to encourage staff and visitors to walk and cycle as an alternative to using private motor vehicles and taxis. It is also worth noting that any trips made on foot or by bicycle would also help to minimise the impact of the development on an already overcrowded and congested public transport network.
- 1.88 The appeal site is within the scope of the Council's West End project, as acknowledged by the submitted Transport Statement. This will address a number of significant challenges including road traffic casualties, congestion, poor air quality, traffic dominance, insufficient space for high volumes of pedestrians and cyclists, and a lack of high quality public space.
- 1.89 The appeal proposal will benefit greatly from these works and will help offset the loss of private parking by continuing to shift trips made to more sustainable modes

of transport. To assist with this goal and help facilitate the development, the Pedestrian, Cycling and Environmental contribution sought would be put towards the West End Project for use in the immediate Bedford Avenue area. The contribution would be secured by S106 legal agreement.

- 1.90 The appellant is willing to sign a Section 106 planning obligation in respect of the 2 financial contributions described above which total £333,500. The Council would then deem reason for refusal 10 to have been resolved.
- 1.91 CIL Compliance: The public highway works contribution identified is considered to be CIL compliant and is necessary in planning terms as identified in the development plan to mitigate against the increased impact that will be generated by the development. The contribution has been calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development.

Reasons 11 and 12 - Sustainability

Reason 11

- 1.92 *“The proposed development, in the absence of a legal agreement securing a sustainability plan, would fail to ensure that the development is designed to take a sustainable approach to the use of resources, contrary to policies CS13 (tackling climate change) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and DP22 (sustainable design and construction) and DP23 (water) of the London Borough of Camden Local Development Framework Development Policies”.*

Reason 12

- 1.93 *“The proposed development, in the absence of a legal agreement securing an energy efficiency and renewable energy plan, would fail to take sufficient measures to minimise the effects of, and adapt to, climate change contrary to policies CS13*

(tackling climate change) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP22 (sustainable design and construction) of the London Borough of Camden Local Development Framework Core Strategy and Development Policies”.

Policy background

- 1.94 Paragraph 93 of the NPPF states that planning plays a key role in reducing greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change and supporting the delivery of renewable and low carbon energy. Paragraphs 96 and 97 require Councils to expect to meet local requirements to link up to decentralised energy supplies and encourages use and supply of low carbon technologies.
- 1.95 Policy CS13 seeks to minimise the effects of climate change and ensure that development is designed to adapt to the effects of climate change. This includes securing higher environmental standards in design and construction through the use of planning obligations, and other suitable mechanisms, where appropriate.
- 1.96 All developments are expected to reduce their carbon dioxide emissions by following the steps in the energy hierarchy (be lean, be clean and be green) to reduce energy consumption.
- 1.97 Policy DP22 and CPG3 require all changes of use over 500sqm to submit a BREEAM pre-assessment with an expected target rating of ‘Very Good’ and obtaining 60% of the un-weighted credits in the Energy category, 60% in the Water category and 40% in Materials. To meet BREEAM “Very Good” a point score of 55% must be achieved.
- 1.98 Policy CS13 and CPG3 also require developments to contribute to the Borough’s objective of meeting its 2050 target for achieving 80% reduction in CO2 emissions in order to help combat climate change. As part of this developments must consider renewable energy with Camden adopting the London Plan target for this purpose of 20% of energy requirements of any new development to be provided through on-

site renewable sources. CPG3 requires that 20% of the total CO2 reduction be achieved through the use of on-site renewable technologies.

1.99 The hierarchy of energy efficiency, decentralised energy and renewable energy technologies set out in the London Plan (2011) Chapter 5 (particularly Policy 5.2) to achieve the fullest contribution to CO2 reduction should be followed. As a major refurbishment, the appeal proposal should aim to secure a 35% reduction in regulated CO2 emissions below the maximum threshold allowed under Part L 2013. GLA guidance on preparing energy assessments should be followed. In particular, improvements should be sought on the minimum building fabric targets set in Part L of the building regulations.

1.100 The guidance set out in CPG3 provides further information on ways to achieve carbon dioxide emission reductions through the application of the energy hierarchy and sustainable design and construction methods. It also highlights the Council's requirements and guidelines which support the relevant LDF policies CS13, DP22 and DP23.

1.101 The Energy Statement provided shows that the energy hierarchy has been followed. A 25% reduction in CO2 emissions beyond the Part L 2013 baseline will be achieved. Good energy efficiency measures are proposed and an air source heat pump (ASHP) will provide heating. No further renewables are proposed due to restrictions to roof access. The scheme will be future-proofed for connection to a district energy network in the future. Given the restrictions posed by the location of this development, it is considered that the fullest contribution to CO2 reduction has been made and no further measures are required.

1.102 However some further information is required as detailed below:

- Full NCM calculation outputs (BRUKL reports) to back up the claims made in the energy statement;

- Regulated and unregulated energy demands in kWh/yr (broken down into use type – heating, hot water etc) and associated CO2 emissions should be stated at each stage of the energy hierarchy;
- Outputs of the ASHP (kWh/yr) and energy required to operate the heat pump should also be made clear;
- Full details showing how the scheme has been ‘future proofed’ to enable connection to a future network should be provided including:
 - provision of a single plant room producing all hot water, including engineering measures to facilitate the connection of an interfacing heat exchanger;
 - space identified for the heat exchanger;
 - provisions made in the building fabric such as soft-points in the building walls to allow pipes to be routed through from the outside to a later date; and
 - any external pipework routes identified and safeguarded.

1.103 The proposed measures identified in the Energy Statement should be secured by S106 legal agreement requiring a 25% reduction beyond Part L 2013 and the 20% reduction through renewable technologies.

1.104 Policy 5.3 of the London Plan and Camden policies CS13 and DP22 require the submission of a Sustainability Statement with applications for non-residential development demonstrating how the development mitigates against the causes of climate change and adapts to the effects of climate change in line with. Proposals should demonstrate how sustainable design and construction principles, including the relevant measures as set out in policy DP22 (page 104) have been incorporated into the design and proposed implementation. The scheme will be required to ensure that the measures stated in the Sustainability Statement are secured and implemented.

1.105 The requirements of DP22 that are reasonably practicable considering the limitations of the development have been addressed within the Sustainability Statement provided.

- 1.106 A BREEAM pre-assessment submitted with the application confirms that the development proposes a 'very good' rating with a total score of 55.67%, which given the limitations associated with this development is acceptable. Over 60% of the energy, water and materials credits will be achieved.
- 1.107 If the appeal were to be allowed the Council would require a BREEAM post construction review to be carried out by an impartial assessment body. The S106 agreement would secure the Sustainability Plan indicating the approved BREEAM level (very good) and minimum credit targets in Energy (60%), Materials (40%) and Water (60%) and also the ongoing maintenance and retention of the sustainability measures. This would involve ongoing maintenance of a range of measures which may be updated or varied as agreed with the Council from time to time. This would not only be the responsibility of the developer, but that of subsequent owners and occupiers.
- 1.108 The Council consider a planning obligation would be the most appropriate tool to ensure on-going compliance with the above sustainability policy requirements identified. In addition, the Council's standard procedure is to not permit occupation of the development until a satisfactory post-construction review has been provided and any issues identified in that review have been satisfactorily addressed. Given the complexity of the requirement a S106 rather than a condition is considered the most appropriate measure to secure this.
- 1.109 CIL compliance: This obligation complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to facilitate sustainable development. This supports the NPPF key principle to achieve sustainable development. It is also directly related to the development and fairly and reasonably related in scale and kind as it ensures that the development itself is sustainable.