



Planning & Development Ltd

JMS Planning & Development Ltd

Town and Country Planning Act 1990

Statement of Case in Support of an Appeal

at

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London

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June 2016

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SECTION 1: INTRODUCTION

- 1.1 This statement has been prepared by JMS Planning & Development Ltd on behalf of Marc Abomnes (*“the Appellant”*) in support of an appeal against the refusal of a planning application (LPA Ref: 2015/2757/P) by the London Borough of Camden (*“the Council”*) by decision notice dated 8 February 2016 for the following works in respect to 47 Marchmont Street, London, WC1N 1AP (*“the Appeal Site”*);

“Change of use of lower ground floor from office (Class B1) to restaurant (Class A3) and replacement and enlargement of rear lower ground and ground floor extension (including two new windows) and erection of front external staircase and door following demolition of rear extension.”

- 1.2 The decision notice records that the application was refused for three reasons. Namely:-

- “1. The proposed development, which would result in the creation of an A3 unit of over 100sqm in close proximity to other food and drink uses, would cause harm to the character, amenity, function and vitality of the town centre and nuisance to residents which is contrary to policies CS7 (Promoting Camden’s centres and shops) of the London Borough of Camden Local Development Framework Core Strategy and DP12 (Supporting strong centres and managing the impact of food, drink, entertainment and other town centre uses) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development policies.*

- 2. The proposed development, in the absence of a justification demonstrating that the premises is no longer suitable for continued business use would result in the loss of employment floorspace contrary to policies CS8 (Promoting a successful and inclusive Camden economy) of the London*

Borough of Camden Local Development Framework Core Strategy and policy DP13 (Employment premises and sites) of the London Borough of Camden Local Development Framework Development Policies.

3. *The Appellant, in the absence of an acceptable noise report, has failed to adequately demonstrate the operation of the restaurant would maintain an acceptable quality of amenity for neighbouring occupiers, contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP26 (Noise and vibration) of the London Borough of Camden Local Development Framework Policies.”*

1.3 An associated application for Listed Building Consent for the physical works proposed associated with the conversion of the appeal site to a restaurant was submitted at the same time and referenced LPA Ref: 2015/3428/L. This application was granted by decision notice dated 8 February 2016. Accordingly, the Council acknowledges that in respect to design and heritage matters the appealed planning application is acceptable. A copy of the relevant decision notice for Listed Building Consent is attached at **Appendix 1**.

1.4 This statement sets out the case for the Appellant’s proposed development of the Appeal Site and responds to the Council’s reasons for refusal as set out in the decision notice and associated Officer’s Report. In particular, this statement sets out that the proposed development:-

- Brings a longstanding vacant and derelict space (of circa eight years) back into beneficial use;

- Provides a new independent, restaurant within the Marchmont Street Neighbourhood Centre which will contribute to the vitality and viability of the Neighbourhood Centre.
- Provides new investment in a sequentially preferable location in line with national and development plan policy;
- Will create jobs and is expected to create a greater number of jobs than if the site was used for B1 use.
- Will not have any meaningful impact on the Council's current employment land supply position.
- Will not give rise to any adverse impacts on neighbouring properties.

1.5 This statement should be read in conjunction with the following application documents which accompany this Appeal Submission:-

- i. Existing and proposed drawings prepared by Steve Seary Architects;
- ii. Design and Access statement prepared by Signet Planning;
- iii. Planning statement prepared by Signet Planning;
- iv. Acoustic Assessment prepared by PC Environmental Ltd.

1.6 Accordingly, Section 2 of this Statement sets out a description of the appeal site and surrounding area whilst Section 3 details the appeal site's planning history. Details of the appeal proposal is contained at Section 4 and the planning history of the appealed application is set out at Section 5. An overview of relevant planning policies is contained at Section 6. Section 7 sets out the Appellant's response to the first reason for refusal, while Section 8 sets out the Appellant's response to the second refusal and Section 9 sets out the Appellant's response to the third reason for refusal. Section 10 sets out third party representations,

Section 11 sets out other relevant issues, which presume in favour of a grant of planning permission whilst conclusions are set out at Section 12.

SECTION 2: APPEAL SITE AND SURROUNDING AREA

- 2.1 The appeal site comprises 47 Marchmont Street. The ground floor of the unit is occupied by Burger & Shake (Use Class A3), a successful 'American style' barbecue restaurant which also occupies part of the lower ground floor. Part of the lower ground floor is therefore already in A3 (restaurant use). The remainder of the lower ground floor has not been fully converted and has been vacant for more than eight years. The lower ground floor has been accepted previously by planning officers of LB Camden to have no internal features of historical merit.
- 2.2 The upper floors of 47 Marchmont Street are in residential use. The application site is located on the west side of Marchmont Street and is situated within the defined Marchmont Street Neighbourhood Centre.
- 2.3 The Marchmont Street Neighbourhood Centre contains no basements which are in B1 use.
- 2.4 The appeal site forms part of a terrace within the Marchmont Street Neighbourhood Centre, which principally comprises commercial uses at ground floor. To the rear of the site is a large six storey block of residential flats which forms part of the Herbrand Estate. The rear yard of the application site comprises hardstanding. The rear yards of surrounding properties on the west side of Marchmont Street are generally similar with some further to the north containing large, double height outbuildings.
- 2.5 The appeal site is included in the listing of the west side of Marchmont Street, from numbers 39-73. The application site was first listed on 14th May 1974 (list entry number 1113112: 39-73 Marchmont Street). The listing is based on the external features of the buildings, detailing their origins as an early 19th Century terrace of housing, with later 19th Century and 20th Century modifications to accommodate shopfronts. The listing notice states:-

“Terrace of 18 houses with the later shops. C1801-6. Yellow stock brick; numbers 45, 61 and 63 stucco storeys and cellars, 2 windows each. Mostly altered later C19 and C20 shopfronts. Gauged brick, (mostly reddened) flat arches to recessed sash windows, some with original glazing bars. Parapets.

No. 43: original wooden shopfront with pilasters and brackets carrying projected cornice. Shop window altered. Round—arched house doorway with fluted jambs, Lionhead stops, cornice—head, and light panelled door. Shop doorway with fanlight and panelled door.

No. 45: architrave, recessed sash windows. Stucco cornice and blocking course.

Nos. 57 & 59 mid C19 wooden shopfronts with pilasters carrying entablature with dentil cornice flanked by enriched consoles.

Shop window on No. 59 with segmental—arched lights.

Square—headed house doorways with overlights and panelled doors (No. 57 C20). No. 57 with wrought — iron sign (at 1st floor level).

Nos. 61 & 63: recessed sash windows with architraves and cornices. Bracketed stucco cornices at 3rd floor.

Nos. 65 — 73: with enriched fascia consoles.

No. 69: with plaque ‘ST.G.B 1817’.

No. 71: with plaque ‘S PP 1791’.

INTERIORS: not inspected.”

2.6 The appeal site is also located within the Bloomsbury Conservation Area.

2.7 An assessment of the building confirms that there is nothing of the special interest of building which remains at either ground or lower ground floor level. This is accepted by officers (and as identified elsewhere in this statement it is confirmed that no heritage objection to the appeal proposals is raised by the Council).

2.8 The Brunswick Centre is located opposite to the appeal site, and constitutes a separate Neighbourhood Centre although it is directly adjacent to and accessed from Marchmont Street. The centre was renovated and re-opened in late 2006. It is occupied almost exclusively by shop and restaurant national multiples, including a large Waitrose.

2.9 The Brunswick Centre and contains a number of food, drink and entertainment uses including:-

- Nandos
- Gourmet Burger Kitchen;
- Itsu;
- Las Iguanas;
- Hare & Tortoise;
- Giraffe;
- Crussh;
- Apostrophe;
- Carluccio's
- Chatime;
- Petit A;
- Patisserie Valerie.

SECTION 3: APPEAL SITE PLANNING HISTORY

- 3.1 A review of the Appeal Site's planning history has been undertaken. Details of the relevant planning history is set out below. The specific history of the application the subject of this appeal is set out later within this statement.
- 3.2 Planning permission was originally granted on 17 July 1968 for the change of use of the premises to a betting office. Planning permission was granted on 28th October 1977 for alteration and extension to the rear of the ground floor and basement (LPA Ref: M14/10/5/HP/1728). The change of use of the basement from storage purposes to use as office and craft workshop and the construction of a basement and ground floor extension at the rear was also granted on 28th October 1977 (LPA Ref: M14/10/B/25030).
- 3.3 A planning application for the change of use of the lower ground floor from office (Use Class B1) to two-bedroom flat (Class C3) and alterations to the roof of the existing rear basement extension (LPA Ref: 2010/0847/P) was granted by decision dated 29 June 2010. At this time the ground floor was vacant. An associated application for Listed Building Consent (LPA Ref: 2010/0849/L) for internal alterations and replacement of roof to existing rear extension in connection with the change of use of the basement from office (Class B1) to a two bedroom flat (Class C3) was also granted by decision dated 29 June 2010. Notably, the associated Officer's Report states *"few historic or architectural features survive and the internal character of the spaces has been so altered that there is little of special interest remaining."*
- 3.4 The ground floor of 47 Marchmont Street previously traded as Panino D'Oro (Use Class A3) as an Italian restaurant for some 27 years. An application (LPA Ref: 2011/1437/P) for a Certificate of Lawfulness of an Existing Use or Development (CLEUD) confirming the lawful use of the ground floor as a restaurant was granted on 22 July 2011.

- 3.5 A planning application for full planning permission and an associated application for Listed Building Consent was submitted on 28th November 2011 (LPA Ref: 2011/6098/P and 2011/6142/L respectively). These applications proposed a rear extension at ground and lower ground floor levels extending the full depth of the rear garden and included the change of use of the whole of the lower ground floor to a restaurant (Use Class A3). Following detailed discussions with the Council's Conservation Officer in respect to heritage issues these applications were withdrawn.
- 3.6 Subsequently, two further applications were submitted to facilitate the erection of a two-storey rear extension at lower ground and ground floor levels, installation of plant and flue to rear elevation on first to third floor level, and alterations to shopfront all in connection with the existing use of the lower ground floors and office (Use Class B1) and ground floor as a restaurant (Use Class A3). The relevant planning application was referenced LPA Ref: 2012/1526/P, whilst the associated listed building application was referenced LPA Ref: 2012/1581/L. Both applications were granted by decision dated 8 June 2012.
- 3.7 A planning application was submitted on 4 December 2015 for *"Change of use of part lower ground floor from B1 to A3 to provide additional storage to ground floor restaurant; replacement of rear lower ground floor extension; rear ground floor extension (including two new windows); installation of new door at lower ground floor; external rear staircase and new rear door at ground floor; new front staircase, door and window; new French doors at first floor level and installation of balustrade to create first floor terrace, new refuse store, timber fence and other associated works."* An associated application for Listed Building Consent was submitted at the same time. These applications were referenced 2015/6802/L 2015/6619/P respectively. Both applications were granted by decisions dated 26 January 2016.

SECTION 4: THE APPEAL PROPOSAL

- 4.1 The appeal proposes the change of use of the lower ground floor of the application site from office use (Use Class B1) to restaurant use (Use Class A3) to create a new pizzeria restaurant on the lower ground floor of 47 Marchmont Street. The lower ground floor is predominantly vacant although part of the lower ground floor is already in A3 use associated with Burger and Shake at ground floor as granted under planning and listed building applications (LPA Refs: 2015/6802/L and 2015/6619/P (referenced within the preceding section) and has not been in meaningful use for a considerable period of time. The internal condition of the lower ground floor comprises exposed brick and bare floors.
- 4.2 To facilitate the new restaurant use, an existing poor quality conservatory at the lower ground floor is to be demolished and a new rear extension with a similar glazed roof is proposed in its place. The existing restaurant storage room and plant room towards the rear at lower ground floor level will be extended by knocking through an internal wall. This room will be accessed via a lobby area, which will also provide access to two new customer toilet facilities.
- 4.3 The proposed pizzeria style restaurant will be run as a separate entity and will be a wholly separate restaurant and use from the existing Burger & Shake restaurant on the ground floor. Notably:-
- It will be a clearly defined, separate, planning unit;
 - It will have a separate entrance;
 - It will have its own dedicated signage, kitchen and waiting staff;
 - It will have its own dedicated branding and website;
 - It will have its own separate cooking area;
 - It will have its own separate refuse arrangements;

- It will have a wholly different food offer to the restaurant on the ground floor.

4.4 Further discussion on the separation of the two uses is contained later within this statement.

4.5 Whilst the proposed restaurant and the existing restaurant at ground floor will be separate entities, it was initially intended that customers in the pizzeria restaurant would be able to order food from Burger & Shake above should they wish, and vice versa. Accordingly, in order to accommodate this, a food lift is proposed between the ground floor and the lower ground floor. However, this arrangement has been reviewed in light of the Council's first reason for refusal and is discussed latter within this Appeal statement in respect to the Appellant's response to the first reason for refusal.

4.6 At the front of the property at lower ground floor level the existing air conditioning unit under the stairs is to be retained. Similarly, the two vaults under the pavement at lower ground floor level are to be retained for storage purposes. A new pizza oven is proposed, however the new oven extract will be connected to the existing extract ducting internally, ensuring no new extract unit is required.

4.7 All new building works will be in materials to match the existing and proposed high quality windows using an appropriate style and materials. The design and material details are discussed in more detail within the accompanying Design, Access and Heritage statement submitted with the application. These matters have been accepted by the Council which has granted Listed Building Consent (LPA Ref: 2015/3428/L) by decision dated 8 February 2016.

4.8 The proposal thus seeks to reuse currently vacant space for a new restaurant use which will help underpin the health of the Marchmont Street Neighbourhood Centre, create new jobs and provide new investment into the local economy. The

appealed application also provides for enhancements to an existing listed building, the details of which are set out within the Design, Access and Heritage Statement submitted with the original application.

SECTION 5 HISTORY OF THE APPEALED APPLICATION

- 5.1 The planning application, the subject of this Appeal was registered on 17 June 2015 and given reference LPA Ref: 2015/2757/P by the Council.
- 5.2 An initial site meeting was held with the Case Officer and the Council's Conservation Officer. During the site visit Officers indicated that they did not foresee any issue with the planning application.
- 5.3 Discussions were held between the Appellant's agent (at that time, Signet Planning) and the Case Officer in respect to the key issues and the Council's concerns in respect of the proliferation of A3 uses within the Marchmont Street Neighbourhood Centre. The Appellant's agent highlighted the confirmation within the Council's Supplementary Planning Guidance that the policies relating to the mix of units within the centre applied only to ground floor uses and that the adjacent site did not benefit from an A3 permission (irrespective of how it may be being used) and that the relevance guidance confirms that only lawful uses must be considered.
- 5.4 At no point in these discussions did the Council raise any concern or opinion that the appeal site presented an A3 unit larger than 100sqm.
- 5.5 Subsequently, the Council duly refused the application by decision notice dated 8 February 2016. A copy of the associated Officer's Report is attached at **Appendix 2**. The relevant Officer's report provides the background detail and reasoning for the Council's three reasons for refusal. Therefore, this report together with the decision notice has been used as the basis for the Appellant's assessment of the Council's reasons for refusal.

5.6 The Officer's Report confirms that the proposal is acceptable from a transport perspective. The Officer's report confirms that the Council accepts that the proposal will not result in the loss of any light and privacy to neighbouring properties.

SECTION 6: PLANNING POLICY

6.1 This section of the Appellant's Appeal Statement sets out relevant national and local planning policy relevant to the appeal proposal. In accordance with Planning Inspectorate (PINS) guidance an expansive reiteration of National Planning Guidance is not included.

National Planning Guidance

National Planning Policy Framework (March 2012)

6.2 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and confirms the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 6).

6.4 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications (paragraph 13).

6.5 Paragraph 17 confirms that, within the overarching roles the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These principles include:

- Not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- Proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places the country needs.

- Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- Promote mixed use developments, and encourage multiple benefits from the use of land of urban and rural areas;

6.6 The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth (paragraph 19).

6.7 To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century (paragraph 20). Investment in business should not be overburdened by the combined requirements of planning policy expectations.

6.8 Paragraph 22 of the NPPF states that sites should not be protected for the long-term and where vacant, alternative uses for employment sites should be considered. The paragraph confirms that planning policy should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.

6.9 Planning policies should be positive, promote competitive town centre environments. Local planning authorities should, inter alia:

- Recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.
- Promote competitive town centres that provide customer choice and a diverse retail offer which reflects the individuality of town centres (paragraph 23).

The Development Plan

6.10 For the purposes of Section 38 of the Planning and Compulsory Purchase Act 2004 the statutory development plan comprises The London Plan (Consolidated With Alterations Since 2011) (March 2015), the Camden Core Strategy 2010-2025 (November 2010) and the Camden Development Policies 2010-2025 (November 2010).

The London Plan (Consolidated With Alterations Since 2011) (March 2015)

6.11 Policy 2.9 (Inner London) states that the Mayor will, and boroughs and other stakeholders should, work to realise the potential of inner London in ways that sustain and enhance its recent economic and demographic growth while also improving its distinct environment, neighbourhoods and public realm, supporting and sustaining existing and new communities, addressing its unique concentrations of deprivation, ensuring the availability of appropriate workspaces for the area's changing economy and improving quality of life and health for those living, working, studying or visiting there.

6.12 Policy 4.8 (Supporting a Successful and Diverse Retail Sector and Related Facilities and Services) states that the Mayor will, and boroughs and other stakeholders should, support a successful, competitive and diverse retail sector which promotes sustainable access to the goods and services that Londoners need.

Camden Core Strategy 2010 (November 2010)

- 6.13 The Key Diagram Map 1 confirms the appeal site lies both within the Central Activity Zone and within the defined Highly Accessible Area.
- 6.14 Policy CS1 – (Distribution of Growth) confirms that the Council will promote the most efficient use of land and buildings in Camden by, inter alia, seeking development that makes a full use of its site, taking into account quality of its design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site whilst resisting development that makes inefficient use of Camden’s limited land.
- 6.15 Policy CS3 (Other Highly Accessible Areas) confirms the Council will promote appropriate development in the highly accessible areas of, inter alia, Central London. This is considered to be a suitable location for, inter alia, the provision of food, drink and entertainment uses.
- 6.16 Policy CS5 (Managing the Impact of Growth and Development) confirms the Council will manage the impact of growth and development in Camden through a variety of means. Including, providing uses that meets the needs of Camden’s population and contribute to the Borough’s London-wide role and protecting and enhancing the environment and heritage and amenity and quality of life of local communities. In particular, the Council will protect the amenity of Camden’s residents through a variety of means, but principally, by ensuring that the impact of their occupiers and neighbours is fully considered and requiring mitigation measures where required.
- 6.17 Policy CS7 (Promoting Camden’s Centres and Shops) states that the Council will promote successful and vibrant centres including the Council’s neighbourhood centres throughout the borough to serve the needs of residents, workers and visitors. This includes providing for and maintaining, a range of shops, services,

food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice. Associated Map 2: Town Centres confirms Marchmont Street to be a Neighbourhood Centre.

6.18 Policy CS8 (Promoting a Successful and Inclusive Camden Economy) confirms the Council will seek to secure a strong economy in Camden and seeks to ensure that no one is excluded from its success. The policy confirms that the Council will support Camden's industry by:

- Safeguarding existing employment sites and premises in the Borough that meets the needs of modern industry and other employees, safeguarding the Boroughs' main Industry Area; and
- Promoting and protecting the jewellery industry in Hatton Garden.

6.19 Policy CS9 (Achieving a Successful Central London) confirms the Council recognises the integral character and challenges of Central London and will support Central London as a focus of Camden's future growth in homes, offices and hotels, shops and other uses.

Camden Development Policies 2010-2025 (November 2010)

6.20 Policy DP1 (Mixed Use Development) confirms the Council will require a mix of uses and development where appropriate in all parts of the borough. It states that in considering whether a mix of uses should be sought, the Council will take into account a number of factors, including the character of the development, the site and the area; the extent of the additional floorspace; the need for an active street frontage and natural surveillance; and whether an extension to the gross floorspace is needed for an existing user.

6.21 Policy DP12 (Supporting Strong Centres and Managing the Impact of Food, Drink, Entertainment and Other Town Centre Uses) confirms the Council will ensure that development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

6.22 Policy DP13 (Employment Premises and Sites) confirms the Council will retain land and buildings that are suitable for continued business use and will resist a change to non-business use unless:

- (a) It can be demonstrated to the Council's satisfaction that the site or building is no longer suitable for its existing business use; and
- (b) There is evidence that the possibility of retaining, reusing or redeveloping the site or building for a similar alternative business use has been fully explored over an appropriate period of time.

6.23 DP26 (Managing The Impact of Development On Occupiers and Neighbours) confirms the Council will protect the quality of life of occupiers and neighbours by only granting planning permission for development that does not cause harm to amenity. The policy confirms the factors the Council will consider include:

- (a) Visual privacy and overlooking;
- (b) Overshadowing and outlook;
- (c) Sunlight, daylight and artificial light levels;
- (d) Noise and vibration levels;
- (e) Odour, fumes and dust;
- (f) Microclimate;
- (g) The inclusion of appropriate attenuation measures.

- 6.24 Policy DP28 (Noise and Vibration) confirms the Council will seek to ensure that noise and vibration is controlled and managed and will not grant planning permission for development likely to generate noise pollution or development sensitive to noise in locations with noise pollution unless appropriate attenuation measures are provided.

Supplementary Planning Guidance

Camden Policy Guidance 5 (CPG5)

- 6.25 Section 3 of this document discusses Neighbourhood Centres and states that food and drink uses can make a positive contribution to the character, function, vitality and viability of these centres. Paragraph 3.62 goes on to acknowledge that Neighbourhood Centres will be considered suitable locations for food and drink uses of a small scale that serve local catchments, provided they do not harm the surrounding area.
- 6.26 Section 4 of the Guidance has regard to the Central London Area. It seeks to maintain the mixed use character of the Central London area and protect the retail function of shopping streets. Paragraph 4.83 confirms that Marchmont Street is a Neighbourhood Centre within the Central London Area. The Guidance sets out approach to food, drink and entertainment (“*fde*”) uses and specifies that, on Marchmont Street, there should be no more than 25% *fde* uses, with no premises larger than 100sqm. In addition, the Guidance states that there should be no more than two consecutive “*fde*” uses in a centre.
- 6.27 Section 6 of the Guidance states that food, drink and entertainment uses should be located in areas where their impact can be minimised. Paragraph 6.4 states that for all applications for food, drink or entertainment uses the Council will assess the potential impacts of the proposal on local amenity, the character and function of the area and its overall mix of uses.

6.28 Appendix 3 of CPG5 sets out how to calculate the percentage of uses and frontages, and confirms that the approach and policies apply to only ground floor uses and relates only to the existing lawful use of properties (paragraph 8.6).

SECTION 7: APPELLANT'S RESPONSE THE COUNCIL'S FIRST REASON FOR REFUSAL

- 7.1 The Council asserts that the development would result in the creation of an A3 unit of over 100sqm which would cause harm to the character, amenity, function and vitality of the Marchmont Street Neighbourhood Centre and nuisance to residents contrary to development plan policy. The rationale for this harm is set out at paragraphs 2.8-2.13 of the Officer's Report attached at **Appendix 2**. However, the Appellant considers that the Officer's Report contains no convincing justification for its reasons for refusal of the appeal proposal.
- 7.2 The Appellant's response to the Council's first reason for refusal is separated into four elements:
- i) Is it correct that an A3 unit of more than 100sqm is created?
 - ii) Is it correct that there is a planning policy objection to the creation of an A3 unit of more than 100sqm on the appeal site?;
 - iii) Does the appeal proposal have an unacceptable impact on the character, function and vitality of the Marchmont Street Neighbourhood Centre?
 - i) Does the appeal proposal have an unacceptable impact on the amenity of residents of, and visitors to, the Marchmont Street Neighbourhood Centre?
- 7.3 Each of the above elements of the Appellant's response to the first reason for refusal is set out in turn below.

Is It Correct that an A3 Unit of More Than 100sqm Is Created?

7.3 Paragraph 2.13 of the Officer's Report details how the Council has concluded that an A3 unit of more than 100sqm is proposed. Paragraph 2.13 states:-

“Due to the fact that customers in the basement restaurant would be able to order food from the ground floor restaurant and vice-versa, via the use of a food lift between the two floors, the ground floor and basement restaurants are considered as a single unit. This is despite the fact that two separate restaurant operators will operate out of the ground and basement floors respectively [Our emphasis]. As a result of this, the addition of the floorspace from the basement will increase the size of the unit to 115sqm. This therefore surpasses the 100sqm threshold as set out in CPG5 which sets a limit on the maximum gross floor area for new and expanded food, drink and entertainment uses on town centre frontages that are opposite frontages that contain significant amounts of housing. It is therefore considered that the creation of the A3 unit at basement level is unacceptable as it is contrary [SIC] policy DP12 and the criteria as set out at paragraphs 3.19 and 4.84 of CPG5.”

7.4 The Appellant has already detailed at Section Four the basis as to why the above is incorrect. The appeal proposal will be run as a separate entity (as the Officer's report above acknowledges) and will be a wholly separate restaurant from the existing Burger & Shake restaurant on the ground floor. Notably the appeal proposal:-

- Will be a clearly defined, separate, planning unit;
- Will have a separate entrance;
- Will have its own dedicated signage, kitchen and waiting staff;
- Will have its own dedicated branding and website;
- Will have its own separate cooking area;

- Will have its own separate refuse arrangements;
- Will have a wholly different food offer to the restaurant on the ground floor.

7.5 The Appellant thus considers it wholly incorrect to assert that the appeal proposal should be considered to be part of a larger restaurant associated with the existing Burger & Shake restaurant.

7.6 In addition, the Council does not confirm if the 100sqm threshold is a gross or net figure. The Appellant considers that in terms of the Council's concerns, the 100sqm threshold should relate to a net figure i.e. the area that the customer has access to. It is possible, for restaurants with a large 'back of the house', store and kitchen etc. to be over 100sqm even if the actual dining area is relatively small with a limited number of covers. Logically, it is the amount of area the customer has access to, in particular the size of the dining area and the number of covers that will determine the impact of a restaurant and the intensity of its use. In this respect, the net area of both the proposed pizzeria and Burger & Shake on the ground floor together do not cumulatively exceed 100sqm. This is a further justification that the appeal proposal is acceptable.

7.7 Notwithstanding the above, the Council's argument that the appeal proposal results in an A3 unit of more than 100sqm is solely based on the use of a food lift between the ground floor and the lower ground floor in order that customers of the basement restaurant could order (should they wish) food from the ground floor restaurant and vice versa. To address this, the Appellant is happy to accept a condition prohibiting the use of a food lift between the two floors. On this basis, the Council's concerns in respect to this issue can be addressed. Had the Council invited the Appellant to remove the food lift from the scheme during the application process, the Appellant would have done so. Accordingly, the use of a restrictive condition now can be used to achieve the same aim.

Is It Correct That There Is a Planning Policy Objection to the Creation of an A3 Unit of More Than 100sqm on the Appeal Site?

- 7.8 The Officer's Report at paragraph 2.8 references Policy DP12 (Supporting Strong Centres and Managing the Impact of Food, Drink, Entertainment and other Town Centre Uses) of Camden Development Policies 2010-2025 Local Development Framework. However, Policy DP12 does not prohibit an A3 unit of more than 100sqm within a Neighbourhood Centre.
- 7.9 The explanatory text to Policy DP12 is set out at supporting paragraphs 12.4-12.16. In none of these paragraphs is it stated that an A3 use in a neighbourhood centre should not exceed 100sqm. A copy of Policy DP12 and supporting paragraphs is attached at **Appendix 3**.
- 7.10 Paragraph 2.9 the Officer's Report states that "*CPG5 provides further detail to this policy and notes that the Council will resist schemes that result in:*
- *Less than 50% of ground floor premises being in A1 retail use; or*
 - *More than 25% of premises being in food, drink and entertainment uses;*
 - *More than two consecutive food, drink and entertainment uses; and*
 - *Proposals that result in individual units being larger than 100sqm on frontages that are opposite frontages which contain a significant amount of housing."*
- 7.11 The Officer's report (paragraph 2.13) confirms that the appeal proposals conflict with paragraphs 3.19 and 4.84 of CPG5.
- 7.12 However, paragraph 3.19 of CPG5 relates to sensitive frontages within Camden Town. This is not a paragraph which is relevant to the appeal site. Paragraph 4.84 of CPG5 states:-

“To maintain an acceptable level of convenience shopping, and to ensure that centres have an overall mix of uses, we will resist schemes that result in:

- *Less than 50% of ground floor premises being in A1 retail use; or*
- *More than 25% of premises being in food, drink and entertainment uses; and*
- *More than two consecutive food, drink and entertainment uses.”*

7.13 Paragraph 4.84 of CPG5 therefore does not include any prohibition for A3 uses greater than 100sqm within a Neighbourhood Centre. However, paragraph 2.9 of the Officer’s Report (which references the above paragraphs from CPG5) includes a reference that individual units being larger than 100sqm will be resisted - when CPG5 does not say this. Paragraph 2.9 of the Officer’s Report is therefore misleading and is not based upon a correct and proper review of CPG5.

7.14 The Appellant does note that paragraph 4.86 of CPG5 states that “Neighbourhood centres will be considered suitable locations for food and drink uses of a small scale (generally less than 100sqm) that serve the local catchment, provided they do not harm the surrounding area.”

7.15 However, Paragraph 4.86 of CPG5 does not propose an embargo on A3 units larger than 100sqm within a Neighbourhood Centre it simply suggests that such uses in Neighbourhood Centres will usually be of a small scale. In any event, for the reasons already set out above, the appeal proposal is below 100sqm.

Does the Appeal Proposal Have an Unacceptable Impact on The Character, Function and Vitality of Marchmont Street Neighbourhood Centre?

7.16 The proposed pizzeria style restaurant will provide an additional dining choice for local residents within the Marchmont Street Neighbourhood Centre. This is in

accordance with Core Strategy Policy CS7 (Promoting Camden's Centres and Shops), which seeks to provide a range of uses in Neighbourhood Centres.

- 7.17 Policy CS7 (Promoting Camden's Centres and Shops) confirms that the Council will promote successful and vibrant centres throughout the Borough to serve the needs of residents, workers and visitors. This will include, providing for and maintaining, a range of, inter alia, food, drink and entertainment uses to provide variety, vibrancy and choice. The Appellant therefore considers that the appeal proposal meets the aims and aspiration of Policy CS7.
- 7.18 The appeal proposal will make a positive contribution to the character, function, vitality and viability of the Marchmont Street Neighbourhood Centre. The Marchmont Street Neighbourhood Centre is a suitable location for food and drink uses of a small scale that serve a local catchment, provided they do not harm the surrounding area.
- 7.19 The impact on the vitality and viability of the Marchmont Street Neighbourhood Centre by the appeal proposal is considered to be wholly positive. The Appeal Site, at present, has been vacant for some eight years and provides no meaningful economic contribution to the Centre's vitality and viability. An additional restaurant use will create additional investment within the Neighbourhood Centre, as well as stimulating additional footfall and vitality and viability. As a small unit to be operated by an independent restaurant it is considered the appeal proposal will be of benefit to the Centre.
- 7.20 The appeal proposal complies with the relevant guidance to protect the health and vitality and viability of the Marchmont Neighbourhood Centre. CPG 5 states that within the Marchmont Street Neighbourhood Centre, there should be no more than two consecutive food, drink and entertainment uses along the ground floor frontage. The Appeal proposal complies with this requirement. No. 45 Marchmont Street is a hair salon and therefore has an A1 use class. No. 49

Marchmont Street is 49 Café, which is trading under an A1 use class permission. Therefore, both of the neighbouring premises of no. 47 Marchmont Street at ground floor are A1.

7.21 Appendix 3 of CPG5 confirms that in respect to calculating the diversity of uses within a centre “All calculations should be based upon the existing lawful use of the properties and valid planning permissions with potential to be implemented and refer only to ground floor uses.” (paragraph 8.6). A copy of paragraph 8.6 is attached at **Appendix 4**. As such, being a lower ground floor use, the change of use of the Appeal Site does not affect the diversity of uses within the Marchmont Street Centre for the purposes of Policy DP12 and Guidance CPG5 as it does not result in a change of use of a ground floor premises.

7.22 The Officer’s report confirms the Council accepts that the proposal would not change the number of consecutive A3 units being created in this part of Marchmont Street and that the appeal proposal would therefore pass the tests as set out within Policy DP12 and supplementary planning guidance CPG5.

7.23 There is therefore no justification to assert that the appeal proposal will result in a cluster of A3 uses. The appeal proposal will create a brand new commercial unit (as opposed to the change of use of an existing unit). Therefore, all of the existing retail units within the Neighbourhood Centre are retained. It is not considered that the addition of one A3 unit on the lower ground floor at No. 47 Marchmont Street will have any adverse impact on the Neighbourhood Centre. Instead, the proposal will complement the existing uses and will enhance the vibrancy of Marchmont Street.

7.24 In addition, it is considered the appeal proposal will be likely to give rise to ‘spin-off’ economic benefits as patrons and staff will visit other local shops in the centre as part of a ‘linked trip’ during their lunchbreak or visit etc.

- 7.25 It should also be noted that the appeal proposal simply maintains the status quo of the quantum of restaurant uses within the Marchmont Street Neighbourhood Centre following the granting of permission of an application (LPA Ref: 2015/2156/P) at 59 Marchmont Street, WC1N 1AP for the change of use of the lower ground floor from restaurant (Use Class A3) to a one bed flat including rear bi-folding doors (and which was considered by the same Case Officer as the appeal proposal). The relevant decision notice is attached at **Appendix 5**. This application was granted planning permission on 19 August 2015. Works onsite have now commenced and the restaurant use at 59 Marchmont Street has now ceased. Therefore, the number of restaurants in the Marchmont Street Neighbourhood Centre will remain unchanged as a result of these two applications.
- 7.26 The appeal proposal will be an independent, pizzeria style restaurant. As such it is considered the appeal proposal complies with the thrust of Policy DP10 (Helping and Promoting Small and Independent Shops) which states that the Council will encourage the occupation of shops by independent businesses.
- 7.27 In summary, the Officer's Report provides no justification as to what adverse impact the proposal is asserted to have in terms of its harm to the character, amenity, function and vitality of the town centre and nuisance to residents. To the contrary, the appeal proposal is considered to be entirely beneficial to the health of the Marchmont Street Neighbourhood Centre.
- 7.28 The limited floorspace of the proposed restaurant will ensure that the proposals are compliant with Policy DP12, which ensures that development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

Does the Appeal Proposal Have an Unacceptable Impact on Amenity to Residents of, and Visitors to, the Marchmont Street Neighbourhood Centre?

- 7.29 In respect to the impact on the amenity of neighbouring residents, this issue is also considered in respect to reason for refusal 3.
- 7.30 As an independent food, drink and entertainment use below 100sqm, the appeal proposal is acceptable in principle in amenity terms given its location within a Neighbourhood Centre which is where relevant planning policies seek to direct such uses.
- 7.31 The appeal proposal is supported by an Acoustic Report prepared by PC Environmental. This confirms that the appeal proposal will not have any adverse impact in noise terms. There is no reference within the Officer's Report that the Council's EHO has objected to the findings of this report or has any noise and amenity concerns in respect to the application.
- 7.32 It should also be noted that the appeal proposal does not give rise to a net increase in restaurants within the centre. As stated above, the restaurant at 59 Marchmont Street has secured planning permission under planning application LPA Ref: 2015/2156/P for conversion to a residential use. Notably, at 128sqm this was a larger restaurant than the appeal proposal. This restaurant has now closed and works are underway to convert the unit to a residential use. As such, should this appeal be allowed, it will not result in any net increase in restaurants in the centre. Rather, it simply provides a replacement for the previous restaurant (which was also located at the lower ground floor) which has recently ceased trading.
- 7.33 The appeal site is located within the Marchmont Street Neighbourhood Centre. Within such an environment, residents must accept that noise levels are likely to be higher than a wholly residential area. This is an approach accepted in appeals

elsewhere. In an appeal relating to the Oxted Inn, Station Road, West Oxted dated 9 August 2007 (PINS Ref: APP/M3645/A/07/2037992), the Inspector concluded:

“I agree with the appellant that prospective occupants of a flat directly above a pub within the town centre are likely to expect, or to be aware of, a degree of noise and disturbance from the premises. In such a location, expectations of peace and quiet would, in my opinion, be limited, especially during the evenings”.

7.34 A copy of this appeal decision is attached at **Appendix 6**.

7.35 In an appeal decision relating to an existing JD Wetherspoon site at 84-86 Staines Road, Hounslow dated 7 March 2008 (PINS Ref: APP/F5540/A/07/2043424), the Inspector concluded:

“In my judgement, persons occupying residential accommodation above this shopping parade could be expected to balance a living environment heavily influenced by commercial activity against the advantages of proximity to town centre and public transport facilities”.

7.36 A copy of this appeal decision is attached at **Appendix 7**.

7.37 In an appeal decision dated 15 April 1997 relating to a site at Wealdstone (PINS Ref: T/APP/M5450/A/96/266360/P7), an Inspector concluded that:-

“In any event, the appeal premises are in a District Centre with an established evening economy. People who live in such a location cannot reasonably expect the same degree of tranquillity as might typify a residential estate”.

7.38 A copy of this appeal is attached at **Appendix 8**.

7.39 *In an appeal dated 2 October 1997 relating to a site at 115-117 High Street, Rickmansworth (PINS Ref: T/APP/P1940/A/96/266358/P9) the Inspector concluded that:*

“As regards noise outside the premises, the site is within a town centre where there is already a degree of nocturnal activity and noise. People who choose to live in a town centre must expect a certain level of activity and noise close to their homes. I do not consider that the additional noise that is likely to occur would be unacceptable in this particular location.....”.

7.40 *A copy of this appeal decision is attached at **Appendix 9**.*

7.41 *In summary, the noise report submitted with the appealed application clarifies that the appeal proposal will not have an adverse impact on any sensitive noise receptors or the amenity of local residents. In addition, the site is located within the Marchmont Street Neighbourhood Centre where, as a town centre location, noise levels are expected to be noisier than a suburban location. There is a significant volume of appeal decisions (some of which are referenced above) which supports this position.*

7.42 *The issue of amenity is discussed further with respect to reason for refusal number 3.*

SECTION 8: APPELLANT'S RESPONSE TO SECOND REASON FOR REFUSAL

8.1 *The Council's second reason for refusal relates to the loss of B1 floorspace at the appeal site. The second reason for refusal states that in the absence of a justification demonstrating that the premises are no longer suitable for continued business use the appeal proposal is contrary to Policy CS8 of the Council's Core Strategy and Policy DP13 (Employment Premises and Sites) of the London Borough of Camden Local Development Framework Development Policies.*

8.2 The Council has refused the application on the basis that the Appellant has not provided sufficient justification demonstrating that the premises are no longer suitable for continued business use. The Appellant considers the Council's assessment of this issue to be flawed. Notwithstanding this, the Council has not undertaken any assessment or any form of 'balancing' exercise to consider whether any other material considerations exist which justify the granting of planning permission.

Assessment of the Proposed Change of Use

8.3 *The most relevant policies are CS8 of The Core Strategy (2010), DP13 of the Development Planning Policies document (2010) and Camden Planning Guidance 5: Town Centres, Retail and Employment (September 2013). Other relevant material and considerations include The London Office Policy Review (2012), The Camden Employment Land Study by URS (2014) and LB Camden's Annual Monitoring Reports (AMRs) in respect to the levels of employment floorspace. These later documents are discussed later below.*

8.4 *Policy CS8 (Promoting a Successful and Inclusive Camden Economy) notes that new office development will be directed towards King's Cross, Euston, Holborn and Tottenham Court Road and that 440,000sqm of office space has already been consented at King's Cross and is expected to be built out over the plan period. Consequently, it is noted at paragraph 8.8 of the supporting text to the policy that the future supply of offices in the borough can meet the projected demand and that the Council will consider proposals for other uses of older office premises.*

8.5 *Policy CS8 does not include an embargo against the change of use of existing employment sites.*

8.6 *Policy DP13 of the Council's Development Management Policies document states the Council will retain land and buildings that are suitable for continued business use and will resist a change to non-business use unless:*

a) It can be demonstrated to the Council's satisfaction that the site or building is no longer suitable for its existing business use; and

b) There is evidence that the possibility of retaining, reusing or redeveloping the site or building for a similar alternative business use has been fully explored over an appropriate period of time.

8.7 *Supplementary Planning Guidance CPG5 provides further detailed advice on the circumstances where the Council will allow the release of office accommodation to alternative uses within the Borough at Section 7 of the document. This states:-*

"Camden's Core Strategy sets out the projected demand and planned supply of office floorspace in the Borough. We expect the supply of offices to meet the projected demand over the planning period and as a result we may allow a change from B1(a) offices to another use in some circumstances."

8.8 *The relevance of CPG5 is acknowledged at paragraph 2.4 of the Officer's report.*

8.9 Paragraph 7.4 of CPG5 sets out the considerations involved in such a change of use. Paragraph 7.4 reads:-

"There are a number of considerations that we will take into account when assessing applications for a change of use from office to a non-business use. Specifically:-

- *The criteria listed in paragraph 13.3 of Policy DP13 of the Camden Development Policies;*
- *The age of the premises. Some older premises may be more suitable to conversion;*
- *Whether the premises include features required by tenants seeking modern office accommodation;*
- *The quality of the premises and whether it is purpose built accommodation. Poor quality premises that require significant investment to bring up to modern standards may be suitable for conversion;*
- *Whether there are existing tenants in the building, and whether these tenants intend to relocate;*
- *The location of the premises and evidence of demand for office space in this location; and*
- *Whether the premises currently provide accommodation for small and medium businesses;*

8.10 Subsequent paragraph 7.5 states:-

“When it would be difficult to make an assessment using the above we may also ask for additional evidence in the form of a Marketing Assessment.”

8.11 In respect to the first criteria of paragraph 7.4 the criteria listed in paragraph 13.3 of Policy DP13 of the Camden Development Policies confirms that the Council will take into account whether the site:-

- *Is located in, or adjacent to the Industry Area, or other locations suitable for large scale industry and warehousing;*
- *Is in a location suitable for a mix of uses including light industry and local distribution warehousing;*
- *Is easily accessible to the Transport for London Road Network and/or London Distributor Roads;*
- *Is, or will be, accessible by means other than the car and has the potential to be serviced by rail or water;*
- *Has adequate on-site vehicle space for servicing;*
- *Is well related to nearby land uses;*
- *Is in a reasonable condition to allow the use to continue;*
- *Is near to other industry and warehousing, noise/vibration generating uses, pollution and hazards;*

- *Provides a range of unit sizes, particularly those suitable for small businesses (under 100sqm)*

8.12 The Appellant has therefore considered each of the above criteria and how the appeal proposal complies. Each of the criteria of paragraph 7.4 of CPG5 and paragraph 13.3 of the Camden Development Policies 2010-2025 is now considered below:-

Criteria of Paragraph 7.4 of CPG5

- *The criteria listed in paragraph 13.3 of Policy DP13 of the Camden Development Policies;*

8.13 An assessment of the appeal proposal against the criteria listed in paragraph 13.3 of supporting Policy DP13 is set out separately below.

- *The age of the premises. Some older premises may be more suitable to conversion;*

8.14 The premises are a Victorian listed building and are highly suitable for conversion;

- *Whether the premises include features required by tenants seeking modern office accommodation;*

8.14 The appeal premises are vacant and semi-derelict and contain no features required by a tenant seeking modern office accommodation. The premises contain no kitchenette, toilet facilities, air conditioning services or other facilities. The premises thus do not include any features in respect to modern office accommodation.

- *The quality of the premises and whether it is purpose built accommodation. Poor quality premises that require significant investment to bring up to modern standards may be suitable for conversion;*

8.16 The appeal site is not purpose built office accommodation. The site has not been in use for more than eight years and is semi-derelict. It is in poor state of disrepair and significant works are required in order for it to be utilised.

- *Whether there are existing tenants in the building, and whether these tenants intend to relocate;*

8.17 There are no existing tenants in the appeal site. The site has not been in use for more than eight years;

- *The location of the premises and evidence of demand for office space in this location;*

8.18 The issue of the demand for office space in this location is set out separately later within this section. Up-to-date evidence confirms that Camden has sufficient office stock and supply in the pipeline to accommodate and meet existing and future office needs.

- *Whether the premises currently provide accommodation for small and medium businesses;*

8.19 The premises do not currently provide accommodation for small and medium businesses.

Criteria Listed Within Paragraph 13.3 of the Camden Development Policies

- *Is located in, or adjacent to the Industry Area, or other locations suitable for large scale industry and warehousing;*

8.20 The site is not located in or adjacent to the Industry Area or a location suitable for large scale industry or warehousing.

- *Is in a location suitable for a mix of uses including light industry and local distribution warehousing;*

8.21 The appeal site is located within Marchmont Street Neighbourhood Centre and is not located in a suitable location for light industry or local distribution warehousing.

- *Is easily accessible to the Transport for London Road Network and/or London Distributor Roads;*

8.22 The site is located in close proximity to the London Road Network. However, Marchmont Street itself is a relatively narrow road.

- *Is, or will be, accessible by means other than the car and has the potential to be serviced by rail or water;*

8.23 The appeal site is located in close proximity to Russell Square Underground Station but has no potential to be serviced by rail or water.

- *Has adequate on-site vehicle space for servicing;*

8.24 The site has no onsite servicing space or parking areas for vehicles.

- *Is well related to nearby land uses;*

8.25 The appeal site is located within a Neighbourhood Centre and has residential uses in close proximity. There are no other B1 uses at lower ground floor within the Marchmont Street Neighbourhood Centre which is a reflection of the inappropriateness of such a use in respect to nearby land uses.

- *Is in a reasonable condition to allow the use to continue;*

8.26 The site is vacant and semi derelict and has been empty for more than eight years. The site cannot be occupied at the current time without significant refurbishment works being undertaken.

- *Is near to other industry and warehousing, noise/vibration generating uses, pollution and hazards;*

8.27 The appeal site is not located near to other industry and warehousing, noise/vibration generating uses, pollution and hazards.

- *Provides a range of unit sizes, particularly those suitable for small businesses (under 100sqm)*

8.28 The appeal site does not provide a range of unit sizes although it is a small unit by virtue of its constrained size and location.

Summary

8.29 In respect to the above relevant criteria, this section demonstrates that the site is no longer suitable for its existing business use. This section also demonstrates

that the Appellant has considered over a period time, i.e. the lead up to the application that there is no possibility of retaining, reusing or redeveloping the site for alternative business use.

8.30 Given the constraints of the existing building and the fact that it has not been in use for more than eight years, we do not consider it difficult to make an assessment as described in CPG5 paragraph 7.5. As such formal marketing information should not be required. On this basis, it is considered that the appeal proposal meets the relevant criteria required by relevant Development Plan Policy and Supplementary Planning Guidance and that a grant of planning permission is justified.

8.31 Notwithstanding the above, it is a fundamental tenet of the planning system that should material considerations exist which justify a grant of planning permission contrary to development plan policy, then a grant of planning permission is justified. Accordingly, set out within the rest of this section, are details of relevant material considerations which presume in favour of a grant of planning permission.

Material Considerations Which Presume in Favour of a Grant of Planning Permission

8.32 The Council has not undertaken any form of 'balancing exercise' to assess whether or not there are other material considerations which would justify the grant of planning permission. This is a fundamental flaw in the Council's assessment and evaluation of the application. Aside from the benefits highlighted in the preceding section, it is considered that there are various economic reasons and material considerations associated with the proposal which presume in favour of a grant of planning permission Namely:-

1. The appeal site is unsuitable for employment use.
2. The appeal site benefits from a previous (now lapsed) planning permission for a change of use;
3. The premises have not been in employment use for a significant period of time.
4. A greater number of jobs would be created through the use of the appeal site as a restaurant.
5. The change of use will have no meaningful impact on the Council's current supply of employment floorspace.

8.33 Each of these matters are considered in turn below.

The Appeal Site's Suitability for Employment Use

8.34 The appeal site is principally vacant/derelict, being stripped back to bare brick and bare floor and has not actually been in use for at least eight years. It is likely that the site may well have been not in use for longer than this but the Appellant cannot confirm this as this was prior to its ownership.

8.35 The appeal site is long and narrow and is illuminated only by the window in the lightwell at the front and the window at the rear. This narrow, deep arrangement creates poor internal light conditions which in turn, provide a poor quality working environment

8.36 There is no heating or cooling system within the appeal site, nor is there any toilet or sanitary facilities or kitchenette. There is no raised floor or skirting or perimeter trunking along the floor for any wires and cabling.

- 8.37 Furthermore, there is no flexibility of the layout for tenants, partly due to its listed status and partly due to its small size and restricted windows on the front and rear. There is no ability to create more than one self-contained unit and it is considered the lower ground floor is overall in a very poor condition offering very poor energy efficiency.
- 8.38 The appeal site is not located within an industrial area or a designated business area. The site has no great flexibility for other business uses, and has a small useable area and no area for large vehicle use.
- 8.39 It is therefore not practical for use by service vehicles, nor is it suitable for light industrial uses with its proximity to residential premises and low ceiling height. The appeal site has a lack of good general access. Indeed, staff and customer access to the property is via a steel stairwell.
- 8.40 Given the listed nature of the building it is not possible to significantly change the internal arrangements or to significantly change the front entrance arrangements.
- 8.41 The Council does acknowledge within the Officer's report that some features of the unit may make it unattractive to a potential office tenant (paragraph 2.7).
- 8.42 In this context, it is also relevant to note that within the whole of the Marchmont Street Neighbourhood Centre there are no other office or other employment uses at lower ground floor level. This infers/reflects the inappropriateness of such a use at lower ground level within the Centre.
- 8.43 Overall it is considered that the appeal site does not provide a good opportunity for employment space and the site is therefore not considered suitable for business use.

The Change in Use of the Appeal Site Has Previously Been Granted

8.44 It is relevant to note the principle of the change of use of the appeal premises resulting in the loss of the B1(a) office use was assessed under applications LPA ref: 2010/0847/P and LPA ref: 2010/0849/L and found to be acceptable. In the case of these applications, 45 neighbours were consulted and a site notice erected and no objections were received. In the associated Officer's Report, the Officer concluded that the site does not possess the flexible design features suitable for an alternative business use. The Officer's Report (see **Appendix 10**) stated that *"given the relatively small amount of floorspace, 75sqm and the fact that the building is a Grade II Listed, which would make alterations for a flexible use difficult, it is not considered that the site is suitable for any use other than office (B1)"*.

8.45 It is notable that the Officer's report in respect to the appealed application when considering this previous permission at paragraph 2.1 has fundamentally misinterpreted the previous Officer's report. At paragraph 2.1 of the Officer's report it states that the Officer's report for the previous planning permission (i.e. LPA Ref: 2010/0847/P) noted that:-

"Policy E2 allows for the loss of office premises, as an exception to the general rule, in areas where there is a surplus of office accommodation with a preference for a change of use to residential and/or community uses. It has been acknowledged that this area does not [our emphasis] have a surplus of office accommodation given the large number of recent developments of purpose built, modern office accommodation."

8.46 The above is a factually incorrect. The paragraph actually reads:-

"Policy E2 allows for the loss of office premises, as an exception to the general rule, in areas where there is a surplus of office accommodation

with a preference for a change of use to residential and/or community uses. It has been acknowledged that this area does have a surplus of office accommodation given the large number of recent developments of purpose built, modern office accommodation.”

- 8.47 You will note that critically the word “not” is not included in the previous Officer’s report. This fundamentally changes the meaning of the whole paragraph. Officers have therefore misinterpreted the previous Officer’s report which again, may have influenced Officers in terms of their refusal of the appealed application.
- 8.48 It remains the case that the principle of the loss of the employment floorspace at the appeal site has previously been considered and granted.

The Use of the Premises

- 8.49 The Appellant asserts that the change of use as the appeal site does not, in reality, result in any ‘real’ loss of any current B1 office floorspace as the site has not been in B1 use for a considerable period of time having been vacant/semi derelict for in excess of eight years. It is likely that the appeal site has been vacant for more than eight years as the site was vacant when the Appellant purchased it at this time.
- 8.50 On the basis that the appeal site has not been in meaningful use for at least eight years, it has not contributed to the Council’s supply of employment land during this time. As such, given the site has not been in meaningful use for a considerable period of time, the loss of the floorspace should not detrimentally effect the supply of employment land within Camden.

Job Creation

- 8.51 The Appellant's proposed use of the site as a pizzeria is expected to create in the order of 10 jobs split six full-time and four part-time. Taking into account the area of floorspace available once a kitchenette and toilet are included gives a job creation figure under the relevant HCA 2015 guidance of 3/4 jobs. As such, it is actually the case that a greater number of jobs will be created through the pizzeria operation than if it was a B1 use. This is a further key material consideration which weighs in favour of a grant or planning permission.

Employment Land Supply in Camden

- 8.52 A key material consideration in the consideration of the appeal proposal is whether, the appeal proposal will unacceptably affect current employment land supply within LB Camden. If it can be demonstrated that the change of use of the appeal site has no meaningful impact on employment land supply within Camden or that there is no shortage of employment land within Camden, this will be an important consideration which would support a grant of planning permission.
- 8.53 It is the Appellant's case that the appeal site does not adversely affect the supply of employment land both current and forecast within LB Camden and that LB Camden has sufficient employment land both at present and in the future in terms of its forthcoming pipeline.
- 8.54 Accordingly, this section of the Appellant's statement considers employment land supply within Camden. In order to assess this, the Appellant has reviewed the Council's evidence base on employment use – namely the Camden Employment Land Study (2014) and Camden's latest Annual Monitoring Report 2014/15 (2016). We have also reviewed the London Borough of Camden's employment land in the wider context of London, with reference to the London Office Policy Review (2012). This latter document is considered first.

London Office Policy Review (2012)

- 8.55 The London Office Policy Review (LOPR) was commissioned by the Mayor of London and informs current policy, based on its findings of the state of the office market.
- 8.56 The London Office Policy Review 2012 confirms that office supply in London is in excess of the projected demand for the period to 2031 (page 124). The relevant extract from this document is included at **Appendix 11**.

London Borough of Camden Employment Land Study (2014)

- 8.57 The London Borough of Camden Employment Land Study (2014) (CELS) is the principle document detailing employment land supply within the borough.
- 8.58 The CELS confirms that there are a number of different office markets that operate within Camden – the Central London office market, the Camden Town office market and the outer London Camden office market. These areas are distinctive sub-markets and generally attract different types of occupiers. It is relevant to understand the role of each in order to assess and understand the impact of the appeal proposal on employment land supply in LB Camden.

Central London Office Market

- 8.59 The Central London office market is geographically described as:-

“At its northern extent, the part of the CAZ that lies within LB Camden extends from British Land’s Regent’s Place in the west to King’s Cross and St Pancras in the east; while at its southern extent it runs from Cambridge Circus to the west, Kingsway Holborn Viaduct in the east”

- 8.60 The appeal site falls within the Central London office market area, but is located within an area dominated by university related uses rather than office uses. It is also outside but adjacent to the Holborn Growth Area, one of five areas which Camden has identified for growth. These growth areas are expected to provide *“a substantial majority of new business floorspace in the period to 2024/25”* (Policy CS2 of the Camden Core Strategy).
- 8.61 Whilst outside the Central London office market, the Appeal Site does fall into the area known by commercial agents as ‘Midtown’. The (CELS) indicates that between 2008-2013, the annual take up in Midtown has been around 176,000sqm. The CELS states:- *“the growing stock of modern offices in Midtown has succeeded in attracting a stronger base of corporate occupiers”*
- 8.62 The range of occupiers taking up B1 space in Midtown illustrates a demand for a relatively large amount of corporate space. In the past, Midtown has provided a low cost alternative to the City or West End. However, rental costs in Midtown are now competitive with both areas. In 2014, the CELS confirmed a relatively large amount of second hand space.

Camden Town Office Market

- 8.63 Camden Town sits adjacent to the Central London market area. Despite the proximity to Central London, the CELS confirms that Camden Town has *“remained in essence a secondary office market location”*. There is relatively little large, modern, corporate office space and the bulk of the office market comprises of converted light industrial buildings. Consequently, the area’s stock of office space is varied in terms of condition, age, unit size and leasing terms, which provides for a wide range of occupier requirements.

8.64 The CELS suggest that office provision in Camden has remained stable and whilst there has been pressure for small commercial premises to be redeveloped for residential uses, there is still a demand for smaller offices, in particular, studios, start up space and for micro businesses with good quality space available.

Workspace Hubs and Small Business Space

8.65 Whilst there is little interest in office space in Outer London Camden, the vast majority of workspace provision is located in this area. Notably, Kentish Town is a focus for providing workspace for start-up, micro and small businesses often for creative industries.

8.66 Such provision is typically located in former industrial buildings providing large shared floorplates or small individual workspace for start-ups, and micro-businesses.

Key Conclusions of CELS

8.67 It is acknowledged that Midtown is an established Central London sub-market and one that has undergone a great deal of change in recent years. The document confirms that it now contains a stock of c3.8 million sqm of office accommodation including, two very large railway land schemes namely, the Kings Cross Development (now well underway with major pre-lets to Google and BNP Paribas) which has a further 300,000sqm of potential development and a second scheme at Euston where there is a potential upwards of 300,000sqm of speculative development. The CELS confirms that Midtown currently has some 100,000sqm of speculative schemes under construction with around 150,000sqm of available space of which one third is new or newly refurbished accommodation. The relevant development pipeline shows that planning permissions granted in 2013 equal some 307,000sqm (net).

- 8.68 In addition, it was noted that there were five further schemes under construction during this period totalling some 91,654sqm (net). The report concludes that, from a borough wide perspective, demand and supply (through redevelopment and new development sites) is found to be broadly in balance.
- 8.69 The CELS confirms that the demand forecasting exercise found that LB Camden is expected to experience demand for approximately 695,000sqm of office floorspace for the period 2014-2031. The majority of office floorspace demand is expected to be for large, high quality offices in the Midtown area, and in and around Kings Cross, Euston, Tottenham Court Road and Holborn as the expectation is that Central London office market will continue to grow in importance. The majority of this growth will therefore be around the Kings Cross Opportunity Area, the Euston Opportunity Area, the Tottenham Court Road Growth Area and the Holborn Growth Area.
- 8.70 It is confirmed that there is significant capacity in the Midtown Opportunity areas and growth areas to accommodate demand over the plan period. As such, there is nothing within the CELS 2014 which would suggest that the Appeal Site must be retained in employment use or that its change of use away from employment use would prejudice the Council's overall employment strategy.
- 8.71 Relevant extracts from the London Borough of Camden – Employment Land Study 2014 Final Report are attached at **Appendix 12**.

The Camden Annual Monitoring Report 2014/15

Completed Office Development in Camden (2008-13)

- 8.72 The Annual Monitoring Report (AMR) confirmed that in 2014/15 a total of 125,476sqm of B1 floorspace was completed and 72,272sqm was removed resulting in a net gain of 52,204sqm of B1 floorspace. The report confirms that

trends in B1 floorspace have shown over the last five years a gain in B1 floorspace of approximately 44,593sqm. It was noted that the largest scheme of B1 floorspace was the completion of 6 Pancras Square in King's Cross Central (2011/4713/P) which provided a net gain of 41,035sqm of B1a floorspace.

- 8.73 The previous AMR for 2013/2014 reported that in 2013/14 a total of 57,948sqm of B1 floorspace was completed and 7,354sqm of B1 floorspace was removed, mostly due to change of use at development. This resulted in a net gain of 54,590sqm of B1 floorspace in 2013/14.

Office Commitments in Pipeline

- 8.74 The AMR also provides information on new office development which is permitted but which has not yet been developed. The AMR confirms that Camden has a good supply of future office floorspace. The London Development Database indicates some 582,755sqm of floorspace of B1 floorspace has planning permission across Camden. This is to be predominantly located in King's Cross, where 455,510sqm of B1 space is permitted under the planning application for the King's Cross Opportunity Area (LPA Ref: 2004/2307/P). In the remainder of Camden some 109,397sqm of B1 office space has been permitted.

Office to Residential – Permitted Development

- 8.75 Since Permitted Development Rights to allow a change of use from B1(a) Offices to C3 Residential came into force on May 2013, the Council has granted a total 115 Prior Approval applications totalling 66,692sqm of office floorspace. It is noted though at paragraph 14.7 of the AMR that not all of these schemes will be implemented.

8.76 These losses have now been significantly stemmed through the Councils' designation of Article 4 directions across the Borough. These directions cover significant parts of the borough including the removal of the whole of Camden Town, as well as Kilburn, Hampstead, Swiss Cottage, West Hampstead, Highgate among others.

8.77 As such, any Council concerns over the loss of employment floorspace through the Prior Approval procedure is misplaced. The floorspace lost, is significantly offset by the level of supply coming forwards and critically the Council has now introduced Article 4 directions throughout the Borough to address its concerns in this regard.

Summary

8.78 The relevant evidence base demonstrates there are three distinctive office markets within the London Borough of Camden. These office markets have developed due to occupiers having different requirements for their premises which shape where they choose to operate within the Borough.

8.79 The appeal site does not meet the requirements of any of these three key office markets operating within the Borough. Whilst being located within the Central London office market, the very small size and poor quality of the appeal site ensures it will not attract a corporate occupier looking for high quality office space in Central London.

8.80 The appeal site is also unlikely to appeal to small and medium enterprises (SMEs) given that it's within an area historically, and still predominately, occupied by the London universities and academics. It may be asserted by the Council that the appeal site could be used as secondary floorspace for smaller start-up firms. It is more likely that SMEs would find more suitable premises in either Camden Town, where there is a variety in type and quality of premises, or Kentish Town where

there is a growing hub of start-up and micro businesses. There is also greater likelihood in these areas for SMEs to find premises where they would share spaces with similar businesses.

8.81 Overall it is considered the change of use of the premises should be considered to be acceptable (as it has previously) in terms of the relevant planning policy background.

8.82 A review of Camden's latest AMR has shown that there is a significant amount of B1 floorspace which has been permitted across the borough with a significant volume in the pipeline. This indicates there is a sufficient level of B1 office floorspace to meet current and future requirements within the borough.

SECTION 9: APPELLANT'S RESPONSE TO THIRD REASON FOR REFUSAL

- 9.1 The Council's third reason for refusal is that the Acoustic Report submitted with the application fails to adequately demonstrate that the operation of the restaurant would maintain an acceptable quality of amenity for neighbouring occupiers. The basis for this objection is considered to be wholly without merit.
- 9.2 The Appellant's response to this reason for refusal should be read in conjunction with the Appellant's response to the Council's first reason for refusal which also considers the issue of amenity.
- 9.3 In the consideration of this application, the Appellant has given detailed consideration as to the impact of the proposals on the amenity of current and future occupants of residential properties and has submitted a robust accompanying Acoustic Report.
- 9.4 Paragraph 4.2 of the Officer's Report states:

"The Acoustic Assessment Report submitted in support of this application, which considers the potential noise from adjacent plant on the existing, neighbouring residential uses, states at paragraph 2.6 that 'access to neighbouring residential properties was not possible' in order to take sound insulation performance readings from the adjoining premises. However, both the residents of the basement dwellings at No. 45 and No. 49 both noted in their objections that no attempt had been made to take readings from their premises. Paragraph 28.3 in support of Policy DP28 states that the Council will require an Acoustic Report to ensure compliance with BPG24 (now superseded by the National Planning Practice Guidance). Paragraph 003 of the Noise Guidance states that Local

Planning Authorities should identify whether the overall effect of the noise exposure is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation. It is therefore considered that it would be prudent for the Applicant to gain access to the adjacent basement premises to carry out additional acoustic information to support their application. This additional acoustic information should therefore be provided in order to satisfy the requirements of Policy DP26 and DP28.”

- 9.5 Subsequent paragraph 4.3 of the Officer’s report goes on to state that no detail or discussion has been provided in either the Planning Statement or Acoustic Report in terms of the increased number of customers that will use the premises.
- 9.6 The Appellant submitted an Acoustic Report prepared by PC Environmental with the appealed application. This confirms that subject to appropriate mitigation, the proposed application is acceptable in terms of noise impact and that no additional noise attenuation measures are required to meet nationally accepted acoustic design criteria and the specific requirements of LB Camden.
- 9.7 It is notable that the Council’s uses the word “prudent” rather than “essential” In terms of visiting next door properties to take measurements, this was not considered essential as a knowledge and indication of the construction of the party wall is known. Details of the party wall and proposed insulation is contained within the Acoustic Report (paragraph 2.6).

“Many of the properties in Marchmont Street were built in the 19th Century and as such the construction of the lower ground floor walls is substantial. It is further understood that the party wall on either side of 47 Marchmont Street each comprise very thick brickwork with each wall being a solid brick construction no less than 450mm thick, with plaster both sides giving a total mass per unit area of some 960kg/m2. Although the sound insulation

performance of the walls could not be tested, comparing the mass of these walls with those required to achieve minimum requirements of Building Regulation standards show that the expected sound insulation of the party walls is very high.”

9.8 The Acoustic Report goes on to confirm (paragraph 3.10):-

“Details of the existing wall constructions are such that the walls themselves are of a very substantial construction, considerably in excess of those that would be required to meet the minimum requirements as set out in Building Regulations “Approved Document E (2010)”. This document contains guidance of the likely wall mass that is required to achieve minimum standards of insulation for a “new-build” property (i.e. to achieve an airborne insulation (DnT,w+Ctr) be45 dB or greater requires a wall mass of some 375-415kg/m²). In addition to this, to provide additional acoustic insulation, it is also proposed that an additional two layers of acoustic plasterboard, resiliently mounted to the existing structure be applied to the inner face of each of the party walls. Given the intended wall construction will now be, as a minimum, a double wall with overall mass greater than 960kg/m², the expected sound insulation performance will be in excess of 52dB (DnT,w+Ctr) and as such the neighbouring properties will be well insulated from the proposed lower ground floor restaurant.”

9.9 The Acoustic Report does therefore confirm that the proposed insulation, is well in excess of what might be required through normal Building Regulations. This, is further evidence that the proposal is acceptable from a noise perspective.

9.10 In planning policy terms, a small restaurant of the size proposed is acceptable in principle within a Neighbourhood Centre. Accordingly, there is no reason to suggest that the appeal proposal will cause any concern to local residents. The acceptability of the appeal proposal is well established by the precedent set by

the number of other restaurants within the Neighbourhood Centre and the significant number of larger restaurants incorporated within the adjacent Brunswick Centre which also has significant levels of residential flats above.

9.11 In terms of the proposed operation of the appeal site there is nothing specific about the proposed restaurant which would give rise to noise concerns. The restaurant is small with a limited number of covers, meaning that it is not proposed to be an intensive use. The proposed restaurant is much smaller than the majority of the restaurants within the adjacent Brunswick Centre. Furthermore, there is no intention to have live music or any form of sound system in the property. Such matters can be conditioned in any event. As such, there is nothing to suggest that the operation of the appeal proposal will be anything other than a small, low intensity restaurant within the existing Marchmont Street Neighbourhood Centre.

9.12 In respect to potential other sources of noise, the existing Burger & Shake restaurant has existing air conditioning and ventilation plant in the front lightwell and kitchen ventilation/extraction plant to the rear. As there is sufficient spare capacity within the current HVAC systems and no additional mechanical plant and equipment is required to serve the lower ground floor. As a result, no new noise sources through new plant will be introduced.

9.13 In regards to potential amenity impact on surrounding residential properties, there are already residential units in close proximity which coexist without incident with the existing ground floor restaurant and it is entirely common for residential units to be located in close proximity to restaurants (either directly over, underneath or adjacent) as is the case with many of the restaurants within the Marchmont Street Neighbourhood Centre. Furthermore, the ground floor of the premises has been a restaurant for a considerable period of time, (circa 30 years).

- 9.14 It is also valid to note that the existing business use of the site is unrestricted and is an open B1 use which could include any light industrial use. As such, there is nothing which prohibits the existing premises being utilised as, for example, some form of workshop on a 24-hour basis. This “*fall back*” position is a relevant material consideration and pertinent to consideration of the appeal.
- 9.15 In addition, as already discussed, planning permission has previously been granted on the site (LPA Ref: 2010/0847/P) for the residential use of the ground floor when the ground floor was as a restaurant. No concerns were raised by the Council to this arrangement. Furthermore, within the Marchmont Street Neighbourhood Centre there are many residential properties at upper floors above existing restaurants or in close proximity to restaurants. This is also notably the case in the adjoining Brunswick Centre where there are numerous resident restaurants with residential properties at upper level.
- 9.16 Should the Inspector have further concerns regarding this issue, a condition relating to soundproofing or noise levels can be attached. The Appellant does not consider this necessary given the significant thickness of the party walls, but is happy to accept a condition should the Inspector consider this necessary.

SECTION 10: THIRD PARTY REPRESENTATIONS

10.1 Two third party objections were received to the application. Both of these submissions are very similar and raise the same issues. Indeed, much of the two objections are identical and as such appear to have been written together in collusion and do not appear to be independent objections. The two objectors are from number 45 and 47 Marchmont Street, the adjoining lower ground floor flats on either side of the appeal site. The objections raised by the third parties are as follows:-

Noise

10.2 This issue is considered previously in this Statement and it is not intended to reiterate the comments already made.

10.3 Both residents raise concern over the potential for the rear garden to be utilised as part of the proposed restaurant. It is not intended for this to be the case. However, should the Inspector be concerned over this matter, a condition prohibiting this could be attached in this respect.

Fire Issues

10.4 Both objectors raise concern over fire risk as well as also, raising concern regarding their own fire escape routes. Issues to do with fire safety are not a matter of planning control and are not a material consideration in the assessment in this appeal. Furthermore, any inadequacies in respect to the adjoining neighbour's property in respect to fire escape routes is also not a matter of relevance to the Appellant.

Loss of Light/Privacy

- 10.5 Both residents raise a concern in respect to loss of light or privacy. Neither of these matters are considered to be adversely affected by the proposal which does not result in any significant new build exclusion. It is noted that the Officer's Report accepts that there is no loss of light or privacy to surrounding occupiers.

Over Abundance of Food and Drink Entertainment Uses

- 10.6 This has been considered earlier in this Statement already and as such, there is no need to reiterate this information at this juncture. The objectors' interpretation of the relevant uses of the Appeal Site and surrounding properties is inaccurate. There has been no change in the planning use of the premises for more than 50 years. An existing Certificate of Lawfulness confirms the ground floor of the premises has been in restaurant use for now more than 30 years. As such, the objectors' comments regarding the number of consecutive food, drink and entertainment uses of this part of Marchmont Street is erroneous and is not based on any correct interpretation or assessment.

SECTION 11: OTHER RELEVANT ISSUES

- 11.1 This section of the Appeal statement deals with other general planning issues associated with the appeal proposal which weigh in favour of a grant of planning permission.

Presumption in Favour of Sustainable Development

- 11.2 It is confirmed the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 6). Paragraph 7 confirms there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:
- 11.3 Paragraph 8 confirms that these roles should not be undertaken in isolation because they are mutually dependant. In order to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. It is confirmed that at the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 11.4 The appeal site comprises previously developed land and is therefore a brownfield site. The appeal proposal provides a new economic use and new investment within the Marchmont Street Neighbourhood Centre creating jobs and a social facility for visitors and local residents. The Council has accepted that the appeal proposal has no adverse impact on any heritage assets. As such, the development of the appeal site represents sustainable development by virtue of the recycling of previously developed land.

11.5 On the basis that the appeal site represents sustainable development, there is as set out above a presumption in favour of the grant of planning permission. This weighs heavily in favour of the proposal.

Improvements to Burger & Shake

11.6 Burger & Shake is a successful 'American style' barbeque restaurant (Use Class A3) currently occupying the ground floor of the unit. At ground floor level, the appeal proposal includes a new rear extension to incorporate an additional toilet.

11.7 As such, the planning application provides qualitative improvements to an existing restaurant facility within the Marchmont Street Neighbourhood Centre. As such, the qualitative improvements to this popular restaurant are a material consideration which weighs in favour of the application.

SECTION 12: CONCLUSIONS

- 12.1 This appeal focuses on the proposed change of use to the lower ground floor of 47 Marchmont Street, WC1 from vacant floorspace to a new independent pizzeria.
- 12.2 The appeal proposal will make a positive contribution to the character, function, vitality and viability of Marchmont Street Neighbourhood Centre.
- 12.3 The appeal proposal seeks to bring currently vacant floorspace back into beneficial use. The appeal site is currently vacant and is has been accepted previously by Planning Officers of the London Borough of Camden (LB Camden) to have no internal features of historical merit. It is considered that the appeal proposal is of considerable benefit to LB Camden, representing sustainable development and providing a more efficient and better use of the application site.
- 12.4 An assessment of three reasons for refusal confirms that the Council's case is considered to be without basis. The Appeal accords with relevant policies seeking to promote the health of Neighbourhood Centres within Camden. It is considered the appeal proposal will be of significant benefit to the vitality and viability of the Marchmont Street Neighbourhood Centre. Furthermore, it is considered that the appeal proposal complies with relevant policies of the Development Plan relating to the change of use of employment floorspace to another use. In addition, it is considered there are significant material considerations which presume in favour of a grant of planning permission.
- 12.5 The use of the site as a pizzeria restaurant is considered to result in a greater number of job creation than were the site to be used for a solely B1 use.
- 12.6 In respect to relevant heritage and design matters, the scheme is considered acceptable and Listed Building Consent for the works was granted by decision

dated 8 February 2016 (LPA Ref: 2015/3428/L). As such the Council raises no other matters of concern other than contained within the reasons for refusal.

12.7 Neither is it considered the proposed rear extension will have any adverse effect on neighbouring properties or result in unacceptable living conditions for the proposed occupiers.

12.8 Overall, it is considered the appeal proposal is of significant merit and it is respectfully requested that the appeal is allowed.