



Appeal Statement:

Prepared by Drawing and Planning Ltd.

December 2016

Planning Application Reference: 2016/2896/P

Address: 1A Glastonbury Street, London, NW6 1QJ

Planning Appeal on behalf of: Cape Property Holdings Ltd

Appeal Proposal: Redevelopment of the site to provide a 3 storey 2 bedroom dwellinghouse with basement (following the demolition of commercial garage premises) with associated cycle storage and amenity space.

Appeal Case Statement

<u>Contents</u>		<u>Page</u>
1.0	Introduction	3
2.0	Site and Area Analysis	5
3.0	Background to Appeal	7
4.0	Planning Policy Context	11
5.0	Grounds for Appeal	17
6.0	Conclusion	29

Appendices

Appendix 1:	Informal dialogue with case officer pre-submission of application
Appendix 2:	Email to case officer confirming independent review of submitted BIA
Appendix 3:	Final letter to case officer highlighting merits of scheme
Appendix 4:	Case officer confirming that legal agreement offered by applicant cannot be engrossed
Appendix 5:	Draft s106 Agreement for the provision of car-free development, with contributions towards public highways & Construction Management Plan
Appendix 6:	Suggested Revised Plans showing increase in basement floor to ceiling height

Appeal Case Statement

1.0 Introduction

- 1.1 Drawing and Planning have been instructed by the appellant, Cape Property Holdings Ltd, to prepare a statement of case to support an appeal against the London Borough of Camden's decision to refuse planning application referenced 2016/2896/P. The appealed scheme proposes the redevelopment of the site to provide a 3 storey, 2 bedroom dwellinghouse with basement (following the demolition of commercial garage premises) with associated cycle storage and amenity space at 1A Glastonbury Street, London, NW6 1QJ.
- 1.2 The appeal submission should be read in conjunction with the original application forms, planning, design and access statement (PDAS) with accompanying appendices and energy statement. The application was decided by the local planning authority (LPA) at delegated level and forms the second application relating to the development of the site and follows an informal pre-application process.
- 1.3 The appeal site was formerly occupied as a commercial car garage (B2 use class), with the site becoming vacant over a year ago with little interest in continuing such a use.
- 1.4 This statement will set out the policy compliance of the proposed change of use having regard to the National Planning Policy Framework and the relevant Development Plan Policies.
- 1.5 The primary objectives of this appeal statement are to demonstrate that:
- Whilst the site and former use was marketed for a commercial use, there was little interest in purchasing or leasing the site;
 - The design of the scheme and its impact on the surrounding area including potential impact on neighbouring properties is considered appropriate;
 - The appeal proposal creates a satisfactory relationship with properties located in Ravenshaw Street when considered alongside the findings of the daylight and sunlight report;
 - The proposed living conditions are reflective of modern standards and the appellant has made concerted efforts to address daylight and sunlight impacts of the development;
 - The provision of a basement would not undermine the structural stability of the adjoining terraced row of houses. In accordance with the Council's validation requirements, a Basement Impact Assessment was submitted in support of justifying the proposed works.

Appeal Case Statement

- The requirement for a Construction Management Plan, a unilateral undertaking to enable a car-free development and a contribution towards public highway works are matters that are not objected against by the appellant and can be addressed by condition and/or a s106 agreement;
- The proposal endorses Central Government Guidance contained within the National Planning Policy Framework (NPPF) together with the relevant policies contained the London Plan 2015 (FALP) and the London Borough of Camden LDF Core Strategy, LDF Development Policies and the policies taken from Fortune Green & West Hampstead Neighbourhood Plan. The appeal proposal was also considered alongside a suite of Supplementary Planning Documents.



The Appeal Site

Appeal Case Statement

2.0 Site and Area Analysis:

- 2.1 The appeal site comprises of a single storey building which has functioned as a commercial car garage (B2 use class). The footprint covers the entirety of the site with the use being vacant since last year.
- 2.2 The building is in a state of significant disrepair, and evidence of its current state can be found in the appendices enclosed as part of the planning submission (reports from Howe Chartered Surveyors and Ellis and Moore Structural Engineers) and as noted within the planning, design and access statement accompanying the original application. In short, the building requires significant works to bring its condition to a presentable standard.
- 2.3 The site is triangular in nature, sited between the two terraces of Ravenshaw Street and Glastonbury Street. Whilst the site has its limitations in terms of its tapering boundaries, the site plot area, is considerably wider than the average terraced house in the area. The vacant business use and building are at odds with the prevailing established residential character of the vicinity.
- 2.4 The surrounding context, whilst being largely residential, is further influenced by the Victorian primary school, Beckford Primary School, which is Grade II listed and occupies the majority of the block to the north of the appeal site. The site falls within the borough's urban area as defined by the Council's policies map.
- 2.5 The surrounding houses are broadly uniform in terms of their type, age and size in that they are Victorian family houses, carrying minimal variation in terms of their style and scale. The house immediately adjacent to the proposal site is of a different proportion to others within the terrace owing to it being a double fronted property with a lower ridge level and having a shallower plan form.
- 2.6 The site is sustainably located given its proximity to West Hampstead Underground and Mainline stations, both of which are a short walk to the south east of the property. The stations provide residents with direct routes into and out of Central London. There are also a variety of bus services, providing local connections to key destinations. A desk based search of the application site confirms a PTAL rating of 2 but the site also falls close to areas that carry a 3 and 4 PTAL rating.
- 2.7 Photographs of the appeal site can be found under figures 2-6 of the submitted Planning, Design and Access statement.

Appeal Case Statement

Relevant Site History

- 2.8 Only one planning application is relevant to the appeal site and it relates to the first attempt to acquire planning permission for the demolition of a car mechanics garage and change of use to residential. Akin to the appeal application, the scheme was refused on similar grounds - see below for further details.

Application Number	Description	Decision & Date
2014/7654/P	Change of use & redevelopment of site, including works of excavation to provide a 3 storey with basement (1x3 bed) dwelling house (following the demolition of commercial garage premises).	Application refused for reasons of design, amenity, insufficient demonstration of a sound BIA, lack of the relevant section 106 agreements.

- 2.9 The planning register does not reveal any further applications or appeals of relevance to this site.

Pre-Application History

- 2.10 The appellant sought informal pre-application advice for a new dwellinghouse at 1a Glastonbury Street following the refusal under 2014/7654/P with a view to seeking further clarification and to discuss with the Council, the appeal site's development prospects. The main comments raised by the case officer focused on the following matters:

- The officer noted the scheme to be too large for the plot;
- The design did not match the existing terraced street scene nor was of a modern design;
- The side/rear elevations represents a large expanse of blank wall without any windows;
- The proposed scheme was a gross overdevelopment and adversely impacted the amenity of adjacent dwellings
- Given the potential parking issues a 'car-free development' could be acceptable to overcome these issues.
- Concerns were raised over adequate amenity/lighting of the proposed basement.
- It was advised that the appellant should consider a design consultation exercise with local residents on any new scheme in advance of submitting an application.

3.0 Background to Appeal

- 3.1 The appeal scheme was registered as a full planning application by the London Borough of Camden on 17th June 2016. Whilst revised drawings were not provided during the process of the application, the appellant's agent was in continuous contact with the appointed planning case officer to ensure that any matters arising were appropriately addressed. A concerted effort was therefore made to address any issues during the statutory assessment period.
- 3.2 The email dated 14th July 2016 (see appendix 2) suggests that the Council were not supportive of the development despite the improvements made in response to the pre-application advice, albeit informal. It was evident that along with the improvements to the design, scale and layout of the scheme, the appellant made reasonable efforts to undertake a neighbour consultation exercise and was content with a legal agreement being entered in view of supporting a car-free development should permission be granted (see appendix 2).
- 3.3 A further letter prepared by the agents, DAP, on behalf of the applicant on 5th August was sent to the case officer in response to some three points raised by the case officer in an email exchange a few weeks before the target determination date. The letter rebuts all three points raised, namely, the proposed loss of a business use, impact to amenity and the quality of accommodation. The key points of that letter have been included in this statement owing to their importance (see appendix 3).
- 3.4 Despite best efforts to address the Council's key concerns during and before the application stage, the appeal application was refused on 10th August under delegated powers. It is important to note that the Council, opted to mirror the objections from the previous application applied for under reference 2014/7654/P; thereby suggesting that no improvement whatsoever was made in deciding this application, which contradicts some of the views raised at a pre-application stage. The reasons for refusal for convenience are repeated below:

“1. The proposed development, by reason of the loss of employment floorspace in the form of a vehicle repair garage (Class B2) which remains suitable for continued use, would fail to support economic activity in Camden particularly small and medium sized businesses and would result in the loss of employment opportunities within the Borough contrary to policy 12 of the Fortune Green & West Hampstead Neighbourhood Plan, policy CS8 (Promoting a successful and inclusive economy) of the London Borough of Camden LDF Core Strategy and policy DP13

Appeal Case Statement

(Employment sites and premises) of the London Borough of Camden LDF Development Policies.

2. The proposed building, by reason of its inappropriate detailed design and poor use of materials fails to relate to the context of the adjoining terrace to the detriment of the character and appearance of the surrounding area, contrary to policy 2 of the Fortune Green & West Hampstead Neighbourhood Plan, 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 DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.

3. The proposed building, by reason of its height and proximity to the neighbouring properties, would result in a material level of harm to the living conditions of the adjoining occupiers on Ravenshaw Street by way of an overbearing effect, increased sense of enclosure and a significant loss of outlook. Thus, it would be contrary to policy CS5 (Managing the impact of growth and development) the London Borough of Camden Local Development Framework Core Strategy; and Policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

4. The proposed dwelling, by reason of the inadequate level of outlook and sunlight and daylight, the lack of external amenity space and the low ceiling height within and poor provision of sunlight, daylight and outlook from the habitable basement rooms in particular, would result in a sub-standard quality of living accommodation that would fail to provide an acceptable level of residential amenity for the prospective occupiers, contrary to policies CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

5. The Applicant has failed to demonstrate that the proposed basement development would maintain the structural stability of the building and neighbouring properties and avoid adversely affecting drainage and run-off or causing other damage to the water environment avoid cumulative impacts upon

Appeal Case Statement

structural stability or the water environment in the local area contrary to policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP23 (Water) and DP27 (Basements and lightwells) of the London Borough of Camden Local Development Framework Development Policies.

6. The proposed development, in the absence of a legal agreement to secure a Construction Management Plan, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP20 (Movement of goods and materials) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

7. The proposed development, in the absence of a legal agreement to secure a car-free development, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and would fail to provide access for people with mobility difficulties, contrary to policies CS6 (Providing quality homes), CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policy DP18 (Parking standards and the availability of car parking) of the London Borough of Camden Local Development Framework Development Policies.

8. The proposed development, in the absence of a legal agreement to secure contributions towards public highway works would be likely to harm the borough's transport and public realm infrastructure, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Core Strategy DP16 (The transport implications of development), DP17 (Walking, cycling and public transport) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies.”

Appeal Case Statement

3.5 This statement will discuss the merits of the appeal proposal together with the issues raised within the Council's reasons for refusal. Where deemed relevant, there may be some degree of overlapping on issues. As such this appeal considers the following issues:

- **Whether or not the loss of employment floorspace would have a harmful impact on the borough's economy;**
- **Whether or not the appeal premises have undergone a marketing exercise in view of exploring retention of a business use;**
- **Whether or not the proposed design and scale would have a detrimental impact on the character and appearance of the area;**
- **Whether or not the proposed development would adversely impact the general living conditions to residents in Ravenshaw Street;**
- **Whether or not the proposed development would offer a sub-standard quality of living accommodation;**
- **Whether or not the proposed basement level would have a detrimental impact on the structural integrity of the building in addition to offering suitable drainage solutions;**
- **Whether or not the provision of legal agreements to secure a construction management plan, a car-free development and a financial contribution towards public highway works are reasonably necessary for the purposes of granting planning permission;**
- **Other material considerations.**

4.0 Planning Policy Context

CENTRAL GOVERNMENT GUIDANCE

- 4.1 A broader policy analysis is included within the accompanying Planning, Design and Access statement. This section directly addresses policies which are relevant to the Council's reasons for refusal. Policies from both sets of documents are directly relevant and are set out to demonstrate policy compliance.

National Planning Policy Framework (NPPF)

- 4.2 The National Planning Policy Framework (NPPF) document sets out the Coalition Government's most up-to date vision for future growth. It is considered that the appeal proposal adheres to the aspirations of the document. Relevant sections of the document are highlighted below.

- 4.3 The Ministerial Foreword highlights that ***"sustainable development is about positive growth – making economic, environmental and social progress for this and future generations"***. The opening statement goes on to state that ***"Development that is sustainable should go ahead, without delay."***

- 4.4 There are three aspects which comprise sustainable development; these are the economic role, the social role and the environmental role. In terms of the economic aspect land has to be made available where there is a demand to support growth. The environmental role involves the protection of the natural, built and historic environment.

- 4.5 Paragraph 17 of the NPPF sets out the core planning principles. Of particular relevance to the proposed development the document states that Council's must look to:

"proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth and;

- 4.6 Paragraph 22 states:

"Planning policies 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,

Appeal Case Statement

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."

4.7 Applications should be considered in the context of the presumption in favour of sustainable development. Local authorities should deliver a wide choice of high quality homes. The mix of housing should take account of future demographic and market trends, differing needs and local differences.

4.8 Paragraph 58 states that local planning policies and decisions should aim to ensure developments optimise the potential of sites in order to accommodate development.

4.9 Paragraph 60 explains that:

"Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness."

4.10 Paragraph 61 continues to stress the importance of design and high quality and inclusive design:

"Although visual appearance and the architecture of individual buildings are very important factors, securing high quality design and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and integration of new development into the natural, built and historic environment."

The London Plan 2015 (with further alterations)

4.11 The London Plan (with further alterations) provides the Spatial Development Strategy for Greater London.

4.12 The London Plan provides minimum space standards which are applied to new residential developments. Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment in order to protect and enhance London's residential environment and attractiveness as a place to live. The newly adopted London Plan space standards were implemented in October 2015. Of particular relevance are the changes to the standards set out under table 3.3 and the space standards relating to 2 bed – 4 person units which advocates a minimum floor area of 83 sqm.

Appeal Case Statement

- 4.13 Policy 7.4 Local Character states that development should provide a high quality design response that has regard to:

- “a) The pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass;***
- b) Contributes to a positive relationship between the urban structure and natural landscape features, including the underlying landform & topography of an area;***
- c) Is human in scale, ensuring buildings create a positive relationship with street level activity and people feel comfortable with their surroundings;***
- d) Allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area”***

- 4.14 Policy 7.6B states that buildings and structures should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy and overshadowing.

- 4.15 The London Plan Housing SPG advocates double and single bedrooms to be 11.5 and 7.5 sq.m respectively.

LOCAL PLANNING POLICY

Camden's Core Strategy

- 4.16 For the purposes of this planning application the statutory development plan comprises the adopted Camden Core Strategy adopted (2010). The Council's reasons for refusal refer to policies CS5, CS6, CS8, CS11, CS14 and CS19 of the Core Strategy.
- 4.17 **Policy CS5** (Managing the impact of growth and development) deals with the impact of growth in Camden. The policy states that particular consideration will be given to protecting and enhancing our environment and heritage and the amenity and quality of life of local communities.
- 4.18 **Policy CS6 (Providing quality homes)** deals with the Council's objective of making use of Camden's capacity for housing and identifies a need over the whole plan period for 8,925 homes with an additional target of 6,550 being promoted in view of maximising the supply of additional housing in the borough.
- 4.19 **Policy CS8 (Promoting a successful and inclusive Camden economy)** seeks to secure a strong economy in Camden. Criterion B seeks to safeguard existing employment sites and premises in the borough that meet the needs of modern industry and their employers. Part 'C' goes on to state:

Appeal Case Statement

“We will expect a mix of employment facilities and types, including the provision of facilities suitable for small and medium sized enterprises, such as managed, affordable workspace”

- 4.20 **Policy CS11 (Promoting sustainable and efficient travel)** is a policy that focuses on sustainable transport choices where walking, cycling and public transport should be promoted. The policy focuses on improving all three modes.
- 4.21 **Policy CS14 (Promoting high quality places and conserving our heritage)** focuses on promotion of allowing proposals that are sympathetic to the residential character, finding a preference for developments that appear respectful of established building lines in addition to the prevailing architectural styles in addition to the impact on neighbouring properties.
- 4.22 **Policy CS19 (Delivering and monitoring the Core Strategy)** fundamentally sets out the duties and key role of the Core strategy as an adopted policy document. The duties include working with relevant providers to ensure that the necessary infrastructure is secured to support Camden’s growth. Part ‘b’ recognises that planning obligations are the preferred method to support sustainable development; infrastructure, services and facilities generated by development and lastly, to mitigate the impact of development.

Camden's Development Policies

- 4.23 **Policy DP13 (Employment premises and sites)** the policy seeks to protect such businesses irrespective of their location, and resist a change to non-business use, unless it can be satisfied that the site or building is no longer suitable for its existing business use. This is dependent on evidence which also explores the possibility of retaining, reusing or redeveloping a site or building for similar or alternative business. The advisory timeframe as mentioned in the policy amplification is 2 years. However, policy fails to take into consideration the merits of each individual case.
- 4.24 **Policy DP17 (Walking, cycling and public transport)** states that the Council will promote walking and cycling as well as public transport modes. Development should make suitable provision for pedestrians, cyclists and be well designed into the development with a firm focus on resisting developments that rely on the private motor vehicle.
- 4.25 **Policy DP18 (Parking standards and limiting the availability of car parking)** deals with both car and cycle parking on site in the borough.

Appeal Case Statement

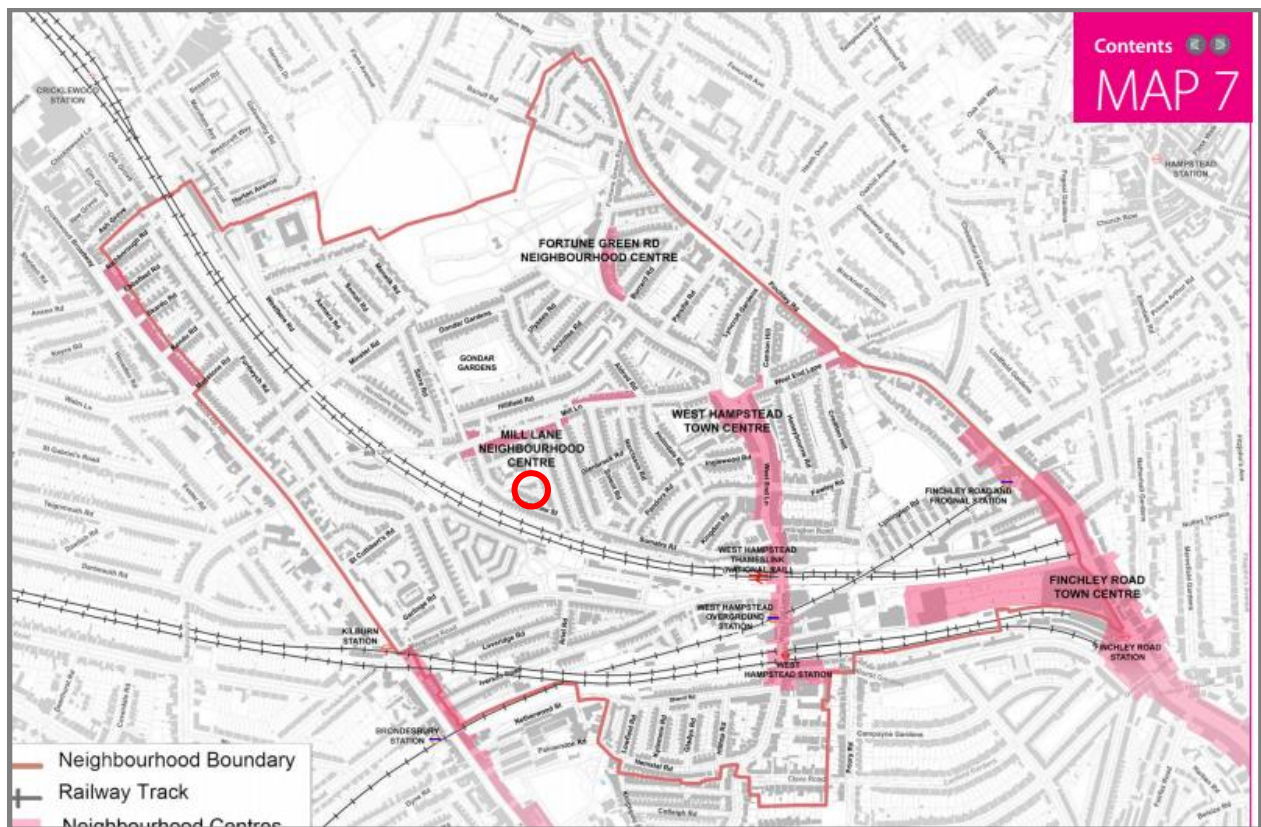
- 4.26 **Policy DP20 (Movements of goods and material)** is set out to minimise the movement of goods and materials by road together with reducing the impact of the movement of goods and materials by road.
- 4.27 **Policy DP21 (development connecting to the highway network)** is focused on applying good access and parking standards in order to maintain highway standards.
- 4.28 **Policy DP23 (Water)** focuses on ensuring that water consumption, the pressure on sewer networks and the risk of flooding are all matters which are reduced.
- 4.29 **Policy DP24 (Securing high quality design)** states that the Council will require all developments, including alterations and extensions to existing buildings, to be of a high standard of design and will expect developments to follow this to ensure that quality finishes are applied to a variety of aspects.
- 4.30 **Policy DP26 (Managing the impact of development on occupiers and neighbours)** deals with how the Council will protect the quality of life for occupiers of neighbouring properties, dealing with issues such as overlooking, visual privacy, overshadowing, outlook together with sunlight and daylight impacts.
- 4.31 The policy should be read in conjunction with **Policy DP27 (Basement and lightwells)** whereby the Council states that in determining proposals for basement and other underground development, an assessment of the scheme's impact on drainage, flooding, groundwater conditions and structural stability will be examined.

Fortune Green & West Hampstead Neighbourhood Plan

- 4.32 The Fortune Green and West Hampstead Neighbourhood Plan was adopted in August 2014. Its policies form part of the decision making process. The Council in two of their reasons for refusal (Nos.1 and 2) have referred to policy numbers 2 and 12 of the Plan.
- 4.33 **Policy 2 (Design and Character)** advocates that all development shall be of high quality of design, which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead. In doing so, the policy outlines 12 criteria with the key themes underlined by the need for development to have a positive contribution to the character of the area in addition to paying attention to form, height, function, orientation, general pattern and grain of surrounding buildings together with there also being a presumption against basement development more than one storey. The policy also advises that infill development should be in character and proportion with existing development and its setting in addition to also promoting active engagement with the community.

Appeal Case Statement

- 4.34 **Policy 12 (West Hampstead Town Centre)** requires development to protect and enhance the village character of the Town Centre as a mixed retail area with a diverse range of shops and businesses. The policy goes on to state that there will be a presumption in favour of protecting and enhancing the character of the Town Centre, with significant areas falling in a Conservation Area. Apart from advocating support of development proposals for small/independent shops and businesses, the policy does not set out a test for retaining a business use.
- 4.35 For clarification purposes, the map shown below highlights the location of the appeal site in relation to the neighbourhood plan boundaries in addition to the proximity of the site to the West Hampstead Town Centre – which will be discussed in further detail in the next chapter of this statement.



Fortune Green and West Hampstead Neighbourhood Plan – Map 7

5.0 Grounds for Appeal

- 5.1 This section sets out the grounds for appealing the scheme in turn having regard to the 8 reasons for refusing the application.

Whether or not the loss of employment floorspace would have a harmful impact on the borough's economy;

- 5.2 The Council's opening reason for refusal addresses two separate points which focus on firstly the recognition that there is a need to protect small business units (under 100sqm) as advocated by DP13 and the failure of the appellant to demonstrate an effective marketing period. The latter is dealt with separately.
- 5.3 Policies CS8 and DP13 are applied borough-wide unless stated otherwise. The LPA have sought to take a blanket approach to resist the loss of light industrial units, which, in this case has placed the individual merits of the case as secondary items. However, the case is reliant on the facts of the matter. These facts amount to support for the loss of the business use as now demonstrated. For instance, it is fact that the area is predominantly residential in character with the presence of a primary school located on the opposite side of the road. It is also fact that the car repair business would be typically reliant on the parking and manoeuvring of vehicles at the site in what is a controlled parking zone, at all times of the day on a sharp corner of a road. It is fact that these uses typically generate noise from the comings and goings of traffic, vehicles being revved during the day, pollution being generated and trade waste amounting to more than that of the typical household.
- 5.4 Finally, the lawful business use has ceased trading for a considerable period of time and ever since that point, the plot has been marketed with *very little* interest. Whilst this point is elaborated in the next paragraph, the fact that the business is no longer profitable would suggest that the location for this use is no longer viable. When all these collective facts are factored and through the application of current policy and guidance advocating the avoidance of car ownership & giving support for sustainable modes of transport, in addition to the important safety factors that arise from the unit opening directly onto the public footpath, there is a firm case that supports the loss of the pre-existing business use
- 5.5 The principle of a residential use will afford the Council the right to request a car-free development, provides for much needed housing in the borough and London with incorporation of renewable technologies, the ability to introduce a responsive design, scale & built form and see the removal of the existing utilitarian and unsympathetic garage building. These factors alone suggest that a residential use is clearly a favourable one

Appeal Case Statement

- 5.6 Policy 12 relates to the Fortune Green and West Hampstead Neighbourhood Plan which was referenced in the Council's first reason for refusal. However, this policy seeks to 'promote' as opposed to 'protect' existing business uses. Furthermore, its title would suggest that it applies to West Hampstead Town Centre, of which the appeal site is some distance from and so its inclusion within the Council's reason is somewhat dubious.
- 5.7 Policy DP13 provides flexibility and accepts that in some situations, the loss of a business use is justified. It is unclear from the case officer's report when assessing the application, why the case for the loss of garage was not considered substantial enough as a significant amount of evidence was provided regarding the condition of the garage and its saleability as an ongoing concern. The very material considerations that are outlined above for this appeal do not form material issues in the Case Officer's assessment, in the appellant's opinion, when covering this issue (see paras 2.1 to 2.8 of the Case Officer's report).
- 5.8 Paragraph 21 of the NPPF states that 'Planning policies 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. 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 communities'.
- 5.9 The site is also defined as 'previously developed land' upon which a new residential use should be viewed more favourably. As per the policy direction it is considered the appellant has sufficiently demonstrated that the site has no reasonable prospect of continuing to operate in its current use or as another commercial unit. This was demonstrated through the submission of a detailed report by Howe Chartered Surveyors (HCS) in March 2014 providing a professional opinion as to the value of the site in its current state and saleability to the open market and the report by structural engineers, Ellis & Moore before this in October 2011 (commissioned by council when council owned the land) detailing the poor physical condition of the garage. The contents of these two independent reports coupled with extensive marketing (refer below) of the site at a fair market price for a commercial use resulted in little to no interest.
- 5.10 It is worth noting that a pre-application albeit for a different design was submitted and the Council's response in June 2014 stated the following:
- The subject property is currently serving as a motor repairs garage and has done so for a significant period of time. The application site is not however located within an

Appeal Case Statement

employment centre, local or town centre nor is it designated. Although Policy DP13 seeks to protect such businesses irrespective of their location, it is noteworthy that the configuration of the current building makes it difficult for the nature of the business to function let alone grow and develop, nor be used easily for a different operation. Furthermore the business is not ultimately fundamental to the growth and development of the area. The change of use of the application site and the provision of an additional residential unit is therefore not objectionable in principle.

It is evident from the Council's comments that the site was already considered constrained and of lesser value than those in designated employment centres; this site was a windfall site that was not calculated as part of the Borough's supply of existing floor space that needed to be retained. Furthermore the officer opined that there was no objection to the change of use of this application and it was partly on his basis that the applicant proceeded with making an application for a residential unit on this site.

- 5.11 The report entitled "London Borough of Camden Business Premises Study" Final Report March 2011, which was commissioned by Council, concluded as follows in regards to the category of industrial building into which the appealed scheme falls:

"Category 3

The third category covers sites which are heavily compromised. They are characterised by poor access, incompatible neighbouring uses and too-high site coverage, often close to 100%.

If a unit can only be serviced by light vehicles, because of small doors, narrow streets etc, it is unlikely to be suitable for the majority of the industrial market in Camden. This includes many mews properties or those units where access is through low archways (as sometimes promoted in mixed use schemes). Added to this is the proximity of incompatible neighbouring uses and restrictive operational hours.

On Category 3 sites, when buildings reach obsolescence or require major repair it is not financially viable to invest in them, because repairing, altering or replacing the building will not resolve the fundamental problems relating to its location. So, when this point is reached in the building's lifecycle, it is likely that the only way to bring the site back into use is to redevelop it for another use.

Category 3 sites may be no longer suitable for industrial use. If they are vacated by existing occupiers and the existing buildings are in good enough condition, they might attract new tenants - although, as discussed ...this may be difficult. But, once the buildings become obsolete or need major repair, the investment that would make them fit for purpose again is not financially viable.

Based on this analysis, and in line with the LDF policies ... we would suggest the following approach when industrial sites come forward for redevelopment:

Industrial sites that are not fit for purpose ('suitable') according to the criteria set out earlier ...should be considered for release to other uses. If the applicant can demonstrate that access is unsatisfactory, the site is too close to incompatible uses, and/or the building requires investment which is not financially viable, the Council may agree to release the site without a market test.

Appeal Case Statement

- 5.12 Shortly after the study above was published and the Ellis & Moore structural engineer's report commissioned by Council determined the site was structurally unsound, the Council put the site up for auction in February 2012 together with a planning statement which seemed supportive of a change of use. This appeared to show that the Council had determined the site was no longer suitable for commercial industrial use, thereby releasing it for development for other uses in accordance with the recommendations of the report. It should be borne in mind that the re-instatement of the existing garage use would result in a greater unneighbourly relationship with surrounding properties than the proposed residential use on site largely due to the noise, disturbance and engine/car related smells that would emanate from the garage. In this regard it would be better for the site and surrounding area to have a 'cleaner' residential use than a car garage.
- 5.13 It can be concluded that the loss of a vacant and low quality building in a state of structural disrepair would not have a demonstrable impact on the local economy in terms of the availability of light industrial/commercial units, particularly awkwardly shaped plots with low ceiling heights in clearly defined residential settings. As supported by the report from Howe Chartered Surveyors, it is suggested that even in the event that an alternative business use – under an alternative planning class were to occupy the building, there would be considerable cost implications to bring the building up to current standards which would not be financially viable.

Whether or not the appeal premises have undergone a marketing exercise in view of exploring retention of a business use

- 5.14 The site, prior to submitting the application, had been vacant for almost 6 months and at the time of submission had been marketed for a period of at least 1 year with marketing of the site having commenced in May 2015. The site continues to be marketed as a commercial business and at the time of writing this amounted to a period of 18 months of marketing. The marketing of the site comprised of:
- 2 no. photographic adverts placed in the Kilburn Times newspaper in the July 2015 and the August 2015 editions whereby the site was offered on both a freehold and leasehold basis - in both the print edition and the online edition;
 - a comparatively large marketing board advert on site which remains there today;
 - the appointment of a commercial sales agency, Grant Mills Wood, to market the site which included the following:
 - Online advertising whereby the site was listed on the Grant Mills Wood website which presented viewers with multiple photographs, site location via Google Maps and site particulars in a downloadable PDF format.
 - Listing the site on CoStar/Focus websites; a portal used by UK property professionals to research, analyse and acquire office, industrial and retail space.
 - Regular emails to applicants registered on the Grant Mills Wood database and subsequently each new applicant looking for a similar size property.

Appeal Case Statement

There was little interest in the site due to its condition and location. The reality of the situation is supported by reports undertaken by both Ellis and Moore Engineers who provided an assessment on the condition of the existing structure in 2011 and by chartered surveyors HCS in March 2014 who provided a detailed opinion on the condition and suitability of the site for future commercial use.

5.15 Local policy is clear on the period of marketing, advocating a minimum of 2 years although the Business Premises Study report referred to above proposes 18 months so there exists a variation of opinions on the duration of the marketing period. However, as suggested earlier in this statement, the council has failed to consider the material considerations pertaining to this particular site and in some cases, a period of two years of consistent marketing cannot be achieved for particular reasons such as placing weight on 2 independent reports suggesting the site is unsaleable in its current state and is in conflict within its residential setting. Notwithstanding this a period of 12 months of marketing the site is considered sufficient to demonstrate, in this case, that there were no end users to either lease or purchase the freehold of this site.

5.16 It can be concluded that the site has been marketed for a significant degree of time to which there has been little interest for its lawful business use. Furthermore, the building owing to its condition would need significant improvements – it has been suggested by Howe Chartered Surveyors that a cost (inclusive of VAT) of between £45,000 and £145,000 would need to be spent to demolish and rebuild a replacement commercial building depending on the type of building and the specification. Whilst marketing is one aspect, however, when considered with other material factors on site, a balanced judgement should be made and a flexible, common sense approach should be taken.

Whether or not the proposed design and scale would have a detrimental impact on the character and appearance of the area

5.17 The Council's second reason for refusal focuses on the design of the proposed dwelling citing inappropriate detailed design and poor use of materials. The appeal scheme was designed in reflection of the existing terraced row of properties neighbouring the site and in the vicinity. The design proposed was such that it would have matched the form and appearance of the Victorian terraces and would have used materials to match these properties. In any case, if the Council had concerns over the materials then this could have been addressed by a suitable condition requiring details of materials to be submitted for approval prior to starting the works. The appellant accepts that the building would offer an alternative height to the established terrace row, however, this feature of the design is not uncommon in terraces, especially where there is already differentiation in roof height. A stepped roof form happens to be a feature of this particular row.

Appeal Case Statement

5.18 The appellant has already explored the option of incorporating a modern design at the site but this would not have worked as it would have appeared too abstract hence the incorporation of a more traditional design. However, equally in the interests of amenity, the scale and height warranted a reduced built form given the site's proximity to surrounding properties. It is the appellant's opinion that the appeal proposal adopts a balanced approach to both issues. The contextual 3D drawing submitted with the application showed a dwelling design that was consistent in form, appearance, scale and materials with a less prominent roof. It is difficult to fathom how this design could be improved any further without appearing overly modern.

5.19 It is also worth noting that a pre-application albeit for a different design was submitted and the Council's response in June 2014 stated as follows:

The current building which is single storey in nature comes hard to the footpath, and is of an entirely different form to the adjoining terrace, for which all properties benefit from compact proportionate front gardens...it would be a more welcome development if the proposed building(s) were to recess to align with the terrace In any prospective submission, the design would need to integrate successfully with No.1 and the remainder of the adjoining terrace and surrounding area.

The appealed scheme has incorporated Council's recommendations and set the building line to be aligned with the adjoining terraces and integrated with the surrounding area.

5.20 Towards the rear of the house, the angled wall will not form an 'obvious' feature when the site is viewed from the public realm. In the same way that the existing building has an angled wall, this feature would afford best use of the site in terms of the usability of this irregular plot. The case officer's criticism (para 4.5 of the delegated report) that this feature would appear blank is unfounded as this intentionally avoids any direct overlooking. Equally, no direct objection is made to the principle of the angle of the wall as part of the Council's assessment. The appeal scheme simply sought to make effective use of a brownfield site without compromising on design and negatively impacting the adjacent neighbours. As such, it can be concluded that the scheme presents a marked improvement to the vicinity and complies with principles of policies CS5, CS14 and DP24.

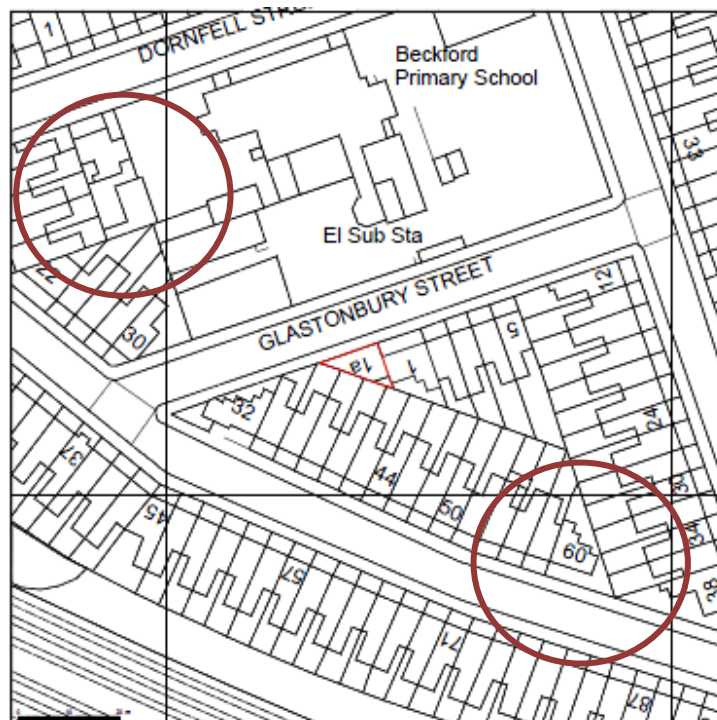
Whether or not the proposed development would adversely impact the general living conditions to residents in Ravenshaw Street;

5.21 The Council's third reason for refusal raises concern over the impact of the development to neighbouring residents of Ravenshaw Street. The appellant has made concerted efforts to engage with local residents to address any concerns that may arise from the

Appeal Case Statement

development. The information in connection with this was submitted as part of (and can be found at Appendices 6a, 6b & 6c) of the planning, design and access statement for the original application.

- 5.22 The Council have, in this instance, singled out the appeal scheme based on the principle of the development, consisting of two-storeys above ground which would be built to the shared boundary. The site is located in an area where medium to high density dwelling ranges exist. The Victorian terraces are typically comprised of larger building to garden ratios to seek best use of the land. The distances often are impeached by outriggers to the rear of these properties and it is noted that the properties in Ravenshaw Street are typically Victorian and feature two-storey projections at the rear. It is accepted that these might serve habitable rooms and the Council make their assessment on this being the case. However, this is where the lower roof form and reduced proportions strike a balance. It is not accepted that the distances being promoted are out of character. The OS extract, below, for the scheme alone highlights the existence of similar building relationships. The 'sense of enclosure' is not considered to be negative feature, as it can often enhance the character and provide a sense of privacy, especially to private amenity areas. This is further aided by the fact that the houses in Ravenshaw Street are angled, therefore not affording a wide degree of outlook and hence no direct views of the proposed wall. Conversely, the reduction in width of the current dwelling when compared to the first application is a material revision, which the Council failed to suitably acknowledge in their assessment and decision.



Appeal Case Statement

5.23 The appeal scheme sought to reduce the visual impact of the flank fall on the rear of properties along Ravenshaw Street through the proposed planting of a 'green wall' – a design concept taken from a resident following a series of neighbour consultations. Other changes at the request of neighbours included alterations to the shared boundary wall with that of the Ravenshaw Street properties. The appellant also committed to ensuring that the basement would be constructed in a safe & well supervised fashion including on-site project management and full compliance with Building Regulations. The appellant would not object to a condition which requires full landscaping details including details of the green wall to be submitted and approved by the Council were the Inspector minded to allow the appeal.

5.24 In addition to the above, it is also worth noting that as part of the aforementioned pre-application response, the Council states that:

In terms of overlooking and loss of privacy impacts, although the rear of the property especially at first floor would encroach towards the rear of properties at Ravenshaw Street, given the juxtaposition of the oblique angles between proposed openings and those existing on Ravenshaw Street, the impacts endured are unlikely to be overly significant.

It is clear to see from the above comments that the relationship of the proposal to the neighbours most likely to be affected was not considered an issue to warrant reason for refusal. In light of this the applicant is aggrieved that in designing a scheme of lesser scale, the Council still consider that the neighbours would be harmed by the development.

5.25 The above point is further compounded by the fact that, for completeness, the appellant commissioned a daylight, sunlight and overshadowing assessment which found no significant impact on neighbouring properties. The appeal scheme aims to leave sufficient distance between the proposed dwelling and the neighbouring properties and would not adversely harm the enjoyment of the rear gardens of properties along Ravenshaw Street. In this regard clearly complies with the Council's policies and it is hard to appreciate the specific concerns raised in the Council's decision.

Whether or not the proposed development would offer a sub-standard quality of living accommodation;

5.26 The Council's fourth reason for refusal criticises the proposed living accommodation at the site and within this cites an inadequate level of outlook, sunlight and daylight, a lack of external amenity space, low ceiling heights and also poor living conditions at basement level.

Appeal Case Statement

5.27 The appeal proposal provides a well-designed layout for future occupants. The issues that arise from this particular reason for refusal are wide ranging so taking each point in turn, these are addressed below:

- The outlook to the house is reflective of the well thought out layout, which affords, with the exception of the kitchen dining room at basement level, a direct view either towards the street or to an amenity area.
- In regard to sunlight and daylight, this was appropriately and expertly addressed by the supporting documents (sunlight, daylight and overshadowing assessment) submitted to the Council. The assessment notes the northerly orientation of the windows concluding that daylight levels to habitable rooms would be met. It is important to note that the BRE standards acknowledge a lesser importance for compliance of the standards for bedrooms. The assessor notes that in peak winter times, light would be less received. However, comparably and akin to most flatted developments, the proposed building will offer a dual aspect. The assessment also confirms that all the windows proposed will be compliant with the BRE standards where both sunlight and daylight is concerned.
- With regards to daylight, the submitted assessment demonstrates that the overall results for daylight to both the surrounding properties and proposed scheme are very high. In particular the surrounding properties with very few marginal reductions and in some cases, neighbouring windows experiencing an increase in VSC levels with the proposed in place. Furthermore, the proposal achieves results that exceed the BRE guidelines for ADF and DD throughout the development, including the Basement.
- With regards to sunlight, the submitted assessment demonstrates that the proposed scenario will present high levels of APSH to the surrounding properties, and due to orientation of the proposed scheme, none of the habitable rooms face 90° due south. However that said, the BRE guide acknowledges that it will be hard to achieve the target criteria in flat designs, and in addition the BRE guide only considers that living rooms require sunlight. So the bedrooms and kitchen dining room should be discounted, there numeric values have been included solely for information and should not be used in a detrimental manor. The proposed living room achieves an annual result of 20% and 1% in winter which is exceptional, when bearing mind both its orientation and urban setting.
- The majority of the rooms comply with the minimum head height standards. Whilst it is appreciated that the rooms within the basement level fall short of the minimum height standards of 2.3m as noted in the delegated report, this is something that could have been drawn to the appellant's attention during the application stage so that revised drawings could be issued; this was never brought to the agent's attention and is something that can be demonstrated during the appeal stage were the Inspector minded

Appeal Case Statement

to approve the appeal. To aid the Inspector in this regard, please refer to Appendix 6, showing a suggested set of revised plans (Rev A), demonstrating that a revised floor to ceiling height meeting the councils 2.5m head height clearance, could have been provided, should this have been requested.

- The development would afford two areas of amenity across two levels, one at ground and the other at basement level. The Council have set guidance for amenity space provision and it is suggested that for a dwelling of this size, it would present both a usable and meaningful area. The amenity standards prescribed by the Council conflict with the London Plan standards and policy DP26 does notably state that residential schemes should provide “outdoor space for private or communal amenity space, *wherever practical.*” It is therefore suggested that the provision sought is acceptable.
- It is not uncommon for many new houses to provide basements where they typically offer natural light from raised lightwells or from horizontally flat rooflights. In this instance the kitchen/dining room will offer light from well placed rooflights along the frontage. To ensure privacy of occupants, these can be conditioned to be obscure were the Inspector minded to allow the appeal. Moreover, the provision of a double bedroom at basement level with its own private amenity area, a combined kitchen and dining room and bathroom is a testament to the well thought-out and high quality design and layout of the basement.

5.28 In summary, the scheme provides a well-proportioned two-bedroom single family house that would blend in well with the rest of the street which is almost entirely residential in nature. The site provides room sizes that meet the London Plan and Camden’s planning standards and that suitably 'stack' over each other. The internal sunlight, daylight and over-shadowing assessment concludes that overall, the proposed rooms will receive sufficient amount of light. The rooms will also be well ventilated. Additionally, the proposal includes cycle storage and suitable bin storage.

5.29 It should be noted that the appellant’s agent attended a meeting with Adam Lindsay, the Council's appointed ‘Designing Out Crime’ officer, where it was agreed that that the scheme was acceptable from a safety and design perspective subject to stipulated measures (all of which were not onerous and could be met at the build stage). The appeal scheme provides a good example of how a development site can be best utilised to meet the housing shortage within the borough.

Whether or not the proposed basement level would have a detrimental impact on the structural integrity of the building in addition to offering suitable drainage solutions

Appeal Case Statement

- 5.30 The Council require Basement Impact Assessment (BIA) to assess the structural integrity of schemes with proposed basements & the impact that subterranean development would have on adjoining properties/land and on the water table in the vicinity.
- 5.31 An independent BIA accompanied the appeal application to directly address the requirements that are set out within policies CS5, DP23 and DP27. The report finds that the basement will require excavation into London clay which is prone to shrinking and swelling. The report notes of the risks involved, however, suggests mitigation to minimise/alleviate these risks which would, in turn, enable the site to be suitably developed for residential purposes as per the proposed scheme. As recommended by the report, the appellant is willing to undertake a structural condition survey of adjacent properties before work commences which could be conditioned were the Inspector minded to allow the appeal.
- 5.32 In regards to drainage management, the flood risk at the site was confirmed as being low. This would further support the case for a basement level, which is partly determined by the effective management of water and the impact assessment recommends that water is removed by an installed and serviced sump pump. This is a common feature for basements in cases where there is concern on the disposal/recycling/management of grey water.
- 5.33 The Council requested for a review of the independent BIA included in the appellant's application. The appellant did not raise objection to this, however, considered that as the case officer was minded to refuse the application this would incur an unreasonable cost and would therefore not be a fruitful exercise. If the Inspector is minded to allow the scheme and if considered necessary given the expense of a BIA review of the independent engineer's BIA already provided, it is proposed that a suitable condition could be stipulated requiring the submitted BIA to be reviewed and thereafter built in accordance with the recommendations of the firm acting on behalf of the council.

Whether or not the provision of legal agreements to secure a construction management plan, a car-free development and a financial contribution towards public highway works are reasonably necessary for the purposes of granting planning permission;

- 5.34 The sixth, seventh and eighth reason for refusal are matters which the appellant was happy to address as evidenced in the email correspondence with the Council's legal services team through firstly, the provision of a s106 agreement and secondly a unilateral undertaking. However, it became evident that as the case officer was not supporting the

Appeal Case Statement

scheme the legal officer followed suite and was not willing to enter into a bi-lateral agreement; when the offer of a unilateral undertaking to produce a construction management plan (CMP), a car-free agreement and contributions towards public highways works was forthcoming, the legal officer rejected this stating they were unable to entertain this. (Please refer to Appendices 2, 3 & 4).

- 5.35 It should be noted that whilst the appellant was willing to undertake a car-free agreement the scheme would have enabled an extra car space to be located within the controlled parking zone (CPZ) given that the existing situation covers the length of 2.5 no. spaces; the proposal would reinstate the kerb and hence parking outside of the site would be possible. Furthermore the scheme would result in less vehicle movements and traffic due to the residential nature of the site as opposed to a car repair business.
- 5.36 The appellant has not shied away from their responsibility to contribute to local infrastructure in order to ensure the impacts of the development are mitigated but have clearly met difficulties with the Council in this regard. A legal undertaking has been drafted and attached to this appeal (see Appendix 5) which confirms that the appellant is willing to contribute to an agreement stipulating car-free development, contributions towards any public highways works that are necessary and the provision of a Construction Management Plan.

Other material considerations

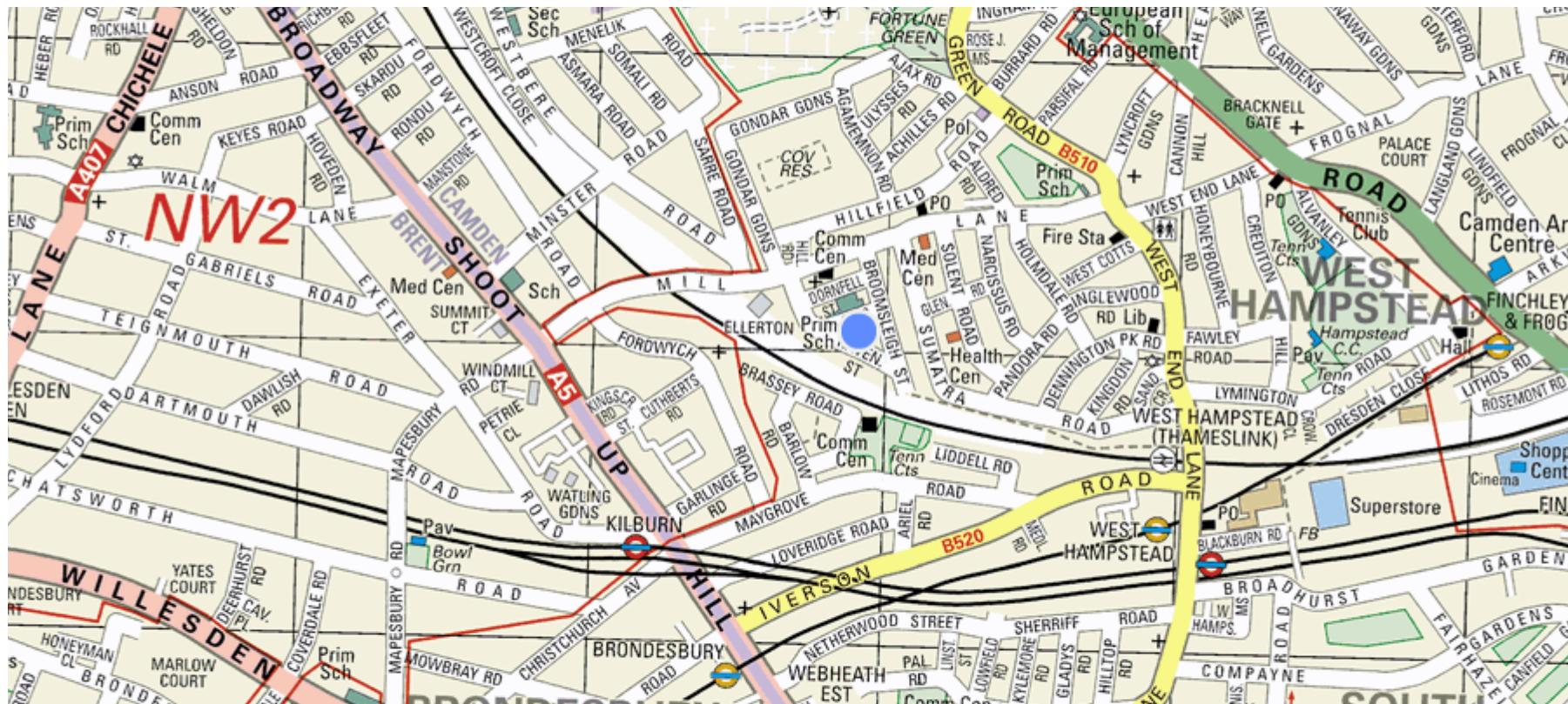
- 5.37 There is common ground between the appellant and Council where all other considerations are concerned. For instance, it was agreed that the site is in a sustainable location where cycle parking can be provided via condition, the development will also not adversely impact the setting of the listed school and the proposed dwelling will not harm the amenities of residents living on Glastonbury Street.
- 5.38 From an observational point of view the recommended reasons for refusal in the case officer's report differ to those on the decision notice. It would bring into question the relevance of what is being suggested in the case officer's report. Notwithstanding this, it is considered that this appeal appropriately covers all relevant matters.
- 5.39 The appellant is particularly aggrieved over the fact that the Council's decision notice states that 'In dealing with this application, the Council has sought to work with the applicant in a positive and pro-active way in accordance with paragraphs 186 and 187 of the National Planning Policy Framework'. This has clearly not been the case as the Council have differed in their opinions of the scheme from that of the pre-application

Appeal Case Statement

referenced 2014/6822/PRE to the that of the current application where they have shown little attempt in engaging with the applicant to amend the scheme or find solutions.

6.0 Conclusion

- 6.1 This appeal statement sets out the reasons as to why the proposed redevelopment of the site to provide a 3 storey 2 bedroom dwellinghouse with basement (following the demolition of commercial garage premises) with associated cycle storage and amenity space at 1A Glastonbury Street, London, NW6 1QJ should be approved.
- 6.2 This statement addresses matters which relate to loss of a business use, design, impact on neighbours, living conditions together with impacts of the proposed basement as per Camden Council's reasons for refusal in their decision notice.
- 6.3 The Council in refusing the appeal application have failed to fully consider the merits of the site, the site specific considerations including both the physical condition of the existing garage and its saleability as a commercial premises and the general need for meeting a housing shortage in the borough and London as a whole. The Council have also fundamentally overlooked the design merits of the scheme and have not fully appreciated the insignificant impact the scheme would have on neighbouring properties.
- 6.4 In the interests of proper planning, this appeal submission does not remove the ability to provide supporting legal agreements which enable the development to secure a construction management plan, a car-free development and a financial contribution for local public highway works were this to be requested by the Inspector presiding over the case. Although it should be noted that the appellant would prefer to offer a car parking space within the CPZ given the new space available as a result of reinstating the dropped kerb along the site frontage as part of the new scheme.
- 6.5 The development, in the appellant's view, is considered to be fully compliant with National Planning Policy Framework (NPPF), the relevant policies contained within the London Plan 2015 (with further alterations), the London Borough of Camden LDF Core Strategy, LDF Development Policies and the policies taken from Fortune Green & West Hampstead Neighbourhood Plan.
- 6.6 For the reasons noted in this statement it is respectfully requested that the appointed Inspector allow this appeal subject to suitable conditions and legal agreements.

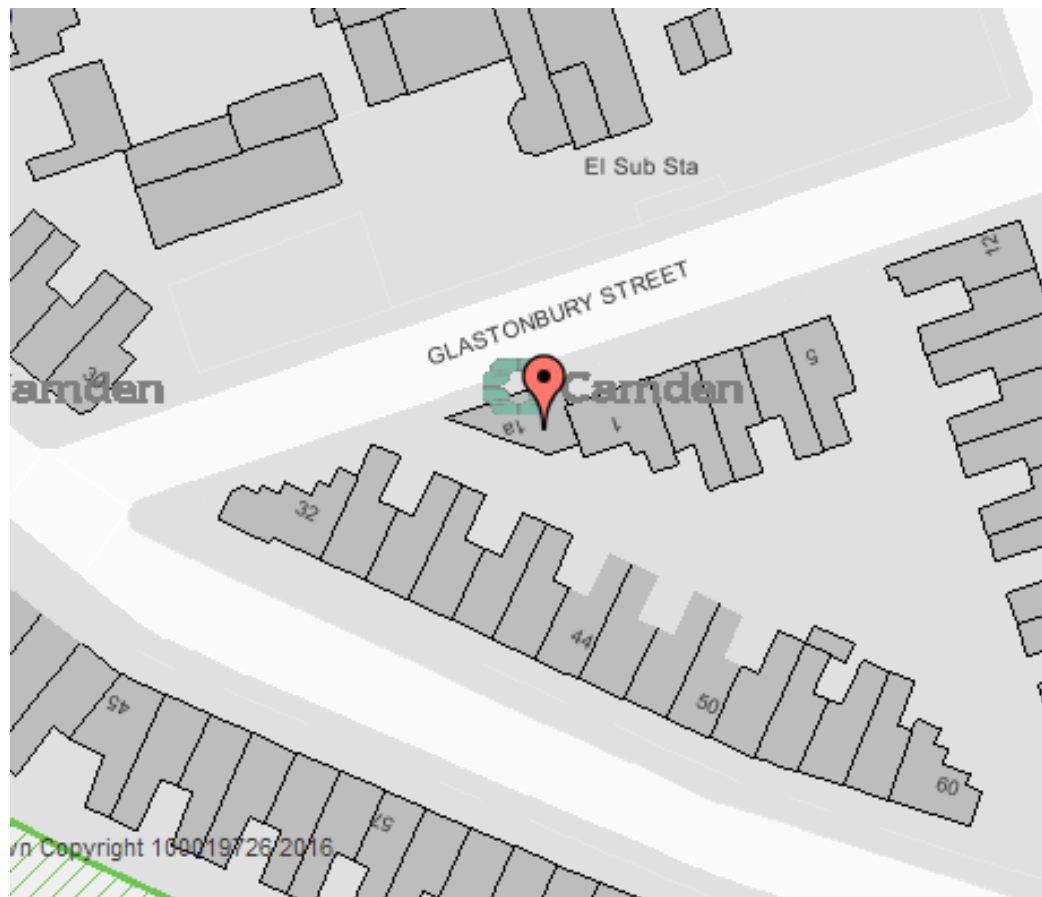


Extract from Bing maps to highlight the general location of the appeal site.

Appendix 1


Aerial photograph to illustrate the wider pattern of development encompassing the appeal site taken from Bing maps



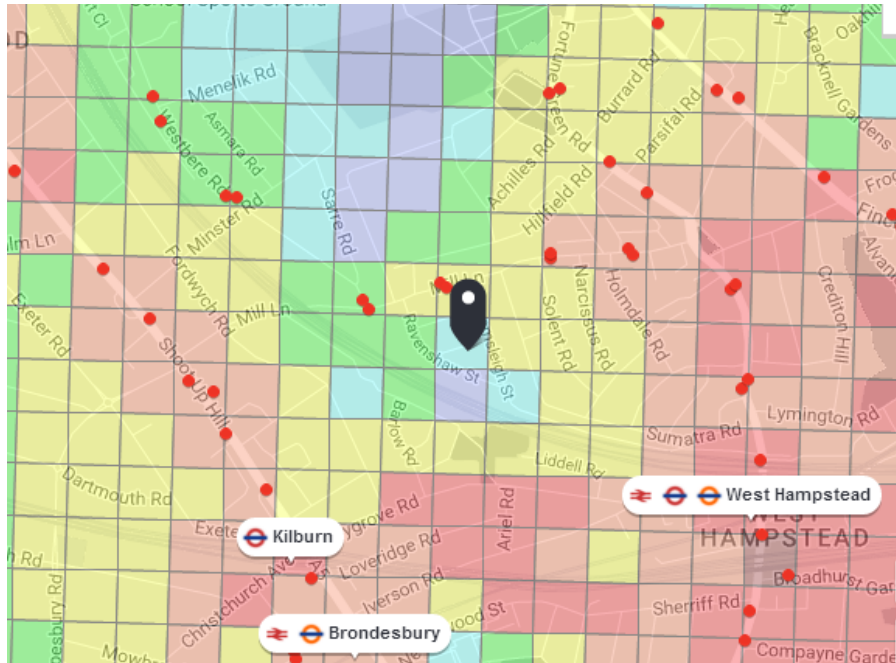


Map key

— Habitat Corridor

 Open Space
Railway Embankment, Broomsleigh Street

PTAL map



Time mapping

