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Town and Country Planning Acts 1990 (as amended)
Appeal by Dome Assets Ltd
Site Address: 51-52 Tottenham Court Road, London, W1T 2EH

Local Planning Authority Appeal Statement by

Robert Lester Planning Officer
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Date: 27/09/2017
Your ref: APP/X5210/W/17/3173819
Our ref: 2016/2027/P
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1. Introduction

- 1.1 The appeal site at 51-52 Tottenham Court Road is located on the western side of Tottenham Court Road to the north of the junction with Windmill Street and to the south of Goodge Street station. The building at no. 51 Tottenham Court is three storeys with a mansard roof and the building at no. 52 is four storeys high. The site lies within the Charlotte Street Conservation Area.
- 1.2 The appeal development is for the demolition of existing rear extensions and erection of 4 storey rear extension, basement extension, roof extensions comprising an additional storey with mansard level above to no. 51 and set back roof extension no. 52 and external alterations including new shopfronts all to provide a mixed use retail, office and residential development involving the refurbishment and amalgamation of the existing ground floor retail units, refurbishment/reconfiguration of existing uses on the upper floors including the provision of additional office space at first - third floor levels and a new 3 bed residential flat at fourth floor level.
- 1.3 The application was refused on the 31st October 2016 for the following reasons:
 1. The roof extensions by reason of their scale, visual prominence and effect on the established townscape and neighbouring properties would detrimentally harm the character and appearance of the subject buildings, street scene and would fail to preserve or enhance the conservation area, all contrary to policy CS14 of the Camden Core Strategy 2010-2025 and policies DP25 and DP26 of the Camden Development Policies 2010-2025, The London Plan (2016) and the National Planning Policy Framework (2012).
 - 2 The rear extensions by reason of their height, scale, bulk and massing would fail to respect the scale and proportions of the existing buildings, would be over-dominant additions which would fail to be adequately subordinate to the existing buildings, would alter the historic pattern and established townscape of the block and would not compliment or reflect the rhythm and grain of this part of the street, all contrary to policy CS14 of the Camden Core Strategy 2010-2025 and policies DP25 and DP26 of the Camden Development Policies 2010-2025, The London Plan (2016) and the National Planning Policy Framework (2012).
 - 3 The rear extensions by reason of their height, scale, bulk and massing would have an overbearing and/or dominating effect which would result in to an increased sense of enclosure and loss of outlook to the surrounding properties, particularly to the residential units in 53 Tottenham Court Road and would therefore have a detrimental amenity impact on the occupiers of the neighbouring residential units, contrary to policy DP26 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).
 - 4 Insufficient information has been submitted in relation to the impacts of the proposed basement to allow the Local Planning Authority to ascertain whether the 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, contrary to policy DP27 of the Camden Development Policies 2010-2026.

5 The development would fail to provide adequate cycle parking facilities for the residential element of the scheme and would therefore provide substandard housing development, and would fail to promote cycling as a healthy and sustainable way of travelling in this highly accessible Central London location, contrary to policies CS6 and CS11 of the Camden Core Strategy 2010-2025, policies DP17 and DP18 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

6 In the absence of a legal agreement to secure car free housing in this highly accessible Central London location, the development would fail to encourage car free lifestyles, promote sustainable ways of travelling, help to reduce the impact of traffic and would increase the demand for on-street parking in the CPZ, all contrary to policy CS11 of the Camden Core Strategy 2010-2025, policy DP18 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

7 In the absence of a legal agreement to secure the implementation of the Construction Management Plan, the development would contribute unacceptably to traffic disruption and dangerous situations for pedestrians and other road users and be detrimental to the amenities of the area generally, all contrary to policy CS11 of the Camden Core Strategy 2010-2025, policies DP20, DP26, DP28 and DP32 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

8 In the absence of a legal agreement to secure the necessary financial contributions to undertake public highway works, the development would harm the Borough's transport infrastructure, all contrary to policies CS11, CS19 of the Camden Core Strategy 2010-2025, policies DP16, DP17 and DP21 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

- 1.4 This appeal statement sets out a summary of the planning history and background for this site, an updated list of relevant policies and guidance, a description of the site and details of the proposed development, details of the Council's case and other planning matters, a response to appellants ground of appeal and recommended s.106 planning obligations/planning conditions.

2 Relevant Planning History and Background

2.1 The relevant planning history for this site is set out below:

- i. PS9804744R1 - Change of use and conversion of the first, second and third floors from offices (use class B1) to use as four self-contained flats together with alterations to fenestration on the front elevation and the installation of a new shopfront - Granted subject to s.106 agreement dated 08/04/1999.

- ii. 2009/5669/P and 2009/5947/C - Erection of a six storey building and excavation of the basement to create retail space (Use Class A1) at ground and basement levels, and 3 x 2 bedroom flats, 2 studio flats (Use Class A3) and 20 bedrooms for student accommodation with shared facilities (Sui Generis) on the floors above, following demolition of the existing buildings - Refused dated 24/08/2010 (Appendix 1a-c). The reasons for refusal were:
- Demolition of a positive contributor would have a detrimental impact on the character and appearance of the Charlotte Street conservation area
 - Scale, height, bulk, materials and design of the replacement building would cause significant harm to the character and appearance of the conservation area
 - Unacceptable size of proposed flats
 - No on site cycle storage
 - Lack of information on air quality
 - Absence of s106 legal agreement for the following:
 - secure the new units as car free
 - secure local work force
 - compliance with BREEAM
 - financial contributions to highways, public space,
 - construction management plan,
 - restrict accommodation to students
 - restrict use of student accommodation.
- iii. 2011/2286/P - Erection of roof extension to 4th floor and alterations to front elevation in connection with provision of additional 2-bed self-contained flat (Class C3) - Refused 17/10/2011 and (Appendix 2a-c). The reasons for refusal were:
- Unsympathetic alterations which fail to respect the proportions, hierarchy, height and massing characteristic of the historic streetscape, would detract from the character and appearance of the building and the wider consideration area.
 - Absence of a section 106 legal agreement for car free housing and a construction management plan.
- iv. APP/X5210/A/11/2166925 - Appeal against the refusal of application ref: 2011/2286/P for the Erection of roof extension to 4th floor and alterations to front elevation in connection with provision of additional 2-bed self-contained flat (Class C3) was **dismissed** on the 26/04/2012 (Appendix 3). The reasons for dismissal were:
- The proposal would substantially alter the form of the original building and its relationship with those either side.
 - The proposal would adversely affect the character and appearance of the building and would fail to preserve or enhance the character or appearance of the Charlotte Street Conservation Area.
- v. 2014/7940/PRE – Pre-Application Advice - Demolition of existing rear extensions at Nos 51 and 52 and roof of No. 51. Erection of rear extension from basement to

third floor level to No.51 and use as retail accommodation at ground and basement level, use of part ground, part first, part second and part third floor for residential (Class C3) purposes as 3 x 2 bed flats and use of part first, second and third floor level as offices (Class B1). Erection of rear extension from basement to third floor level at No. 52 to provide office (Class B1) accommodation. Erection of mansard extension to Nos 51 and 52 to provide 2 x 2 bed flats at new fourth floor level. Associated external alterations including installation of new shopfront for retail unit at 51-52 and creation of roof terraces at front and rear fourth floor level – Pre-application advice issued 26/02/2015 (Appendix 4a-b). A summary of the relevant points from this pre-application advice is as follows:

- This pre-application was substantively for the same development proposed in this appeal scheme with some minor variations in the internal layout and mansard height of no. 51.
- The addition of a sheer third floor to no. 51 with a mansard above would substantially alter the form and proportions of the original building and remove all trace of the role this building plays in the pattern of the historic streetscape. It would also substantially alter the relationship it has with no. 49 which stands out within the row as a higher, more modern, Art-Deco style building, with a more monumental character.
- The proposed roof extension at no. 52 is not considered to address the concerns raised by the Inspector regarding No.51. It would result in a property which is significantly higher than the neighbouring building (no. 53), increasing the bulk and scale of this row of buildings. This is considered to have an overbearing and dominant affect, particularly as a strong parapet line exists across nos. 52-54. The proposed roof extension to Nos. 51 and 52 would be contrary to the guidance set out in CPG 1, which states that 'roof extensions are likely to be unacceptable where the scale and proportions of the building would be overwhelmed by an additional extension'.
- Whilst it is acknowledged that there are taller buildings within the row, namely nos. 46 and 49, these properties do not set a precedent for building heights within this block of buildings. Furthermore the Art-Deco building at no 49 which has a more vertical and monumental appearance, does not act as a precedent for further taller buildings. Similarly, the grade II listed corner building at the southern end of the row, the Rising Sun Public House, is a landmark building with a strong architectural treatment. Its height, bulk, form and scale of which could not be copied in any way in the mid-point of this stretch of the street.
- The proposed roof extensions are not considered to be a subordinate addition to the host properties and would alter the historic pattern and established townscape of the block which can currently be read from the rear. The extension does not compliment or reflect the rhythm and grain of this part of the street and the proposed bulk and massing is considered to be unacceptable. The extension would need to be drastically reduced in size to be acceptable and should be no higher than first floor level.
- It is acknowledged that the proposed extension is unlikely to be visible from the public realm; however the extension would be visible from private views, including other back land buildings. Therefore, it is not considered to preserve and enhance the character and appearance of the conservation area.
- It is acknowledged that there are larger scale buildings in the immediate vicinity, most notably 6-10 Whitfield Street, however these are not considered to form

any sort of precedent in this case as the properties on the eastern side of Whitfield Street have a much larger urban grain with large plot widths. In addition, the larger properties on the eastern side of Tottenham Court Road fall within the Bloomsbury Conservation Area, which has a different character and appearance to the Charlotte Street Conservation Area.

- Due to its bulk and mass, the proposed extension is considered to result in to an increased sense of enclosure and loss of outlook to the surrounding properties, particularly to the residential units in 53 Tottenham Court Road. This would have a detrimental impact on the occupiers of the neighbouring residential units.

3. Relevant Planning Policy and Guidance

3.1 The following section sets out the relevant statutory and policy provision in relation to the appeal scheme. It also includes some discussion on the appeal scheme with regard to certain policy requirements.

3.2 This section also sets out the relevant designations that apply to the site and the surrounding context.

The Planning (Listed Buildings and Conservation Areas) Act 1990

3.3 The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) which requires at section 72(1) that local authorities shall pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

3.4 The Planning (Listed Buildings and Conservation Areas) Act 1990, which requires at section 66 that local authorities shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

National Planning Policy Framework (2012)

3.5 Section 7, paragraph 60 (Requiring Good Design) advises 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.

3.6 Section 12 deals with conservation and paragraph 129 of the National Planning Policy Framework (NPPF) requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, taking account of the available evidence and any necessary expertise. This assessment should be taken into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.

3.7 Paragraph 137 of the NPPF encourages local planning authorities to look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. It also states that proposals which preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

- 3.8 Paragraph 132 states that in assessing impact, the more important the asset, the greater the weight should be given to its conservation. It notes that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.
- 3.9 Paragraph 134 states where a development proposal will lead to 'less than substantial' harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 3.10 The setting of a heritage asset is defined in Annex 2 as "the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral".

The London Plan (2016)

London Plan Supplementary Planning Guidance (SPG)

Housing (2016)

The Control of Dust and Emissions during Construction and Demolition (2014)

Character and Context (2014)

Sustainable Design and Construction (2014)

Camden Local Plan (2017)

- 3.11 Since the appeal scheme was refused on 18 October 2016, the Council has adopted a new development plan. The Camden Local Plan was adopted by Council on 3rd July 2017 and has superseded the Core Strategy (2010) and Camden Development Policies (2010) documents as the basis for planning decisions and future development in the borough. Therefore, an updated list of relevant policies for this appeal is set out below.

H1 Maximising housing supply

H2 Maximising the supply of self-contained housing from mixed-use schemes

H4 Maximising the supply of affordable housing

H6 Housing choice and mix

H7 Large and small homes

C5 Safety and security

C6 Access for all

E1 Economic development

E2 Employment premises and sites

A1 Managing the impact of development

A4 Noise and vibration

A5 Basements

D1 Design

D2 Heritage

D3 Shopfronts

CC1 Climate change mitigation

CC2 Adapting to climate change
 CC3 Water and flooding
 CC4 Air quality
 CC5 Waste
 TC1 Quantity and location of retail development
 TC2 Camden's centres and other shopping areas
 TC4 Town centres uses
 T1 Prioritising walking, cycling and public transport
 T2 Parking and car-free development
 T3 Transport infrastructure
 T4 Sustainable movement of goods and materials
 DM1 Delivery and monitoring

- 3.12 The Council's policies and guidance for design and conservation areas are currently contained in the adopted Local Plan in policies D1 and D2 and reflect the requirements of national policy.
- 3.13 Local Plan Policies D1 (Design) and D2 (Heritage) are aimed at achieving the highest standard of design in all developments. Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area. It states that the Council will seek to secure high quality design in development. The Council will require that development (*inter alia*);
- a. respects local context and character;
 - b. preserves or enhances the historic environment and heritage assets in accordance with "Policy D2 Heritage";
- 3.14 Policy D2 states that the Council will preserve, and where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings.

Camden Planning Guidance (CPG)

CPG1 (Design) (2015) – Sections 2, 4, 5, 7 and 10
 CPG2 (Housing) (2016) – Sections 4 and 5
 CPG3 (Sustainability) (2015) – Sections 2, 4 and 9
 CPG4 (Basement and lightwells) (2015) – section
 CPG5 (Town Centres, Retail and Employment) (2013) – Sections 4 and 6
 CPG6 (Amenity) (2011) – Section 6, 7 and 8
 CPG7 (Transport) (2011) – Sections 5 and 9
 CPG8 (Planning obligations) (2015) – Sections 7

Camden Planning Guidance 1 (CPG 1)

- 3.15 The Camden Planning Guidance 2015 gives additional advice and information on how the Council will apply its planning policies; including those policies relating to development within conservation areas (the planning guidance is currently being updated to reflect the new Local Plan but the existing, adopted guidance carries full

weight). Extension and alterations guidance is set out in section 4. Roof extension guidance is set out in section 5 and shopfront guidance in section 7.

CPG1: Section 4 - Extensions, alterations and conservatories

- 3.16 Paragraph 4.3 makes it clear that the ‘guidance applies to all proposals for alterations and extensions to **residential** properties, although some aspects will be relevant to alterations and extensions to other types of buildings.’ No. 51 is a residential property with shop at ground floor level and no. 52 is a former residential property. In addition, both buildings will have a residential use as part of the appeal scheme. It is therefore considered that the guidance should be applied in this case and, in any event, the guidance represents good practice in ensuring that any development remains subordinate to and contextual in relation to host buildings.
- 3.17 The ‘General principles’ for rear extensions is set out in paragraph 4.10. Rear extensions should be designed to:
- be secondary to the building being extended, in terms of location, form, scale, proportions, dimensions and detailing;
 - respect and preserve the original design and proportions of the building, including its architectural period and style;
 - respect and preserve existing architectural features, such as projecting bays, decorative balconies or chimney stacks;
 - respect and preserve the historic pattern and established townscape of the surrounding area, including the ratio of built to unbuilt space;
 - not cause a loss of amenity to adjacent properties with regard to sunlight, daylight, outlook, overshadowing, light pollution/spillage, privacy/overlooking, and sense of enclosure;
 - allow for the retention of a reasonable sized garden; and
 - retain the open character of existing natural landscaping and garden amenity, including that of neighbouring properties, proportionate to that of the surrounding area.

The proposal does not comply with the general principles of CPG1 for reasons already noted in the officer’s delegated report and amplified in more detail below.

- 3.18 With regard to height, the guidance is clear that “In order for new extensions to be subordinate to the original building, their heights should respect the existing pattern of rear extensions, where they exist.’ There is a clear pattern of subordinate rear extensions within the group of buildings which comprise the terrace (no.46-54 Tottenham Court Road) of which the subject property forms part (figure 1). However, with the corner properties, the scale of development is greater as it addresses the corner or side road. This is a traditional pattern of development, reflective of street hierarchy.



Figure 1. The rear/back of the appeal site terrace which shows a consistent and clear pattern of low scale rear extensions except where the end properties form a junction plot with neighbouring street.

- 3.19 Moreover, paragraph 4.13 is clear that “In most cases, extensions that are higher than one full storey below roof eaves/parapet level, or that rise above the general height of neighbouring projections and nearby extensions, will be strongly discouraged” because extension of this scale would not remain subordinate in scale to the host building. The proposed development extends above the parapet to the roofline of the new roof extension.



Figure 2 Showing the extent of rear extension with existing building outlined in red.

CPG1 Section 5 Roofs, terraces and balconies

- 3.20 Paragraph 5.3 is clear that this guidance applies to **all** planning applications involving roof alterations, roof extensions, balconies and terraces, and is **particularly** relevant to residential properties.
- 3.21 Paragraph 5.8 states that “A roof alteration or addition is likely to be unacceptable in the following circumstances where there is likely to be an adverse effect on the skyline, the appearance of the building or the surrounding street scene:
1. There is an unbroken run of valley roofs;
 2. Complete terraces or groups of buildings have a roofline that is largely unimpaired by alterations or extensions, even when a proposal involves adding to the whole terrace or group as a coordinated design;
 3. Buildings or terraces, which already have an additional storey or mansard;
 4. Buildings already higher than neighbouring properties where an additional storey would add significantly to the bulk or unbalance the architectural composition;
 5. Buildings or terraces, which have a roof line that is exposed to important London-wide and local views from public spaces;
 6. Buildings whose roof construction or form are unsuitable for roof additions such as shallow pitched roofs with eaves;
 7. The building is designed as a complete composition where its architectural style would be undermined by any addition at roof level;
 8. Buildings are part of a group where differing heights add visual interest and where a roof extension would detract from this variety of form;
 9. Where the scale and proportions of the building would be overwhelmed by additional extension.
- 3.22 The appeal site does not comply with the CPG for the following reasons. The existing building at no. 51 Tottenham Court Road is a complete composition (point 7) and the scale and proportions of the building, which are entirely reflective of its 18th century origins and relate architecturally to other development within the street of a similar date, would be overwhelmed by the proposed upward and rear extensions (point 9). Further, the existing historic roof of no. 51 would be removed as a result of the appeal scheme – this would be replaced with a deep third and fourth floor extension that would not relate to the character and pattern of historic or traditional development seen in the local area or in relation to 18th and 19th century building forms. This is discussed further below in section 6.
- 3.23 The building at no. 52 matches the height of the adjoining buildings at nos. 53 & 54 Tottenham Court Road. All three buildings have a consistent height and parapet line (Appendix E) and while each is differently detailed, the consistency in height, storey heights, fenestration pattern, shopfront heights, plot width and parapet line gives the impression of a group or at least, buildings that form a continuous townscape ‘run’. The three properties have a roofline that is ‘largely unimpaired by alterations or extensions’ (point 2 of the above guidance). The appeal scheme would clearly unsettle the relationship between the three buildings and would introduce a new roof structure that is otherwise unseen within the group, giving undue prominence to no. 52 Tottenham Court Road (discussed in more detail below in section 6).

3.24 Nos. 52-54 also form part of a group at, nos. 46-54 Tottenham Court Road, which is consistently of four storeys in height but where variations in overall height add visual interest. The existing group includes buildings of the 18th, 19th and 20th centuries and the various phases of development are legible with 18th century buildings being of a more modest scale (generally a sheer storey lower) and later buildings being of a greater height but retaining four storeys. The roofline therefore is distinctive and the various phases of development are legible and identifiable within this group. A roof extension would detract from this variety of form and the overall legibility of the townscape (point 8.) The proposal therefore does not comply with four of the nine points set out above where only one is necessary to result in an unacceptable roof extension.

CPG1 Section 7 Shopfronts

3.25 Shopfront guidance “applies to all applications which may materially alter the external appearance of a building or any element of the historic environment.’ (paragraph 7.3)

3.26 Paragraph 7.11 is clear that “New shopfronts should be designed as part of the whole building and should sensitively relate to the scale, proportions and architectural style of the building and surrounding facades.” The proposed shopfronts are discussed in more detail below (paragraph 6.33-6.35).

Heritage Assets

3.27 The site is located within the Charlotte Street Conservation Area (a designated heritage asset) and both buildings are identified as making a positive contribution to the character and appearance of the area (non-designated heritage assets)

3.28 The Charlotte Street Conservation Area Appraisal and Management Strategy (CAAMS), which was formally adopted in July 2008, identify the properties as making a positive contribution to the character and appearance of the conservation area.



Figure 3 Map from the adopted Charlotte Street CAAMS showing positive (orange and listed building (red))

- 3.29 The appraisal notes the views south along Tottenham Court Road towards Centre Point and also The Rising Sun Public House, close to the site as a local landmark.

Bloomsbury Conservation Area

- 3.30 The Bloomsbury Conservation Area (heritage asset) is located on the opposite side of Tottenham Court Road. The boundary between the two conservation areas runs along the centre of Tottenham Court Road. The setting of the conservation area is not considered to be affected by the proposal.

Listed buildings

- 3.31 There are number of listed buildings (designated heritage assets) in relative close proximity to the appeal site.
- 3.32 The Rising Sun Public House (46 Tottenham Court Road) forms part of the same terrace of buildings as the appeal site and is located at the junction with Windmill Street. While the appeal scheme was not refused on the basis of causing harm to the setting of a listed building, pre-application advice set out that the latter's height, bulk, form and scale could not be copied in any way in the mid-point of this part of Tottenham Court Road (i.e. within the group) as it would detract from an important component in the surrounding street scene and townscape and should not compete with the scale and landmark quality of the listed public house.
- 3.33 The rising sun pub is grade II listed (listed 1974). The list description reads as follows:

“Public house. 1896. By Treadwell and Martin. Stucco with brick extension. Elaborate Art Nouveau Gothic. 4 storeys and basement. 1 bay with 3-bay return and 1-bay extension to Windmill Street. Each bay separated by tourelles with pinnacles. Over window bays, gables surmounted by segmental pediments.

Lavish use of vertical strips, scrollwork, heraldic beasts, cupids heads etc., in relief..”

- 3.34 The setting of other listed buildings in the area namely nos. 64-67 Tottenham Court Road and no. 28 Goodge Street are not considered to be affected by the proposals due to the scale of the work and distance from the property.

4. Site Description

- 4.1 The appeal site at nos. 51-52 Tottenham Court Road is located on the western side of Tottenham Court Road, to the north of the junction of Tottenham Court Road and Windmill Street and to the south of Goodge Street station. The site is located in the Charlotte Street Conservation Area. The site is also located within the Central London Area and is on a designated primary retail frontage.

No. 51 Tottenham Court Road

- 4.2 The building at no. 51 Tottenham Court Road is a three-storey brick building (now over painted in white) with a mansard roof and basement. The ground floor extends the full depth of the plot with various additions and excretions partly infilling the upper floors. The building is four bays in width with a coach entrance and shopfront at ground floor level. It is amongst the earliest surviving buildings in the street, dating from the late-18th century/early 19th century. The ground and basement floors of this building are in retail use (A1) with the upper floors in residential use (C3). There is a vehicle access under the building at ground floor level to a small courtyard to the rear.

No. 52 Tottenham Court Road

- 4.3 No. 52 Tottenham Court Road is four-storey building with a flat roof behind a parapet, which dates from the late nineteenth century. The ground and basement floors of this building are in retail use (A1) and the upper floors are in use as offices (B1a). The building forms part of a group of three with nos. 53 and 54 Tottenham Court Road (refer to Appendix E and above).
- 4.4 The existing site as a whole contains a mix of uses including two separate retail units (A1 use) at ground floor level (total floorspace 312 sq.m) with ancillary floorspace at basement level, 3 x 2 bed and 1 x 1 bed flats at first, second and third floor levels within no. 51 and office floorspace at first, second and third floor levels within no. 52. The site contains 312 sq. m of retail (A1) floorspace, 185 sq. m of office (B1a) and 348 sq.m of residential (C3) floorspace at present.
- 4.5 The appeal site forms part of a terrace group of eight properties (nos. 46-54 Tottenham Court Road) located between Windmill Street and the passage to the north of no.54.
- 4.6 The buildings at nos. 48 and 51 are likely to date from a contemporaneous period of development during the Georgian period and are the lowest in height, reflecting the general form of development in the area at this time. Nos. 47 and nos. 52-54 are of the same period dating from the late 19th Century and demonstrate the same

architectural characteristics and height. The building at no. 52 matches the height of the adjoining buildings at nos. 53 & 54 Tottenham Court Road that all have a consistent parapet line (Appendix E and 3.22 above).. No.49 is a higher Art-deco style building and is of the same number of storeys but demonstrates a more vertical appearance mostly due to the visual emphasis given to its fenestration. No. 46 is the grade II listed late 19th century elaborate Art Nouveau Gothic style public house, which is something of a local landmark (paragraph 6.15 of the Charlotte Street CAAMS). The listed building is the tallest of the group but retains the consistent four-storey building height. The taller ground floor increases the height of the building as does the rich detail at roof level, which creates a perception of verticality and prominence over neighbouring smaller-scale buildings: the architecture and prominence of the listed building are key elements of its significance.

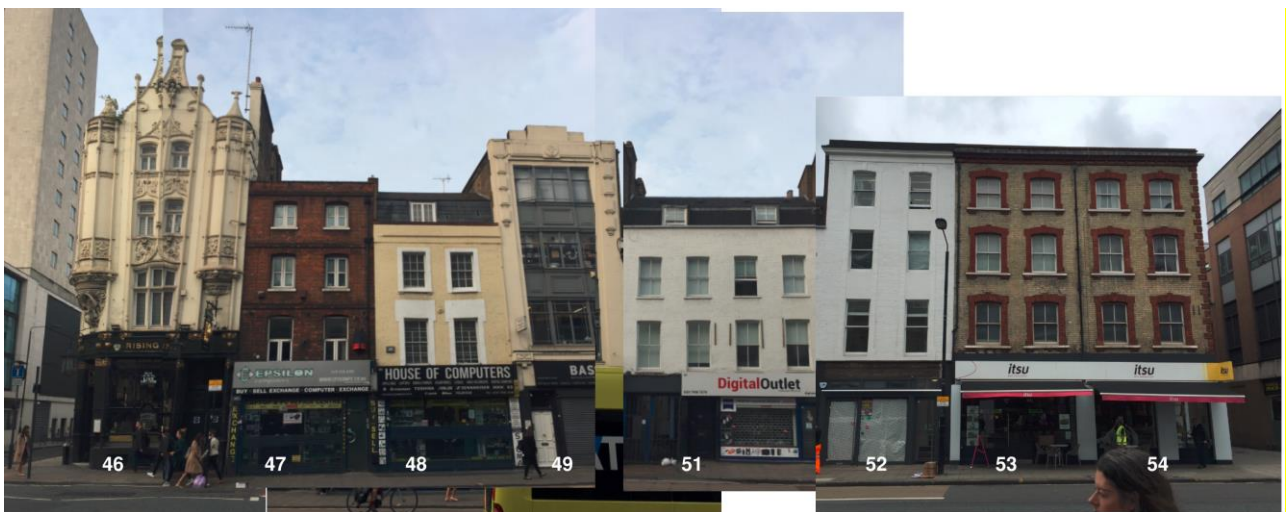


Figure 4. Nos.46 54 Tottenham Court Road

4.7 The variety of the group, in terms of detailing, materials and roofline, reflects the evolution of the street from the middle of the 18th century as it became a retail centre. The scale of the buildings also reflects the era and style in which they were constructed allowing the ability to appreciate and recognise the different phases of development. This continuing evolution is reflected in the presence of the recent new development at 55 Tottenham Court Road (Refer to Appendix F).

4.8 The description and contribution of the buildings and the townscape is discussed in more detail in Section 6 Below.

5. Summary of Proposal

5.1 The appeal development is for the demolition of existing rear extensions and erection of 4 storey rear extension, basement extension, roof extensions comprising an additional storey with mansard level above to no. 51 and set back roof extension no. 52 and external alterations including new shopfronts all to provide a mixed use retail, office and residential development involving the refurbishment and amalgamation of the existing ground floor retail units, refurbishment/reconfiguration of existing uses on the upper floors including the

provision of additional office space at first - third floor levels and a new 3 bed residential flat at fourth floor level.

- 5.2 The proposed roof extensions to no. 51 would comprise the demolition of the existing third floor mansard and the additional of additional sheer floor at third floor level with a mansard extension above at fourth floor level. This extension would increase the height of the building by 2.4 m with an increase in the parapet height (measured from ground level) of 9.4 to 11.8 m and the mansard height from 12 m to 14.4 m. The proposed roof extension to no. 52 would comprise the addition of a set-back vertical extension at fourth floor level. This would increase the height of the building by 1.8 m (viewed from in front of the existing parapet from Tottenham Court Road) from 13.4 m to 15.6 m.
- 5.3 The site has existing rear extensions between ground and second floor levels, which are full width and extend to the rear boundary at ground floor level and close to the rear boundary at first floor level, together with a part width extension at second floor level to the rear of 51 only. The proposed 4-storey rear extension would be full width and would extend out to the rear boundary of the site at ground, first and second floor levels, would be set in from the rear boundary by between 1.4-2.3 m at third floor level and by between 5.2-5.6 m at fourth floor (roof) level. The main increase in the extent of the rear extensions would therefore be at second floor level, where the extension would extend out the full width and depth of the site (compared to the part width and set back existing second floor extension) and third and fourth floor levels (where there are no rear extensions at present).
- 5.4 The development would provide a mix of uses including the provision of a replacement retail unit (A1) at ground floor and basement levels (312 sq. m of retail floorspace no net change in floorspace), 5 residential flats on the upper floor levels comprising: the refurbishment/ reconfiguration of the existing flats on the upper floors and the provision of a new 3 bed flat within the new extension at top floor level (655 sq. m of residential floorspace a net increase of 1 residential unit on site and 307 sq. m floorspace) and the provision of office use (B1a) at first, second and third floor levels (463 sq. m of office floorspace a net increase of 278 sq. m floorspace). The appellants submitted floorspace area schedules in Gross Internal Area (GIA) and Gross External Area (GEA) are contained in Appendix 5a -b.
- 5.5 The development also proposed an extended basement, which would project out to the rear boundary of the site and would contain retail floorspace and refuse/cycle storage for the residential and office uses on the upper floors.

6 The Council's Case

- 6.1 The following section considers both reasons for refusal 1 and 2 through:
- i) Assessing the significance of the site and understanding the contribution each building makes to the Charlotte Street conservation area;
 - ii) Assessing the appeal proposal and the impact it has on the site and the Charlotte Street Conservation area having regard for relevant policy and guidance.
 - iii) The conclusions of this assessment are set out at paragraph 6.36-6.37.

i. Reason for Refusal 1 – Design and Scale of Roof Extensions

The roof extensions by reason of their scale, visual prominence and effect on the established townscape and neighbouring properties would detrimentally harm the character and appearance of the subject buildings, street scene and would fail to preserve or enhance the conservation area, all contrary to policy CS14 of the Camden Core Strategy 2010-2025 and policies DP25 and DP26 of the Camden Development Policies 2010-2025, The London Plan (2016) and the National Planning Policy Framework (2012).

Pre-1750

- 6.2 Prior to the middle of the eighteenth century, the site and its surroundings were undeveloped. This fact is highlighted on figure 5 (a plan of 1682) which shows development only really at the southern end of Tottenham Court Road, close to the junction with Oxford Street. The land was mainly agricultural land on the edge of London within the demesnes of the Manor of Tottenham. Tottenham Court Road formed the first part of the principal historic route from central London to the formerly outlying village of Hampstead. It derives its name from Tottenham Court, the Tottenham manor house that stood north of the Euston Road.



Figure 5 Morgans Map of London 1682 showing this section of Tottenham Court Road undeveloped. Refer to Appendix G

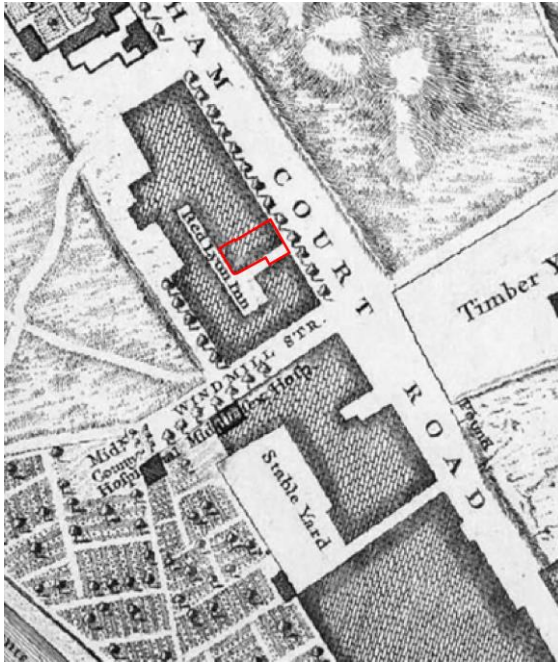


Figure 6 Rocque Map of 1746 (refer to Appendix A)

Mid-18th century

- 6.3 By the time of Rocque's Map of 1746, parts of the western side of Tottenham Court Road (especially towards the junction with Oxford Street) had been built upon. These buildings represented the very first phase of architectural development in the area.
- 6.4 This area, which later became known as Fitzrovia, was largely laid out between 1750 and 1800, and mostly comprised three and four-storey terraced townhouses similar to those being built close by in Bloomsbury. The houses in and around Tottenham Court Road were of lesser quality and built without strict estate controls and covenants.
- 6.5 The Charlotte Street Conservation Area Appraisal and Management Plan says of buildings in the area that:
 “The area was developed speculatively as a primarily residential area in a relatively short space of time (1750-1770) with building progressing northwards across the area from the slightly earlier Rathbone Place, developed in the 1720s. As in many areas of Georgian London the three or four storey terraced townhouse was the favoured form.” (para 3.1).

The appraisal also sets out that:

“The buildings of the Conservation Area record the prevailing architectural style when the development was built (Georgian), residential building type (the townhouse and mews), changes in architectural tastes and styles, with many of the properties having been re-fronted or altered during the 19th century, and the nature of 20th century infill and re-development.”

6.6 The plots of each building are not defined individually on the Roque map however it is a fair assumption that no.51 Tottenham Court Road dates from this first phase of development (and no evidence or assessment to the contrary has been provided by the appellants that disputes this fact) for the following reasons:

1. The form, scale and appearance detailing of the buildings is typical of this period;
2. The plot with coach entrance matches the existing layout; and,
3. The existing layout of the property including internal floor plan is typical of a building dating from the late 18th early 19th Century.

1790-1840

6.7 Moreover, the Horwood map of 1792 (Appendix B and figure 7) shows the same shape and footprint of the existing building. This is followed (in terms of publication date) by the Tallis Survey of 1838-40 (Appendix H and figure 8) which shows no.51 Tottenham Court Road in its current form. Interestingly, it also shows no.48 in its current form and appearance without the embellished window architraves, which are likely to have been a later alteration (refer to figure 4).



Figure 7. Horwoods map 1792



Fig: 2.5 Historical Elevation

Figure 8 1838-40 Tallis Survey of Tottenham Court Road (Appendix H)

- 6.8 The Council consider it highly unlikely that the current building, which we know dates from the 1838 Tallis Survey, would have replaced an earlier building of almost identical plot size and building shape with coach entrance, on land which wasn't previously developed until the mid/late 18th Century – only 65 years before.
- 6.9 No. 51 (and no.48) Tottenham Court Road therefore survive as the earliest phase in the development of Tottenham Court Road and the Charlotte Street area and contribute to the clear understanding of the former Georgian scale of domestic house which was prevalent in Fitzrovia. For this reason, no.51 is of significant historic and architectural value in terms of the development of the area and is a precursor to the type and scale of development found in Fitzrovia, which followed. Its contribution to the character and appearance of the conservation area is therefore very strongly positive.
- 6.10 The character and appearance of the Charlotte Street Conservation Area is essentially Georgian with subsequent incremental change and intervention over the 19th and 20th centuries generated by changing social and economic influences.
- 6.11 The character of the Charlotte Street Conservation Area is strongly influenced by its initial development in the Georgian period as a residential suburb and the subsequent social and economic changes that have affected patterns of use and occupation of the buildings. This, and subsequent changes in architectural tastes and styles, is expressed in the changes to the physical fabric and current occupation of the area.
- 6.12 Importantly the houses in and around Tottenham Court Road were of lesser quality and built without strict estate controls and covenants. As such, the height of each building signify its age and historic status. The buildings at nos. 51 and 48 represent the first phase of development in the area and contribute to the clear understanding of the former Georgian scale of domestic house which was prevalent in Fitzrovia.
- 6.13 For these reasons there would be significant value in retaining no.51 Tottenham Court Road at its current scale/height. Harm would be caused to the architectural and historic meaning and understanding of the area through the inappropriate upward extension of the façade regardless of its design. Great weight and

importance must be placed on any harm caused to the character and appearance of the Charlotte Street Conservation Area.

2012 Planning Appeal

- 6.14 In 2012, permission was refused and dismissed at appeal (see planning history) for the erection of a similar roof extension to no. 51 comprising the demolition of the existing mansard and the addition of a new third floor with a mansard above. The Planning Inspector noted that:

the appeal property has retained the essential elements of its original form and design; is noticeably lower than the buildings immediately to either side and its height and in particular, the relationship to the neighbouring buildings is a key element of the character of the building and the block as a whole.

- 6.15 The Inspector went on to state:

'In adding an additional full storey, the proposal would increase the height of the appeal property above that of the buildings either side. Despite the use of matching details and materials, and the appellant's willingness to restore the brickwork on the front elevation, the proposal would substantially alter the form of the original building and its relationship with those either side'

- 6.16 The Council do not believe the current appeal scheme to extend no.51 Tottenham Court Road outweighs the views of the inspector in 2012 and we request the appeal is dismissed on these grounds alone.

- 6.17 Moreover at paragraph 3.12 titled 'Characteristic Details ' the CAAMS notes that,

"The essential pattern of the terraced townhouses have a number of characteristic details in their design including the repeated pattern of windows that reduce in height from the first floor upwards, signifying the reducing significance of the rooms beyond".

- 6.18 The proposed development does not reduce the height of the windows on the new third floor. Instead, these match the second floor windows in size and proportion. This approach does not therefore relate to the traditional design of buildings of this type and date as referred to in the CAAMS. The manifestation of internal floor hierarchy in front and rear elevations is a key component of Georgian architecture, particularly in Georgian residential development. The design approach of the appeal scheme therefore does not follow appropriate scholarly principles and fails to reinforce the character of the building and of other buildings in the conservation area.

1875-Present

- 6.19 Tottenham Court Road became, and remains, a focus for department stores and the sale of furniture as the result of the concentration of cabinetmakers in this area at the turn of the 19th century. This led to pressure for larger blocks along this frontage (particularly towards the north of Tottenham Court Road), although the

pattern of earlier development remains intact in places. This includes the existing group which remains legible within the wider evolved townscape for reasons outlined above. The small-scale nature of the group is an important reminder of how Tottenham Court Road once appeared and developed and this smaller-scale development provides a contrast to the larger retail and residential blocks and to more recent large-scale development. The group is therefore significant in this context as a smaller-scale group of buildings that retain their historic plot widths and form. Inappropriate extension of the buildings of the group will dilute its distinctiveness and significance as a group and also in its townscape context.

- 6.20 The character of this part of Tottenham Court Road (west) is very mixed. Generally, it is on a small scale and feels more of a 'neighbourhood', rather than a shopping district located in central London (as other parts of Tottenham Court Road). Many of the buildings retain the plot widths that they had in the 18th century and there is a very interesting range of building styles from the last 250 years. The plot widths of the group at nos. 46-54 all follow their original historic pattern.
- 6.21 Importantly all of the buildings which make up the group at nos. 46-54 are four storeys in height (refer to figure 4) but the variation in style and use of individual buildings reflects sequential phases of development from the mid-18th century.

No. 51 Tottenham Court Road – roof extension

- 6.22 It has already been noted above that the proposed upward extension of no.51 would result in harm being caused to the character and appearance of the Charlotte Street Conservation Area. This is due to the loss of an original roof form and its replacement with a very deep third and fourth floors that would not relate to the local traditional pattern of development or the character and appearance of the host building. The Council considers that any additional storey on no. 51 would harm the proportions of the existing building and would significantly detract from its role as a reminder of the earliest phase of development of Tottenham Court Road. It would also result in a much higher and deeper building that would be atypical for an 18th century building of this type and would upset the legibility of the group of buildings of which it would form part. This group represents a phased of smaller-scale buildings which although being developed over time, retain their historic plot widths and therefore a certain rhythm and pattern results. No. 51 has always been slightly wider due to the carriageway access that exists at ground floor level. The existing proportions relate to this feature while retaining a sense of modest 18th century scale. The upwards extension of the building in the way proposed by the appeal scheme unbalances the proportions of a complete composition and street elevation and adds undue importance to the front and rear elevations of the building that detracts from the overall original simplicity and character of the building.

No. 52 Tottenham Court Road – roof extension

- 6.23 It is the Council's case that the proposed set back vertical roof extension to no. 52, would increase the scale and height of this building above the adjoining buildings at nos. 53 and 54. The properties at no 52, 53 and 54 are all currently built to the same height with a consistent parapet line. The proposed extension to no. 52 is

therefore considered to be an incongruous addition with an overbearing and dominant effect on the building and terrace, particularly as a strong existing parapet line exists across nos. 52-54.

- 6.24 The proposed roof extension to no. 52 would also be contrary to Camden Planning Guidance 1 (Design) which states that roof extensions or an additional storey would be unacceptable where groups of buildings have a roof line that is largely unimpaired by alterations or extensions.
- 6.25 It is acknowledged that there are some taller buildings within this block at nos. 46 and 49 Tottenham Court Road. However, the Council considers that the higher Art Deco building at no 49 which has a more vertical and monumental appearance and does not act as a precedent for further taller buildings. Similarly, the grade II listed corner building at the southern end of the row, the Rising Sun Public House, is a landmark building with a strong architectural treatment. The proposed development fails to take into account the historic and architectural role of these higher buildings. As already set out, the listed building is a key component of the group of buildings and through its architectural detailing and greater height, it is the most prominent building in the group. The proposed scheme would unfavourably challenge this primacy and would therefore be inappropriate in this context.
- 6.26 Overall, it is the Council's case that the proposed roof extensions, due to their scale, visual prominence and effect on the established townscape and neighbouring properties, would detrimentally harm the character and appearance of the subject buildings and street scene and would fail to preserve or enhance the conservation area. As a result, the appeal scheme is considered to be contrary to the following development plan policies and other material considerations:
- Camden Local Plan Policy D1 (Design) which states that *the Council will require that development respects local context and character and preserve or enhance the historic environment and heritage assets.*
 - Camden Local Plan Policy D2 (Heritage) which states that the Council will require that development within conservation areas preserves or, where possible, enhances *the character or appearance of the area.*
 - Camden Planning Guidance 1 (Design) (2015) *where terraces or groups of buildings have a roof line that is largely unimpaired by alterations or extensions and where the scale and proportions of the building would be overwhelmed by additional extension.*
 - London Plan Policies 7.4 and 7.8 (2016) *which state that building should provide a high quality design response which has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass (7.4). Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail (7.8).*
 - National Planning Policy Framework (2012) *which states that planning decisions should aim to ensure that developments respond to local character*

and history, and reflect the identity of local surroundings (Para 58). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting (Para 132).

- *Charlotte Street Conservation Area Appraisal and Management Plan (2008) which states that development must preserve or enhance the character or appearance of the Charlotte Street Conservation Area (Para 13.15). Fundamental changes to the roofline, insensitive alterations, poor materials, intrusive dormers, or inappropriate windows can harm the historic character of the roofscape and will not be acceptable (Para 13.23). New commercial development should respect the scale of the street and its visual impact on the wider area (Para 13.32)*

ii. Reason for Refusal 2 – Design and Scale of Rear Extensions

The rear extensions by reason of their height, scale, bulk and massing would fail to respect the scale and proportions of the existing buildings, would be over-dominant additions which would fail to be adequately subordinate to the existing buildings, would alter the historic pattern and established townscape of the block and would not compliment or reflect the rhythm and grain of this part of the street, all contrary to policy CS14 of the Camden Core Strategy 2010-2025 and policies DP25 and DP26 of the Camden Development Policies 2010-2025, The London Plan (2016) and the National Planning Policy Framework (2012).

- 6.27 The appeal scheme includes substantial rear extensions to the site. The existing buildings have rear extensions at ground, first and part second floor only. The development proposes a 4-storey rear extension which would be full width and would extend out to the rear boundary of the site at ground, first and second floor levels, would be set in from the rear boundary by between 1.4-2.3 m at third floor level and by between 5.2-5.6 m at fourth floor (roof) level. The main increase in the extent of the rear extensions would therefore be at second floor level, where the extension would extend out the full width and depth of the site (compared to the part width and set back existing second floor extension), and third and fourth floor (roof) levels (where there are no rear extensions at present).
- 6.28 It is the Council's case that the proposed four storey rear extensions by reason of their height, scale, bulk and massing would not be subordinate to the existing buildings on the site. As set out above, the extensions would extend to the rear boundary at ground, first and second floor levels and would extend up to the new extended roof level therefore exceeding the height of the existing buildings on the site. It is also considered that these substantial four storey rear extensions (which would be five storey including the rear projection of the roof extensions) would alter the historic pattern and established townscape of the block to the rear, which are mainly characterised by small 2 and part 3 storey rear extensions.
- 6.29 The proposed rear extension would also be contrary to Camden Planning Guidance 1 (Design) which states that rear extensions should be secondary to the

building being extended, in terms of location, form, scale, proportions, dimensions and detailing; should respect and preserve the original design and proportions of the building, including its architectural period and style and should respect and preserve the historic pattern and established townscape of the surrounding area. Camden Planning Guidance 1 also states that rear extensions that are higher than one full storey below roof eaves/parapet level, or that rise above the general height of neighbouring projections and nearby extensions will be strongly discouraged.

- 6.30 The rear extensions would not be visible from the public realm. However, it is important that extensions harmonise with the form, scale and design of existing buildings and do not compromise the character and integrity of the Conservation Area. Generally, the Council considers that limited visibility from public vantage points is not a justification to overdevelop sites or to allow extensions which are not sympathetic to the scale and design of existing buildings on a site. The rear extension would be visible from private views, including other backland buildings. Therefore, the development is not considered to preserve and enhance the character and appearance of the Conservation Area.
- 6.31 The Council acknowledges that there are larger-scale buildings in the immediate vicinity, most notably the building at nos. 6-10 Whitfield Street to the rear. However, these are not considered to form any sort of precedent in this case as the properties on the eastern side of Whitfield Street have a much larger urban grain with large plot widths. In addition, the larger properties on the eastern side of Tottenham Court Road fall within the Bloomsbury Conservation Area, which has a different character and appearance to the Charlotte Street Conservation Area.
- 6.32 Overall, it is the Council's case that the proposed rear extensions by reason of their height, scale, bulk and massing would fail to respect the scale and proportions of the existing buildings, would be over-dominant additions which would fail to be adequately subordinate to the existing buildings, would alter the historic pattern and established townscape of the block and would not compliment or reflect the rhythm and grain of this part of the street, contrary to the following development plan policies and other material considerations:
- Camden Local Plan Policy D1 (Design) which states that *the Council will require that development respects local context and character and preserve or enhance the historic environment and heritage assets.*
 - Camden Local Plan Policy D2 (Heritage) which states that the Council will require that development within conservation areas preserves or, where possible, enhances *the character or appearance of the area. The Council will also resist development that would cause harm to significance of a listed building through an effect on its setting.*
 - Camden Planning Guidance 1 (Design) (2015) which states that *that rear extensions should be secondary to the building being extended, in terms of location, form, scale, proportions, dimensions and detailing; should respect and preserve the original design and proportions of the building, including its architectural period and style and should respect and preserve the historic pattern and established townscape of the surrounding area to Camden*

Planning Guidance 1 also states that rear extensions that are higher than one full storey below roof eaves/parapet level, or that rise above the general height of neighbouring projections and nearby extensions, will be strongly discouraged.

- *London Plan Policies 7.4 and 7.8 (2016) which state that building should provide a high quality design response which has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass (7.4). Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail (7.8).*
- *National Planning Policy Framework (2012) which states that planning decisions should aim to ensure that developments respond to local character and history, and reflect the identity of local surroundings (Para 58). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting (Para 132). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (134).*
- *Charlotte Street Conservation Area Appraisal and Management Plan (2008) which states that development must preserve or enhance the character or appearance of the Charlotte Street Conservation Area (Para 13.15). The original historic pattern of rear elevations within a street or group of buildings is an integral part of the character of the area and as such, rear extensions will not be acceptable where they would compromise the special character (13.24). New commercial development should respect the scale of the street and its visual impact on the wider area (Para 13.32).*

Proposed shopfronts

- 6.33 At no. 51, the existing ground floor arrangement includes a gateway through to the rear of the building, a central doorway providing access to the upper floors of the building and a shopfront with associated entrance. There has therefore historically been two doorways to no. 51 from the street. These are also shown in Tallis' street views of 1838. The two entrances are an important feature of the building which reflects the historic conversion of the ground floor for retail use while retaining access to the upper floors of the building. Two entrances, either side of the ground floor shop, therefore make the function and use of the building more legible and add integrity to its overall historic form and development.
- 6.34 The proposal to include only a shop entrance at ground floor (with the residential entrance provided at n. 52) further dilutes the character and appearance and significance of no. 51 Tottenham Court Road. The pattern of a two-door entrance (relating to specific entrances) is long-established and relates to the functionality and

use of the building. The removal of this detracts from traditional design and patterns of development in the conservation area and therefore causes harm to its character and appearance. It is acknowledged that the existing shopfront does not contribute positively to the host building of the character and appearance of the wide conservation area. However, at paragraph 137 of the NPPF, it is set out that 'local planning authorities should look for opportunities for new development within Conservation Areas...to enhance or better reveal their significance.' It is considered that the appeal scheme could have enhanced the host building by adopting the design principles of a traditional shopfront and that this should have involved the retention of two separate entrances to serve the residential and retail components of the building.

- 6.35 The proposed shopfront design to no. 52 would also have benefitted from greater consideration. As already set out above, while there are discrete differences between the overall design of nos. 52 and nos. 53-54, there is a remarkable consistency of height, storey heights, parapet height and fenestration height and pattern. There is also consistency in the existing shopfront and fascia heights although this is not reflected well on the existing drawings. The appeal scheme would result in a different depth of fascia that would not relate to the shopfronts of the buildings at nos. 53 and 54. The proposed scheme would therefore detract from the overall feel and cohesiveness of the smaller group of buildings of which it would form part. It would therefore then detract from the character and appearance of the Charlotte Street Conservation Area.

Summary and conclusion

- 6.36 The existing buildings at nos. 51 and 52 Tottenham Court Road are of significance and value and contribute strongly to the character and appearance of the conservation area for the following reasons:
- No. 51 Tottenham Court Road represents the earliest phase of development along Tottenham Court Road and retains its original form, scale and appearance, including the carriageway entrance to the rear (formerly Red Lion Yard);
 - The form and appearance of the building are reflective of the character and appearance of the wider Charlotte Street Conservation Area;
 - Within and as part of the group formed by nos. 46-54 Tottenham Court Road, no. 51 highlights the sequential growth of the street with 18th, 19th and 20th century buildings built to an appropriate scale and relating to historic plot widths;
 - The smaller-scale development represented by nos. 51 and 52 Tottenham Court Road add emphasis to larger 19th and 20th century development of Tottenham Court Road – the site and the group of which it forms part is an important reminder of the original scale and pattern of the street;
 - The composition of nos. 51 and 52 Tottenham Court Road reflect the period of their construction and both buildings serve to amplify the date and detailing of neighbouring buildings with no. 51 being an example of early development and no. 52 relating strongly to nos. 53 and 54 Tottenham Court Road.
 - Both nos. 51 and 52 contribute strongly to the character and appearance of the Charlotte Street Conservation Area.

6.37 The appeal scheme would have a detrimental effect on the existing buildings at no. 51 and no. 52 Tottenham Court Road and would therefore cause harm to the character and appearance of the conservation area for reasons set out above and summarised as follows:

- The proposed roof extension to no. 51 Tottenham Court Road would result in the loss of a historic/traditional roof form and its replacement with a sheer storey and modern mansard roof that would extend to the full depth of the plot. This would result in harm being caused to the conservation area by the loss of a traditional roof form and the introduction of an atypical roof form and plan to the building;
- The existing building is a complete composition and its existing scale and proportions relate strongly to its original phase of development and that of Tottenham Court Road. The proposals would fundamentally alter this composition and would detract from the smaller-scale development that traditionally defined Tottenham Court Road and the Charlotte Street Conservation Area;
- The proposed extension to no. 52 Tottenham Court Road would cause harm to the group or 'run' of which it forms part for reasons set out above, thereby causing harm to the character and appearance of the Charlotte Street Conservation Area. It would also cause harm to the group at nos. 46-54 Tottenham Court where the tallest buildings are the listed public house and the 1930s building at no. 49 Tottenham Court Road. As already noted, these changes in height signify phases of development or the relative importance of particular buildings (in the case of no 46, the Rising Sun Public House). The proposed scheme would dilute this existing relationship and would detract from the legibility of the obvious phasing of development within this particular group (notwithstanding the fact that the appeal scheme would also erode the host building). For these reasons the proposals would cause harm to the character and appearance of the host buildings and the conservation area;
- The proposed rear extensions are over-scaled and overbearing in this context for reasons outlined above and do not sufficiently relate to their context. The rear extensions are therefore also considered to harm the character and appearance of the Charlotte Street Conservation Area; and,
- For reasons outlined above, the shopfronts generally add to the cumulative erosion of character of the host buildings, of the group of which they form part and of the character and appearance of the conservation area. They also add to the general reduction in cohesiveness between nos. 52 and 53-54 through changes at ground floor level.

6.38 The appellants assess that the appeal scheme is based on an understanding of the townscape and urban design character of the site and its context, together with the significance of the Charlotte Street Conservation Area and the contributions made by the existing buildings at nos. 51 and 52 Tottenham Court Road. It is the Council's case that the appellant has not sufficiently taken into account the historic development of the area or the particular significance of the existing buildings in question in developing proposals for the site. As already noted above, rather than reflect the significance of the historic buildings and their role within and contribution to the surrounding conservation, it is considered that the appeal proposals would

cause harm to the character and appearance of the Charlotte Street Conservation Area

- 6.39 Under the terms of relevant local and national historic environment policy and statute, the proposals would result in harm and would fail to preserve or enhance the character and appearance of the Charlotte Street Conservation Area. This harm should be given great weight and importance. It has already been established in section 3 above that the proposals would not comply with Camden's Planning Guidance and that an Inspector has already and recently dismissed a similar scheme for the site. The level of harm caused would be considered to be 'less than substantial' (under the terms of the NPPF) but the level of harm would remain high even within this category.
- 6.40 Paragraph 134 of the NPPF sets out that where 'less than substantial harm' is found, 'this harm should be weighed against the public benefits of the proposal'. The matter of public benefit is discussed in the overall planning balance below but it is considered that the proposed public benefits of the increase in commercial accommodation as well as a new three bed residential unit, would have a limited public benefit, which would not outweigh the harm caused to the host building or the character and appearance of the conservation area. In addition, the Council appreciate that the proposal would involve investment in the property but this building is not in bad condition requiring upgrading. In terms of local policy, and as set out above, the proposed development would fail to preserve or enhance the character and appearance of the conservation area and would not respond to local character or context.

iii. Reason for Refusal 3 – Amenity Impact of Rear Extensions

The rear extensions by reason of their height, scale, bulk and massing would have an overbearing and/or dominating effect which would result in an increased sense of enclosure and loss of outlook to the surrounding properties, particularly to the residential units in 53 Tottenham Court Road and would therefore have a detrimental amenity impact on the occupiers of the neighbouring residential units, contrary to policy DP26 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

- 6.41 The appeal development proposes substantial 4-5 storey rear extensions which would extend out to the rear boundary of the site at ground, first and second floor levels, would be set in from the rear boundary by between 1.4-2.3 m at third floor level and by between 5.2-5.6 m at fourth floor (roof) level.
- 6.42 The site backs onto the 4-5 storey office building at 6-10 Whitfield Street to the rear, which is located 2 m from the rear site boundary and contains rear windows facing onto the site. The proposed rear extension would be located 2 m from the rear windows of this building at ground, first and second floor levels, 4.2 m at third floor level and 7 m at fourth floor level. The office building at 6-10 Whitfield Street also projects to the rear close to the south site boundary and the proposed rear extensions would be located 3 m from the side north elevation of this building which contains windows facing onto the site.

- 6.43 The rear part of the site is located to the south of 4-storey office buildings on Kirkman Place, which is a small cul-de-sac, which extends off Tottenham Court Road to the north of no. 54. These buildings contain south facing windows facing onto the rear part of the site. The proposed rear extensions would be located 4.6 m to the south of these office buildings.
- 6.44 The building to the north of the site is no. 53 Tottenham Court Road, which has windows on its principal rear elevation and a small 3-storey rear extension. The Daylight and Sunlight Assessment submitted with the original application indicated that 53 Tottenham Court Road contains a rear facing habitable window. The proposed extension would project by 12 m to the rear of 53 Tottenham Court Road at ground, first and second floor levels, would project by 11.2 m at third floor level and 7 m at fourth floor level.
- 6.45 It is the Council's case that the appeal scheme proposed substantial 4-5 storey rear extensions, which would be located very close to the office building to the rear and south at 6-10 Whitfield Street, close to the office building to the north on Kirkman Place and would be a significant projection beyond no. 53 Tottenham Court Road to the north. The extensions by reason of their height, scale, bulk and massing have an overbearing and/or dominating effect which would result in to an increased sense of enclosure and loss of outlook to the surrounding properties and would therefore have a detrimental amenity impact on the occupiers of the neighbouring residential units, contrary to the following development plan policies and other material considerations:
- Camden Local Plan Policy A1 (Managing the impact of development) which states *that the Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity. We will seek to ensure that the amenity of communities, occupiers and neighbours is protected. The factors we will consider include visual outlook.*
 - Camden Planning Guidance 6 (Amenity) which states that *development should not have an overbearing and/or dominating effect.*
 - London Plan Policy 7.6 (2016) *which states that development should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate. This is particularly important for tall buildings*
 - National Planning Policy Framework (2012) *which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings (Para 17).*

iv. Reason for Refusal 4.

Insufficient information has been submitted in relation to the impacts of the proposed basement to allow the Local Planning Authority to ascertain whether the 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, contrary to policy DP27 of the Camden Development Policies 2010-2026.

- 6.46 The appeal development includes a basement extension, which would increase the depth of the existing basement and extend this out to the rear boundary of the site.
- 6.47 The basement development was assessed in accordance with Camden Development Policy D27 (Basements and Lightwells) [now superseded by Camden Local Plan policy A5 (Basements)] and Camden Planning Guidance 4 (Basements and lightwells). These policies require basement development to not cause harm to neighbouring properties; the structural, ground, or water conditions of the area; the character and amenity of the area; the architectural character of the building; and the significance of heritage assets. The Council will require an assessment of the scheme's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment (BIA) and where appropriate, a Basement Construction Plan (BCP).
- 6.48 A Basement Impact Assessment (BIA) by Ellis and Moore Consulting Engineers was submitted by the appellant at the application stage. In accordance with the Council's procedures, this was independently assessed by engineers Campbell Reith (Appendix 6a). This independent audit concluded that further information was required including a site specific ground movement analysis to report/assess on the potential damage to the adjoining properties, indicative construction and temporary works sequence and structural calculations, investigation of neighbouring foundations, confirmation of impacts relating to unexploded ordinance and nearby underground station and evidence that the site is not affected by any lost rivers.
- 6.49 Reason for refusal 4 therefore stated that insufficient information was submitted with the application in relation to the impacts of the proposed basement to allow the Local Planning Authority to ascertain whether the 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. This is contrary to the following development plan policies and other material considerations:
- Camden Local Plan Policy A5 (Basements) which states that *the Council will only permit basement development where it is demonstrated to its satisfaction that the proposal would not cause harm to neighbouring properties and the structural, ground, or water conditions of the area. In determining proposals for basements and other underground development, the Council will require an assessment of the scheme's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment and where appropriate, a Basement Construction Plan.*
 - Camden Planning Guidance 4 (Basements and lightwells) which states that *the Council will only permit basement and underground development that does not cause harm to the built and natural environment and local amenity; result in flooding; or lead to ground instability. The Council will require applicants to demonstrate by methodologies appropriate to the site that schemes: maintain the structural stability of the building and neighbouring properties; avoid*

adversely affecting drainage and run-off or causing other damage to the water environment; and avoid cumulative impacts upon structural stability or the water environment in the local area. Applicants will be required to submit information relating to the above within a Basement Impact Assessment (BIA), which is specific to the site and particular proposed development. In certain situations we will expect an independent verification of Basement Impact Assessments, funded by the applicant

Appeal Stage Update

- 6.50 The appellant submitted an updated Structural Engineer's Report and Construction Method Statement with this appeal by Sinclair Johnston to respond to the outstanding issues raised by the independent engineers Campbell Reith at the application stage. This updated information was audited by the Council's independent engineers Campbell Reith between the 20/09/2017 – 20/10/2017 as a part of this appeal (Appendix 6b). This independent audit concluded that the proposed basement does not comply with the requirements of Camden Planning Guidance 4 (Basements and lightwells). It states that the submitted basement impact assessment indicates damage to some of the neighbouring properties will be Category 2 (Slight) on the Burland Scale, which is contrary to Camden Local Plan Policy A5 (Basements). This independent audit also concluded that further information is still required including:
- Ground movement and damage impact assessment, which should include actual construction methodology, ground conditions, neighbouring foundation depth, adjacent assets etc. Sufficient mitigation to be demonstrated as achievable, consistent with construction proposed.
 - Construction methodology, temporary and permanent works information, retaining wall calculations, foundations assessment
 - Use of resin grouting N/A – Subject to Basement Construction Plan (BCP) to demonstrate works can be controlled so that impacts are maintained within policy requirements
 - Structural monitoring Open – sufficient to demonstrate works can be controlled within policy requirements, including trigger values and contingency actions.
- 6.51 The Council and appellant requested an extension of time for reason for refusal 4 (basement) on the 20/10/17. **The Planning Inspectorate have granted an extension of time to the 23/11/17 (Appendix 8)**. This will allow further time for the appellant to provide a response the latest independent assessment of the proposed basement works by Campbell Reith (Appendix 6b) and for the additional information listed in paragraph 6.51 to be submitted to and assessed by the Council. The Council will submit further evidence on this issue to the planning inspectorate by this 23/11/17 deadline.

v. Reason for Refusal 5.

The development would fail to provide adequate cycle parking facilities for the residential element of the scheme and would therefore provide substandard

housing development, and would fail to promote cycling as a healthy and sustainable way of travelling in this highly accessible Central London location, contrary to policies CS6 and CS11 of the Camden Core Strategy 2010-2025, policies DP17 and DP18 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

- 6.52 The Council applies the cycle parking standards in the London Plan (2016) [Table 6.3]. This is confirmed in Camden Local Plan Policy T1 (Prioritising walking, cycling and public Transport) which states that *the Council will seek to ensure that development provides for accessible, secure cycle parking facilities exceeding minimum standards outlined within the London Plan (Table 6.3) and design requirements outlined within our supplementary planning document Camden Planning Guidance on transport.*
- 6.53 The appellant has submitted a revised basement plan ref: C645_P_B1_001 E with this appeal (Appendix 7), which shows 10 cycle parking spaces for the residential use, 4 cycle parking spaces for the office use and 2 cycle parking spaces for the retail use, all at basement level in double stacker cycle parking facilities. The Council has no objection to the submission of this amended plan as a part of this appeal. This has been reviewed by the Council's Transport Planning Section and the revised plan is considered to be acceptable and overcomes reason for refusal 5 in relation to cycle parking for this development.

vi. Reason for Refusal 6.

In the absence of a legal agreement to secure car free housing in this highly accessible Central London location, the development would fail to encourage car free lifestyles, promote sustainable ways of travelling, help to reduce the impact of traffic and would increase the demand for on-street parking in the CPZ, all contrary to policy CS11 of the Camden Core Strategy 2010-2025, policy DP18 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

- 6.54 The site is located within a Controlled Parking Zone (CPZ), which is a highly accessible part of the Central London Area (PTAL rating of 6b - excellent). In accordance with Camden Local Plan Policy T2 (Parking and car-free development) *the Council will limit the availability of parking and will require all new developments in the borough to be car-free. The Council will not issue on-street or on-site parking permits in connection with new developments and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits:*
- 6.55 It should be noted that the Council is now securing car-free agreements through Section 16 of the Greater London Council (General Powers) Act 1974, s111 of the Local Government Act 1972 and s1(1) of the Localism Act 2011. We are using these Acts in addition to s106 of the Town and Country Planning Act.
- 6.56 The appellant's appeal statement states that they are willing to enter into a legal agreement, which secures car free housing in relation to all residential units. A section 106 agreement is being drafted by the Council as part of this planning appeal, which includes the necessary clause to ensure that the development would

be car free in accordance with Camden Local Plan Policy T2. This would overcome this reason for refusal should the inspector be minded to allow this appeal.

vii. Reason for Refusal 7.

In the absence of a legal agreement to secure the implementation of the Construction Management Plan, the development would contribute unacceptably to traffic disruption and dangerous situations for pedestrians and other road users and be detrimental to the amenities of the area generally, all contrary to policy CS11 of the Camden Core Strategy 2010-2025, policies DP20, DP26, DP28 and DP32 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

- 6.57 The Council considers that the development which is subject to this appeal will be complicated in terms of how the site would be serviced during construction and how the development would actually be constructed. The site is located directly adjacent to Tottenham Court Road which is one of the busiest traffic corridors in the borough. Pedestrian flows are high throughout the working day and cyclist flows are significant during morning and afternoon/evening peak periods. The site would need to be serviced directly from the adjacent public highway and this would have a significant impact on road users (particularly cyclists and pedestrians) if not adequately mitigated and managed. It is also worth noting that the Council is planning to implement significant public realm improvements on Tottenham Court Road in 2018 and 2019. Construction of this development if approved is therefore likely to overlap with the Council's public realm improvements. The cumulative impacts of construction will therefore need to be managed. The Council therefore needs to secure a construction management plan as a section 106 planning obligation to ensure that the impacts of the development, both internal and external to the site, are adequately mitigated and managed.
- 6.58 The Council introduced a formal charge to support the implementation of Construction Management Plans and Demolition Management Plans on 19th April 2016, to be secured as a financial contribution as part of Section 106 agreements. This constitutes a further reason why securing a construction management plan by an appropriately worded condition is not appropriate (i.e. financial contributions cannot be secured by condition and must therefore be secured via section 106 agreements). Further information on this contribution is available in an advice note, which is available on the Council's webpage for construction management plans at the hyperlink below:
<https://www.camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-applications/making-an-application/supporting-documentation/construction-management-plans.en>
- 6.59 A financial contribution of £1,140 to cover the construction management plan implementation support by the Council should therefore be secured as a section 106 planning obligation if the appeal is allowed.
- 6.60 The appellant's appeal statement states that they are willing to enter into a legal agreement, which secures a construction management plan for this development. A section 106 agreement is being drafted by the Council as part of this planning

appeal, which includes the necessary clause to ensure that the development would secure a construction management plan together with the associated implementation support contribution of £1,140 in accordance with Camden Local Plan Policies A1, A4, T4 and CPG6. This would overcome this reason for refusal should the inspector be minded to allow this appeal.

viii. Reason for Refusal 8.

In the absence of a legal agreement to secure the necessary financial contributions to undertake public highway works, the development would harm the Borough's transport infrastructure, all contrary to policies CS11, CS19 of the Camden Core Strategy 2010-2025, policies DP16, DP17 and DP21 of the Camden Development Policies 2010-2026, The London Plan (2016) and the National Planning Policy Framework (2012).

- 6.61 The policy basis for seeking to secure a highways contribution is detailed in Local Plan Policy (A1 Managing the impact of development) and Camden Planning Guidance document CPG8 (Planning Obligations). Local Plan Policy A1 states *that development-requiring works to the highway following development will be secured through planning obligation with the Council to repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces.*
- 6.62 The development if approved is likely to cause significant damage to the public highway directly adjacent to the site. A highways contribution therefore needs to be secured to allow the Council to repair any such damage following completion of the development. The appellant would be able to request a refund if it can be demonstrated that highway works are not actually required.
- 6.63 A cost estimate to repave the footway directly adjacent to the site has been prepared by the Council's Transport Design Team. A highways contribution of £9,800 should therefore be secured as a section 106 planning obligation if planning permission is granted. For the avoidance of doubt, highway works would be undertaken by the Council's highways contractor via a section 278 agreement between the Council and the appellant.
- 6.64 The appellant's appeal statement states that they are willing to enter into a legal agreement, which secures a financial contribution to repair any damage to highways caused by the development. A section 106 agreement is being drafted by the Council as part of this planning appeal, which includes the necessary clause to secure a highway contribution of £9,800 in accordance with Camden Local Plan Policy A1 and CPG8. This would overcome this reason for refusal should the inspector be minded to allow this appeal.
- 7. New Affordable Housing Requirement (Camden Local Plan Policy H4)**
- 7.1 Camden Local Plan 2017 was formally adopted on 3rd of July 2017 and the policy in relation to affordable housing has changed in relation to new residential units. It is acknowledged that the planning application was determined in line with the old

Development Management Policies; however the current appeal would be considered in line with the adopted Camden Local Plan policies.

- 7.2 Local Plan policy H4 (Maximising the supply of affordable housing) states *that the Council will aim to maximise the supply of affordable housing and exceed a borough wide strategic target of 5,300 additional affordable homes from 2016/17 - 2030/31, and aim for an appropriate mix of affordable housing types to meet the needs of households unable to access market housing. We will expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more.*

The Council will seek to negotiate the maximum reasonable amount of affordable housing on the following basis: targets are based on an assessment of development capacity whereby 100sqm (GIA) of housing floorspace is generally considered to create capacity for one home; the sliding scale target, starting at 2% for one home and increasing by 2% for each home added to capacity, is applied to the additional floorspace proposed. Schemes providing between 1-9 units are expected to make a payment in lieu (PIL) of affordable housing, subject to viability.

- 7.3 The appellant has submitted details of the Gross Internal Area (GIA) floorspace as a part of this appeal.

- 7.4 Local Plan policy H4 requires a contribution to affordable housing from all developments providing one or more additional residential units with an increase in floorspace of 100m² (GIA) or more. The sliding scale target, starting at 2% for one home and increasing by 2% for each home added to capacity, is applied to the additional floorspace proposed. The affordable percentage is calculated on the basis that 100m² (GIA) is sufficient 'capacity' for a single home. Schemes providing between 1-9 units are expected to make a payment in lieu (PIL) of affordable housing, subject to viability.

The proposed GIA of the development is 298 m² and the proposed GEA of the development is 307m². The calculation for the payment in lieu (PIL) is below:

- Based on a GIA of 298m² the percentage target would be 6%
- The existing PIL figure is £2,650 per m²*, based on GEA
- The proposed increase of floorspace in GEA is 307m²
- GEA floorspace target is 6% x 307m² = 18.42m²
- Financial contribution calculated as 18.42m² x £2,650 per m² = £48,813
- A PIL of £48,813 would therefore be required and secured via a Section 106 legal agreement.

**Camden Planning Guidance 8 (Planning Obligations) explains at paragraphs 6.8-6.12 how the payment in lieu level of is £2,650 per m² has been set in Camden based on housing research.*

- 7.5 The appellant has agreed by email that they are willing to enter into a legal agreement, which secures this financial contribution of £48,813 towards off-site affordable housing for this development in lieu of on-site provision. A section 106

agreement is being drafted by the Council as part of this planning appeal, which includes the necessary clause to ensure that the development would secure the affordable housing contribution. This would ensure compliance with policy H4 should the inspector be minded to allow this appeal.

8. S.106 Planning Obligation

8.1 The Council has prepared a draft s.106 agreement for this appeal application. The Council and the appellant have reached consensus on the terms of the agreement and it is therefore for the benefit of the Planning Inspectorate who could rely upon the s.106 agreement should they be minded to allow the appeal. This agreement includes the following heads of terms:

1. Car Free Housing.
2. Construction Management Plan - with a support contribution of £1,140
3. Highways Contribution of £9,800
4. Basement Approval in Principle - with a support contribution of £1,800
5. Affordable Housing Contribution - £48,813
6. Basement Construction Plan (BCP)

1. Car Free Housing

8.2 The site is located within a Controlled Parking Zone (CPZ), which is a highly accessible part of the Central London Area (PTAL rating of 6b - excellent). In accordance with Camden Local Plan Policy T2 (Parking and car-free development) the Council will limit the availability of parking and will require all new developments in the borough to be car-free. The Council will not issue on-street or on-site parking permits in connection with new developments and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits:

8.3 A planning obligation is considered the most appropriate mechanism for securing the development as car-free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car-free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, a legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free". The Council's control over parking does not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council's control is derived from Traffic Management Orders ("TMO"), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where an additional dwelling/use needed to be designated as car-free. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a "CarFree" legal obligation. The TMO sets out that it is the Council's policy not to give parking permits to people who live in premises designated as "Car-Free", and the

Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as “Car-Free”.

- 8.4 Use of a legal agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal to potential future purchasers of the property that it is designated as car free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.
- 8.5 The appellant’s appeal statement states that they are willing to enter into a legal agreement, which secures car free housing in relation to all residential units. A section 106 agreement is being drafted by the Council as part of this planning appeal, which includes the necessary clause to ensure that the development would be car free in accordance with Camden Local Plan Policy T2. This would overcome reason for refusal 6 should the inspector be minded to allow this appeal.

2. Construction Management Plan (CMP)

- 8.6 Local Plan Policy T4, which seeks to promote the sustainable movement of goods and materials and to minimise the movement of goods and materials by road, refers to the need for Construction Management Plans (CMPs) in certain cases. Local Plan Policy A1 also refers to the need for CMPs.
- 8.7 The sub-text to Policy A1 notes that disturbance from development can occur during the construction phase and measures to reduce the impact of demolition, excavation and construction works must be outlined in a CMP. A list of reasons why a CMP may be required is provided and it includes developments with poor or limited access on site; developments that are accessed via narrow residential streets; developments in areas with a high number of existing active construction sites; and, developments that could cause significant disturbance due to their location.
- 8.8 The Council considers that the development which is subject to this appeal will be complicated in terms of how the site would be serviced during construction and how the development would actually be constructed. The site is located directly adjacent to Tottenham Court Road which is one of the busiest traffic corridors in the borough. Pedestrian flows are high throughout the working day and cyclist flows are significant during morning and afternoon/evening peak periods. The site would need to be serviced directly from the adjacent public highway and this would have a significant impact on road users (particularly cyclists and pedestrians) if not adequately mitigated and managed. It is also worth noting that the Council is planning to implement significant public realm improvements on Tottenham Court Road in 2018 and 2019. Construction of this development if approved is therefore likely to overlap with the Council’s public realm improvements. The cumulative impacts of construction will therefore need to be managed. The Council therefore needs to secure a construction management plan as a section 106 planning obligation to ensure that the impacts of the development, both internal and external to the site, are adequately mitigated and managed.

- 8.9 Whilst it is recognised that CPG6 notes that CMPs can sometimes be secured by condition, the sub-text to Policy A1 of the new Local Plan (which is a later document) notes that CMPs will usually be secured via planning obligations between the developer and the Council after an application is approved. This is because the details that the appellant proposes to cover in their CMP include measures that affect land outside of the red line site boundary (such as road closures and arrangements for deliveries) which could not be covered by condition. Furthermore, securing the CMP through a legal agreement would allow it to be a live document that could be continuously updated as required, which is more suited to its requirements.
- 8.10 The Council introduced a formal charge to support the implementation of Construction Management Plans and Demolition Management Plans on 19th April 2016, to be secured as a financial contribution as part of Section 106 agreements. This constitutes a further reason why securing a construction management plan by an appropriately worded condition is not appropriate (i.e. financial contributions cannot be secured by condition and must therefore be secured via section 106 agreements). Further information on this contribution is available in an advice note, which is available on the Council's webpage for construction management plans at <https://www.camden.gov.uk/ccm/content/environment/planning-and-built-environment/two/planning-applications/making-an-application/supporting-documentation/construction-management-plans.en>. A financial contribution of £1,140 to cover the construction management plan implementation support by the Council should therefore be secured as a section 106 planning obligation if the appeal is allowed.
- 8.11 The appellant's appeal statement states that they are willing to enter into a legal agreement, which secures a construction management plan for this development. A section 106 agreement is being drafted by the Council as part of this planning appeal, which includes the necessary clause to ensure that the development would secure a construction management plan together with the associated implementation support contribution of £1,140 in accordance with Camden Local Plan Policies A1, A4, T4 and CPG6. This would overcome this reason for refusal 7 should the inspector be minded to allow this appeal.

3. Highways contribution

- 8.12 Local Plan Policy A1 and CPG8 state that works affecting Highways are expected to repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces following development. The Council will undertake highway works connected to a development proposal at the developer's expense in accordance with paragraph 6.11 of the Local Plan. An estimate for this work will be prepared by the Borough Engineer.
- 8.13 The Council maintains that a payment for highways work should be secured through a Section 106 legal agreement, which would also combine as an agreement under Section 278 of the Highways Act 1980. CPG8 – Planning Obligations states that public highways works on Borough Roads are to be undertaken through a Section 106 or 278 obligation. The guidance also states that the Council will secure payment for required works by preparing an estimate (including fees) for the scheme that the developer will be required to pay before commencing development (paragraph 5.14). The most

effective way of both securing sufficient payment and ensuring the works are carried out to the Council's procedures and standards is for a financial contribution to be paid by the developer on commencement of the development and secured by an obligation under Section 106 legal agreement. It is not possible to secure a financial contribution for highway works by condition as it relates to land outside the application site and is not under the control of the applicant.

- 8.14 It is necessary in planning terms as identified in the Local Plan to mitigate against the increased impact that will be generated by the development. The contribution will be calculated taking into account the particular characteristics of the development, it is directly related to the development and is fairly and reasonably related in scale and kind to the development. It is also directly related to the development and fairly and reasonably related in scale and kind as it will provide for the new residents and mitigate impacts of the development.
- 8.15 The development if approved is likely to cause significant damage to the public highway directly adjacent to the site. A highways contribution therefor needs to be secured to allow the Council to repair any such damage following completion of the development.
- 8.16 The cost to repave the footway directly adjacent to the site has been re-calculated by the Council's Highways Engineers at £9,800. The highway works would be implemented by the Council via a section 278 agreement. It should be noted that the appellant would be eligible for a rebate if the Council subsequently deem highway remedial works to be unnecessary following substantial completion of the development.
- 8.17 The appellant's appeal statement states that they are willing to enter into a legal agreement, which secures a financial contribution to repair any damage to highways caused by the development. A section 106 agreement is being drafted by the Council as part of this planning appeal, which includes the necessary clause to secure a highway contribution of £9,800 in accordance with Camden Local Plan Policy A1 and CPG8. This would overcome reason for refusal 8 should the planning inspectorate be minded to allow this appeal.

4. Basement Approval in Principle (AiP).

- 8.18 Camden Local Plan Policy A5 (Basements) states that the Council will only permit basement development where it is demonstrated to its satisfaction that the proposal would not cause harm to neighbouring properties and the structural, ground, or water conditions of the area. Camden Planning Guidance 4 (Basements and lightwells) also states that the Council will only permit basement and underground development that does not cause harm to the built and natural environment or lead to ground instability. The Council will require applicants to demonstrate by methodologies appropriate to the site that schemes: maintain the structural stability of the building and neighbouring properties. The proposed basement development would also need to maintain the structural stability and safety of the highway adjacent to the site.
- 8.19 The Council has an established procedure for details of any proposed basement works adjacent to a public highway land to be submitted to, and approved in

principle by the Council's Highways Engineers. This is also a requirement of British Standard BD2/12 (Technical Approval of Highway Structures). This Approval in Principle' (AIP) report is secured as a s.106 planning obligation as it relates to land and impacts outside the site. The AIP would need to include structural details and calculations to demonstrate that the proposed development would not affect the stability of the public highway adjacent to the site. The AIP would also need to include an explanation of any mitigation measures, which might be required. The AIP would need to be secured with an associated assessment fee of £1,800, which meets the costs of the Council's Highways Engineering team reviewing the details.

- 8.20 It is understood that the appellant is willing to enter into an legal agreement, which secures a basement approval in principle (AiP) clause and associated financial contribution of £1,800 to meet the Council's costs in assessing these details. A section 106 agreement is therefore being drafted by the Council as part of this planning appeal, which includes the necessary clause to secure a basement approval in principle clause and associated financial contribution of £1,800.

5. Affordable Housing Contribution

- 8.21 Local Plan policy H4 states that the Council will aim to maximise the supply of affordable housing and exceed a borough wide strategic target of 5,300 additional affordable homes from 2016/17 - 2030/31, and aim for an appropriate mix of affordable housing types to meet the needs of households unable to access market housing. We will expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more.
- 8.22 Local Plan policy H4 requires a contribution to affordable housing from all developments providing one or more additional residential units with an increase in floorspace of 100m² (GIA) or more. The sliding scale target, starting at 2% for one home and increasing by 2% for each home added to capacity, is applied to the additional floorspace proposed. The affordable percentage is calculated on the basis that 100m² (GIA) is sufficient 'capacity' for a single home. Schemes providing between 1-9 units are expected to make a payment in lieu (PIL) of affordable housing, subject to viability.
- 8.23 The proposed GIA of the development is 298 m² and the proposed GEA of the development is 307m². The calculation for the payment in lieu (PIL) is below:
- Based on a GIA of 298m² the percentage target would be 6%
 - The existing PIL figure is £2,650 per m²*, based on GEA
 - The proposed increase of floorspace in GEA is 307m²
 - GEA floorspace target is 6% x 307m² = 18.42m²
 - Financial contribution calculated as 18.42m² x £2,650 per m² = £48,813
 - A PIL of £48,813 would therefore be required and secured via a Section 106 legal agreement.

**Camden Planning Guidance 8 (Planning Obligations) explains at paragraphs 6.8-6.12 how the payment in lieu level of is £2,650 per m² has been set in Camden based on housing research.*

8.24 It is understood that the appellant is willing to enter into a legal agreement, which secures this financial contribution of £48,813 towards off-site affordable housing for this development in lieu of on-site provision. A section 106 agreement is being drafted by the Council as part of this planning appeal, which includes the necessary clause to ensure that the development would secure the affordable housing contribution. This would ensure compliance with policy H4 should the inspector be minded to allow this appeal.

6. Basement Construction Plan (BCP)

8.25 Local Plan Policy A5 states that to ensure that basement construction is undertaken without causing damage to neighbouring properties and the water environment the Council may require the developer to provide a Basement Construction Plan in some circumstances. Basement Construction Plans may be required where a particular methodology needs to be applied to ensure there is no damage to neighbouring properties.

8.26 Camden Planning Guidance 4 states that in some circumstances the Council may require a basement construction plan secured through a Section 106 Agreement. The Council may require provision of a basement construction plan when the proposed development involves excavation or construction that if improperly undertaken could cause damage to neighbouring properties. In most instances this will be on larger and more complex basement schemes and where excavation is close to neighbouring buildings and structures or involve listed buildings. A basement construction plan sets out detailed information to demonstrate how the design and construction of the basement has been prepared in order to minimise the impacts on neighbouring properties and the water environment, and provides a programme of measures to be undertaken by the owner to with the objective of minimise the impact on the structural integrity of neighbouring properties and sensitive structures such as the public highway. A basement construction plan should contain:

- a method statement detailing the proposed method of ensuring the safety and stability of neighbouring properties throughout the construction phase including temporary works sequence drawings,
- appropriate monitoring including details of risk assessment thresholds and contingency measures,
- detail demonstrating that the basement has been designed using evidence of local factors including ground conditions, the local water environment and the structural condition of neighbouring properties, in order to minimise the impact on them.
- provision to retain at the property throughout the construction phase a suitably qualified engineer from a recognised relevant professional body to monitor, inspect, and approve the permanent and temporary basement construction works, and
- measures to ensure the ongoing maintenance and upkeep of the basement.
- The basement construction plan should ensure that:
- a suitably qualified and experienced engineer has agreed the design,

- the modelling of ground conditions and water environment is appropriately conservative; and best endeavours are undertaken to prevent any impact on the structural integrity of the neighbouring properties.

- 8.27 The latest audit of the proposed basement works by independent engineers Campbell Reith (Appendix 6b) has recommended that the proposed grouting works are subject to a Basement Construction Plan (BCP) to ensure they are properly designed and controlled on site and to avoid further impacts to stability and subterranean groundwater.
- 8.28 It is understood that the appellant is willing to enter into a legal agreement, which secures a Basement Construction Plan (BCP). A section 106 agreement is being drafted by the Council as part of this planning appeal, which includes this. However, as set out in section 6 (paragraphs 6.46-6.52) of this statement the proposed basement works in the appeal application are still considered to be unacceptable against the requirements of Local Plan Policy A5 and CPG 4. It is the Council's case that a Basement Construction Plan (BCP) would be required for this development, however our current position is that the basement works are unacceptable and a BCP would not in itself overcome these issues; a revised basement impact assessment is required as set out in section 6 (paragraphs 6.46-6.52) of this statement.

Conclusion

- 8.29 The Council understands that these section 106 agreement heads of terms are not in dispute. The Council's and appellants legal teams are still working together on the s.106 agreement. The Council and appellant will submit the final draft s.106 agreement to the Planning Inspectorate under a separate cover letter on or before the final comments date for this appeal.

9. Draft list of Planning Conditions

- 9.1 The Council has prepared the following draft list of planning conditions for this appeal application for the benefit of the Planning Inspectorate should they be minded to allow the appeal:

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following plans:

G100_P_00_001, JA12_P_B1_001, JA12_P_00_001, JA12_P_01_001,
 JA12_P_02_001, JA12_P_03_001, JA12_P_RF_001, JA12_E_NE_001,
 JA12_E_SW_001, JA12_E_NW_001, JA12_E_SE_001, JA12_S_AA_001,
 JA12_S_AL_001, JA12_S_AL_002, C645_P_B1_001, C645_P_00_002,
 C645_P_01_002, C645_P_02_002, C645_P_03_002, C645_P_RF_001,

C645_E_NE_004, C645_E_SW_002, C645_E_NW_002, C645_E_SE_002, C645_P_B1_001 E, C645_P_00_001 C, C645_P_01_001 D, C645_P_02_001 D, C645_P_03_001 D, C645_P_04_001 D, C645_P_RF_001 B, C645_S_AA_001 B, C645_E_SW_001, C645_E_NE_001 D, C645_E_NW_001, C645_E_SE_001, C645_S_AL_001, C645_S_AL_002

Reason: For the avoidance of doubt and in the interest of proper planning.

3. The demolition hereby permitted shall not be undertaken before a construction contract for the carrying out the development of the site approved by this permission has made and details of this construction contract have been submitted to and approved in writing by the local planning authority.

Reason: To safeguard the character of the conservation area in accordance with the requirements of policy D2 of the London Borough of Camden Local Plan 2017.

4. Details of a façade retention plan setting out the methods to ensure the retention and structural support of the existing building façade during the construction process shall be submitted to and approved in writing by the local planning authority prior to the commencement of the demolition works. The development shall thereafter only be implemented in accordance with the approved façade retention plan.

Reason: To safeguard the character of the conservation area in accordance with the requirements of policy D2 of the London Borough of Camden Local Plan 2017.

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

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy A5 of the London Borough of Camden Local Plan 2017.

6. The ground floor/basement retail unit hereby approved shall only be used for retail use (A1 use class) and shall not be used for any other use in the schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) unless otherwise agreed in writing by the local planning authority through the submission of a planning application.

Reasons: To protect the vitality and viability of this designated retail frontage and to safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies TC1, TC2, TC4 and A1 of the London Borough of Camden Local Plan 2017.

7. Detailed drawings, or samples of materials as appropriate in respect of the following, shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development:
- a) Plan, elevation and section drawings, including jambs, head and cill, of all new external window and doors at a scale of 1:10 with typical glazing bar details at 1:1.
 - b) Typical details of new railings and balustrade at a scale of 1:10 with finials at 1:1, including the method of fixing.
 - c) Samples and manufacturer's details of new facing materials including windows; timber and brickwork. The sample panels of all facing materials shall demonstrate the proposed colour, texture, face-bond and pointing.
 - d) Details drawings including sections and elevations at a scale of 1:20 of the new shopfronts including glazing and glazing bars; fascia panel; awnings; capital and console brackets.
 - e) Details of all new signage for the retail unit(s) including size; location and illumination of all new fascia and projecting signs

The development shall be implemented only in accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

8. Prior to the commencement of the development, details of the external noise level emitted from plant/ machinery/ equipment and mitigation measures as appropriate shall be submitted to and approved in writing by the local planning authority. The measures shall ensure that the external noise level emitted from plant, machinery/ equipment will be lower than the lowest existing background noise level by at least 5dBA, by 10dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. The development shall be implemented only in accordance with the approved details and permanently retained thereafter.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

9. Details of the sound insulation of the floor/ ceiling/ walls separating the proposed commercial floorspace from adjacent residential flats shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The details shall demonstrate that the sound insulation value $D_{nT,w}$ is enhanced by at least 20dB above the Building Regulations value and, where necessary, additional mitigation measures are implemented to contain commercial noise within the commercial premises and to achieve the noise criteria of

BS8233:2014 within noise sensitive premises. The development shall be implemented only in accordance with the approved details and permanently retained thereafter.

Reason: To safeguard the amenities of the proposed residential flats in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

10. The residential flats hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2), evidence demonstrating compliance should be submitted to and approved by the local planning authority prior to the first occupation of the development.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy C6 of the London Borough of Camden Local Plan 2017.

11. Details of a piling method statement shall be submitted to and approved in writing by the local planning authority prior to the commencement of any demolition or foundation works. The method statement shall be prepared in consultation with the relevant statutory undertaker, and shall detail the depth and type of piling to be undertaken and the methodology by which such piling will be carried out including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: To safeguard existing below ground public utility infrastructure and controlled waters in accordance with the requirements of Policy CC3 of the London Borough of Camden Local Plan 2017.

12. Details of a refuse and recycling storage and management plan shall be submitted to and approved in writing by the local planning authority prior to the first use/occupation of the development. The approved refuse storage and management arrangements shall be implemented prior to the first occupation/ use of the development and permanently retained thereafter.

Reason: To ensure that sufficient provision for the storage and collection of waste has been made in accordance with the requirements of policy CC5, A1 and A4 of the London Borough of Camden Local Plan 2017.

13. The retail use hereby permitted shall not be carried out outside the following times 07:30 – 21:00 Mondays to Saturdays and 09:30 – 18:00 on Sundays and Bank Holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CC5, A1 and A4 of the London Borough of Camden Local Plan 2017.

14. The office use hereby permitted shall not be carried out outside the following times 07:00 – 22:00 Mondays to Fridays and 09:00 – 18:00 on Saturdays, Sundays and Bank Holidays.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CC5, A1 and A4 of the London Borough of Camden Local Plan 2017.

15. Details of the location and design of privacy screening for the roof terraces shall be submitted to and approved in writing by the local planning authority prior to the first use / occupation of the development. The privacy screening shall be implemented only in accordance with the approved details prior to the first occupation/use of the development.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

16. Details of obscure/tinted glazing for the rear windows of the residential flat at fourth floor level shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The development shall be implemented only in accordance with the approved details.

Reason: To safeguard the amenities of the future occupiers of the site and the area generally in accordance with the requirements of policy A1 of the London Borough of Camden Local Plan 2017.

17. No lights, meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials, satellite dishes or rooftop 'mansafe' rails shall be fixed or installed on the external face of the building, without the prior approval in writing of the local planning authority.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

18. Details of an amended energy and sustainability statement for this development which include a 35% reduction in CO2 emissions over Part L Building Regulations, compliance with BREEAM Very Good and feasibility of a 20% reduction in CO2 emissions from on-site renewable energy generation shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The development shall be implemented only in accordance with the approved details, which shall be retained thereafter.

Reason: In order to secure the appropriate energy and resource efficiency measures and on-site renewable energy generation in accordance with policies G1, C1, CC1, CC2 and CC4 of the London Borough of Camden Local Plan 2017.

19. Details of the location and extent of photovoltaic cells to be installed on the building shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. The photovoltaic cells shall be implemented only in accordance with the approved details, which shall be retained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of Policy G1, CC1 and CC2 of the London Borough of Camden Local Plan 2017.

20. Details of the location and extent of a green roof shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The details shall include:
- i. A detailed scheme of maintenance.
 - ii. Sections at a scale of 1:20 with manufacturers details demonstrating the construction and materials used.
 - iii. Full details of planting species, density and substrate.

The green roof shall be implemented only in accordance with the approved details.

Reason: In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies G1, CC1, CC2, CC3, D1, D2 and A3 of the London Borough of Camden Local Plan 2017.

21. Details of the mechanical ventilation system and filtration including air inlet locations shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Air inlet locations should be located away from busy roads and the boiler stack and as close to roof level as possible, to protect internal air quality. The details shall also include an appropriate NO₂ scrubbing system on the mechanical ventilation intake and details of the maintenance of this system. The development shall be implemented only in accordance with the approved details, which shall be retained thereafter.

Reason: To protect the amenity of residents and to safeguard the amenities of the adjoining premises and the area generally, in accordance with Policies CC4, A1 and A4 of the Camden Local Plan 2017.

22. The development hereby approved shall achieve a maximum internal water use of 110litres/person/day.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with Policies CC1, CC2, CC3 of the London Borough of Camden Local Plan 2017.

10 Conclusion

10.1 Overall, the Council strongly considers that this is not an appropriate development for this site. The Council's case has been set out in detail in this appeal statement above and is summarised below.

Reasons for Refusal 1 & 2 (Design and Scale of Roof and Rear Extensions)

10.2 It is the Council's case that the appeal scheme would have a detrimental effect on the existing buildings at no. 51 and no. 52 Tottenham Court Road and would therefore cause harm to the character and appearance of the conservation area for reasons set out below:

- The proposed roof extension to no. 51 Tottenham Court Road would result in the loss of a historic/traditional roof form and its replacement with a sheer storey and modern mansard roof that would extend to the full depth of the plot. This would result in harm being caused to the conservation area by the loss of a traditional roof form and the introduction of an atypical roof form and plan to the building;
- The existing building is a complete composition and its existing scale and proportions relate strongly to its original phase of development and that of Tottenham Court Road. The proposals would fundamentally alter this composition and would detract from the smaller-scale development that traditionally defined Tottenham Court Road and the Charlotte Street Conservation Area;
- The proposed extension to no. 52 Tottenham Court Road would cause harm to the group or 'run' of which it forms part for reasons set out above, thereby causing harm to the character and appearance of the Charlotte Street Conservation Area. It would also cause harm to the group at nos. 46-54 Tottenham Court where the tallest buildings are the listed public house and the 1930s building at no. 49 Tottenham Court Road. As already noted, these changes in height signify phases of development or the relative importance of particular buildings (in the case of no 46, the Rising Sun Public House). The proposed scheme would dilute this existing relationship and would detract from the legibility of the obvious phasing of development within this particular group (notwithstanding the fact that the appeal scheme would also erode the host building). For these reasons the proposals would cause harm to the character and appearance of the host buildings and the conservation area;
- The proposed rear extensions are over-scaled and overbearing in this context for reasons outlined above and do not sufficiently relate to their context. The rear extensions are therefore also considered to harm the character and appearance of the Charlotte Street Conservation Area;

10.3 It is considered that the proposals would result in harm and would fail to preserve or enhance the character and appearance of the Charlotte Street Conservation Area. This harm should be given great weight and importance. Section 3 of this statement explains how the proposals would not comply with Camden's Planning Guidance and that an Inspector has already and recently dismissed a similar scheme for the site.

- 10.4 The level of harm caused would be considered to be 'less than substantial' (under the terms of the NPPF) but the level of harm would remain high even within this category. Paragraph 134 of the NPPF sets out that where 'less than substantial harm' is found, 'this harm should be weighed against the public benefits of the proposal'.
- 10.5 In terms of assessing the public benefits of the development, proposed development would result in no increase in retail floorspace, would provide a net increase in 1 residential unit and an increase in 278 sq. m of office floorspace. The redevelopment would provide new higher quality retail and office space and some improvements to residential accommodation (although the new duplex unit in no. 52 would be a single aspect unit facing a classified road and may result in substandard living conditions for that unit). The proposed development would also make an off-site payment in lieu for affordable housing of £48,813. It is therefore acknowledged that the scheme has some benefits. However, on balance considering the significance of the site and the extent and type of harm identified, it is not considered that these benefits would outweigh the harm caused to the host building or the character and appearance of the conservation area.
- 10.6 Overall, the roof extensions by reason of their scale, visual prominence and effect on the established townscape and neighbouring properties would detrimentally harm the character and appearance of the subject buildings, street scene and would fail to preserve or enhance the conservation area. The rear extensions by reason of their height, scale, bulk and massing would also fail to respect the scale and proportions of the existing buildings, would be over-dominant additions which would fail to be adequately subordinate to the existing buildings, would alter the historic pattern and established townscape of the block and would not compliment or reflect the rhythm and grain of this part of the street, all contrary to Camden Local Plan Policies D1 and D2, Camden Planning Guidance 1 (Design), London Plan Policies 7.4 and 7.8 (2016), National Planning Policy Framework (2012) and Charlotte Street Conservation Area Appraisal and Management Plan (2008)

Reason for Refusal 3 - Amenity Impact Rear Extensions

- 10.7 It is the Council's case that the appeal scheme proposes substantial rear extensions, which would be located very close to the office buildings to the rear and south on Whitfield Street and Kirkman Place and would be a significant projection beyond no. 53 Tottenham Court Road to the north.
- The extensions due to their height, scale, bulk and massing have an overbearing and/or dominating effect which would result in to an increased sense of enclosure and loss of outlook to the surrounding properties and would therefore have a detrimental amenity impact on the occupiers of the neighbouring residential units. contrary to Policy A1 of the Camden Local Plan, Camden Planning Guidance 6 (Amenity) Policy 7.6 of the London Plan (2016) and the National Planning Policy Framework (2012).

Reason for Refusal 4 – Insufficient Information Regarding Basement Extension

- 10.8 The Planning Inspectorate has given an extension of time to the 23/11/17 on this

reason for refusal for the appellant to respond to the updated basement audit and for the Council to respond to any additional information submitted.

Reason for Refusal 5 – Cycle Parking

- 10.9 The Council accepts that the revised basement plan submitted with this appeal is acceptable and resolves reason for refusal 5.

Reasons for Refusal 6 – 8 Planning Obligations for Car Free Housing, Construction Management Plan and Highway Contribution

- 10.10 The Council and Appellant have agreed that car free housing, a construction management plan and highway contribution to repair any damage during the construction process can all be secured by an s.106 agreement. A draft s.106 agreement will be submitted to the planning inspectorate at the final comments stage.

Draft s.106 Planning Obligations

- 10.11 A draft list of s.106 planning obligations is included in this appeal statement. This includes clauses relating to car free housing, construction management plan with a support contribution of £1,140, highways contribution of £9,800, basement approval in principle - with a support contribution of £1,800, affordable housing contribution - £48,813 and a basement construction plan (BCP). The appellant is in agreement with these heads of terms.
- 10.12 The Council accepts that these draft s.106 heads of terms would resolve reasons for refusal 6-8.

Draft Planning Conditions

- 10.13 A draft list of planning conditions is included in this appeal statement. The Council acknowledges that the appellant will want to comment on these.

11 Planning Appendix

- 1a. Application ref: 2009/5669/P, Decision Notice.
- 1b. Application ref: 2009/5669/P Plans.
- 1c. Application ref: 2009/5669/P Officer Report.
- 2a. Application ref: 2011/2286/P Decision Notice.
- 2b. Application ref: 2011/2286/P Plan
- 2c. Application ref: 2011/2286/P Officer Report
- 3. Appeal ref: APP/X5210/A/11/2166925 Decision Notice.
- 4a Council Pre-Application Report 2014/7940/PRE
- 4b Pre-Application Plans 2014/7940/PRE
- 5a Area Schedules Gross Internal Area (GIA)
- 5b. Area Schedule Gross External Area (GEA)
- 6a Campbell Reith Independent Basement Impact Assessment Audit ref 12336-87 D1 August 2016.
- 6b. Campbell Reith Independent Basement Impact Assessment Audit ref12336-87 D2 October 2017.
- 7. Revised Basement Plan ref: C645_P_B1_001 E.
- 8. Extension of time for reason for refusal 4 –Email from the Planning Inspectorate.

Design Appendix

- A. Rocque's Map of 1746
- B. Horwoods Map of 1792-93
- C. Photograph of No51 Tcr In 1956 & 2017
- D. Maps of 1895 And 1914
- E. Photograph of 52-54 Tottenham Court Road Draft
- F. Photograph of Nos 46-54 Tottenham Court Road
- G. Morgan's Map of 1682

H. Tallis Survey 1838-40
