



STATEMENT OF CASE

GONDAR GARDENS, LONDON, NW6 1QF

DATE: MARCH 2018

LPA REFERENCE: 2017/6045/P

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1. INTRODUCTION

1.1 This Statement of Case supports an appeal by LifeCare Residences (“**the Appellant**”) against the decision of the London Borough of Camden (“**the Council**”), on 30 January 2018, to refuse planning permission for a new retirement community on the site of a former reservoir at Gondar Gardens, West Hampstead.

1.2 The full description of the scheme is as follows:

‘Partial demolition of the existing reservoir, including the roof and most of the internal structure, and the erection of six 4-6 storey buildings and four 2-3 storey link buildings with common basement levels within the retaining walls of the existing reservoir to include 82 self-contained extra care apartments (class C2); a 15 bedroom nursing home (Class C2); Associated communal facilities including reception area, guest suite, lounge, restaurant, café, bar, library, exercise pool, gym, therapy rooms and cinema; Associated support facilities including staff offices, welfare and training spaces, storage, laundry, kitchen, cycle storage, car parking and plant areas and; a site-wide biodiversity-led landscaping and planting scheme including external amenity space, drop off area, retention pond and slope stabilization and associated engineering works.

1.2 The application was refused by the Council under delegated powers (LPA Ref: 2017/6045/P).

1.3 A schedule of the drawings and documents upon which the application was determined is provided at **Appendix 1**.

The Appellant

1.4 The Appellant has an international reputation for developing and operating retirement villages of outstanding quality. With over 30 years of experience in New Zealand, it has been operating in the UK since 2004, offering an exceptionally high level of care and hospitality to its residents. The Appellant’s philosophy is to enable older people, whether individuals or couples, to live in their own accommodation, but within a safe purpose-built environment, built to the highest design standards, with a wide range of communal facilities. An integral part of this concept is the immediate availability of care if required. Tenants must be 65 years old or older and a health care assessment is carried out for each new resident including, where necessary, a full clinical assessment. All of the apartment accommodation is registered for domiciliary nursing care allowing the Appellant to deliver this to residents within their own apartments. Nursing care is also provided in the 15-bedroom nursing home.

1.5 The Appellant’s model has been developed successfully at its other existing facilities, including Battersea Place in London as well as schemes in Dorchester and Nursling (Southampton). Battersea Place is the first development of its kind anywhere in London; its success has highlighted the demand for this type of accommodation in the capital. The scheme proposed at Gondar Gardens would be the Appellant’s second retirement community in London.

The public benefits of the proposal

1.6 The scheme would deliver several substantial public benefits, namely:

- (i) The proposal would meet a critical need for specialist housing for older people in the local area. This need is identified in the development plan.
- (ii) The scheme would be an exemplar in terms of the standard of accommodation, facilities, support and care provided. The Appellant has an unrivalled track-record in providing high-quality accommodation and care for older persons.
- (iii) The extra care apartments and nursing home bedrooms would collectively contribute 97 new units towards the Council’s housing supply.

- (iv) The proposal would free up other sectors of the local housing market by releasing much-needed housing, often under-occupied family housing owned by older people.
- (v) The proposal would deliver a scheme of exceptional design quality that would reactivate a currently vacant and derelict site and thereby enhance the character and appearance of the local area.
- (vi) The scheme would secure ecological enhancements and provide a mechanism for these to be maintained and managed.
- (vii) Parts of the reservoir structure have been retained in the scheme design, enabling it to be enjoyed by future residents and visitors in a way that is not currently possible.
- (viii) The scheme would generate approximately 80 full-time equivalent permanent jobs for local people.

The scheme design

- 1.7 The proposal would reflect the scale and grain of the surrounding townscape through the use of a mansion block typology. As shown on the site layout plan at **Appendix 2**, the scheme would comprise six primary blocks (the 'mansion blocks'). Two blocks would be positioned along the Gondar Garden frontage, with a further four to the rear within the perimeter of the reservoir structure. Each of the blocks would be accessed from a central pedestrian street.
- 1.9 The blocks fronting Gondar Gardens would be three storeys high with a set-back fourth floor (plus single-storey basement). The height of these blocks would align with the adjacent existing mansion blocks. The frontage development would fill an uncharacteristic gap in the street and improve the overall appearance and security of the area. Between the two frontage blocks, a clear line of sight through the scheme opens up a new view from Gondar Gardens to an enhanced green space in the eastern part of the site.
- 1.10 Within the central area the blocks would extend below street level into two lower ground floor storeys, consistent with the formation level of the existing reservoir. These spaces would accommodate back-of-house space, communal facilities, parking, connecting corridors and stepped landscaped courtyards as well as a small number of residential suites facing onto the courtyard spaces. The central blocks would then rise to three storeys with a set-back fourth storey, consistent with the overall ridge line of the frontage blocks. The blocks would be interconnected, either at lower ground, ground or first floor level. To allow views through the blocks and through the site itself, there would be no links at the upper floor levels.

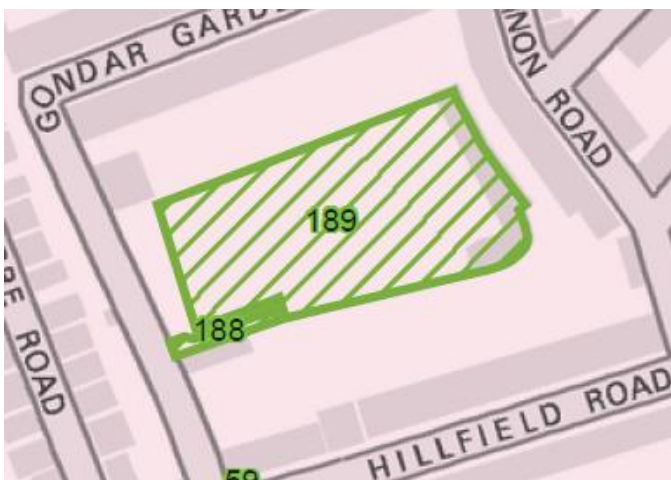
The Appellant's approach

- 1.11 The Council refused planning permission for 16 reasons. Each reason for refusal is addressed in detail in Section 5 of this Statement. The Appellant will provide proofs of evidence dealing with each issue that is outstanding when proofs are exchanged.
- 1.12 Given the nature of the issues raised by the application and the planning history of the site, the Appellant considers it imperative that this appeal proceed by means of a public inquiry such that the evidence can be tested through formal questioning by an advocate. This Statement of Case has been prepared on this basis.
- 1.13 It is the Appellant's intention to work with the Council to agree the terms of the planning obligation that is necessary to make the proposal acceptable. It is envisaged that this planning obligation can address at least five of the sixteen reasons for refusal (nos 12 to 16). The Appellant will also seek to reach agreement with the Council on other substantive matters before the appeal is heard.

2. SITE AND SURROUNDINGS

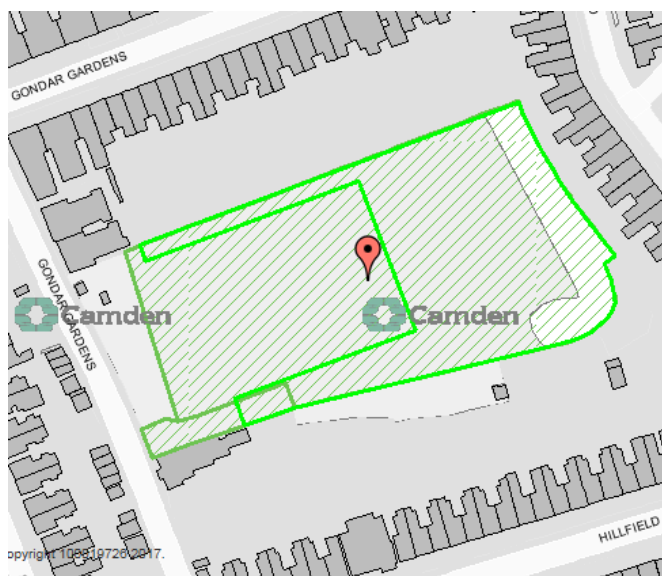
- 2.1 A location plan of the site is provided at **Appendix 3**.
- 2.2 The site is located in West Hampstead and was formally known as Shoot-Up Hill Reservoir. The reservoir was built in 1874 for the Grand Junction Water Works, linked to the Grand Junction Canal, and is a vaulted brickwork structure supported on brick piers and perimeter walls, mostly buried in the ground or contained within a grassed embankment. The reservoir was decommissioned in 2002 and subsequently acquired by the developers Linden Wates in 2010. The Appellant acquired the site in June 2016.
- 2.3 The reservoir is covered by grass and is very well concealed within the local townscape. It measures some 92m in length and 53m in width, with an internal height of approximately 7m. The reservoir occupies approximately 40% of the area of the site and is located in its western portion.
- 2.4 There are two ribbons of land north and south of the reservoir which provide a buffer to the residential development beyond.
- 2.5 To the east of the reservoir is an area of land containing the excavated material removed during its construction. This is now covered by open grassland which slopes down from the reservoir roof by some 8 metres in height in the south-east corner of the site. Along the eastern edge of the site, and around the south-east corner, there is a belt of trees (mainly sycamore). These were made the subject of a Tree Preservation Order in 2003.
- 2.6 Collectively the reservoir and the open land to the sides and east have an area of 1.24 hectares. The land has a maximum length (east to west) of 165 metres and a maximum width (north to south) of 85 metres.
- 2.7 The covered reservoir occupies a relatively elevated position, affording views towards the City of London. The reservoir roof currently sits two metres above the levels of the surrounding properties. Views across the site are restricted by the raised level of the reservoir structure and the perimeter landscaping. No part of the site is accessible to the public, not has it been for many years.
- 2.8 The reservoir preceded the construction of the residential development that now surrounds it. The western frontage of the site is situated on Gondar Gardens, from which access is obtained. Across the road from this frontage, on the other side of Gondar Gardens, are garages and outbuildings which are to the rear of the properties in Sarre Road. North and south of the site along Gondar Gardens are larger mansion blocks (Chase Mansions and 16-62 Gondar Gardens). The other 3 sides of the site are enclosed by mansion blocks and terraced houses, whose long rear gardens (which have a depth of 35 to 45 metres) back onto the reservoir site. This includes the rear gardens of large (mainly family) dwellings in Gondar Gardens (to the north), Agamemnon Road (to the east) and Hillfield Road (to the south). The site is therefore virtually surrounded by housing, although for the most part the dwellings turn their backs to the land.
- 2.9 The adjoining properties are late Victorian and Edwardian in age and are predominantly three storeys in height, with many of the buildings having further accommodation at roof level and/or at basement level, creating four to five storeys. The buildings have a strong vertical emphasis and are characterized by clearly defined building widths, bay window projections, undulating roofspace and detailing to windows.
- 2.10 The site is located at the top of a hill and is approached from Mill Lane to the south. Local shops and bus services connecting the site to the wider transport network can be found on Mill Lane, while West Hampstead and Kilburn stations are within a 10-minute walk of the site, linking in with the National Rail and London Underground network. The PTAL of the site ranges from 1b to 3, with a PTAL of 4 within 100 metres to the south of the site.

- 2.11 The site is not within a Conservation Area, although a boundary of the West End Green Conservation Area lies 240 metres south-east of the site.
- 2.12 The site and its immediate surroundings do not include any statutory listed buildings. However, Gondar Gardens Reservoir is included on the Council's Local List for heritage reasons (reference: 418) and is categorised as a natural feature or landscape of historical and social significance. The Mansion Blocks on Gondar Gardens to the west and north of the application site are also locally listed.
- 2.13 The majority of the site is designated in the Camden Local Plan as Private Open Space (“**POS**”) comprising sites 188 (Gondar Gardens) and 189 (Gondar Gardens Reservoir). The western section of the site, comprising a 60-metre stretch running along Gondar Gardens, has no designation. The accompanying key indicates that site 189 is also designated as a Site of Nature Conservation Importance (“**SNCI**”). The Council's Policies Map reaffirms the open space designation. An extract from the printable version of the Council's Policies Map is shown below:



(Extract from Camden Policies Map: Printable Version)

- 2.14 Within the map browser version of the Council's Policies Map, all of the site (with the exception of western section of the site, comprising a 60-metre stretch running along Gondar Gardens) is designated as open space (striped land as shown on the extract below). A Local Green Space designation applies to the non-developed parts of the site to the north, south and east of the reservoir structure (light green outline).



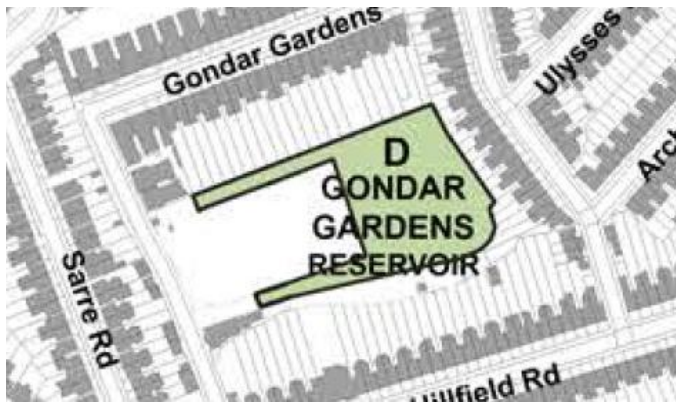
Extract from Policies Map (map browser version)

- 2.15 On the other hand, the Fortune Green and West Hampstead Neighbourhood Plan (“NP”) (Policy 16) identifies the frontage area and the reservoir as developable land (‘Other Sites’):



Extract from Neighbourhood Plan (Map 5: Other Sites)

- 2.16 The NP designates the remaining site area “Local Green Space”. This includes the undeveloped land to the east of the reservoir and the strips of land to its north and south.



Extract from Neighbourhood Plan (Map 8: Local Green Space)

3 PLANNING HISTORY

The Reservoir Scheme

- 3.1 Planning permission was granted at appeal in 2012 for the redevelopment of the reservoir structure to provide 16 residential units and to use the surrounding land and rear of the site as an open space nature reserve (“**the Reservoir Scheme**”): see **Appendix 4**.
- 3.2 This decision established the principle of developing within the reservoir itself and the substantial demolition of its roof and internal structure. The 16 approved dwellings were to be constructed in the reservoir space in the form of 2 terraces. The dwellings were to be 3 stories in height, so that about half the top storey would protrude above the existing ground level. Access was to be via Gondar Gardens, with vehicles reaching the ground floor level through car lifts.
- 3.3 On 1 November 2015, the Reservoir Scheme planning permission expired without being implemented.

The Frontage Schemes

- 3.4 In May 2012, the Council refused an application to redevelop the western part of the Site (the Gondar Gardens frontage) to provide 28 residential units (Class C3 use) in two blocks from lower ground to third floors with basement parking, following substantial demolition of the roof and internal structure of the reservoir and subsequent re-landscaping.
- 3.5 At appeal, the Inspector concluded that the siting and size of the proposed building was acceptable. However, the appeal was dismissed for detailed design reasons: see **Appendix 5**.
- 3.6 In June 2013, a further application was submitted for 28 residential units (with the same description of development as the earlier scheme) which sought to address the previous concerns about design through a revised treatment of the elevations. Whilst officers recommended that planning permission be granted, the scheme was refused at planning committee in March 2014 for 13 reasons (12 of which related to the lack of a legal agreement). The first reason for refusal stated that the design of the proposed development would be detrimental to the streetscape and the character and appearance of the wider area.
- 3.7 The decision was appealed and the determination of the appeal was recovered by the Secretary of State. In a decision letter dated 16 December 2015, the Secretary of State accepted the recommendation of his Inspector and granted planning permission subject to a legal agreement: see **Appendix 6**. This planning permission remains extant.
- 3.8 The Appellant will refer to this planning history when responding to a number of the Council’s grounds for refusal in this case. It is notable that the Council has not supported any development proposal on the site to date, with planning permission for the approved schemes only being granted on appeal.
- 3.9 The previous appeal decisions referred to above are clearly material to the determination of the current appeal.

4. PLANNING POLICY

- 4.1 The development plan that applies to the site comprises the Local Plan (2017), the London Plan (2016) and the Fortune Green and West Hampstead Neighbourhood Plan (2015).
- 4.2 The Appellant will also refer to the following:
- Draft London Plan (2017)
 - GLA Housing SPG (2016)
 - GLA Accessible London SPG (2014)
 - GLA Sustainable Design and Construction SPG (2014)
 - GLA Draft Affordable Housing and Viability SPG (2016)
 - Camden Planning Guidance 1: Design (2013)
 - Camden Planning Guidance 2: Housing (2016)
 - Camden Planning Guidance 3: Sustainability (2015)
 - Camden Planning Guidance 6: Amenity (2011)
 - Camden Planning Guidance 7: Transport (2011)
 - Camden Planning Guidance 8: Planning Obligations (2015)
 - Camden Sites of Nature Conservation Importance SPD (Draft, 2009)
- 4.3 A list of the relevant Local Plan and NP policies is provided in the 'Relevant policies' section of the Officer's Delegated Report.
- 4.4 A list of the relevant London Plan policies is provided at Appendix 4 of the Planning Statement accompanying the original planning application.
- 4.5 The Appellant will show that the proposed development is in general compliance with the development plan and is in a suitable and sustainable location for new specialist housing development. Where there is potential conflict with some particular Local Plan policies, the Appellant will refer to the housing, economic and community benefits of the scheme that are to be assessed as part of the overall planning balance.

5. THE APPELLANT'S CASE

REASON 1

The principle of development on designated Open Space and Local Green Space

5.1.1 The Council's first reason for refusal states:

'The proposed development, by virtue of the development on designated Open Space and designated Local Green Space, would result in the loss of, and harm to, land protected because of its local amenity, habitat and biodiversity importance, contrary to policy A2 (Open Space) of the London Borough of Camden Local Plan 2017; Policy 7.18 of The London Plan 2016 and Policies 16 and 17 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.'

5.1.2 This appears to represent an 'in principle' objection to the redevelopment of the subject site and reflects a longstanding objection on the part of the Council. This is misconceived, as the principle of development on the site has been established through (i) the site's planning history; and (ii) its identification as a developable site within Policy C2 of the NP.

5.1.3 Turning first to the site's planning history, the Reservoir Scheme appeal decision established that the reservoir site comprises previously developed land and is appropriate for redevelopment notwithstanding the open space designation. In addition, the principle of developing on the site frontage has been accepted through a separate appeal decision. Both these permissions are material considerations.

5.1.4 The site's planning history has not ruled out a more comprehensive development on those parts of site previously put forward under separate applications.

5.1.5 As for the NP, the principle of developing both the reservoir structure and the frontage onto Gondar Gardens is consistent with Policy C2. Section C of the NP lists a number of 'Other Sites' in the NP area which are proposed for development or may be developed in the future. The appeal site is listed as Site C2.

5.1.6 Contrary to the apparent claim in the Council's reason for refusal, Policies 16 and 17 of the NP are not directly engaged by the scheme as no built development is proposed on the part of the site that is designated as Local Green Space. In light of this, there is no requirement for the scheme to address the Green Belt tests referred to at paragraphs 76 and 88-89 of the NPPF.

5.1.7 The Appellant will also refer to the NP examination in which the Examiner recommended that the Local Green Space designation be restricted to the eastern portion of the site which was to be retained as open space within the approved Reservoir Scheme. The Examiner also recommended that the extent of Site C2 (i.e. the developable land) be extended to reflect the approved frontage and reservoir schemes such that the 'Local Green Spaces' and 'Other Sites' maps dovetail with one another. This is demonstrated on the plans provided at paragraphs 2.17 and 2.18 of this Statement of Case.

5.1.8 Despite this, the majority of the site (with the exception of the frontage to Gondar Gardens) is formally designated as Open Space within the Local Plan. The Appellant will highlight the inconsistency between the Open Space designation within the Local Plan and the NP designations (as well as the inconsistency between the open space designation and the acceptance that the land is 'previously developed'). In this respect, the Local Plan does not appear to have been prepared with due account taken of the NP.

5.1.9 To this end, the Appellant notes this statement at paragraph 18 of the GLA's Stage 1 Report: *'GLA officers understand that the proposals map associated with the Local Plan is likely to be subject to change which would provide greater clarity as to the extent to which the Private Open Space designation applies in light of the planning history on the site and the adoption of the Neighbourhood Plan.'*

- 5.1.10 The Appellant will also refer to the advice of GLA officers who, in assessing the scheme against London Plan policy, concluded “*given the planning history context*” that “*the redevelopment of the site of the former reservoir, as defined in allocation site C2 in the Neighbourhood Plan, and street frontage is acceptable in principle. This is subject to confirmation that the scheme does not involve the loss or damage of the defined Local Open Space surrounding the reservoir and the site’s SINC designation is protected and enhanced in accordance with Policy 7.19 of the London Plan and Policy G6 of the draft London Plan.*’ Subject to this confirmation, the GLA concluded that the scheme would not breach Policy 7.18 of the London Plan. Nevertheless, the Council claims that the proposal is in conflict with this policy in its decision notice.
- 5.1.11 Notwithstanding the above, the Appellant will show, citing Local Plan Policy A2, that the open space on the site provides no active amenity benefit to local residents, that the development would be visible from only a handful of public and private vantage points, and that the public value derived from the site, in its current form, is much more limited than in the case of the majority of other designated open spaces.
- 5.1.12 Following on from the above, the Appellant will show that the proposal would minimise any harm to the defined open space and its setting. The Appellant will show through visual analysis and verified views that any potential harm to open space would be mitigated through the proposed design approach, including the opportunities for local landscaping enhancements and the protection of key public views.
- 5.1.14 As for any amenity value of the public and private views across the site, the Appellant will show that the scheme would open up two east-to-west views from the street (which have been restricted through the site hoarding for over 15 years). The protectionist approach to a fully open view from the street fell away with the Inspector’s decision to allow a street frontage scheme in 2015. The current scheme would respect the outlook from adjoining properties by maintaining north-to-south views across the site through the use of lower linking blocks and through the retention of the landscaped space to the east.
- 5.1.15 Moreover, open spaces would be retained and created within the new development. This includes the enhancement of a substantial area of open space in the eastern part of the site and the provision of high-quality new landscaped spaces within the proposed developable area.
- 5.1.16 Any impact caused by the net loss of open space, in the context of the significant improvements made to the retained open space, is not such as to outweigh the substantial housing, care, economic, community and design benefits of the proposal.

REASON 2

Biodiversity and Ecology

- 5.2.1 The Council’s second reason for refusal states:
- ‘The proposed development, by virtue of re-landscaping and redeveloping the Site of Nature Conservation, would result in the loss of the protected land and would harm the biodiversity and ecology of the site, contrary to policies A2 (Open Space) and A3 (Biodiversity) of the London Borough of Camden Local Plan 2017, Policy 7.18 of The London Plan 2016 and Policies 16 and 17 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.’*
- 5.2.2 The majority of the land (including the reservoir roof and the open land to the east, but excluding the frontage onto Gondar Gardens) is designated in the Local Plan as a Site of Importance to Nature Conservation (“**SINC**”). In the Council’s related SPD, allocation CaBII10 refers to the presence of butterflies and bats on the site but, most significantly, identifies the site as the only known location in Camden for slow-worms.
- 5.2.3 Local Plan Policy A3 states that the Council will grant permission for development unless it would directly or indirectly result in loss or harm to a designated nature conservation site, subject to an assessment of the scheme to realise benefits for biodiversity and to secure management plans, where appropriate, to ensure that nature conservation objectives are met.

- 5.2.4 The Inspector who granted the Reservoir Scheme permission concluded that its ecological impact (including the impacts on the slow-worm population) would be acceptable, subject to suitable mitigation. The proposed ecological mitigation is similar in nature to that previously agreed.
- 5.2.5 Currently, the rooftop of the underground reservoir has a shallow soil covering and a species-poor grassland surface. Very few slow-worms were encountered during all the surveys carried out to date in this location (in 2011, 2013 and 2016), probably because the foraging in this area is poor compared to the remainder of the site (which would be largely untouched by the proposed development).
- 5.2.6 The only areas of greater biodiversity affected are the grassland areas on the banks of the reservoir and in the eastern part of this site, where most slow worms were found in the various surveys. However, this habitat has been recorded to be shrinking due to the encroachment of ruderal vegetation and scrub from the side banks, especially on the eastern side, where grassland biodiversity has reduced substantially. This is not unusual because grassland sites that are unmanaged, like the appeal site, are prone to natural succession from grassland to ruderal vegetation (pernicious weeds) and scrub, eventually leading to woodland. This poses a threat to the Grade 2 SINC status, potentially resulting in the loss of Camden's only slow-worm population, if the encroachment is not arrested and then controlled as part of a maintenance regime.
- 5.2.7 The Appellant will show how the proposal would increase the key areas of habitat on the site that are home to the vast majority of the slow-worm population identified from the surveys and where the majority of the spiked sedge has also been found. These areas are the south- and west-facing banks which are warm and sunny. These banks are of prime importance to wildlife, particularly reptiles, for basking and foraging. Although the proposed development would lead to a net loss of grassland overall, albeit lower value grassland, it would result in a net increase in sun-facing banks of 464m². This is major benefit of the scheme.
- 5.2.8 Therefore, whilst the proposal would reduce the SINC area, there would be an ecological 'net gain' with larger areas of meadow grass banks creating butterfly and bee habitats and slow-worm basking areas. The foraging for the slow worms would also be enhanced by the sustainable urban drainage systems ("**SUDS**") proposed as part of the development. In addition, by creating a new wetland habitat on the site for aquatic species such as frogs and newts, this would increase the aquatic and terrestrial diversity of the site overall.
- 5.2.9 Management regimes would be put in place to maintain the site's enhanced level of biodiversity and to protect the SINC status. This is set out on the landscape plans and within the Landscape Environment Management Plan ("**LEMP**") for the site. The management and maintenance regimes set out within the LEMP maintain the conditions ideal for the slow-worm population and the spiked sedge. Long-term and sustainable management and monitoring is required. The care home provider would have a financial and community interest in ensuring that this is of the highest quality.
- 5.2.10 The Appellant also proposes to work up a detailed Construction Environmental Management Plan ("**CEMP**") for consideration as part of this appeal. This would cover:
- i. Pre-construction protection measures;
 - ii. Monitoring of protection fences;
 - iii. The re-instatement, mitigation and enhancement works carried out during construction, and any translocation requirements and methodology;
 - iv. Environmental controls such as air pollution and noise monitoring, water monitoring, pollution control, storage, re-use and disposal of spoil and waste;
 - v. Ongoing species monitoring post-development by professional ecologists with annual ecological reports issued to the Council for a minimum of 5 years.
- 5.2.11 There would be the additional benefit of occasional managed access for educational purposes by local school groups, interest groups and wildlife groups, who may work alongside the London

Wildlife Trust (or other suitable body) in ongoing population monitoring. To ensure the slow worms and other wildlife are not predated by pets, the care provider would seek to impose suitable measures to control the keeping of cats. This would be set out in the LEMP.

REASON 3

Affordable Housing

5.3.1 The Council's third reason for refusal states:

'The proposed development, without the provision of affordable housing, would fail to maximise the contribution of the site to the supply of affordable housing in the borough, contrary to policy H4 (Maximising the supply of affordable housing) of the London Borough of Camden Local Plan 2017, policy 3.12 of the London Plan 2016 and Policy 1 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.'

5.3.2 The main sub-issues here can be summarised as:

- a. Does the scheme provide a C2 or C3 use and what are the implications of this, if any, for the provision of affordable housing?
- b. If affordable housing is to be provided by the scheme, should it be provided on-site, or off-site via a financial contribution?
- c. If the affordable housing should be provided off-site, what should the financial contribution be?
- d. Has the Appellant used industry-standard practices and methodology when assessing the viability of the proposed development?
- e. Should the deferred membership monies be included in the viability appraisal?

a. Does the scheme provide a C2 or C3 Use and what are the implications of this, if any, for affordable housing?

5.3.3 The Appellant will show, with reference to previous decisions on similar schemes, that the proposed use falls within use class C2. An integral part of the independent living concept is the immediate availability of on-site care when required. Other key attributes of the Appellant's care model including the age restriction, the provision of communal facilities and the service charges for those facilities, all of which point to a C2 use.

5.3.4 To ensure that the scheme continues to provide care for future residents and that units are not sold on the open market, a draft Operational Management Plan will be prepared to secure occupancy restrictions. The Appellant will seek to agree this with the Council so that it can be secured by planning condition.

5.3.5 The Appellant will also show that there are very few examples across London where class C2 extra care schemes have provided affordable housing contributions either on-site or by means of a commuted payment.

5.3.6 The Appellant will stress that the Mayor's adopted strategic housing policies in the London Plan apply only to Class C3 uses.

5.3.7 The draft London Plan contains an expectation that specialist housing schemes will deliver affordable housing, but this only applies to Class C3 extra care schemes. The assertion in the draft Plan that all extra care schemes fall within Use Class C3 has not been subject to examination and is strongly contested by leading operators in the sector, including the

Appellant. The Appellant will rely on its representations to the examination of the draft London Plan to make its case on this issue.

5.3.8 In respect of the Local Plan, the Appellant will point out that the Council's affordable housing policies apply 'primarily' to Class C3 uses (see Policy H4), but that this may also encompass other types of housing including housing for older people potentially in Use Classes C2 or C3 (paragraph 3.83). The Appellant will also acknowledge Policy H8, which states that '*In the case of any market-led development aimed at older people...particularly where the development contains self-contained homes, the Council would expect the development to make a contribution to the supply of affordable housing*'. The Appellant accepts that these policies need to be considered, but notes that the emphasis in the policies is on 'housing' uses.

5.3.9 Notwithstanding the above, the Appellant will show that the proposed scheme would address the overriding aim of Policy H8 of the Local Plan, which is to ensure a sufficient supply and variety of housing for older people. The Appellant will refer to the London Plan evidence base and to its own research to demonstrate that the most pressing local need is for private extra care accommodation. There is a relatively large stock of social/affordable rent housing for older people within Camden and a shortage of comparable private schemes (as acknowledged in the Local Plan).

b. If affordable housing is to be provided by the scheme, should it be provided on-site, or off-site via a financial contribution?

5.3.10 It would be necessary to deal with any affordable housing contribution required via an off-site payment as the scheme has been specifically designed to integrate high-quality housing for older people with an exemplary level of communal facilities and services. In addition to the on-site restaurant, lounges, games rooms, gym and swimming pool, the scheme also provides care bed facilities that are made available to the residents when required. The cost of the services on-site cannot be separated out between private and affordable tenure tenants and it would not be appropriate or feasible to exclude some residents from some parts of the building. The integrated design and layout of the proposal also rules out any segregation of affordable units into a separate part of the scheme.

5.3.11 The provision of an off-site contribution, if any affordable housing is required, is allowed by paragraph (i) of Policy H4 of the Local Plan. This approach has been used with other retirement community schemes, as confirmed by the Council's decision to grant planning permission for the Pegasus Life scheme at the former Bartrams Convent Hostel on Rowland Hill Street (Planning Reference: 2014/6449/P). In the planning officers' report to Committee for this scheme, the issue of on-site affordable housing was considered and it was accepted to be inappropriate for schemes of this nature. Officers accepted that the most appropriate way to deal with any affordable housing requirement of such schemes is by way of an off-site affordable housing contribution. The Appellant will refer to other planning decisions regarding retirement communities in London where a similar conclusion has been drawn.

5.3.12 In respect of the current application, the Officers' report at paragraph 3.19 suggested that the Appellant could amend the scheme '*through minor design amendments*' to its frontage so that it would have its own entrance, separate from the remainder of the scheme, thereby enabling affordable housing to be incorporated on-site. The Appellant will show that this is not feasible.

c. If affordable housing should be provided off-site, what should the financial contribution be?

5.3.13 The Appellant agrees that the appropriate formula to calculate an off-site financial contribution in respect of affordable housing is:

Offsite Payment = Gross External Area (GEA) x £2,650 per sqm x 50% (Council's Target AH provision)

5.3.14 This has been applied to the subject scheme by the Council in the following way (para 3.25 of the Officers' Report):

$$7,703 \text{ sq m NIA} \times 50\% = 3,851.5 \times 1.25 = 4,814.375 \text{ sq m GEA} \times \text{£}2,650 \text{ psm} = \text{£}12,758,093.75$$

5.3.15 The Appellant agrees that this represents the maximum off-site affordable housing payment; however this sum is subject to viability testing.

d. Has the Appellant used industry-standard practices and methodology in assessing the viability of the proposed development?

5.3.16 It is the Appellant's case, based on a 100% market sale scheme, that the resulting residual land value falls below the adopted benchmark land value such that the scheme cannot viably deliver any affordable housing, either on-site or via any contribution towards an off-site sum.

5.3.17 The Appellant has used best practice to assess the viability of the scheme. Reference will be made to the Financial Viability in Planning Guidance Note published by the Royal Institution of Chartered Surveyors and the industry benchmarks contained therein. Reference will also be made in evidence to the specialist nature of the retirement housing sub-sector and the proper distinctions to be made between the functions of the landowner, the developer and the operator of the scheme. The evidence will show that these distinctions are highly relevant when assessing the viability of proposals in this specialist sector.

e. Should the deferred membership monies be included in the viability appraisal?

5.3.18 The Council commissioned the consultants BPS to review the Appellant's viability assessment for the scheme. BPS has contended that the Deferred Membership Fee ("DMF") which is ultimately charged to residents when each apartment is re-sold is an income stream of benefit to the developer and is unique in the market. The Appellant disagrees and will show, first, that any DMF charge is paid to the landlord/operator of the scheme, and not to the developer; and secondly, that the concept of the DMF is not unique to the Appellant but in various forms is common-place in the retirement sector. The Appellant will explain fully why it would be inappropriate to take account of the DMF when assessing the viability of the scheme.

5.3.19 Based on the above, the Appellant will demonstrate that the proposed scheme cannot currently provide any on-site affordable housing nor viably make any contribution towards an off-site financial payment.

REASON 4

Active Street Frontage

5.4.1 The Council's fourth reason for refusal is as follows:

'The proposed development, by virtue of its failure to provide an active street frontage, disconnection from the local streetscene and the surrounding community, results in an inward-looking enclave which fails to contribute to community safety and security or to promote social cohesion, contrary to policies D1 (Design) and C5 (Safety and Security) of the London Borough of Camden Local Plan 2017.'

5.4.2 The Camden Design Guide (p.84, boxed note headed 'Active Frontage') states that active frontages are "building frontages which add interest and life to public spaces, through the use of doors and windows or shopfronts and lively uses." While a shopfront is clearly inappropriate in this location, the proposed design includes: 14 apartments with 14 terraces overlooking the street frontage (to promote active use); doors onto each of these terraces; plus approximately 48 windows from habitable rooms in these 14 apartments also overlooking the street. Four of

the apartments (with terraces) are on the ground floor. The senior residents of the scheme are likely to occupy these rooms and terraces for much of the day, adding considerably to street vitality as well as community safety through positive surveillance over the street.

- 5.4.3 The two pedestrian entrances into the community from Gondar Gardens are wide (5-6m), visually open and welcoming, not solid entrance doors. The central pedestrian entry to the development is a carefully thought out approach to optimising security for potentially vulnerable occupants, providing safe and well-overlooked access into all the block entries via the entrance courtyard and reception area.
- 5.4.4 The proposal would create more street activity with residents, staff and visitors coming and going more frequently than would be the case typically for the other housing on the local streets. The site will be staffed 24 hours a day, 365 days of the year. Creating a perception of security is at the heart of the Appellant's approach.
- 5.4.5 Within the scheme is a central pedestrian street which connects a series of courtyards through the site. It also provides clear views from Gondar Gardens towards the protected green space to the east of the site.
- 5.4.6 The central street provides access to the front doors of the 6 internal 'mansion blocks', plus, at the front of the site, the reception area and nursing facility. Access is controlled via the reception area which overlooks arrival courtyards at the front of the site. While this central street is visible to the public, it is necessarily a private communal space which has a similar role in the development to the communal gardens associated with many of the local mansion blocks. It is far less of an 'inward-looking enclave' than any of the local mansion block communal spaces which have no public access and limited or no public views into them.

REASON 5

Impact on Character and Appearance of the Area

- 5.5.1 The Council's fifth reason for refusal was as follows:

'The proposed development, by virtue of its height, mass, scale and detailed design, would be detrimental to the streetscene, the open space, the outlook of surrounding properties, and the character and appearance of the wider area while failing to preserve or enhance the character and appearance of the local area, contrary to policies G1 (Delivery and location of growth), D1 (Design), D2 (Heritage) and A1 (Managing the impact of development) of the London Borough of Camden Local Plan 2017 and Policy 2 of the Fortune Green and West Hampstead Neighbourhood Plan 2015.'
- 5.5.2 The design concept for the proposal derives from existing local mansion blocks (see Townscape Study), which largely consist of a central point of access and one apartment overlooking the street to each side. The development proposed in this appeal has a central entrance with two apartments each side, as well as a side entrance providing options for access. Thus, the proposal provides as many entries on the street frontage as would be provided by two traditional mansion blocks, a reasonable alternative considering the width of the site.
- 5.5.3 The surrounding streets of Gondar Gardens, Agamemnon Road and Hillfield Road are predominantly a mixture of terraced houses and mansion blocks. The proposals have been developed with reference to the proportions and rhythms of this context including block widths which generate a vertical emphasis, bay window projections, varied undulating roofscapes, and identifiable boundaries (as demonstrated in the DAS and Townscape Study).
- 5.5.4 The streetscene is best illustrated through the verified views looking east and west along Gondar Gardens [see also attached fig.01, from DAS, p.71 & Townscape Study pp.67-69: **Appendix 7**], showing the proposal in context with the existing built form on the street adjacent

to the site. It is clear from these images that in terms of scale and form, the proposal is consistent with the heights and rhythms of the existing buildings.

- 5.5.5 While the development would change the outlook from a limited number of overlooking properties, most of the surrounding properties would experience no change or impact to outlook as their view is necessarily restricted by either topography or tree growth or both.
- 5.5.6 None of the houses or flats along Agamemnon Rd to the east or Hillfield Rd to the south would experience any visual impact from the proposed development. The limited number of the existing houses or flats directly affected by the proposal are those which currently have views over the roof of the reservoir. These are restricted to those in upper levels of the properties along the centre of the east/west section of Gondar Gardens and some of the flats in the immediately adjacent Chase Mansions and South Mansions.
- 5.5.7 The design of the proposal, located within the footprint of the reservoir, has taken into account potential impacts on the neighbours. Accordingly, the detailed design includes: angled windows to avoid overlooking into gardens; changes in roof heights between 'mansion block' elements and 'link block' elements, to provide views over roof forms; and green roofs, green walls and additional planting along the side 'wings' backing onto residential gardens. These landscape and architectural features would provide a pleasant outlook for the adjacent properties.
- 5.5.8 The houses and flats on Gondar Gardens overlooking to the east of the reservoir structure would continue to have a view of the open space, where existing tree growth permits. This space would be enhanced by the ecological and landscape approach described in the relevant documents.
- 5.5.9 The verified views establish that there is a very low level of visual intrusion into the overall townscape, in particular from any significant public viewpoints. An updated view [see **Appendix 8** - updated view Cam11, fig.02] without summer greenery, shows the view from Fortune Green looking westward along Ulysses Rd, which is the only location identified from where the development can be seen to a limited extent in winter. As the viewer moves west towards the development site, the topography and local housing ensures that the view of the proposed development disappears as the viewer walks up Ulysses Rd.
- 5.5.10 For these reasons, which will be expanded upon in evidence, far from having a negative impact on the character and appearance of the area, the proposal would enhance both.

REASON 6

Inclusive Design

- 5.6.1 Reason 6 was as follows:

'The proposed development, by virtue of its failure to deliver an inclusive design for all, both internally and externally throughout the scheme would be contrary to policies D1 (Design), C1 (Health and wellbeing) and, C6 (Access for all) of the London Borough of Camden Local Plan 2017, and Policies 3.8 and 7.2 of the London Plan 2016.'
- 5.6.2 The site has been designed, with the benefit of the Appellant's experience, around the requirements of the intended residents, who would be retired individuals or couples aged 65 and over.
- 5.6.3 The Arup Access Statement demonstrates compliance with Part M of the Building Regulations 2010 and the purposes of the Equality Act 2010, as well as identifying further detailed design work required by the project team as the project progresses.
- 5.6.4 The scheme is not detrimental to the needs of disabled people and in some respects, would provide exemplar facilities, far exceeding what is legally required to ensure accessibility. In particular:

- The site and buildings would not contain gradients steeper than 1:22, which are classified as gentle slopes within BS 8300.
- 15% of the apartments would comply with the requirements of Approved Document M Volume 1 M4 (3) (2) (a) for Wheelchair User Adaptable units (which exceeds the minimum requirement of 10%).
- All six lifts within the development would be evacuation lifts with dual power, facilitating step-free egress and supported by trained staff.
- Lifts would have internal dimensions of 1700mm by 2300mm, with a clear door opening of 1400mm (exceeding the minimum dimensions of 1100mm by 1400mm, with an 800mm clear door opening).
- Lift lobbies would exceed the minimum 1800mm space required (for waiting, and to allow people to pass), in most instances extending to 2020mm.
- The site would be manned 24 hours a day, to provide residents with assistance should this be required.
- To make it as easy as possible for residents to get to and from the development, there would be bookable services such as a pool car service and a mobility scooter collection and delivery service.

External access

- 5.6.5 The communal facilities are distributed around the scheme, opening onto the three courtyard levels and thereby encouraging access to the external amenity gardens. The courtyards are linked by a series of steps, allowing residents to traverse along the length of the development. Lift access between the courtyards has been discreetly located adjacent to the primary spaces, minimising travel distances and providing unrestricted views across the garden for residents to enjoy.
- 5.6.6. The residents would be people who chose to move into this development to maintain and enhance their quality of life. The Appellant's experience suggests that residents do not want to feel like they are moving into an 'old peoples home' and therefore provisions for assisted access should be discreetly located, also encouraging residents to maintain their levels of fitness with an active lifestyle.

Internal access and legibility

- 5.6.7 There are six vertical circulation cores serving the development; one per mansion block, with a maximum of six residential units per core. The cores are accessible to all residents. All cores are linked internally on level -01. This is the floor with the most frequently used communal and leisure facilities, providing a familiar internal access route to all areas for residents. This encourages movement around the site, promoting exercise and providing opportunities for chance encounters along the way. The access routes are animated with natural lighting, informal seating areas, external views and elements of the retained reservoir structure.
- 5.6.8 The design aspiration is to create a village feel with residents passing through reception on arrival, then moving through the communal facilities to reach the vertical cores within each mansion block. Residents can also take a variety of routes including short cuts, moving externally across the courtyards. The strong connection between the internal circulation spaces and the varied external courtyard spaces enhances legibility and the residents' sense of orientation.
- 5.6.9. In light of these measures, it is not tenable to suggest that the proposal would fail to deliver an inclusive design.

REASON 7

Overlooking

- 5.7.1 The seventh reason for refusal was this:

'The proposed development, due to its height, massing, positioning of windows and balconies/terraces and proximity and relationship between the proposed blocks, would result in an unacceptable amount of overlooking to and from the proposed units, contrary to policies A1 (Managing the Impact of development) and D1 (Design) of the London Borough of Camden Local Plan 2017.'

- 5.7.2 The Appellant understands that this objection relates only to the accommodation *within* the proposed development. Having regard to the extent of the separation distances between the proposed development and neighbouring accommodation (which is between 35 and 45 metres), together with the extensive proposed and existing mature dense landscaping and trees, it is plain that the proposal would avoid significant impact from overlooking onto and from neighbouring properties.
- 5.7.3 The scheme has been designed to minimise the potential for apartments within the scheme to overlook each other. At the same time, animated and active courtyard spaces are proposed that would benefit from positive overlooking and the potential for social interaction that active frontages provide.
- 5.7.4 The Appellant will show that the relationships between the individual apartments within the scheme foster a sense of community cohesion and so need to be treated differently to general market housing schemes.
- 5.7.5 The Appellant will also refer to the GLA Stage 1 Report which supports the standard of residential accommodation that would be offered to prospective residents.

REASON 8

Artificial Lighting

- 5.8.1 The Council's eighth reason for refusal is as follows:

'The proposed development, due to its scale, design, and siting, would result in an unacceptable impact from artificial lighting onto the existing site protected because of its local amenity, habitat and biodiversity importance, contrary to policies A1 (Managing the Impact of development), A3 (Biodiversity) and D1 (Design) of the London Borough of Camden Local Plan 2017.'

- 5.8.2 The separation distance (circa 35-45m) between the proposed development and the neighbouring development, alongside the extensive proposed and existing mature dense landscaping and trees, means that internal lighting would not have a significant impact beyond the site.
- 5.8.3 The Appellant has provided details of the external lighting within the External Lighting Assessment Report undertaken (Stage 2 External Lighting Assessment - Cudd Bentley Consulting, July 2017).
- 5.8.4 Within the central courtyard areas, the Appellant is proposing bollard-type lighting which is circa 717mm high, using 4.3 watt LED lamps. This means that the courtyard areas will have an average illuminance of 3.15 lux. The combination of subdued lighting levels and restricted luminaire height means that there would be minimal impact on flying 'bat' (mammal) commuting routes, and other insect life.
- 5.8.5 To the north of the development there is no external lighting and so there is no light spill 'up to' or over the adjoining boundary.
- 5.8.6 To the eastern end of the development, bollard luminaires have been carefully located to ensure that there is no light spill onto or into the 'retention pond' or conserved 'wild' area beyond.

- 5.8.7 To the south of the development where the vehicle access area is located, a combination of wall-mounted and bollard lighting has been carefully selected and located to ensure that there is no light spill 'up to' or over the adjoining boundary. Lighting for vehicle access areas shall have PIR (movement sensor) controls in order to prevent operation when no persons are present. Further along the site from the vehicle access area there is no external lighting, thus again there is no light spill 'up to' or over the adjoining boundary.
- 5.8.8 To the west of the development at the pedestrian entrance (adjacent to Gondar Gardens), bollard lighting has been carefully selected and located to ensure no light spill onto the road.
- 5.8.9 The external central courtyard lighting has been designed by the Appellant to be clock-controlled, i.e. lighting 'off' between 23:01 – 06:59. Lighting photocell 'hold off' is also to be used where there is sufficient 'daylight' during 07:00 – 23:00. An override facility is to be provided to allow care staff to navigate courtyard areas during 'out of hour' time periods.
- 5.8.10 No external lighting is proposed for the roof areas, as it is anticipated that any maintenance work would be carried out during daylight hours. Should task lighting be required then portable lighting would be used. This would also minimise any potential impact on local wildlife.
- 5.8.11 The Appellant has selected luminaires that are compliant with Building Regulations Part L2A as well as the requirements of the Building Research Establishment Environmental Assessment Method (BREEAM).
- 5.8.12 The Appellant is also targeting BREEAM credit Pol 04 as part of the development's BREEAM Pre-assessment (Version 6 - Cudd Bentley Consulting, October 2017) to ensure that light spill is not an issue to neighbouring properties. The aim of this is 'to ensure that external lighting is concentrated in the appropriate areas and that upward lighting is minimised, reducing unnecessary light pollution, energy consumption and nuisance to neighbouring properties' (Reference: BREEAM UK New Construction Non-domestic Buildings 2014 (BRE Global BREEAM Manual, Issue 5, Page 375).

REASON 9

The Provision of Cycle Parking

- 5.9.1 The Council's ninth reason for refusal is as follows:
- 'The proposed development, by reason of the type of cycle parking and its layout and location, would discourage the ownership and use of cycles as a sustainable form of transport, contrary to Policy T1 (Prioritising walking, cycling and public transport) of the London Borough of Camden Local Plan 2017.'*
- 5.9.2 Camden Policy T1 states that cycle parking should be secure and exceed the minimum parking standards of the London Plan. The London Plan, in turn, requires that cycle parking should be based on the number of Full Time Equivalent (FTE) staff. For care homes and secured accommodation, the cycle parking required is 1 space per 5 staff (long stay). Short stay visitor cycle parking should also be provided at 1 space per 20 bedrooms. At paragraph 7.12 of the Planning Officer's Report, the Council assess the proposals against these standards and conclude that a total of 21 spaces are required (16 spaces for staff and 5 spaces for visitors).
- 5.9.3 The Appellant has currently put forward a proposal that provides a total of 14 cycle spaces provided within the ground floor pick/up drop off area which is within 25 metres of the building entrance. The assessment for 14 spaces is outlined in the Transport Statement and is based on method of travel to work analysis. No formal highways comments were received in relation to the planning application and this reason for refusal could have been addressed as there was sufficient opportunity to provide the additional parking that officers identify in their report. Notwithstanding this assessment, there is sufficient space within the drop off/pick up area to provide 16 long stay spaces (in a secured locked facility) and 5 short stay (cycle hoop spaces). The Appellant would accept a condition to secure these details.

- 5.9.4 The London cycle parking standards do not explicitly require any provision for residents in care schemes and such provision has not been requested by the Council. Nonetheless, within this proposal, the mobility scooter store can house bicycles for residents and residents will also be allowed to store bicycles within their dwelling should they wish.

REASON 10

CHP, Drainage and Sustainability Details

- 5.10.1 The Council's reason for refusal is as follows:

'The proposed development, in the absence of details regarding the feasibility of providing a CHP unit on the site, opportunities to reduce water consumption, drainage calculations and details relating to SuDs, along with the failure to reach CO2 reduction targets, and due to the absence of a legal agreement to secure any of the above, would fail to be sustainable in its use of resources, contrary to policies CC1 (Climate Change mitigation) and CC3 (Water and Flooding) of London Borough of Camden Local Plan 2017 and Policies 5.2, 5.12 and 5.13 of the London Plan 2016.'

- 5.10.2 The Appellant refers to the details provided at the application stage on the feasibility of the Combined Heat and Power (CHP) – as contained within the Energy Statement (Version 6 - Cudd Bentley Consulting, October 2017) and subsequent Technical Note (GLA Comments Briefing Note – Version 1 - Cudd Bentley Consulting, December 2017).
- 5.10.3 The Appellant anticipates that the CHP would meet 55% of the residential heating and hot water demand. For the non-residential element it is proposed that the CHP would meet 20% of the heating load and 100% of the hot water load. The size, running hours and buffer vessel size of the CHP would be subject to detailed design, which can be approved by planning condition.
- 5.10.4 The Appellant also proposes the installation of photovoltaic panels at roof level. The exact area of panels to be provided can again be approved by the Council at the detailed design stage, pursuant to a planning condition.
- 5.10.5 Policy 5.2E of the London Plan states: *'The carbon dioxide reduction targets should be met on-site. Where it is clearly demonstrated that the specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to the relevant borough to be ring fenced to secure delivery of carbon dioxide savings elsewhere'*.
- 5.10.6 For this proposal, a 35% carbon reduction has been identified as the objective. Accordingly, the Appellant has considered in its Energy Statement whether other renewable technologies can be accommodated in the proposed design. It has been shown that other such technologies would either run in conflict with the proposed CHP plant or would be technically unfeasible to install. As a result, the Appellant accepts that a cash-in-lieu contribution is likely to be required to make up for any shortfall in carbon savings (see also 'Issue 16' below).
- 5.10.7 In respect of drainage, the Appellant has provided drainage calculations and details relating to SUDS to show that the project would be sustainable in its use of resources with regard to policies CC1 (Climate Change Mitigation) and CC3 (Water and Flooding) of the Local Plan and Policies 5.2, 5.12 and 5.13 of the London Plan. A Flood Risk Assessment ("**FRA**"), Hydrological and Hydrogeological reports and a Basement Impact Assessment ("**BIA**") have been provided.
- 5.10.8 The Council states that the Appellant should commit to a target of 105 (+5 external) litres/person/day consumption and that details of grey and/or rainwater harvesting systems proposed should be provided to help to achieve the required rates (paragraph 6.8 of the Officers' Report). This is acknowledged. Specific consumption requirements and rainwater harvesting systems can be considered at detailed design stage.
- 5.10.9 The Council further states in the Officers' Report that the drainage design "...needs to account for the whole site, which is especially true in this case as various sources of flow from across

the wider site are shown as having a potential impact..”. It is unclear which ‘various sources of flow’ are meant here. The preliminary drainage design has been designed to drain all the impermeable surfaces on the site. The flows from the soft landscaping in the east of the site would likely generate a minimal flow which is not required to be quantified as part of the planning phase design. If, at the detailed design phase, groundwater is encountered, then specific mitigation can be recommended, but any displacement to groundwater within the London Clay is expected to be minimal as stated in the BIA.

- 5.10.10 Officers state that the developer has not yet received notification from Thames Water with regard to a permissible discharge rate. In response, the Appellant confirms that a pre-development enquiry was submitted to Thames Water and that their response was included in the FRA (included within FRA Appendix G). This confirms that a surface water discharge of up to 5 litres per second is acceptable. The FRA uses a precautionary approach and limits surface water to the calculated greenfield runoff rate (QBAR) of 4.8 litres per second.
- 5.10.11 Officers suggest that the proposed balancing/retention pond, which is a prime landscaping proposal for the site, has been not been considered in the design of the SUDS system. The Appellant confirms that the proposed pond could be integrated into the drainage system, however, at this stage the pond is purely an ornamental feature. Any integration of the pond into the SUDS scheme would be considered at detailed design stage.
- 5.10.12 The design of the site shows a planned perimeter land drainage channel surrounding the proposed building (at two levels below ground), which is to capture groundwater ingress which would then drain into the proposed surface water network. In response to the Council’s request that the developer quantifies the likely groundwater ingress, the Appellant confirms that groundwater ingress from the underlying London Clay is predicted to be minimal, as confirmed by the hydrogeological study included in the BIA. The detail of this drainage system should be conditioned and calculations providing further quantification (if required) are proposed to be undertaken at the detailed design phase.
- 5.10.13 The Appellant can also confirm that the preliminary drainage strategy allows for the attenuation of the 1 in 100 yr + 40% climate change event on site (see Appendix E and Appendix F of the FRA).
- 5.10.14 In light of the answers provided above, there is no basis for objecting to the scheme on the grounds identified in the tenth reason for refusal. Insofar as there are any outstanding matters relating to these grounds, they can be appropriately resolved by the submission of further details pursuant to planning conditions.

REASON 11

Noise and Vibration

- 5.11.1 The Council’s eleventh reason for refusal is as follows:

‘In the absence of a sufficiently comprehensive Noise and Vibration Impact Report outlining the proposed mitigation for the mechanical ventilation and for the car lift, the applicant has failed to demonstrate that the development would provide a suitable standard of development which would not cause harm to the amenity of future occupiers nor neighbouring properties in respect of noise and vibration levels, contrary to policies A1 (Managing the impact of development), A4 (Noise and Vibration) and CC1 (Climate change mitigation) of the London Borough of Camden Local Plan 2017.’

- 5.11.2 The Appellant refers to the Acoustic Report accompanying the planning application (London Acoustic Planning Report - Sharps Redmore, June 2017) which identifies the existing background noise levels and the acceptable plant noise limits at neighbouring properties, in line with the Council’s requirements. This is a proper approach at this point in the development of a project when it would not be expected that a detailed final plant scheme be provided. The Appellant would expect the Council to control plant noise by planning condition.

- 5.11.3 Additionally, the Appellant has targeted BREEAM credit Pol 05 within the development's BREEAM Pre-assessment (Version 6 - Cudd Bentley Consulting, October 2017). The aim of this credit is to 'reduce the likelihood of noise arising from fixed installations on the new development affecting nearby noise-sensitive buildings' in accordance with BREEAM UK New Construction Non-domestic Buildings 2014 (BRE Global BREEAM Manual, Issue 5, Page 378).
- 5.11.4 With regard to the car lift, the Appellant will deal with this as part of the detailed design as the potential impact would be to residents of the development itself. The Appellant would accept a condition to control internal noise from the car lift, there being no basis to conclude at this stage that an acceptable noise level cannot be achieved.

REASON 12

Construction Management Plan

- 5.12.1 The Council's twelfth reason for refusal is as follows:

'The proposed development, in the absence of a legal agreement to secure a construction management plan and a financial contribution of £22,816 for construction management plan monitoring, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), T3 (Transport Infrastructure), T4 (Sustainable movement of goods and materials), DM1 (Delivery and monitoring), A4 (Noise and Vibration) and DP28 (Noise and vibration) and CC4 (Air quality) of the London Borough of Camden Local Plan 2017.'

- 5.12.2 This is a holding objection, with Informative 1 to the Decision Notice stating that this reason for refusal could be overcome by entering into a section 106 planning obligation.
- 5.12.3 Whilst the Council has not raised an objection to the details of the draft Construction Management Plan ("**CMP**") submitted with the planning application, paragraph 7.22 of the Officers' Report states that a more detailed CMP would need to be prepared once a principal contractor has been appointed. The Appellant accepts this. Similarly, the Appellant does not challenge the principle of making a contribution towards CMP monitoring, but confirmation has been sought from the Council on the formula by which the contribution is calculated.

REASON 13

Pedestrian and Environmental Improvements

- 5.13.1 The Council's reason for refusal is as follows:

'The proposed development, in the absence of a legal agreement to secure financial contributions towards pedestrian and environmental improvements in the area, would fail to mitigate the impact of the development created by increased trips, contrary to policies T1 (Prioritising walking, cycling and public transport), A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of London Borough of Camden Local Plan 2017.'

- 5.13.2 This is a holding objection, with Informative 1 to the Decision Notice stating that this reason for refusal could be overcome by entering into a section 106 planning obligation. .
- 5.13.3 The Appellant does not challenge the principle of making a contribution for the repair of any construction damage and to reinstate all affected transport network links and road and footways surfaces. The extent of works are likely to be modest given that the proposal does not propose any major alterations to the public highway (as acknowledged at paragraph 7.27 of the Officers' Report). At this stage, the Council has not calculated the level of contribution required and the Appellant intends to undertake a Pedestrian Environment Review System (PERS) audit to allow the parties to reach agreement on this matter.

REASON 14

Car-Free Housing

5.14.1 The Council's reason for refusal is as follows:

'The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking) and A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.'

5.14.2 This is a holding objection, with Informative 1 to the Decision Notice stating that this reason for refusal could be overcome by entering into a section 106 planning obligation.

5.14.3 The scheme would be car-free with the exception of 4 car pool parking spaces and 1 visitor space (to be provided within the site) and one disabled bay and two drop-off bays at street level. None of the spaces to be provided would be for the individual use of residents and it is accepted that residents would also not be entitled to local car parking permits.

5.14.4 The private car pool arrangement would be an integral part of the care and support offered to residents. It is intended for residents with physical or cognitive needs who cannot use public transport or travel sustainably. If this facility were not provided, residents with these needs could make a case that additional parking provision should be made for them and/or their families and associates within the scheme.

5.14.5 The one visitor car parking space is intended to meet emergency needs, for example, for those visiting residents who might be receiving end-of-life care.

REASON 15

Travel Plan Monitoring Contribution

5.15.1 The Council's reason for refusal is as follows:

'The proposed development, in the absence of a legal agreement for a Travel Plan and a financial contribution of £6,244 for travel plan monitoring, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), T3 (Transport Infrastructure), DM1 (Delivery and monitoring), A4 (Noise and Vibration) and DP28 (Noise and vibration) and CC4 (Air quality) of the London Borough of Camden Local Plan 2017.'

5.15.2 This is a holding objection, with Informative 1 to the Decision Notice stating that this reason for refusal could be overcome by entering into a section 106 planning obligation.

5.15.3 The Appellant does not contest the requirement for a Strategic Level Travel Plan to be prepared and for this to form part of a section 106 legal agreement. The Appellant would also not be seeking to contest the stated figure for travel plan monitoring.

REASON 16

Legal Agreement (Energy Efficiency)

5.16.1 The Council's final reason for refusal is as follows:

'The proposed development, in the absence of a legal agreement to secure an Energy Efficiency and Renewable Energy Plan, including the submission of post-construction reviews

demonstrating compliance with BREEAM Multi Residential and including a contribution to off-site allowable solutions, would fail to be sustainable in its use of resources, contrary to policies CC1 (Climate change mitigation), CC2 (Adapting to climate change), CC3 (Water and flooding) CC4 (Air quality), C1 (Health and wellbeing) and DM1 (Delivery and monitoring of the London Borough of Camden Local Plan 2017.)

- 5.16.2 This is a holding objection, with Informative 1 to the Decision Notice stating that this reason for refusal could be overcome by entering into a section 106 planning obligation.
- 5.16.3 The Appellant has undertaken a BREEAM Multi-residential Pre-assessment (Version 6 - Cudd Bentley Consulting, October 2017) which confirms the credits targeted to achieve an 'Excellent' rating with a score of 72.36%. Within the report the Appellant has highlighted further credits that could be considered which would increase the score to 78.10%. The minimum score required to achieve BREEAM 'Excellent' is 70%. The Appellant anticipates that a condition would be imposed to provide a BREEAM post-construction certificate confirming a BREEAM 'Excellent' rating, within 3 months of completion, to take into account current BRE QA and certification times.
- 5.16.4 The London Plan (Policy 5.2, March 2015) requires all major developments to achieve a 40% carbon reduction beyond Part L 2010 and the GLA Sustainable Design and Construction SPG (April 2014) requires all major developments to achieve 35% carbon reduction beyond Part L 2013. The Housing Supplementary Planning Guidance, March 2016, Standard 35, requires residential development proposals to achieve zero carbon from 1 October 2016. This has been the target detailed within the Energy Statement undertaken (Version 6 – Cudd Bentley Consulting – October 2017).
- 5.16.4 The Appellant's Energy Statement takes into consideration a range of low and zero carbon technologies and explains why they are not technically viable. This is predominantly because the reviewed technology would either run in conflict with the proposed systems or would be unacceptable due to the site's location (e.g. wind turbines). As such the Appellant has proposed an energy strategy which would use the most appropriate technologies to target carbon savings in line with the London Plan.
- 5.16.5 The Appellant accepts that the target carbon reductions are not fully met by the scheme as designed. Accordingly, in line with both the London Plan Policy 5.2E and the Mayor's Housing Standards' Viability Assessment (paragraph 3.58, May 2015), a financial contribution towards off-site renewable solutions is appropriate. Based on a carbon off-set price of £60 per tonne of carbon dioxide for a period of 30 years, the Appellant calculates the appropriate calculation as follows:

Development Element	Annual Shortfall Tonnes CO ₂ per Annum	Carbon Off-set Contribution (£)
Non-residential	24.57	£44,226.00
Residential	78.65	£141,570.00
Total	103.22	£185,796.00

- 5.16.6 The contribution required is subject to adjustment if further carbon reductions can be justified and/or a larger installation of PV can be accommodated during detailed design stage.

6. CONCLUSION

- 6.1 For these reasons, the Appellant will submit that none of the Council's reasons for refusal should lead to its appeal being dismissed. The proposal is in general compliance with the development plan, read as a whole, and is a sustainable development in terms of the NPPF. Where there is conflict with the open space policies of the development plan, this is limited and the public benefits of the scheme substantially outweigh any harm. The inspector will be asked to allow the appeal.