



**STATEMENT OF COMMON GROUND**

**GONDAR GARDENS, LONDON, NW6 1QF**

**DATE: 20 MARCH 2018**

**LPA REFERENCE: 2017/6045/P**

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## **Introduction**

1. Based on a review of the Council's decision notice and the accompanying Officers' Delegated Report, the Appellant and the Council agree on the following matters.

### **Site and surroundings**

2. The parties agree that the description of the site and surroundings in the Officers' Report on the application is accurate. It is set out below for convenience:

*The site is located in West Hampstead and was formally known as Shoot-Up Hill Reservoir. The reservoir was built for the Grand Junction Water Works in 1874 and comprises 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.*

*The site frontage is bounded immediately to the North and South by three storey deep Mansion blocks with deep rear extensions. To the North, where Gondar Gardens turns east, the street is largely comprised of early 20th century three storey red brick terraced houses and mansion blocks with decorative two storey bays and short front gardens.*

*The dwellings on Agamemnon, which also back onto the site, are a combination of two storey and two storey with attic accommodation, in brick, of an era to match the dwellings on Gondar Gardens. To the south along Hillfield the dwellings are also two storey brick of a similar era. Throughout the area the local properties are divided into flats, whilst others are in use as dwellinghouses. In general, the terraced dwellings are not uniform and have a variety of richness in their detailing.*

*The site faces the street to the West. The opposite side of the road is characterised by single storey garages at the rear of the properties along Sarre Road. Further to the south at 1 Gondar Gardens two storey contemporary dwellings in brick have been constructed.*

*The site is subject to a number of designations including Local Green Space (as allocated within the Fortune Green and West Hampstead Neighbourhood Plan 2015), being a Locally Listed Structure, Private Open space and a Site of Importance for Nature Conservation (SINC) Borough Grade II. Along the eastern edge of the site, and around the south-east corner, there is a belt of trees which were made the subject of a Tree Preservation Order in 2003.*

### **Planning history**

3. The parties agree that the summary of the site's planning history in the Officers' Report on the application is accurate. It is set out below for convenience:

*The site has been the subject of three previous planning applications, each the subject of refusal and subsequent appeals. The previous appeals were brought by the previous owner of the site and were the subject of two Public Inquiries and a Hearing. They are referred to throughout this report as the 'Reservoir Scheme' (Appeal/Inquiry), the 'Frontage Scheme' (Appeal/Inquiry) and the 'Second Frontage Scheme' (Appeal/Hearing). The chronology is summarised below:*

#### *The Reservoir Scheme*

*In June 2011 an application (2011/0395/P) was refused for "Redevelopment of the covered reservoir structure to provide 16 x 4-bedroom residential units (Class C3) with associated parking, refuse storage and landscaping, following substantial demolition of the roof and internal structure (application is accompanied by an Environmental Impact Assessment)." This scheme is hereinafter referred to as the 'Reservoir Scheme'.*

*The primary reasons for refusal were:*

1. The proposed development, by virtue of the development on designated Open Space, would result in the loss of land protected because of its local amenity, habitat and biodiversity importance.
2. The proposed development, without the provision of sufficient affordable housing either on-site or off-site, secured by a S.106 Legal Agreement, would fail to maximise the contribution of the site to the supply of affordable housing in the borough.
3. The proposed development, by reason of the low number of residential units per hectare, would fail to maximise the contribution of the site to providing additional homes in the borough.
4. The proposed development, by virtue of its failure to provide an active street frontage, its 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.
5. The proposed development, by virtue of its failure to provide a mix of large and small homes, would fail to contribute to the creation of mixed and inclusive communities.
6. The applicant has failed to demonstrate, by way of a Basement Impact Assessment, that the works of demolition and construction would not result in an unacceptable impact on the structural stability of adjacent properties.

Further reasons related to the failure to secure appropriate mitigation measures by way of s106 legal agreement, relating to the following concerns:

7. Provision of on-site renewable resources including the provision of a CHP plant.
8. Environmental sustainability measures including compliance with Level 5 of the Code for Sustainable Homes and a contribution to off-site allowable solutions
9. Car-capped housing
10. Demolition and Construction Management Plan
11. Measures to support local labour and procurement
12. Highways works
13. Education Contribution
14. Provisions for the long term maintenance, protection and management of the retained area of Open Space
15. Provision of a compensatory off-site area of habitat
16. Contributions towards community facilities

The Council's decision was contested at a Public Inquiry, which sat for six days on 22-24 May, 27, 28 September and 1 October 2012 (Appeal Ref: APP/X5210/A/11/2167190). Before the appeal, the Council withdrew objections to the scheme expressed in refusal reasons 6, 8, 9, 10, 11, 12, 13, 14 and 16 as they were resolved by a s106 legal agreement agreed by the Council and the appellant. The Council's objection as expressed in reason 7, relating to basement works and policy DP27, was also withdrawn following the submission of an acceptable Basement Impact Assessment.

The Inspectorate resolved to allow the appeal on 1 November 2012.

### The Frontage Scheme

In May 2012 an application (2012/0521/P) was refused for 'Redevelopment of the reservoir street 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 its subsequent re-landscaping (application is accompanied by an Environmental Impact Assessment)'. This scheme is hereinafter referred to as the 'Frontage Scheme'.

The substantive reasons for refusal were:

1. The proposed development, by virtue of the development on designated Open Space, would result in the loss of land protected because of its local amenity, habitat and biodiversity importance and would be detrimental to the open nature of the site as viewed from the public realm.

2. The proposed development, by reason of its detailed design, would be detrimental to the streetscape and the character and appearance of the wider area.

Further reasons related to the failure to secure appropriate mitigation measures by way of s106 legal agreement:

3. On-site affordable housing.
4. Car-capped housing
5. Education contribution
6. Provisions for the long term maintenance, protection and management of the retained area of Open Space
7. Community facilities contribution
8. Construction Management Plan
9. Ecology and Habitat Plan, including measures to secure the transfer of the retained protected land to a third party in perpetuity with a financial contribution towards long term management and maintenance.
10. Local labour and procurement.
11. Highways works
12. Contributions towards pedestrian and environmental improvements in the area.
13. Sustainability measures and Code for Sustainable Homes.
14. Wheelchair accessible affordable housing

The Council's decision was contested at a Public Inquiry, which sat for three days on 9-11 April 2013 (Appeal Ref: APP/X5210/A/12/2188091). Before the appeal, the Council withdrew objections to the scheme as expressed in refusal reasons 3-14, as these had been overcome by entering into an appropriate s106 agreement.

The Inspectorate resolved to dismiss the appeal on 3 June 2013. However only the 'detailed design' reason was upheld, therefore the development on designated Open Space and the height, scale, massing and location of the buildings was fully accepted by the Inspectorate.

#### The Second Frontage Scheme

In March 2014 an application (2013/7585/P) was refused for 'Redevelopment of reservoir street frontage to provide 28 residential units in 2 blocks from lower ground to 3rd floors with basement parking, following substantial demolition of roof and internal structure of reservoir and subsequent re-landscaping.' This scheme is hereinafter referred to as the 'Second Frontage Scheme'.

The substantive reason for refusal was:

1. The proposed development, by reason of its detailed design, would be detrimental to the streetscape and the character and appearance of the wider area, contrary to policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 (Securing high quality design) of the London Borough of Camden Local Development Framework Development Policies.

Further reasons related to the failure to secure appropriate mitigation measures by way of s106 legal agreement:

2. On-site Affordable Housing in addition to a contribution in lieu;
3. Car Capped housing
4. Educational contribution
5. Public Open Space contribution
6. Community Facilities contribution
7. A demolition and construction management plan
8. Ecology and Habitat Plan, including measures to secure the transfer of the retained protected land to a third party in perpetuity with a financial contribution towards long term management and maintenance.
9. Local Labour and procurement

- 10. Highway works
- 11. Contributions towards pedestrian and environmental improvements in the area
- 12. Sustainability measures and code for sustainable homes
- 13. Wheelchair accessible affordable housing.

*The Council's decision was challenged at a Hearing on 23rd June 2015 (Appeal Ref APP/X5210/W/14/2218052). The appeal was recovered for the Secretary of State's determination on 8 September 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves residential development of over 10 dwellings in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made.*

*The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. The Secretary of State agreed with the Inspector's conclusions and agreed with his recommendation. The neighbourhood plan passed referendum in July 2015 and was formally adopted by the Council on 16th September 2015.*

### **Planning policies**

4. The parties agree that the list of Local Plan and Neighbourhood Plan as set out in the 'relevant policies' section of the Officer's Delegated Report and the list of the relevant London Plan policies provided at Appendix 4 of the Planning Statement accompanying the original planning application, are agreed as the relevant Development Plan policies against which the appeal proposal should be assessed. These policies are set out below for convenience:

#### Local Plan 2017

- G1 Delivery and location of growth
- H1 Maximising housing supply
- H4 Maximising supply of affordable housing
- H6 Housing choice and mix
- H7 Large and small homes
- H8 Housing for older people, homeless people and vulnerable people
- C1 Health and wellbeing
- C5 Safety and Security
- C6 Access for all
- E1 Economic development
- A1 Managing the impact of development
- A2 Open Space
- A3 Biodiversity
- A4 Noise and Vibration
- A5 Basements
- D1 Design
- D2 Heritage
- CC1 Climate change mitigation
- CC2 Adapting to climate change
- CC3 Water and flooding
- CC4 Air Quality
- CC5 Waste
- 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

#### Fortune Green and West Hampstead Neighbourhood Plan 2015

- Policy 1 Housing
- Policy 2 Design and Character
- Policy 3 Safeguarding and enhancing Conservation Areas and Heritage assets
- Policy 5 Public Transport

Policy 7	Sustainable Transport
Policy 8	Cycling
Policy 9	Pavements and Pedestrians
Policy 16	Local Green Space
Policy 17	Green/Open Space
Policy 18	Trees

The Appellant states that Policy 4 (West Hampstead Growth Area and Other Sites) is also relevant

*The London Plan (2016)*

Policy 1.1	Delivering the strategic vision and objectives for London
Policy 3.1	Ensuring equal life chances for all
Policy 3.3	Increasing housing supply
Policy 3.4	Optimising housing potential
Policy 3.5	Quality and design of housing developments
Policy 3.7	Large residential developments
Policy 3.8	Housing choice
Policy 3.13	Affordable housing thresholds
Policy 3.17	Health and social care facilities
Policy 5.3	Sustainable design and construction
Policy 5.4A	Electricity and gas supply
Policy 5.6	Decentralised energy in development proposals
Policy 5.7	Renewable energy
Policy 5.9	Overheating and cooling
Policy 5.10	Urban greening
Policy 5.11	Green roofs and development site environs
Policy 5.12	Flood risk management
Policy 5.13	Sustainable drainage
Policy 5.14	Water quality and wastewater infrastructure
Policy 5.15	Water use and supplies
Policy 5.18	Construction, excavation and demolition waste
Policy 7.14	Improving air quality
Policy 7.15	Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
Policy 6.9	Cycling
Policy 6.10	Walking
Policy 6.13	Parking
Policy 7.1	Lifetime neighbourhoods
Policy 7.2	An inclusive environment
Policy 7.4	Local character
Policy 7.6	Architecture
Policy 7.18	Protecting open space and addressing deficiency
Policy 7.19	Biodiversity and access to nature
Policy 7.21	Trees and woodlands
Policy 8.2	Planning obligations
Policy 8.3	Community infrastructure levy

***Reasons for refusal***

- Reasons for refusal 12 to 16 could be overcome through the Appellant and the Council entering into a section 106 legal agreement. Both parties will work pro-actively to reach agreement on these issues prior to the appeal being heard.
- Reason for refusals 10 (CHP, SUDS and drainage) and 11 (noise) might be overcome in advance of the appeal through the submission of more comprehensive assessments and/or agreement in respect of suitable worded conditions or planning obligations.

### ***Planning issues***

7. The extent of demolition proposed to the existing reservoir structure is acceptable.
8. The subject site offers a suitable location for a care facility in accordance with Policy H8 of the Local Plan.
9. The proposal will make a contribution to the Borough's housing supply in accordance with Policy H1 of the Local Plan.
10. There is a need across the Borough for new accommodation which is suitable to meet the needs of older people, including a need for market-led developments.
11. The care home element of the scheme does not generate a requirement for affordable housing provision.
12. The site has a PTL rating of between 1b and 3.
13. The proposed level of tree loss and pruning is acceptable.
14. The proposed landscaping of the internal courtyards will be of a high design standard and is acceptable.
15. The servicing and refuse arrangements for the use are acceptable and will not give rise to the need for a Service Management Plan.
16. The individual units will meet and exceed the minimum nationally prescribed space standards.
17. The scale and proportion of the proposed basement is in accordance with the Council's Basement Policy A5.
18. The proposals would not have an unacceptable impact on the daylight and sunlight levels of neighbouring properties. The internal daylight and sunlight levels of units within the scheme would also be acceptable.

### **Matters disputed**

19. At the time of writing, there is disagreement between the Appellant and the Council in respect of each of the reasons for refusal 1 to 16 as set out in the Council's decision notice.