

STATEMENT OF CASE

**APPEAL UNDER SECTION 78 OF THE TOWN AND COUNTRY
PLANNING ACT 1990**

**BY
27-29 WHITFIELD STREET PROPERTY LIMITED**

**AGAINST THE FAILURE OF THE LONDON BOROUGH OF
CAMDEN TO DETERMINE THE APPLICATION FOR THE
REDEVELOPMENT OF THE SITE AT 27-29 WHITFIELD STREET.**

APPLICATION REFERENCE: 2017/6922/P

**RULE 6 STATEMENT UNDER TOWN AND COUNTRY PLANNING
(INQUIRIES PROCEDURE) (ENGLAND) RULES 2000 AND
“PROCEDURAL GUIDE – PLANNING APPEALS, ENGLAND”
(PINS, 5 AUGUST 2016)**

MARCH 2018

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1.0 INTRODUCTION

- 1.1 On the 15th December 2017, 27-29 Whitfield Property Ltd (‘the Appellant’) submitted an application for full planning permission to the London Borough of Camden (‘LBC’) associated with the redevelopment of the site at 27-29 Whitfield Street (‘the Site’).
- 1.2 The description of the development for the planning application (reference: 2017/6922/P) was set out as follows:

“Change of use of basement, ground and first floor to flexible retail, business and non-residential institution uses (classes A1/ B1/ D1), second floor to office use (class B1a), erection of single-storey roof extension to create additional office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level”.

(the “Application”)
- 1.3 The design of the proposed development is the work of Stagg Architects. This appeal has been submitted to the Planning Inspectorate following the failure of the London Borough of Camden to determine the Application in accordance with the statutory determination timescales.
- 1.4 The Application is identical in its form to the detailed planning application which was submitted to the London Borough of Camden (LBC) in November 2016 (application reference: 2016/6495/P), which was subsequently referred to Camden’s planning committee in July 2017 save for the addition of a Heritage Statement prepared by Philip Davies. The planning committee resolved to grant permission for the redevelopment of the site subject to the completion of a S106 agreement. The formal decision notice was issued on the 04th August 2017. (the “2017 Scheme”)
- 1.5 Subsequent to the grant of planning consent for the 2017 Scheme a legal challenge was lodged with the courts (Claim CO/4217/2017), for which the appellant was an interested party. LBC have consented to judgement on the basis that in determining the application “the officers report failed to make clear that the less than substantial harm to the listed building was to be afforded considerable importance and weight in the planning balance”.
- 1.6 The parties have agreed to a form of consent order which was submitted to the courts on the 15th February 2018, and is awaiting allocation to a judge. The Consent Order will confirm that the 2017 Scheme planning permission has been quashed and is to be referred to the LBC for redetermination.
- 1.7 Given the significant time and financial expenses incurred by the Appellant as a result of the delays which have been incurred in the determination of the 2017 Scheme, senior officers at LBC suggested that the Appellant should progress with the submission of a fresh application duplicating the 2017 Scheme which LBC could then assess and determine within the statutory determination timescales and taking account of the procedural issues raised by the legal challenge.
- 1.8 Whilst assurances had been provided that the determination of the duplicate application would

be prioritized, regrettably, it is apparent that LBC are unwilling to commit to the previously agreed timescales for the determination of the Application. As the statutory determination period for the case lapsed on the 09th February 2018, the Appellant requests that the Application be determined by the planning inspectorate.

- 1.9 An appeal under Section 78 of the Town and Country Planning Act 1990 is sought through written representations.

2.0 THE SITE AND SURROUNDING AREA

The Existing Buildings

- 2.1 The site is located off Whitfield Street within the Bloomsbury Ward which falls within southern portion of the London Borough of Camden. The site occupies an area of 0.01 hectares and is located on the west side of Whitfield Street, south of the junction with Goodge Street and on the corner with Colville Place. The site is bounded by 19 Whitfield Street and 21 Goodge Street (to the north), 1 Colville Place (to the west), Colville Place (to the south) and Whitfield Street (to the east).
- 2.2 The site comprises an existing building arranged over basement, ground and two upper floors circa 324.5 sq.m GIA, formerly occupied as a courier hub and taxi control office (use class sui generis), now vacant. The building was originally constructed in the 1960s, with the façade treatment to the building comprising brickwork and render. Following the construction of the building, no significant changes or restoration works have been undertaken to maintain the condition of the building. As a result, the appearance, style and specification are now outdated and as such modernisation is required to return the building to a beneficial and sustainable active use.

The surrounding area

- 2.3 The property is in a mixed-use area characterised by business, other commercial and residential uses. The vernacular of the surrounding area is characterised by a mix of building styles and ages. Goodge Street (to the north) and Whitfield Street (to the east) is predominantly characterised by modern business and commercial buildings arranged over ground plus three / four upper storeys. The site lies opposite 15-17 & 26-28 Whitfield Street which is a similar period office building arranged over ground plus four upper storeys with a setback top floor. No. 16-24 Whitfield Street also opposite the site comprises a part two storey – part four storey modern commercial building, currently occupied by the British Transport Police.
- 2.4 The Site forms part of a terrace of midrise properties located off Colville Place, which are predominantly arranged over ground and three upper floors, with the topmost floor set back from street level, predominantly occupied as residential units.
- 2.5 Directly to the south of the site is the Colville Place Gardens which is designated by the London Borough of Camden as green open space.
- 2.6 The site is located in Fitzrovia and has an excellent level of accessibility to public transportation (Ptal 6b) with Goodge Street London Underground Station (LUL) (0.1 miles to the north) and Tottenham Court Road LUL station (0.3 miles to the south), both of which are within 15 minutes walking distance of the site.

Heritage significance

- 2.7 The building is not listed but is located within the Charlotte Street Conservation Area (CSCA) (2008). The conservation area appraisal notes that an important element of the quality and character of the conservation area is derived from its small scale of uses; the majority of buildings are in mixed uses. The conservation area appraisal is silent on the architectural or historic interest of the existing building.
- 2.8 The site adjoins 1 Colville Place a four-storey building constructed in 1964, for occupation as an art gallery at ground floor with a single residential dwelling arranged over the upper floors of the building. Upon request of the owner, Historic England undertook a review of the historic significance of the building and designated the building as a listed building (Grade II) in April 2000. The listing description on the Historic England’s website describes the property as “*an immaculately detailed, minimal house, a rare example of a modernist infill scheme of sophistication and careful taste*”.
- 2.9 A Heritage Statement has been prepared by Phillip Davies Heritage (on behalf of the Appellant) which provides a critique of the character of the Charlotte Street Conservation Area (CSCA) neighbouring heritage assets and provides a critical assessment of the impact of the proposed scheme on the assets.

Planning designations

- 2.10 The site is designated by LBC as being covered by the following designations;
- The Central London Area;
 - Charlotte Street Conservation Area; and
 - Strategic Views – Landmark viewing corridor.

Site history

- 2.11 The site has an extensive planning history. **Appendix A** of this Appeal statement provides a detailed overview to the planning history records for the site. A detailed summary of the key of the 2016 scheme, which represents the key planning decision for the case is outlined in the section below.
- 2.12 An application was submitted by the applicant on the 26th November 2016 for full planning permission for the redevelopment of the site comprising the “*Change of use of basement, ground and first floor to flexible uses (Class use A1/ B1/ D1), second floor to B1 office, and new single-storey roof extension to create additional B1 office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level.*”
- 2.13 The application was referred to LBC’s planning committee for determination on the 06th July 2017, with a recommendation for approval. The members of the planning committee elected to approve the scheme subject to the completion of a S106 agreement to secure the necessary

obligations tied to the development. The formal decision notice was issued on the 04th August 2017. (“2017 Scheme”)

- 2.14 Following the issue of the planning decision, the occupier of 1 Colville Place elected to lodge a legal challenge of the council’s decision to approve the 2017 Scheme. The case put forward in the legal challenge primarily related to LBC’s interpretation of the impact of the 2017 Scheme on the neighbouring heritage assets and wider conservation area and by consequence the mechanism utilised by LBC and its officers to balance the benefits of the 2017 Scheme against the residual harm to the setting of heritage assets. The council indicated that they would be inclined to concede the legal challenge and progress with a re-determination of the original scheme. The parties have agreed to a form of consent order which was submitted to the courts on the 15th February 2018, and is awaiting allocation to a judge. The Consent Order will confirm that the 2017 scheme planning permission has been quashed and is to be referred to the London Borough of Camden (LBC) for redetermination.
- 2.15 Given the financial implications for the client team as a result of the delays incurred, senior officers at LBC advised that a fresh duplicate application could be submitted to LBC. LBC would then be in a position to progress with the reassessment and determination of the identical application whilst ensuring compliance with all statutory regulations.
- 2.16 Accordingly, the Appellant submitted an identical application for the original scheme in December 2017 (app reference: 2017/6922/P), the description of development for the scheme submitted as part of this application is detailed below;
- 2.17 *“Change of use of basement, ground and first floor to flexible retail, business and non-residential institution uses (classes A1/ B1/ D1), second floor to office use (class B1a), erection of single-storey roof extension to create additional office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level”.* (the “Application”)
- 2.18 Whilst it was previously advised that LBC would seek to determine the Application within the statutory determination timescales, regrettably it has recently been indicated in correspondence dated (08.02.2018) that LBC would not be willing to put the Application forwards for consideration at Committee within the statutory determination period. The statutory determination period for the Application lapsed on the 09th February 2018.
- 2.19 It is also worth noting that a separate application had been submitted to the LBC in November 2017 (planning reference: 2017/6080/P), which sought permission for an amended design. This application is with the LBC for determination.

3.0 THE APPLICATION PROPOSALS

3.1 The Application sought detailed planning permission for the following proposed development:

“Change of use of basement, ground and first floor to flexible retail, business and non-residential institution uses (classes A1/ B1/ D1), second floor to office use (class B1a), erection of single-storey roof extension to create additional office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level”.

3.2 The following section provides a detailed overview to the Application scheme.

Quantum and mix of uses

3.3 The Application scheme includes the refurbishment and modernisation of the existing floorspace on site, with the delivery of additional floorspace in the form of a rooftop extension set back from Colville Place elevation. The detailed proposals include the provision of flexible commercial floorspace (Use Class A1/A3/D1) at basement, ground and first floor, with office accommodation (Use Class B1) on the upper levels of the building.

3.4 The table below provides a detailed overview to the quantum of uses provided across the building;

	Existing (sq.m GIA)	Proposed (sq.m GIA)
Taxi – cab office (Sui generis)	324.5	0
Flexible commercial (Use Class A1/A3/D1)	0	271
Office (Use Class B1)	0	112
Total	324.5	383.2

Inclusive design

3.5 The Application scheme includes the provision of high quality employment floorspace which has been designed to accord with Part M of the Building Regulations.

Car and cycle parking

3.6 The Application scheme includes the provision of cycle parking spaces at basement level. As per the existing situation no car parking spaces are provided or proposed as part of the Application.

Detailed design of proposed roof extension

- 3.7 The Application scheme includes the formation of a single storey roof extension circa (58.7 sq.m GIA) for occupation as high-quality office floorspace. The massing of the proposed extension has been designed in a sensitive manner to respect the character of the surrounding area. It is considered that the Application scheme would positively enhance the character and appearance of the conservation area by providing a gradual transition in building heights from the midrise commercial properties of Whitfield / Goadge Street and the residential properties along Colville Place.
- 3.8 The Site book ends the terrace and occupies a prominent corner site off Colville Place / Whitfield Street. As detailed in the Design and Access Statement and LBC committee Report (Para. 6.7) prepared for the 2017 Scheme the residential mews houses along Colville Place are predominantly arranged over ground plus three upper floors, with the top floor recessed from the building line fronting Colville Place, the most prominent being no.1 Colville Place. The rooftop extension has been designed to have a complimentary appearance to neighbouring properties, with a setback of 3.2m on the Colville Place elevation of the building. At the western end of Colville Place, where it adjoins Charlotte Street, there is a similar relationship between the mid-rise terrace and the higher buildings facing the larger road. The existing building on this opposite corner is very similar in scale to the proposal, although it does not benefit from setting back the top floor. Similarly, this building sits adjacent to a row of three grade-II listed buildings without causing harm to their setting. The proposed design would establish a similar, but more sensitive relationship due to setting back the top floor.
- 3.9 The detailed design and massing of the proposed roof extension and plant enclosure have been tested in local townscape views, further detail is included in the Design and Access Statement prepared by Stagg Architects. It is considered that the proposals will result in a high-quality development which book ends Colville Place and positively contributes to the appearance and setting of the wider conservation area.
- 3.10 The scheme submitted for approval in this Application is identical to the scheme which had previously been approved by the LBC planning committee in July 2017.
- 3.11 In summary, the Application Scheme:
- Will facilitate the restoration and reoccupation of a vacant building thereby ensuring the long-term maintenance and management;
 - Will provide a sensitive design which compliments and enhances the character of the conservation area and neighbouring heritage assets.
 - Will contribute to the delivery of new high specification office floorspace suitable for occupation by small and medium business operators;
 - Will contribute to the delivery of a mix of flexible commercial and business uses which positively contribute to this section of the Central London Area.

4.0 PRE-APPLICATION CONSULTATION

- 4.1 The scheme submitted was a duplicate of the original permission which had been approved and then subsequently quashed. Given that the proposed scheme was identical in scope and form to the previous iteration there was no requirement to progress through the formal consultation prior to the submission of the duplicate application. (“2018 scheme”).
- 4.2 A precis of the pre-application consultation process undertaken for the original application. (“2017 scheme”) has been included in **Appendix B**.

5.0 RELEVANT PLANNING POLICY

- 5.1 The Application has been informed by adopted and emerging development plan policies and other relevant guidance. **Appendix C** to this statement provides an overview to the key planning documentation which informed the determination of the 2017 scheme.

Planning policy direction

- 5.2 The determination of the original scheme coincided with the adoption of the new Camden Local Plan. Accordingly, the schemes presented to the committee at this meeting were re-assessed under the new policy to ensure that all schemes approved at this committee meeting would not result in a departure from the development plan position.
- 5.3 In the preparation of the duplicate application the technical documentation to be submitted as part of the application was updated to accord with the updated planning policy position. In general, there was minimal change in policy direction between the adopted and emerging planning policy position.

Historic buildings and conservation areas

- 5.4 As the site falls within a conservation area and within the curtilage of a statutory listed building, the council will require that consideration is paid to the statutory tests outlined under Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in determining a formal application for the comprehensive redevelopment of the site

6.0 THE APPELLANT’S CASE - THE APPLICATION SCHEME

- 6.1 As this appeal has been submitted following the failure of LBC to determine the Application within the statutory timescales (and the duplicate application under the 2017 Scheme had been recommended for approval and granted consent), no reasons have been cited by LBC as prospective reasons for refusal.
- 6.2 The following section provides an overview to the material planning considerations which have previously been closed out along with the key areas of contention which form part of the appeal case.

Statement of agreed matters

- 6.3 As outlined in Section 1 of this statement, LBC resolved to grant permission for the proposed development and the formal decision notice was issued on the 04th August 2017. The following section provides an overview to the key planning matters which had been formally agreed by the LBC in its determination of the original planning application and were not part of the legal challenge, submitted by the occupant of 1 Colville Place. As the duplicate application seeks permission for the same quantum and mix of uses from the original application, it is considered that the following matters are acceptable in planning policy terms.

Land Use

- 4.6 The principle of the redevelopment of the building for a mix of uses incorporating new class A1 / A3 /B1/ D1 floorspace has previously considered to be acceptable in this location and accords with the policies outlined in the London Plan and Local Plan (Para 6.2 of the LBC committee report dated 06th July 2017) (the “2017 LBC Report”). The proposed scheme makes no change to the quantum or mix of uses. It is therefore considered that the previous considerations remain applicable

Design

- 4.7 The principle of the scale and form of the proposed alterations and extension to the building has previously been considered to be acceptable (Para 6.10 – 11 of the 2017 LBC Report). It has been determined that the proposed alterations to the façade fenestration are considered to be acceptable and would “sit comfortably with the traditional scale and alignment of fenestration along Colville Place” and as such would be acceptable in planning terms. These details have not changed in the Application, and therefore considered acceptable in planning policy terms.
- 4.8 The principle of the proposed works at ground floor level have been established through the 2017 scheme. Para 6.13 of the LBC Report states that the proposed works were acceptable in planning policy terms, and the Application proposes the same works.

Daylight and sunlight

- 4.9 In the determination of the 2017 scheme, LBC were inclined to determine that the proposed scheme is acceptable in planning policy terms (Para 6.21 & 6.22 of the LBC Report). The

Application proposals are identical to the 2017 Scheme and raises no new planning consideration in relation to sunlight/daylight.

Amenity

- 4.10 The 2017 Scheme included the provision of accessible roof terraces at first, third and fourth floor. In the determination of the previous application it was agreed that the accessible roof terraces, aside from fourth floor terrace; would be used solely for maintenance and servicing purposes.
- 4.11 It was further agreed that the fourth-floor terrace would be utilised for maintenance and amenity space, subject to the imposition of a condition restricting the hours of operation. In that basis, LBC determined that the proposed scheme could be considered to be acceptable in planning policy terms, and this would apply to the Application which is identical to the 2017 Scheme.

Car and cycle parking

- 4.12 In determining the 2017 Scheme, LBC were inclined to conclude that the proposals would not result in an adverse impact on the functionality of the local highways network. Para 6.29 of the LBC Report states that the 2017 Scheme would be acceptable in planning policy terms subject to the imposition of a planning obligation restricting the acquisition of parking permits, along with a condition securing the provision of cycle parking spaces.

Deliveries and servicing

- 4.13 LBC concluded that the delivery and servicing strategy for the 2017 Scheme was acceptable in planning terms, and this strategy is identical for the Application.

Sustainability

- 4.14 In the determination of the 2017 Scheme, LBC considered that the proposed sustainability enhancements delivered from the scheme, notably improvements to the thermal performance of the fabric of the building and incorporation of air source heat pumps would deliver significant improvements to the performance of the building. LBC concluded that these provisions would be acceptable in planning policy terms, and the identical provisions are proposed for the Application.

Planning obligations

- 4.15 The 2017 Scheme was granted subject to the completion of a section 106 unilateral undertaking. The Appellant entered into a unilateral agreement in favour of LBC prior to the grant of permission for the 2017 Scheme.
- 4.16 A copy of the final iteration of the unilateral undertaking has been included as part of the appeal submission, for completion in the instance that the inspectorate is inclined to grant planning permission.
- 6.4 In order to assist the inspectorate in determining the appeal a brief statement has been included

in **Appendix D** demonstrating that each of the substantive planning matters accords with planning policy.

Planning matters to be resolved as part of this appeal

- 6.5 As outlined in Section 1 of this statement, a legal challenge was lodged against the LBC decision to grant permission for the 2017 Scheme on the basis that LBC had failed to apply the correct legislative tests in balancing the impact of the proposed development on the neighbouring heritage assets against the public benefits to be delivered from the scheme.
- 6.6 LBC had concluded that the 2017 scheme would result in less than substantial harm to the setting and historic significance of 1 Colville Place, and based on this conclusion LBC has acknowledged in the proposed Consent Order that they should have made more clear the way in which special regard was made of that harm in assessing the balance against public benefits of the 2017 Scheme.
- 6.7 Whilst it is acknowledged that the procedural assessment of the less than substantial harm against the 2017 Scheme benefits was not sufficiently recorded in the LBC Report, it is the professional opinion of the Appellant's Consultant team that LBC had reached the correct planning judgment that the 2017 Scheme would result in less than substantial harm to the historic significance of 1 Colville Place. It is also considered that while there was insufficient information presented in the LBC Report, the conclusions reached by LBC that the very significant public benefits attributed to the 2017 scheme would significantly outweigh such harm was correct, even in the context of needing to have special regard for the desirability of preserving the setting of a listed building, and the character or appearance of the conservation area.
- 6.8 The Appellant's advisors carried out a heritage assessment of the Application, and this has concluded that the Application scheme would not cause any harm to the setting of 1 Colville Place. In any event, should it be considered that the Application would result in less than substantial harm to the setting of the listed building, LBC's conclusion reached in relation to the 2017 Scheme, would equally apply to the assessment of the Application.
- 6.9 The following section provides a precis of the key planning policy and assessment of the Application in heritage planning terms.

Legislation and planning policy

- 6.10 The Planning (Listed Buildings and Conservation Areas) Act 1990 outlines the core planning principles which should be considered when determining applications for the redevelopment of buildings affecting heritage assets.
- 6.11 Section 66 of the Act states that;

"In considering whether to grant planning permission [FI] or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic

interest which it possesses.

Without prejudice to section 72, in the exercise of the powers of appropriation, disposal and development (including redevelopment) conferred by the provisions of sections 232, 233 and 235(1) of the principal Act, a local authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular, listed buildings”.

6.12 Section 72 of the Act states that;

- 1) *In the exercise, with respect to any buildings or other land in a conservation area, of any [F1]functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 2) *The provisions referred to in subsection (1) are the planning Acts and Part I of the **MI**Historic Buildings and Ancient Monuments Act 1953 [F2]and sections 70 and 73 of the Leasehold Reform, Housing and Urban Development Act 1993].*
- 3) *[F3(3)In subsection (2), references to provisions of the Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.]*
- 4) *[F4(4)Nothing in this section applies in relation to neighbourhood development orders.]*

6.13 The NPPF provides government guidance on the impact of development on heritage assets which are of historic or architectural merit.

6.14 Under paragraph 128 of the NPPF, in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the asset’s importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

6.15 When considering whether a proposal has an impact on the significance of a heritage asset, paragraph 129 of the NPPF states that: ‘local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset...’

6.16 Paragraph 131 states that in determining planning applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

- c) the desirability of new development making a positive contribution to local character and distinctiveness.

6.17 Paragraph 132 states that, ‘when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a Grade II listed building, park or garden should be exceptional.’

6.18 Further to the above, Paragraph 133 states that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

6.19 Paragraph 134 states that: -

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

6.20 The council’s planning policies outlined below apply a presumption in favour of the preservation of the significance and setting of designated heritage assets in accordance with Section 66 & 72 of the Planning (Listed buildings and conservation areas) Act 1990. Unless it can be clearly demonstrated that the public benefits attributed to the proposed scheme would significantly outweigh any perceived harm to the designated heritage assets.

6.21 LBC Local Plan Policy D2 (heritage) states that LBC will seek to preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, including conservation areas, listed buildings and locally listed buildings.

6.22 As such LBC will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site;
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;
- c) conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and the harm or loss is outweighed by the benefit of bringing the site back into use

6.23 The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

Planning considerations

6.24 A Heritage Statement has been prepared by PHD on behalf of the Appellant. The heritage statement submitted with the Application had been updated to respond to the aforementioned concerns which had been raised in the legal challenge of LBC's decision regarding the 2017 Scheme.

6.25 The heritage statement provides an overview to the historic character of the area including conservation areas and neighbouring heritage assets, along with an assessment of the suitability of the Application Scheme.

Historic context to the conservation area

6.26 The Site is located within the Charlotte Street Conservation Area, which was designated in 1973. The existing building is not highlighted in the Charlotte Street conservation area audit (2008) as having special value, but sits adjacent to a Grade II listed building at 1 Colville Place. The remainder of the buildings on Colville Place are considered to be positive contributors, but the other neighbouring buildings, on Goodge Street and on the opposite side of Whitfield Street are not accorded any special value in terms of contributing to the Conservation Area

6.27 The Charlotte Street Conservation Area Appraisal and Management Plan describes Whitfield Street as a *"quiet commercial street... The nature of the uses and limited levels of traffic make these streets quieter and less populated than other streets in the conservation area. They have a strong sense of enclosure deriving from the relatively narrow street width, continuous frontages of generally four or five storeys in height and a largely consistent, strong parapet line. A variety of materials – red brick, yellow brick and render – is evident on all of the streets."*

6.28 In accordance with the NPPF, it is necessary to understand the implications of the proposals and whether there is any harm caused to the significance of the designated heritage assets having regard to the tests set out in paragraph 132 and 134 of the NPPF and the statutory tests outlined in Section 66 & 72 of the Planning (Listed buildings and conservation areas) Act 1990.

6.29 With regards to paragraph 132-134 of the NPPF, it is considered that, the Application scheme

will not cause harm to the Designated Heritage Assets (the conservation area and the adjacent listed building). The heritage statement concludes that the proposals comply with national, regional and local planning policy and guidance. It is considered that the proposals will enhance the character and appearance of the conservation area and the relationship of 27-29 Whitfield Street with the adjoining listed building at No.1 Colville Place. The heritage statement considers that the proposals would not result in demonstrable harm to the character, appearance or setting of the listed building or its contribution to the conservation area. Indeed, the converse is the case and the proposals would significantly enhance the character and appearance of the conservation area and setting of the listed building.

- 6.30 The proposed massing has been designed to improve and reflect the surrounding context, as has the detailed design elements including the fenestration and railings. Further detail can be found in the Design and Access Statement submitted as part of the Application.
- 6.31 The proposals make better and more efficient use of the property through the change of use, alterations and extension will reinforce the qualities that make the properties significant. The conservation area includes a mix of residential and business uses, which are noted in the Charlotte Street Conservation Area Appraisal “*generate a vibrant and lively atmosphere.*” The conservation area appraisal notes that an important element of the quality and character of the conservation area is derived from its small scale of uses; the majority of buildings are mixed use.
- 6.32 The proposed land use, massing and detailed design of the scheme are informed by careful consideration of the heritage context of the conservation area and the adjoining listed building. Having regard to the existing building and its wider context there is an opportunity to sustain and enhance the significance of the conservation area and adjoining listed building through a high-quality design. The proposed scheme will make a positive contribution to local character and distinctiveness and consequently it is considered that the proposals meet national, regional and local policies and objectives in respect of heritage and conservation
- 6.33 In accordance with the objectives of the NPPF, the Appellant considers that Application would bring forward high quality design with the intention of sustaining and enhancing an existing building, and that the refurbishment and improvement to the existing building is fully aligned with the principles of sustainable development set out within the NPPF.

Impact of the proposals on the setting of the conservation area

- 6.34 As to the Conservation Area, the intention of the design is to enhance the character and appearance of the area by adding a sensitive rooftop extension while making significant improvements to the existing building. The Application scheme includes extensive refurbishment works to the façade of the building, comprising the replacement of existing render and cleaning and restoration of exposed brickwork to create a uniform appearance to the façade which significantly improves the appearance and composition of the proposed building. The existing windows will be replaced with new high-quality double-glazed units with anodised aluminium frames. The roof extension has been designed in a sensitive manner, with the creation of window openings of similar proportions to those on the lower levels of the building to provide a uniform expression, which blends seamlessly with the façade treatment for the remainder of the building.

- 6.35 It is proposed that the façade treatment for the building is a significant improvement of the existing building will result in the creation of a high-quality development, which positively contributes to the setting of neighbouring heritage assets and the character of the conservation area as a whole.

Impact of the proposals on the setting of 1 Colville Place

- 6.36 Although the LBC Report concluded that the 2017 Scheme would result in less than substantial harm to the setting of the Grade II listed building, the following section provides an overview to the key planning considerations which have been made in the design of the scheme in support of the Appellant's position that the Application would not cause any harm to the setting of 1 Colville Place.

Place sensitive design

- 6.37 In the design of the Application scheme careful attention has been paid to ensure that the qualities that give the listed building its special status are not harmed. The special qualities of 1 Colville Place are set out clearly in its listing description, which describes it as an immaculately detailed, minimal house, a rare example of a modernist infill scheme of sophistication and careful taste. The listing description makes note of external aspects of the house, such as the exposed concrete beams, the thick timber windows, the shopfront and door and the general composition of the façade. It also makes significant reference to the internal aspects such as the built-in joinery and simple minimal detailing.
- 6.38 To ensure that these special qualities are not harmed it is necessary for this proposal to respect the setting of the listed building by paying careful attention to the scale, massing, proportion, and appearance of the proposed extension as well as the façade improvements. By setting back the roof extension to align with the top floor of 1 Colville Place, the increased massing will not be overbearing to the neighbour, and will recede from view at street level. While a new parapet will be constructed on the existing building this has been carefully proportioned to include a horizontal recessed dark steel channel which will create a shadow gap, giving a lighter appearance to the top of the building. The use of vertical metal railings to form the rooftop balustrade also contribute to giving the top of the building a lighter appearance.
- 6.39 Although the site abuts the terrace of Colville Place, due to its corner position the scale of the existing post-war building relates rather more to the larger-scale buildings which front Whitfield Street and the corner with Goodge Street, than the buildings on Colville Place. No.1 Colville Place however relates very closely in massing and proportion to the rest of the Colville Place terrace. The existing building at 27 Whitfield Street does not relate closely to Colville Place in terms of floor levels, fenestration or parapet height. Indeed 27 Whitfield Street acts as a visual 'termination' to the Colville Place terrace. In our view, it is appropriate that the corner building should be slightly higher as it forms something of a bookend to the terrace, and as the gradual stepping is controlled carefully we do not consider that it causes any harm to the special qualities of its neighbour.
- 6.40 Careful consideration has also been given to the choice of materials as part of this application, to ensure that the design neither detracts from, nor confuses the relationship with 1 Colville

Place. It is proposed that the application of a lighter tone to the existing brickwork would complement the darker brickwork of 1 Colville Place, thereby ensuring that the property can be distinguished in its own right and the relationship between the two buildings will not be blurred. It was felt that a darker render, or one that tried to match the dark brick could confuse the relationship between the two buildings. It is proposed that façade treatment to the building will represent a significant enhancement on the existing and will blend seamlessly with properties on Colville Place.

- 6.41 It is the Appellant's case that the Application scheme will preserve and enhance the character and appearance of the area and respect the setting of the listed building in accordance with LBC Local Plan Policy D2.

Public benefits of the scheme

- 6.42 Should the inspectorate accept the conclusions reached by LBC that the 2017 Scheme would cause less than substantial harm to the setting of the adjacent listed building apply to the Application this section sets out the considerable public benefits (including heritage benefits) of the Application.
- 6.43 In addition to the visual enhancement to the heritage value of the Charlotte Street Conservation Area (as set out above), the Application Scheme offers significant public benefits. These include:
- Building of high-quality design which make a positive contribution to the surrounding area and wider townscape;
 - Significant provision of employment space, including offices, retail, which make an overall contribution to the objectives for occupiers for economic growth.
 - the activation of the Whitfield Street elevations; and
 - the provision of upgraded potential retail and job creation.
- 6.44 These benefits are in line with local and strategic policy which seeks a significant increase in employment uses to generate jobs and spur economic growth in the area.
- 6.45 The employment benefits created by the proposed development are significant, and should not be undervalued. Both local and strategic policy place clear emphasis on fostering employment in the Site's immediate area. The Application Scheme will directly contribute employment uses and floorspace to this strategic area thereby strengthening its strategic employment and providing direct benefits to both LBC and central London.
- 6.46 The Application scheme adheres to Development Plan policy in terms of its employment offer, mix of uses and more generally through its high-quality design, transport and servicing arrangements, and adherence to principles of sustainability and mitigation of environmental impacts, and therefore represents a scheme that is broadly in line with development aims for the area and which offers significant public benefits.
- 6.47 The proposals have provided improved access for the intended office occupiers, while still ensuring future flexibility in accordance with London Plan and Camden policies. The existing employment provision is of low grade and the provision of new office space at the site will

increase employment density and bring economic benefits to the area. The offices are proposed to be accessed from Whitfield Road via an existing door position.

- 6.48 The impact that the Application scheme will have on the townscape has been thoroughly assessed, and computer images have been created to test and understand how the proposed building will appear within the townscape. The accompanying design and access statement, considers how the proposed development will affect the urban environment. The proposed works and upgrade to the host building with a well-designed extension would amount to a significant enhancement in terms of the setting of the adjacent listed building and conservation area.
- 6.49 The proposals have been designed to match the scale of the buildings on Colville Place and Whitfield Street and any potential views of the plant enclosure will be subservient in accordance with the varied roofscape of the area.
- 6.50 The relevant planning requirements including new cycle storage space and appropriate associated facilities are provided. The internal layout has improved the floor plates substantially and are flexible enough a single tenant could take the entire building.
- 6.51 The new extension conforms to the height, scale and proportions of the existing host building and the neighbouring buildings in the immediate area, using materials sympathetic to the character of the area in terms of colour and quality. These considerable benefits are considered to ensure that the proposals will respect their context and will not undermine the vitality and vibrancy of the wider area.
- 6.52 The Application as a whole offers significant public benefits in terms of urban design, townscape goals and the provision of a high-quality development and employment generating uses and refurbishment improvement to the building.
- 6.53 The NPPF requires that due consideration should be paid to the preservation and enhancement of neighbouring heritage assets. Where a development would impact on the setting or significance of a heritage asset, this harm should be “weighed against the public benefits” of the proposal including “securing its optimum viable use”.
- 6.54 In the event that the planning inspector is inclined to endorse the councils view that the Application scheme (as they concluded on the 2017 Scheme) would result in an element of harm, it is considered that any alleged harm could only reasonably be quantified as “less than substantial harm”. In accordance with the statutory tests outlined in Para 132-134 of the NPPF and Policy D2 of the LBC Local Plan any perceived harm would need to be balanced against the public benefits delivered from the Application Scheme. In line with the statutory tests, and the NPPF, this balancing exercise must have special regard to the desirability of preserving the setting of the listed building (and to the extent relevant must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area). It is our view that should such a balancing exercise be necessary, the public benefits attributed to the Application would significantly outweigh any perceived harm, and as such permission should not be refused on the basis of heritage impact.

7.0 THE APPEAL PROCEDURE

- 7.1 The Appellant acknowledges that the approach for the determination of an appeal is ultimately at the discretion of the planning inspectorate. In this instance, the Appellant considers that the most appropriate mechanism would be to request that the appeal is dealt with through the written representations route.
- 7.2 The rationale for this approach is primarily centred upon the nature of the case, in that the scheme submitted as part of this appeal is a duplicate of a scheme which had previously been approved. Whilst a legal challenge had been lodged against the LBC determination of the 2017 scheme, this was solely related to the council's approach to the weighting of the public benefits from the scheme against any perceived residual harm to the neighbouring heritage asset.
- 7.3 Accordingly, as the principle of the development has previously been accepted it is considered that the sole matter of consideration relates to the re-assessment of the impact of the scheme on 1 Colville Place.
- 7.4 As the area of contention is more aligned to a factual examination and interrogation of evidence, it is considered that the cross examination of expert witnesses would be redundant. On the basis of the above, the Appellant considers that the most appropriate mechanism would be to request that the appeal is dealt with through written representations.

8.0 CONCLUSION

- 8.1 The scheme presented for approval as part of this application is identical in scale and format to the 2017 scheme which was approved on the 04th August 2017. As set out in Section 4.0 of the statement LBC have previously been minded to determine that all the material planning considerations, aside from heritage matters for the scheme have been addressed through the grant of planning permission for the 2017 scheme.
- 8.2 In Heritage terms, it is acknowledged that whilst LB Camden applied the incorrect procedural methodology in balancing the public benefits and alleged harm to designated heritage assets. However, it is considered that the correct decision was derived in that the public benefits attributed to the scheme significantly outweigh any alleged harm to the heritage significance of designated heritage assets or the wider conservation area. The public benefits attributed to the development of the site are summarised below.
- 8.3 At present, the existing building on the Site is currently vacant and is in a poor state of repair which visibly detracts from the historic significance of the neighbouring heritage assets and wider Charlotte Street conservation area. The Application Scheme would bring a vacant building back into beneficial use and deliver a mixed-use building providing accommodation in keeping with the character of the area. The proposed high-quality office accommodation would assist the Borough in meeting their economic targets.
- 8.4 The proposals present an opportunity to regenerate and reinvigorate this part of Whitfield Street and the Central Activities Zone and provide a development which respects the context of the wider area.
- 8.5 It is the professional consultant team's opinion that the proposed development will have no impact on the setting or historic significance of 1 Colville Place and the wider Charlotte Street Conservation Area. In the event that the planning inspector is minded to endorse the position taken by the council that the scheme will result in "less than substantial harm" to the historic significance of 1 Colville Place, it is considered that the extensive public benefits attributed to the scheme will significantly outweigh any residual harm. It is considered that the proposed scheme would accord with the statutory duties in respect of the conservation area and adjacent listed building.
- 8.6 In summary, it is considered that the proposed development would accord with all of the statutory tests outlined in national, regional and local planning policy, and as such planning permission should be approved.

9.0 AWARD OF COSTS

- 9.1 In accordance with the Planning Inspectorates formal requirements, we hereby reserve the right to lodge an appeal for an award of costs at a later stage.

APPENDIX A: PLANNING HISTORY RECORDS

This Appendix to the Statement of Case provides an overview to the planning history records which are considered to be of relevance to the case, including a detailed overview to the 2017 scheme and other key planning decisions.

The 2017 consented scheme

The most relevant planning decision for the case is the 2016 application for the redevelopment of the site as outlined below. An application was submitted by the applicant on the 26th November 2016 for full planning permission for the redevelopment of the site comprising the *“Change of use of basement, ground and first floor to flexible uses (Class use A1/ B1/ D1), second floor to B1 office, and new single-storey roof extension to create additional B1 office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level.”*

The application was referred to LBC’s planning committee for determination on the 06th July 2017, with a recommendation for approval. The members of the planning committee elected to approve the scheme subject to the completion of a S106 agreement to secure the necessary obligations tied to the development. The formal decision notice was issued on the 04th August 2017. (“2017 Scheme”)

Following the issue of the planning decision, the occupier of 1 Colville Place elected to lodge a legal challenge of the council’s decision to approve the 2017 Scheme. The case put forward in the legal challenge primarily related to LBC’s interpretation of the impact of the 2017 Scheme on the neighbouring heritage assets and wider conservation area and by consequence the mechanism utilised by LBC and its officers to balance the benefits of the 2017 Scheme against the residual harm to the setting of heritage assets. The council indicated that they would be inclined to concede the legal challenge and progress with a re-determination of the original scheme. The parties have agreed to a form of consent order which was submitted to the courts on the 15th February 2018, and is awaiting allocation to a judge. The Consent Order will confirm that the 2017 scheme planning permission has been quashed and is to be referred to the London Borough of Camden (LBC) for redetermination.

Given the financial implications for the client team as a result of the delays incurred, senior officers at LBC advised that a fresh duplicate application could be submitted to LBC. LBC would then be in a position to progress with the reassessment and determination of the identical application whilst ensuring compliance with all statutory regulations.

Accordingly, the Appellant submitted an identical application for the original scheme in December 2017 (app reference: 2017/6922/P), the description of development for the scheme submitted as part of this application is detailed below;

“Change of use of basement, ground and first floor to flexible retail, business and non-residential institution uses (classes A1/ B1/ D1), second floor to office use (class B1a), erection of single-storey roof extension to create additional office space, rooftop plant enclosure, facade alterations including new front entrance, replacement windows, and infill of light-well at basement level”. (the “Application”)

Whilst it was previously advised that LBC would seek to determine the Application within the statutory determination timescales, regrettably it has recently been indicated in correspondence dated (08.02.2018) that LBC would not be willing to put the Application forwards for consideration at Committee within the statutory determination period. The statutory determination period for the Application lapsed on the 09th February 2018.

It also worth noting that a separate application had been submitted to the LBC in November 2017 (planning reference: 2017/6080/P), which sought permission for an amended design. This application is with the LBC for determination.

Other planning history records

The following section provides an overview to the previous planning history records for the site which are considered to be of relevance;

- **Ref. 2017/4624/P** – Planning permission was sought for a minor material amendment to the detailed design of the consented scheme (application reference: 2016/6495/P). This application was subsequently withdrawn.
- **Ref. 2013/8158/P** Planning permission was sought for the following; “*Change of use of basement, ground and 1st floors to office (Class B1) use and 2nd floor to Class C3 residential use, single storey roof extension to create two self-contained residential units at 2nd and 3rd floor level, facade alterations, infill of lightwell at basement level, installation of roof plant enclosure and other associated works.*”. The application was withdrawn by the applicant after initially being recommended for approval.
- **Ref. 2013/2101/PRE** - Pre-app advice issued in 2013 for improvement works to the facade of the building, office use at basement to third floors, a two-storey roof extension and duplex residential unit at fourth and fifth floors.
- **Ref. 2012/4136/P** Planning permission was granted on 22/10/2012 for the change of use from a courier hub and taxi control office (sui generis) to offices (Class B1a).
- **Ref. 2003/3178/P** Planning permission was granted on 1/3/2004 for the retention of radio mast on existing Class B1(offices) building.
- **Ref. 8400185 03/04/1984** Established Use Certificate in respect of the second floor as offices.

APPENDIX B – PRE-APPLICATION CONSULTATION

This appendix provides a precis of the pre-application consultation process which had been undertaken prior to the submission of the 2017 scheme.

Pre-application discussions for the 2017 scheme

On 6th October 2006, prior to the Appellant acquiring the site, LBC issued an enforcement notice stating that there had been an “*unauthorized change of use from a B1 (Business) to a sui generis use, comprising a mix of uses including courier hub and taxi car control office*”. An appeal was held in July 2007 following this enforcement action. The Inspector allowed the appeal in part, the enforcement notice was quashed and planning permission was granted for ‘the use of the premises for a sui generis use, comprising a mix of uses including courier hub and taxi control office,’ subject to conditions.

On 22 October 2012, full planning permission (ref.2012/4136/P) was granted for “*change of use from a courier hub and taxi control office (sui generis) to offices (Class B1a)*” (ref.2012/4136/P).

In 2013 a planning application was submitted (ref.20138158/P) for the “*change / of use of basement, ground and 1st floors to office (Class B1) use and 2nd floor to Class C3 residential use, single storey roof extension to create two self-contained residential units at 2nd and 3rd floor level, facade alterations, infill of lightwell at basement level, installation of roof plant enclosure and other associated works*”. In April 2016, the planning application was withdrawn at LBC’s request after initially being recommended for approval.

The Appellant then appointed new planning consultants and architects to engage with LBC and progress a new scheme through a pre-application framework.

Pre-application proposals were submitted to LBC (April 2016) and LBC issued their advice 11th May 2016. This advice is enclosed at **Appendix 2** and summarised below;

- Proposed land uses supported;
- Further information required on the open nature of the flexible uses;
- Incoherent design, particularly the fenestration and render
- Council do not support increase in plant room size;

A further pre-application submission was then made to LBC (21st June 2016) incorporating the previous comments and progressed the design of the scheme. The Appellant met with LBC (22nd June 2016) to discuss the revised proposals. The points discussed at the meeting are summarised below;

- LBC will support the lower ground and ground floor flexible uses which activate the street frontage
- Restaurant (A3) use is likely to be supported at ground floor however more complex issues will need to be dealt with including ventilation, cumulative impact etc.
- LBC would welcome office use throughout the building.
- LBC support the retention of the building
- Appellant inherited a challenging scheme and consider the proposals will provide an upgraded building

- LBC accept the concept of introducing a contemporary design whilst retaining the existing principle of redevelopment
- The external appearance of the building will be upgraded and will include cleaning the brickwork, new windows and new render.
- New proportions of the proposed windows are considered acceptable with the larger ground floor windows supported. Mixture of fan lights and plane glazing not supported by LBC, but they would support a simple fenestration design without transom bars throughout all windows.
- LBC are not comfortable with the size of the Colville place ground floor windows. Officers considered lifting the cills slightly would lessen this impact. Officers considered the windows should be smaller due to the “domestic feel” on Colville Place.
 - LBC consider the lowering of the parapet to the extension and introduction of metal railings (throughout the building) would lessen any visual impact within the Conservation Area.
 - LBC would like to see sample boards of the proposed render detailing on site.
 - LBC would support a neutral render – not dark or chocolate colour.
 - LBC support the new lightwell railings
 - LBC stressed the requirement for all documentation/survey’s to be accurate as these will be scrutinized.
 - LBC wish for the proposed plant to be located in the same position as under previous application. Daylight and Sunlight impact need to be assessed.

The Appellant continued to liaise with LBC and revise the proposals. On 9th August 2016, the Appellant engaged with LBC to arrange a meeting on site with the LBC’s Conservation Officer to discuss the proposed materials. The Appellant met with LBC on site on 24th August 2016. Following this meeting the Appellant submitted further revised pre-application proposals. LBC issued their pre-application feedback (Appendix 3) on 11th October 2016 which is summarised below;

- LBC supported the principle of redevelopment and architectural approach
- LBC require detailed information regarding the flexible ground floor uses;
- LBC would require full technical supporting information to support A2 & A3 uses at lower ground and ground floors
- LBC support the mid-neutral tone coloured render panel.
- LBC seek re-orientation of the roof plant to avoid a top-heavy appearance and impact on amenity.
- LBC support the terrace to the front and top of the building.
- LBC require a contribution to cycle parking on site subject to the finalised proposals.

There are no other decisions considered to be of relevance prior to submission of the application for the 2017 Scheme. As referenced in the delegated officers report (dated 06.07.2017) a number of minor amendments were made to the scheme during the determination period, notably;

- Omission of Juliet balconies to rear windows and replacement with partially obscured window openings;
- Removal of safety railings to rear 1st and 2nd floor flat roof surface (operation and maintenance only);
- Addition of green roof surface to rear 1st and front 3rd floor flat roof surface;
- Removal of safety railings to front 3rd floor flat roof, addition of green roof and Juliet balconies to window openings; and

- Relocation of roof top plant enclosure.

The 2018 scheme incorporated all of the planning drawings referenced on the decision notice, including those which had been amended as part of the changes to the scheme as outlined above.

APPENDIX C – PLANNING POLICY FRAMEWORK

This appendix provides an overview to the key legislation, planning policies and supplementary guidance documentation which is a material consideration in the determination of the application.

National Policy and Guidance

The National Planning Policy Framework (the “NPPF”) was published on 27 March 2012 and superseded previous national planning guidance contained in various Planning Policy Guidance and Planning Policy Statements. The NPPF sets out the Government’s approach to planning matters, and is a material consideration in the determination of planning applications.

At the heart of the NPPF is a presumption in favor of sustainable development, which should be seen as a golden thread running through decision taking (paragraph 14). This paragraph goes on to state that:

For decision taking this means:

- *Approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;*
 - or*

Specific policies in this Framework indicate development should be restricted”.

In March 2014, the Government published the National Planning Practice Guidance (NPPG) which is a material consideration to planning applications. The NPPG replaces the majority of the prior circulars and guidance to provide a simplified single source of guidance at the national level. The NPPG is provided as an online resource, and any references to its contents reflect the position as per the date of this Appeal submission.

On the 07th March 2018, the Ministry of Housing, Communities and Local Government launched a consultation on the prospective changes to the national planning policy framework (‘NPPF’). Given, that this consultation represents the initial stage in the development of a revised policy framework it is considered that only limited weight should be afforded to the emerging policy position in the consideration of the Application submitted as part of this appeal.

The Statutory Development Plan

The statutory development plan for the Site comprises the adopted plans of the Greater London Authority (GLA) and LBC, in full comprising:

- The London Plan 2015 with Minor Alterations (2016); and
- Camden Local Plan (2017).

In addition to the above, the GLA published a copy of the preferred options version of the London Plan for consultation in December 2017. The local development scheme indicates that the publication version of the revised Local Plan will be referred to the Secretary of State (SoS) in Summer / Autumn 2018, with adoption and implementation scheduled for Spring / Summer 2019. Whilst the status of the draft London Plan is relatively advanced, it is still in draft format as such it is considered that only limited weight should be afforded to the emerging policy position in the consideration of the Application which has been submitted as part of this appeal.

Greater London Guidance

The Greater London Authority (GLA) has also published a number of supporting documents that are material considerations in the determination of this Application. Of particular relevance are:

- London Planning Statement SPG (May 2014);
- Sustainable Design and Construction SPG (April 2014);
- Use of Planning Obligations in the funding of Crossrail, and the Mayoral Community Infrastructure Levy SPG (March 2016);
- Planning for Equality and Diversity in London SPG (October 2007); and
- Accessible London: achieving an inclusive environment (April 2014).

It should be noted that none of these documents has been revised or altered since the determination of the 2017 Scheme.

Local Planning Authority Policy

Supplementary Planning Guidance

Other Supplementary and Design Guidance of relevance to this application includes:

- Camden Planning Guidance 1 (CPG1) – Design (July 2015);
- Camden Planning Guidance 2 (CPG2) – Housing (May 2016);
- Camden Planning Guidance 3 (CPG3) – Sustainability (July 2015);
- Camden Planning Guidance 5 (CPG5) – Town centres, retail and employment (September 2013);
- Camden Planning Guidance 6 (CPG6) – Amenity (2011);
- Camden Planning Guidance 7 (CPG7) – Transport (2011);
- Camden Planning Guidance 8 (CPG8) – Planning Obligations (July 2015);
- Charlotte Street Conservation Area Audit (CSCA) (2008).

Following the implementation of the LBC New Local Plan (2017) the LBC are currently reviewing the policy position outlined in the supplementary planning guidance documents which support the Local Plan. An initial phase of consultation was undertaken between the 15th November, on the following policy documents.

- CPG 2 (Housing);
- CPG 4 (Basement and Lightwells);
- CPG5 (Town Centres, retail and employment);
- CPG 6 (Amenity) and

- CPG 8 (Planning obligations).

The local development scheme indicates that the documents will be referred to LBC cabinet for adoption and implementation in March 2018. A subsequent review of the remaining planning obligations SPG's will be undertaken later in 2018. The policy direction in the emerging supplementary planning guidance documentation is not materially different from the existing position and as such will not materially impact on the determination of the case.

Planning designations

The site is identified within the LBC Local Plan as being located within the Central Activities Zone. The LBC proposals map designates the site as being within:

- Central London Area
- Charlotte Street Conservation Area
- Designated view – Landmark viewing corridor.

LBC Planning policy direction

The determination of the 2017 scheme coincided with the adoption of the new Camden Local Plan. Accordingly, the proposals presented to the committee were re-assessed under the newly adopted Local Plan to ensure that all applications approved at that committee meeting would not result in a departure from the development plan position.

In the preparation of the Application the technical documentation to be submitted was updated to accord with the updated planning policy position. In general, there was minimal change in policy direction between the adopted and emerging planning policy position.

APPENDIX D – PLANNING MATTERS RESOLVED THROUGH THE DETERMINATION OF THE 2017 SCHEME

The legal challenge against the LBC decision to grant planning permission for the 2017 scheme was centred upon the assessment of the impact of the proposed scheme on the heritage significance of 1 Colville Place. All other material planning considerations were not impacted by the legal challenge against LBC's decision.

As the 2018 scheme is a duplicate of the 2017 scheme it is considered that for the following planning matters, there are no new material planning considerations.

In the interest of assisting the planning inspectorate in determining the appeal the following section of this document provide provides a critical appraisal of each planning matter demonstrating compliance with planning policy. Where relevant, reference has been made to the committee report for the 2017 scheme which has been included with this appendix.

LAND USE

The section of the committee report which relates to the assessment of the proposed land uses tabled as part of the 2017 scheme was not raised as a matter of contention within the legal challenge, as such it is considered that LBC determination on land use matters is robust.

Given that the material planning considerations associated with land use have been closed under the 2017 scheme, it is considered that the duplicate scheme does not raise any new matters for consideration. Nonetheless, the following section provides a precis of the key planning considerations in respect of the proposed scheme along with commentary and references, confirming the suitability of the proposals in planning policy terms.

Planning policy

The NPPF sets out the Government's commitment to securing economic growth and advises that plans should proactively meet the development needs of businesses and support an economy fit for the twenty first century.

London Plan policy 4.2 supports the management of mixed use development and redevelopment of office provision to improve London's competitiveness including enhancing its varied attractions for businesses of various types and sizes including small and medium enterprises.

LBC Local Plan Policy E1 states that the borough will seek to encourage business growth within the borough, with a priority for new office development to be directed towards growth areas and Central London.

Part b) of the policy states that the Council will expect a mix of employment facilities and types, including the provision of small and medium sized enterprises.

LBC Local Plan Policy TC2 (Camden's centres and other shopping areas) states that the council will

seek to promote successful and vibrant centres throughout the borough, which serve the needs of residents, workers and visitors. LBC will;

- a) *seek to protect and enhance the role and unique character of each of Camden's centres, ensuring that new development is of an appropriate scale and character for the centre in which it is located;*
- b) *provide for and maintain, a range of shops including independent shops services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice;*
- c) *make sure that food, drink, entertainment and other town centre uses do not have a harmful impact on residents and the local area and focusing such uses in King's Cross and Euston Growth areas, Central London Frontages, and Town Centres (Refer to "Policy TC4 Town centres uses");*
- d) *support and protect Camden's Neighbourhood Centres, markets and areas of specialist shopping, local shops; and*
- e) *pursue the individual planning objectives for each centre, as set out in supplementary planning document Camden Planning Guidance on town centres, retail and employment, and through the delivery of environmental, design, transport and public safety measures.*

LBC Local Plan Policy E3 of the Local Plan states that where premises or sites are suitable for continued business use, the Council will consider redevelopment proposals for mixed use schemes provided that the level of employment floorspace is maintained or increased; that they include other priority uses, such as premises suitable for new, small or medium enterprises are provided.

LBC Local Plan Policy C2 (Community facilities) states that the council will seek to promote the enhancement and development of new community facilities subject to appropriate provisions being made in relation to the servicing and maintenance of the unit.

Further to the above, Policy C3 (cultural and leisure facilities) states that the council will support the provision of new cultural and leisure uses as part of mixed use developments.

The principle of Class B1 use in this location was established by the previous grant of planning permission on 22 October 2012 (reference: 2012/4136/P). It is a material consideration in the determination of this planning application. The existing use of the property remains sui generis.

Planning considerations

It is proposed to change the use of lower ground, ground and first floors from sui generis to flexible Class A1, B1, D1 uses in accordance with policy E1, E3, C2, C3 and TC2 respectively, of the Camden Local Development Framework (LDF). The proposed flexible uses are supported by a Transport Note, prepared by TTP Consulting. The report concludes that almost all trip generation at the site for B1a, A1 or D1 would be made by public transport for the main part of the journey or on foot, by bicycle. A very small proportion of trips would be made by car.

It is proposed to change the use of the 2nd floor to office Class B1a use. The proposed upper floors are proposed as office accommodation in accordance with policy EC3.

The table below illustrates the existing, approved and proposed floorspace figures.

	Existing (sq.m GIA)	Proposed (sq.m GIA)
Taxi – cab office (Sui generis)	324.5	0
Flexible commercial (Use Class A1/A3/D1)	0	271
Office (Use Class B1)	0	112
Total	324.5	383.2

LBC have previously affirmed that the range of proposed uses are considered to be appropriate for the sites location in a Central London Area (CLA). Para 6.2 of the LBC committee report (Appendix 3) dated the 06th July 2017 states that in relation to the 2017 Scheme;

“The proposal introduces retail (A1) and a D1 (non-residential institution) use class to the area in addition to office use (B1). All of the above proposed uses would not be alien to the area and are suitable for this location and particularly their location within the Central London Area. Adjoining the site at no. 1 Colville Place there is a small art gallery (A1/ D1) and many other galleries are present on the nearby Charlotte Street. Other retail (A1) units are present on Goodge Street, which is located a close distance to the site. Accordingly, the mix of uses on this site is considered acceptable and in accordance with policies E2 of the Local Plan and F1 of the Fitzrovia Action Plan”.

The 2018 scheme seeks permission for an identical mix of uses the previously consented 2017 Scheme. Whilst the planning policy position has moved on from the point when the 2017 scheme was consented, it should be noted that there hasn’t been a material change in policy direction in relation to the proposed land uses. In particular, the replacement policies (E1, E3, TC2, C2 and C3) of the Local Plan support the provision of new employment and business floorspace in this location.

It is therefore considered that the proposed scheme would not raise any new planning considerations in respect of land use. The matters in respect of land use were not a matter of contention raised as part of the legal challenge, as such it is considered that the LBC determination of this matter remains sound.

As such, all matters in respect of land use should not constitute a material consideration in the determination of this application.

DESIGN

The section of the committee report which relates to the assessment of the detailed design of the 2017 scheme was not raised as a matter of contention within the legal challenge, as such it is considered that LBC determination on design matters is robust.

Given that the material planning considerations associated with urban design have been closed under the 2017 scheme, it is considered that the duplicate scheme does not raise any new matters for consideration. Nonetheless, the following section provides a precis of the key planning considerations in respect of the proposed scheme along with commentary and references, confirming the suitability of the proposals in planning policy terms.

Planning policy

The Government attaches great importance to the design of the built environment in the NPPF. Paragraph 56 states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

At paragraph 57 the NPPF stipulates that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Paragraph 61 identifies that securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

London Plan Policy 7.2 requires all new development in London to achieve the highest standards of accessible and inclusive design. Policy 7.3 advises that Boroughs should seek to create safe, secure and appropriately accessible environments. Development should be consistent with the principles of ‘Secured by Design’.

London Plan Policies 7.4, 7.5 and 7.6 relate to ensuring that development respects the local character of the area; promotes high quality public realm; and ensure that the architecture makes a positive contribution to a coherent public realm, streetscape and wider cityscape.

LBC Local Plan Policy D1 states that LBC will require new development to represent the highest quality of architectural design, and will require that new development;

- a) *respects local context and character;*
- b) *preserves or enhances the historic environment and heritage assets in accordance with “Policy D2 Heritage”;*
- c) *is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;*
- d) *is of sustainable and durable construction and adaptable to different activities and land uses;*
- e) *comprises details and materials that are of high quality and complement the local character;*
- f) *integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;*
- g) *is inclusive and accessible for all;*
- h) *promotes health;*
- i) *is secure and designed to minimise crime and antisocial behaviour;*

- j) responds to natural features and preserves gardens and other open space;*
- k) incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,*
- l) incorporates outdoor amenity space;*
- m) preserves strategic and local views;*
- n) for housing, provides a high standard of accommodation; and*
- o) carefully integrates building services equipment.*
- p) how the building relates to its surroundings, both in terms of how the base of the building fits in with the streetscape and how the top of a tall building affects the skyline;*
- q) the historic context of the building's surroundings;*
- r) the relationship between the building and hills and views;*
- s) the degree to which the building overshadows public spaces, especially open spaces and watercourses; and*
- t) the contribution a building makes to pedestrian permeability and improved public accessibility*

LBC has also published a Planning Guidance SPD, April 2011 which establishes design principles to be used in the assessment of development proposals. The document reinforces or where necessary amplifies existing guidance and defines LBC's expectations for new buildings, as positive and enduring additions to this unique urban landscape. The key messages are to consider:

- a) The context of a development and its surrounding area;
- b) The design of the building itself;
- c) The use of the building;
- d) The materials used; and
- e) Public spaces.

LBC has also published a Basements and Lightwells Camden Planning Guidance 4, published in July 2015. The guidance provides information on basement and lightwell issues. In order to comply with building regulation standards, light wells should be secured by either a railing (1100mm high) or a grille. Railings will be considered acceptable where they form part of the established street scene, or would not cause harm to the appearance of the building.

Planning consideration

The following section of the report comments on the key planning considerations which have been made in respect of the design and built form of the proposed extensions to the existing buildings.

Detailed façade design

The Application scheme proposes a one storey roof extension plus plant room. As detailed in the Design & Access Statement prepared by Stagg Architects, the façade of the existing building comprises render and brickwork. The 2017 Scheme sought permission for the removal and replacement of the existing render and cleaning of existing brickwork; the infilling of the lightwell with a flat glass roof and new railings. The existing windows will be replaced with new high-quality double-glazed units with anodised aluminium frames.

The new rooftop extension will be set back from Colville Place at third floor level, by around 3.2 metres so that the front of the extension aligns with the front of the top floor at 1 Colville Place. The new roof extension enables a smoother transition from the four storey buildings on Colville Place, up to the neighbouring five storey buildings on Whitfield Street and at its junction with Goodge Street. The effect of the massing has been carefully tested with computer generated modelling, and extensive discussions with the council during the pre-submission / determination period for the previous application.

LBC have previously expressed support for the detailed design of the proposed roof extension, during the determination of the 2017 Scheme. Para 6.7 of the LBC committee report dated 06th July 2017 affirms this position as detailed in the extract below,

“This pattern of 3 storeys + a setback upper storey is consistent with the smaller scaled residential properties on Colville Place and given the oblique views that are available down this narrow street, the additional height and bulk would not be readily perceptible. The setback of the upper storey and its revised scale and proportions avoid the building appearing too dominant in views from Crabtree Fields and from the south along Whitfield Street, however it is worth noting that mature trees provide a filtering of these views during the summer months”.

As per the 2017 Scheme it is the opinion Appellant’s professional team that the proposed roof extension will deliver a high-quality development which relates well to the “larger scaled buildings” on Whitfield Street and accords with the context of 4 storey 18th and 19th century townhouses on Colville Place.

The Application scheme includes the provision of a stair enclosure and plant machinery on the roof of the extension. The rooftop plant is set back further still, some 8 metres from Colville Place, and also 2 metres from Whitfield Street, so that this level is only apparent from long distance views where it will be seen set against the existing sheer flank wall of the higher neighbouring building at 19 Goodge Street. The extent of the plant enclosure at roof level had been reduced during the determination of the previous application, to address comments which had been received. Accordingly, officers at LBC concluded for the identical proposals under the 2017 Scheme that due to the context of the site, the plant enclosure would be largely indistinguishable in local views.

New windows are proposed throughout, which follow the original pattern of fenestration but the cills are slightly lowered to reduce the horizontality of the existing building and to provide a stronger visual connection with the street at ground level. It is proposed that the Anodised Aluminium frames will be used for the new window frames as this is a high-quality material which reflects the attention to detail, and the simple, minimal and crisp aesthetic we are pursuing.

Para 6.10 - 6.11 of the LBC committee report indicated that the proposed alterations to the façade fenestration could be considered to be acceptable and would “sit comfortably with the traditional scale and alignment of fenestration along Colville Place” and as such would be acceptable in planning terms. Whilst the policy direction has moved on slightly post grant of consent for the 2017 scheme, there wasn’t a material change to the wording of the design policy for new development.

As such it is considered that the considerations made by the LBC in the determination of the 2017 scheme stand, and by virtue the proposed scheme does not raise any material considerations for

determination.

Basement lightwell

It is proposed to glaze the lightwell of the basement creating a new sloping glass roof and new railings. The proposal will bring enhanced natural light into the basement creating an improved commercial space which is more attractive to occupiers. It is considered that the glazing is in-keeping with the overall aesthetic of the building and is compliant with the Basement and Lightwells Camden Planning Guidance. The proposed railings form part of the established street scene and are considered to not cause harm to the appearance of the building. The proposals result in a net increase in the basement by 10sqm GIA.

Para 6.13 of the LB committee report, dated 06th July 2017 states that whilst the Charlotte Street conservation area audit ordinarily seeks to resist the infilling of lightwell to existing buildings, it is considered in this instance that the proposed works would be acceptable in planning terms.

AMENITY

The section of the committee report which relates to the amenity matters attributed to the 2017 scheme was not raised as a matter of contention within the legal challenge, as such it is considered that LBC determination on amenity matters is robust.

Given that the material planning considerations associated with amenity have been closed under the 2017 scheme, it is considered that the duplicate scheme does not raise any new matters for consideration. Nonetheless, the following section provides a precis of the key planning considerations in respect of the proposed scheme along with commentary and references, confirming the suitability of the proposals in planning policy terms.

Planning policy

LBC Local Plan Policy A2 sets out LBC's approach to ensuring that new developments achieve a high quality of design, with appropriate consideration paid to the provision of amenity space to service the occupants of the development. Part (o) of this policy seeks to ensure developments provide opportunities for the delivery of private amenity space.

LBC will seek to ensure that new development does not have a detrimental impact of the amenity of neighbouring occupiers (Local Plan Policy A4 – "Noise and Vibration"). LBC will seek to minimise the impact on local amenity from demolition and construction phases of development.

Planning considerations

The following section of the statement assesses the impact of the development on amenity conditions for the neighbouring occupiers, predominantly related to the properties at 19 Goodge Street and 1 Colville Place.

Daylight and sunlight

The impact of the Application Scheme on daylight and sunlight conditions experienced by the neighbouring sensitive receptors has been assessed in detail in the report prepared by Right to Light Consulting, which has been included as part of this formal submission. The assessment models the impact of the development in accordance with the BRE standards. The report prepared by Right of Light Consulting concludes that the proposal will have a negligible impact on the neighbouring residential buildings on Goodge Street and Colville Place, as all of the windows assessed will retain daylight and sunlight conditions which accord with the BRE guidelines criteria.

The scheme had been independently assessed in daylight and sunlight terms as part of the determination of the original application. Para 6.21 & 6.22 of the LBC committee report (dated 06th July 2017) states that all of the windows assessed would achieve daylight and sunlight conditions which accord with the principles outlined in the BRE Guidelines and the London Borough of Camden Council's planning policies on daylight and sunlight.

It is therefore considered that the proposed scheme will have no adverse impact on daylight and sunlight conditions experienced by neighbouring occupiers and is therefore considered to be acceptable in planning terms.

Overlooking and loss of privacy

The proposed roof areas on the 4th floor are proposed for amenity and maintenance purposes, with its operation to be secured by condition.

The LBC officer report for the 2017 Scheme at para 2.13 erroneously raises the sense of enclosure as a amenity and heritage issue. This is addressed fully by the Heritage Statement at para 6.10.

Accordingly, given the position and siting of the proposed roof top extension it is considered that the proposals are acceptable in terms of privacy and overlooking and would not have any adverse effect on the amenity of surrounding premises. It is therefore considered that the proposed scheme is acceptable in planning terms.

External noise

A noise report has been prepared by KP Acoustics and accompanied the 2017 and 2018 applications. The noise report assesses the existing background noise levels, noise expected from plant and machinery installed at roof level and noise/vibration impacts.

The assessment results indicate that for a worst-case scenario, the proposals would not result in a deterioration in noise conditions beyond background noise levels, therefore no acoustic mitigation is required. Para 6.23-24 of the LBC committee report (dated 06th July 2017) indicates that the EHO is inclined to agree with the results of the preliminary acoustic assessment. It is considered that the proposed development would not have an adverse impact on the amenity of neighbouring noise sensitive receptors, as such the proposed scheme is considered to be acceptable in planning terms.

It has previously been agreed that a standard noise compliance condition would be imposed on the consent. In the instance that the planning inspector is minded to grant permission, the client team welcome the imposition of this condition.

TRANSPORT & ACCESSIBILITY

The section of the committee report which relates to the assessment of the transportation and accessibility matters for the 2017 scheme have not raised as a matter of contention within the legal challenge, as such it is considered that LBC decision on transport and accessibility grounds is robust.

Given that the material planning considerations associated with transport and accessibility have been closed under the 2017 scheme, it is considered that the duplicate scheme does not raise any new matters for consideration. Nonetheless, the following section provides a precis of the key planning matters which form part of the 2018 scheme, along with commentary demonstrating the suitability of the scheme in planning policy terms.

Planning policy

Paragraph 29 of the NPPF states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.

Paragraph 37 states that planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, leisure, education and other activities.

At a regional level, London Plan policy 6.3 states that “development proposals should ensure that impacts on transport capacity and the transport network, at both a corridor and local level, are fully assessed”. The policy also indicates that transport assessments will be required in accordance with TfL’s Transport Assessment Best Practice guidance for major planning applications.

London Plan policy 6.13 states that developments must provide parking for disabled people in line with London Plan standards. Paragraph 6A.2 states that developments should provide at least one accessible on or off-street car parking bay designated for blue badge holders, even if no general parking is provided.

At a local level, Local Plan Policy T1 seeks to promote uptake in use of sustainable transport modes for the occupants of new developments through the promotion of opportunities for walking, cycling and use of public transportation.

Part (h) of the policy requires new developments to provide accessible, secure cycle parking facilities in accordance with the minimum standards outlined in the London Plan policy 6.13, along with the provision of changing facilities, lockers and dryers.

Local Plan policy T2 (“Parking and car free development”) states that development should provide the minimum necessary car parking provision. In the Central London Area, the Council will expect development to be car free.

Following on from the above part (b) of Local Plan Policy T2, states that the council will normally seek to limit the provision of on-site parking spaces for use as blue badge bays, or servicing bays.

Local Plan Policy T4 states that on developments in excess of 2,500 sq.m the council will require

applicants to explore opportunities to minimise the impact of freight movement via road by Prioritising the use of the Transport for London Road Network or other roads, accommodate on site servicing and implement delivery and servicing management plans to regulate vehicle movements to and from the site.

Planning considerations

The Site is in an area with an excellent level of connectivity to public transportation (PTAL level 6b), with Goodge Street and Tottenham Court Road London Underground (LUL) stations located in close proximity to the site.

At present, no car parking facilities are provided on site. Due to the size of the Site and the limited scope of works proposed, the applicant proposes that the development be car -free. Given the central and highly accessible location of the site, officers have previously been inclined to consider that this approach would be acceptable subject to the completion of a S106 agreement restricting the prospective occupants from acquiring parking permits (Para 6.28 of the LBC Committee report (dated 06th July 2017)). There hasn't been a material change in planning policy direction post the grant of planning permission for the 2017 scheme, as such it is considered that this position is still appropriate.

A Transport Note, prepared by TTP Consulting and accompanies this appeal submission. The Note assess the potential trip generation for the proposed flexible uses. The Note concludes that the majority of trips will be made either by public transport, walking or cycling for all proposed uses. This position is unchanged from the 2017 scheme, where this approach was considered to be acceptable.

The proposed scheme includes the provision of no. 5 long term cycle parking spaces at basement level. Para 6.29 of the LBC committee report (dated 06th July 2017) affirms that the council are content with the quantum of cycle parking to be delivered on site as part of the development.

Servicing and Deliveries

The Application scheme doesn't include any changes to the deliveries and servicing strategy for the building, from the existing position with all deliveries and refuse collection made on street (or for the position proposed for the 2017 Scheme). The Transport Note prepared by TTP includes a preliminary assessment of the quantum of vehicular movements to and from the site based on the following assumptions.

If the building was solely in office use there could be expected to be in the region of one delivery per day based on an assumption that office developments generally generate circa 0.25 deliveries per 100sqm per day.

The smaller office floor area, circa 185sqm, would generate fewer deliveries at up to 2 per week. The Transport Note anticipates that deliveries to the office will primarily comprise couriers of stationery and miscellaneous supplies, together with the occasional bulky good such as office furniture. The majority of vehicular deliveries would therefore be by motorbike (couriers) and small to medium sized vans, with the occasional need for a larger vehicle.

The TRICS database indicates that a D1 use would generate a low level of deliveries suggesting 1 delivery per day on average. A food retail unit would generate 2 – 3 deliveries per day. There

would be daily deliveries of store cupboard and fresh ingredients which are often made using larger rigid vehicles. If the retail use was 'non' food then there would generally be less requirement for larger vehicles to regularly service the store.

In the vicinity of the site, Whitfield Street is one way southbound, connecting Goodge Street to Windmill Street. Outside the site there are single yellow lines which would be suitable for delivery vehicles to stop and load / unload from. On the opposite side of the road to the site there are motorcycle parking bays and a single pay & display parking bay which is controlled between 6.30am – 6.30pm from Monday to Saturday.

There are double yellow lines to the south outside the British Transport Police building. There is a loading bay on Goodge Street which is almost 40m to the northwest which would be an option for delivery vehicles.

During the determination of the 2017 Scheme, officers were minded to consider that the proposals were acceptable in highways terms subject to the completion of a unilateral to secure the following:

- Clause restricting tenants from securing on street parking permits;
- Imposition of a construction management plan (CMP), along with contribution of £1,400;
- Public realm contribution £12,772

The appellant entered a unilateral undertaking with the LBC in August 2017, to secure the financial and non-financial obligations attributed to the 2017 scheme.

The appellant has included a copy of the final iteration of the unilateral undertaking as part of the appeal submission for completion and execution by the planning inspector in the instance that they resolve to grant planning permission.

SUSTAINABILITY

The section of the committee report which relates to the assessment of the sustainability provisions the 2017 scheme was not raised as a matter of contention within the legal challenge, as such it is considered that LBC decision on sustainability matters is robust.

Given that the material planning considerations associated with sustainability have been closed under the 2017 scheme, it is considered that the duplicate scheme does not raise any new matters for consideration. Nonetheless, the following section provides a precis of the key planning matters which form part of the 2018 scheme, along with commentary demonstrating the suitability of the scheme in planning policy terms.

Planning policy

The NPPF sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

Section 10 of the NPPF identifies the role that planning plays in helping shape places to secure radical reductions in greenhouse emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. The Mayor's vision in the LP is to ensure London becomes an exemplary, sustainable world city whilst allowing London to grow in a responsible and considered socio-economic manner.

London Plan Policy 5.1 seeks to achieve an overall reduction in London carbon dioxide emissions of 60% (below 1990 levels) by 2025.

London Plan Policy 5.2 states that proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the Mayor's energy hierarchy.

London Plan Policy 5.3 states that development proposals should ensure that sustainable design standards are integral to the proposal, including its construction and operation, and ensure they are considered at the beginning of the design process.

LBC Local Plan Policy CC1 advises that the council will require all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation.

Planning considerations

Due to the nature of the building and the scale of the works proposed, there is limited opportunity for improvements to be made to the energy performance of the building. Nonetheless, the 2017 Scheme included the provision of the following;

- Installation of air source heat pumps at roof level to service the new employment floorspace within the building;
- Improvements to the thermal performance of the façade and introduction of double-glazed windows, to reduce energy usage and associated carbon emissions;

The proposed improvements to the existing building as part of the Application Scheme will result in a building which is sharper and better proportioned than the existing; a clean and contemporary building constructed from high quality materials, which will have a positive impact on the immediate vicinity of the site and the character of the wider conservation area.

The Application Scheme proposes high quality design improvements to the existing building. The proposals will bring back to life an outdated and vacant building, rejuvenating the building and the streetscape. The works to refurbish and improve the existing building fully accord with the Council policies and are consistent with the NPPF, by delivering high quality sustainable design.

During the determination of the original permission, the council were minded considering that the sustainability provisions to be delivered on site represented a positive enhancement on the existing position; as such the proposed scheme was considered to be acceptable in planning terms.

Whilst the policy framework has changed with the adoption of the Local Plan it is noted that there hasn't been a material change in policy direction post determination of the 2017 scheme. As such it is considered that the previous consideration is applicable and would not materially alter the previous determination.

PLANNING OBLIGATIONS

During the determination of the 2017 Scheme LBC noted that it would seek to secure the following financial and non-financial obligations to mitigate the impact of the proposed development;

- Clause restricting tenants from securing on street parking permits;
- Imposition of a construction management plan (CMP);
- CMP monitoring obligation of £1,400; and
- Public realm contribution £12,772.

The Appellant entered into a unilateral undertaking made in favour of LBC dated 4 August 2017, and on completion LBC confirmed its acceptance of the deed through granting consent for the 2017 Scheme.

A copy of the final version of the unilateral undertaking for the 2017 scheme has been adapted in relation to the details of the Application and is included as part of the Appeal with authority from the Appellant that the the planning inspector can complete and date the undertaking should it be decided to accept the appeal and grant consent for the Application.

APPENDIX E: PLANNING DRAWINGS

Drawing title	Drawing reference	Revision number	Date
Site Location Plan	51517-P-01	D	11.04.2016
Existing Lower Ground Floor	51517-P-10	C	01.02.2016
Existing Ground Floor	51517-P-11	C	01.02.2016
Existing First Floor	51517-P-12	C	01.02.2016
Existing Second Floor	51517-P-13	C	01.02.2016
Existing Roof Plan	51517-P-14	E	01.02.2016
Proposed Lower Ground Floor	51517-P-20	D	24.02.2016
Proposed Ground Floor	51517-P-21	C	24.02.2016
Proposed First Floor	51517-P-22	E	24.02.2016
Proposed Second Floor	51517-P-23	H	24.02.2016
Proposed Third Floor	51517-P-24	I	24.02.2016
Proposed Fourth Floor	51517-P-25	L	24.02.2016
Proposed Roof Plan	51517-P-26	I	24.02.2016
Existing Section AA	51517-P-30	D	01.02.2016
Existing Section BB	51517-P-31	C	01.02.2016
Proposed Section AA	51517-P-40	G	24.02.2016
Proposed Section BB	51517-P-41	I	24.02.2016
Existing Elevations 1	51517-P-50	D	01.02.2016
Existing Elevations 2 & 3	51517-P-51	F	01.02.2016
Proposed Elevations 1	51517-P-60	K	24.02.2016
Proposed Elevations 2 & 3	51517-P-61	L	24.02.2016

APPENDIX F: APPLICATION DOCUMENTATION

Planning Application Documents
Covering Letter, prepared by DP9 Limited (Dec 2017)
Application Form and Certificates, prepared by DP9 Limited (Dec 2017)
CIL Additional Information Form, prepared by DP9 Limited (Dec 2017)
Application Drawings, prepared by Stagg Architects (Dec 2017)
Design & Access Statement, prepared by Stagg Architects (Dec 2017) Supplemental material from original submission (May 2017)
Area Schedule, prepared by Stagg Architects (Dec 2017)
Heritage Statement, prepared by PHD Heritage (Dec 2017)
Daylight & Sunlight Assessment, prepared by Right of Light Consulting (Dec 2017)
Noise and Vibration Impact Assessment, prepared by KP Acoustics (Dec 2017)
Noise Compliance Report, prepared by KP Acoustics (Dec 2017)
Transport Note, prepared by TTP (Dec 2017)

AWARD OF COSTS

In accordance with the Planning Inspectorates formal requirements, we hereby reserve the right to lodge an appeal for an award of costs at a later stage.