

Statement of Case
5 The Hexagon, Fitzroy Park
Planning Appeal

Relating to site at
No.5 The Hexagon, Fitzroy Park, London, N6 6HR
February 2020



hghconsulting.com

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Appendices

1. Appendix 1: Email from CC dated 5 April 2019
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1.0 Introduction

1.1 This Statement of Case has been prepared by hgh for Mr and Ms Munro-Peebles in support of a planning appeal against the non-determination by Camden Council (“CC”) of an application for planning permission (reference 2019/0508/P), for the following proposed development at 5 The Hexagon, Fitzroy Park, London, N6 6HR:

“Erection of single storey front extension, two-storey rear extension, and single storey side and rear extension to replace existing garage; replacement of front, rear and side windows and doors and front cladding, installation of 2 x rooflights to main roof.”

1.2 The application was registered by CC on 7th February 2019. An extension of time to determine the planning application was agreed with CC until 10th January 2020. CC has failed to determine the planning application.

1.3 This Statement of Case sets out the appellant’s case in support of the proposed development.

1.4 The appellant also intends to make an application for an award of costs against Camden Council in respect of the appeal. Details of application for costs associated with the appeal are contained within a separate letter accompanying this appeal submission.

1.5 This Statement should be read in conjunction with the application drawings and reports, which accompany this appeal submission as follows:

- Application Form prepared by Chris Dyson Architects;
- Area Schedule prepared by Chris Dyson Architects;
- Design and Access Statement prepared by Chris Dyson Architects (doc ref: 0398_DOC_001 Rev 02);
- Existing Elevations prepared by Chris Dyson Architects (plan ref: 0398_P_0100_01);
- Existing First Floor and Roof Plan prepared by Chris Dyson Architects (plan ref: 0398_P_0001_01);
- Existing Ground Floor Plan prepared by Chris Dyson Architects (plan ref: 0398_P_0000_01);
- Existing Section A-A prepared by Chris Dyson Architects (plan ref: 0398_P_0200_01);
- Proposed 3D Aerial Views prepared by Chris Dyson Architects (plan ref: 0398_P_1300_00);
- Proposed Elevations prepared by Chris Dyson Architects (plan ref: 0398_P_1100_02);
- Proposed Ground Floor Plan prepared by Chris Dyson Architects (plan ref: 0398_P_1000_02);
- Proposed First Floor and Roof Plan prepared by Chris Dyson Architects (plan ref: 0398_P_1001_02);
- Proposed North Side Elevation prepared by Chris Dyson Architects (plan ref: 0398_A_1103_01);
- Proposed Rear Elevation prepared by Chris Dyson Architects (plan ref: 0398_A_1101_01);
- Proposed South Side Elevation prepared by Chris Dyson Architects (plan ref: 0398_A_1102_01);

- Existing Location and Site Plans prepared by Chris Dyson Architects (plan ref: 0398_P_0010_01);
- Tree Protection Plan prepared by Andrew Day Arboricultural Consultancy Ltd;
- Arboricultural Report prepared by Andrew Day Arboricultural Consultancy Ltd.

1.6 This statement provides a description of the proposed development and an assessment of the proposals in relation to planning policy and other material considerations. It is set out under the following sections:

- Section 2 outlines the site and its context within the surrounding area;
- Section 3 provides a description of the proposals;
- Section 4 provides an overview of the planning history and background to this appeal;
- Section 5 summarises relevant policy and guidance;
- Section 6 examines the main planning considerations in connection with the appeal;
- Section 7 provides the appellant's Grounds of Appeal in relation to the Council's requirement for a s106 agreement to secure a Construction Management Plan;
- Section 8 draws our conclusions in respect of the proposals;

Appeal Procedure

1.7 We would request that the appeal is considered under the written representation procedure.

2.0 Site and Surroundings

The Appeal Site

- 2.1 The appeal site is located within The Hexagon, a cul-de-sac of six dwellings constructed in the 1960's located in the Highgate area of the London Borough of Camden. The Hexagon is accessed via Fitzroy Park; a private road that runs from Highgate Village and The Grove to Millfield Lane through the former grounds of Fitzroy House (built c1780).
- 2.2 The existing property is a two-storey detached dwelling with a detached side garage, situated on the south-eastern end of the Hexagon.



Figure 1: Front Elevation of No.5 The Hexagon

- 2.3 The adjacent property (no.6 The Hexagon) is located to the south-west of no.5 The Hexagon and is sited behind the front building line of the property. To the east of the property are dwellings located along Highfields Grove. Several trees are located between the boundary of No.5 the Hexagon and the dwellings located along Highfields Grove eliminating any overlooking or amenity concerns. Further details of the surrounding dwellings are contained within the Design and Access Statement (DAS).
- 2.4 All of the surrounding properties within the Hexagon are of a modest scale, have a modernist design approach and integrate well into the surrounding context of Fitzroy Park and Highfield Grove. The dwellings located within The Hexagon are located at a lower level with the views of these properties from Fitzroy Park being very limited.
- 2.5 The appeal site is easily accessible by car, benefits from relatively nearby bus stops, and is located within close proximity to underground stations Highgate and Archway; both approximately a 10-minute drive away. Figure 1 is an aerial photograph of the appeal site and the site location plan showing the wider context can be seen at Figure 2.
- 2.6 The application site is located within the Highgate Conservation Area.

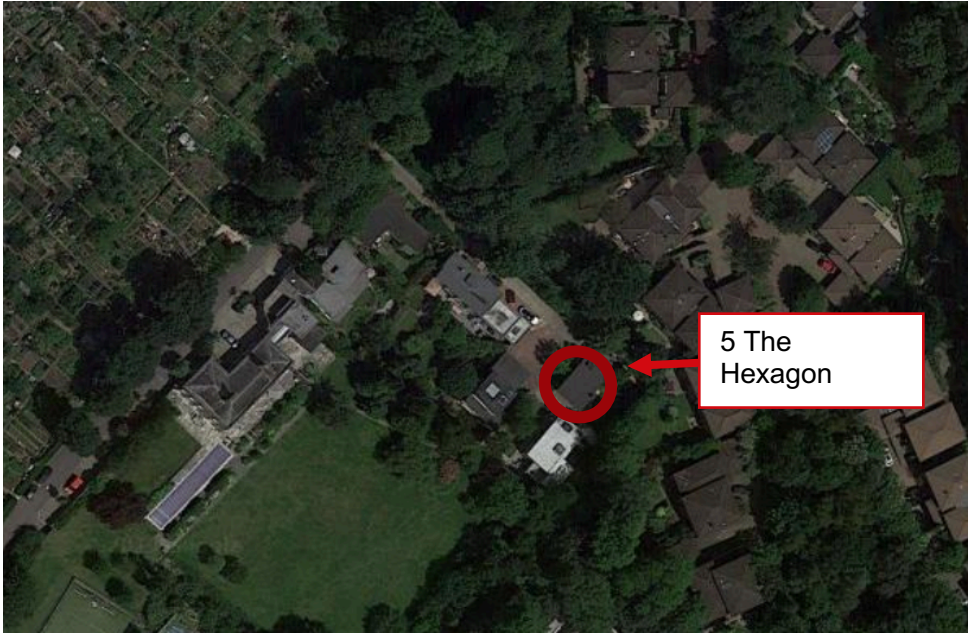


Figure 2: Aerial photograph of the appeal site with surrounding context



Figure 3: Site Location Plan

Conservation Area

- 2.7 The property is not listed, but lies within the Highgate Conservation Area, inside the boundary of Sub Area 2: Fitzroy Park.
- 2.8 Fitzroy Park is discussed within the Highgate Conservation Area Appraisal as follows:

Sub Area 2 – Fitzroy Park:

“The character of the area is derived from the close relationship between the topography, the soft landscape and the groups or individual houses built within it. There is an overriding impression of heavy foliage and mature trees as well as the sense of open space denoted by the Heath at the bottom of the hill. There is also a sense of seclusion as the road is private and is gated at its northern end. There are many views from the sub-area, both glimpses and long views.

Fitzroy Park still retains its original atmosphere of houses set in large gardens with many mature trees and boundaries in keeping with the rustic character of the lane. Fitzroy Park itself is an important green pedestrian approach to the Metropolitan Open Land of Hampstead Heath, and this quality is enhanced by its informal, unmade style, which give it a rustic appearance rare in the London suburbs. This quality is important for the setting of both the Highgate Conservation Area and Hampstead Heath, and the impact on it of any proposed development will be a major factor in assessing the appropriateness of any development proposals.”

3.0 Proposals

3.1 The proposed development is for:

“Erection of single storey front extension, two-storey rear extension, and single storey side and rear extension to replace existing garage; replacement of front, rear and side windows and doors and front cladding, installation of 2 x rooflights to main roof.”

3.2 At present, the existing dwelling comprises a series of small rooms across the two levels. The appellant wishes to create a more efficient family dwelling.

3.3 The appellant through the proposed extensions is seeking to provide much better proportioned accommodation and logical internal circulation while improving the character and appearance of the property. The design concept is to create a simple and considered internal alternation and additional extensions that are sympathetic to the existing building of no.5 The Hexagon and the surrounding area.

3.4 The DAS provides a detailed description of the application proposals. In summary, the proposals have been designed to respond to the surrounding context and meet the requirements of a modern single family dwelling through the following proposed alterations and extensions:

- A front extension which introduces a welcoming and sheltered entrance that responds to precedents set by neighbouring properties;
- The replacement of the detached garage with a new side extension. This creates a new edge to the rear garden and introduces opportunities for connecting indoor and outdoor spaces;
- A rear extension which improves the quality and usability of existing habitable spaces;
- A number of windows and cladding are to be replaced to match the existing; and
- Other minor alterations to fenestration and doors to accommodate the proposed extension.

3.5 The effect of the enlarged floor plans through the new extensions result in the opportunity to strengthen the relationship between the existing habitable spaces; which as they stand are currently small-compartmentalised rooms.

3.6 The increase in overall floor space comprises 49 sqm in total and will make the property better suited as a modern single-family dwelling.

3.7 The new extensions will be constructed from high quality materials as detailed on the application drawings and in the DAS, which will complement the existing building materiality.

3.8 In terms of neighbouring amenities, the proposals respect the privacy of neighbouring properties and in terms of design, respond directly to the precedents set by recent development in the local area as shown in Chapter 4 of the DAS.

Background to the Appeal Proposals

3.9 The appellant and their architects engaged in pre-application discussions with CC in August 2018 with formal written advice received on 3 October 2018.

- 3.10 Following pre-application advice from the Council, the proposed extensions were reduced in size order to address concerns raised by the Council in terms of scale, bulk and mass. As described on Page 18 of the DAS, the submitted scheme reflects the comments raised by CC Officers during pre-application discussions in terms of design.
- 3.11 The planning application was submitted by Chris Dyson Architects on 30th January 2019 and was validated on 7 February 2019. No issues in terms of design or any other matters were raised following validation of the application and, on 5th April an email (Appendix 1) was sent from the Planning Officer at CC confirming that the authority was satisfied with the application proposals and would issue an approval as soon as the DAS was updated to omit a photo of a neighbouring property upon the request of that property's owner. No other design changes were requested by the Council.
- 3.12 The email also made reference to CC requiring the applicant to enter into a s106 agreement to secure the approval and implementation of a Construction Management Plan. This request was unexpected by the appellant.
- 3.13 On 26th April the Council requested the submission of an arboricultural report. This was provided by the appellant on 21st May 2019 and demonstrates that the proposals would not have any detrimental impact on nearby trees. The Council have not raised any concerns with this report (Appendix 2)
- 3.14 CC sent a further email to the appellant on the 14th August 2019 advising that a S106 planning obligation would be required to secure a Construction Management Plan and that CC would not be able to issue an approval until this matter was resolved. This email can be found at Appendix 3.
- 3.15 At this stage, the appellant did not have the advice of a solicitor or planning consultant and readily agreed to move forward with the S106 in order to secure the planning permission. Confirmation was sought from the Council that the applicant would pay the fees for the preparation of the S106 agreement and the S106 drafted by the Council. Several weeks later it became apparent to the appellant that their mortgage lender would need to be a party to the S106. This was requested however the lender refused. This was communicated to CC on 25th September 2019 who advised that it is necessary for all interested parties to enter into such an agreement.
- 3.16 Following this the appellant queried the need for the S106, why it had not been raised earlier in the process and asked if the requirement for a Construction Management Plan could be dealt with by a planning condition. The Council's solicitor responded, providing the Council's justification for requesting that the Construction Management Plan is secured via S106 Agreement.
- 3.17 As a result, the appellant could not move forward with the scheme. It was at this stage (November 2019) that hgh Consulting were instructed to assist with securing the planning permission. hgh discussed the matter with CC officers and advised that the requirement for a Construction Management Plan could be dealt with via a planning condition. The Council disagreed and as such the appellant has sought to appeal the scheme on the basis of non-determination.
- 3.18 An extension of time for the determination of the planning application was agreed with CC until the 10th of January 2020.

4.0 Planning History

- 4.1 The planning history in relation to the site mainly relates to tree works and is not relevant to the consideration of this appeal.
- 4.2 Many of the adjacent properties within The Hexagon have had building works carried out in the recent past. All of the planning applications summarised below have been built out with exception of the proposals at No.4 The Hexagon. The planning history for these properties is considered relevant to the consideration of the appellant's proposals and discussed within the DAS and summarised below:

1 The Hexagon

- 4.3 An application for the erection of a rear conservatory to replace existing was permitted in April 2016 at 1 the Hexagon (planning ref: 2016/2031/P). The new extension was designed to match the style of the existing 1960's house.



Figure 3: 1 The Hexagon, facade pre and post 2016 extension

3 The Hexagon

- 4.4 An application for the following development was permitted in November 2012 (ref: 2012/2510/P):
- “Reconfiguration of rear (west) elevation including re-cladding, fenestration alterations and provision of sedum roof; erection of replacement front (east) elevation porch and associated alterations including landscaping works to single dwellinghouse (class C3).”*



Figure 4: 3 The Hexagon Rear Facade prior and post works in 2012

4 The Hexagon

- 4.5 An application for the following development was submitted in July 2016 and is yet to be determined:
“Erection of a 3 storey 5-bed dwelling following demolition of existing 3 storey dwelling, and associated works (ref: 2016/3252/P).”



Figure 5: CGI Images of Proposed Elevations at 4 the Hexagon

6 the Hexagon

- 4.6 The neighbouring property at No.6 the Hexagon was granted planning permission in October 2016 for the following description of development:
“Erection of single-storey infill extension to rear, first floor extension to rear, single-storey extension to side with terrace over and increase in height of garage roof (use class C3).”



Figure 6: Proposed Elevations at 6 the Hexagon with Proposed Alterations Highlighted in Red

Summary

- 4.7 The above demonstrates that there have been a number of similar extensions and alterations to neighbouring properties within the Hexagon within recent years that have been considered acceptable by the Council.

5.0 Planning Policy Context

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of any planning application shall be in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 The adopted development plan for Camden Council comprises of:
- Camden Local Plan (2017);
 - Camden Adopted Policies Map;
 - Highgate Neighbourhood Plan;
- 5.3 Other material planning policy and guidance which are relevant to this application are set out below:
- National Planning Policy Framework (revised June 2019);
 - National Planning Practice Guidance;
 - The London Plan (2016):
 - Intend to publish London Plan 2019;
 - Amenity CPG (March 2018);
 - Altering and Extending Your Homes (March 2019);
 - Design CPG (March 2019);
 - Trees CPG (March 2019).

Relevant Policies

Camden Local Plan Policies

- 5.4 Policies A1 (Managing the impact of development), A3 (Biodiversity), D1 (Design) and D2 (Heritage) of the Local Plan are relevant to the consideration of the application. The wording of these policies is set out below.
- 5.5 Local Plan **policy A1** which is relevant to ensuring that standards of amenity are protected states:
- “The Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity.*
- We will:*
- a) seek to ensure that the amenity of communities, occupiers and neighbours is protected;*
 - b) seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities;*
 - c) resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network; and*
 - d) require mitigation measures where necessary.*

The factors we will consider include:

- e) visual privacy, outlook;*
- f) sunlight, daylight and overshadowing;*
- g) artificial lighting levels;*
- h) transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;*
- i) Impacts of construction phase, including the use of Construction Management Plans;*
- j) noise and vibration levels;*
- k) odour, fumes and dust;*
- l) microclimate;*
- m) contaminated land; and*
- n) impact upon water and wastewater infrastructure.*

5.6 Local Plan policy A3 (Biodiversity) states:

“...Trees and vegetation

The Council will protect, and seek to secure additional, trees and vegetation. We will:

- j) resist the loss of trees and vegetation of significant amenity, historic, cultural or ecological value including proposals which may threaten the continued wellbeing of such trees and vegetation;*
- k) require trees and vegetation which are to be retained to be satisfactorily protected during the demolition and construction phase of development in line with BS5837:2012 ‘Trees in relation to Design, Demolition and Construction’ and positively integrated as part of the site layout;*
- l) expect replacement trees or vegetation to be provided where the loss of significant trees or vegetation or harm to the wellbeing of these trees and vegetation has been justified in the context of the proposed development;*
- m) expect developments to incorporate additional trees and vegetation wherever possible.”*

5.7 Local Plan **policy D1** (Design) states:

“The Council will seek to secure high quality design in development. The Council will require that 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 adaption;*
- d) is of sustainable and durable construction and adaptable to different activities and land use;*
- 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.*

The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

5.8 Local Plan **Policy D2** (Heritage) states:

“... Conservation Areas.

Conservation Areas are designated heritage assets and this section should be read in conjunction with the section above headed ‘designated heritage assets.’ In order to maintain the character of Camden’s conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas.

The Council will:

- e) require that development within conservation area preserves or, where possible, enhances the character or appearance of the area’*
- f) resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;*

g) resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and

h) preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage."

NPPF (revised July 2018 and updated in February and June 2019)

- 5.9 The NPPF is clear that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7). Paragraph 8 confirms that planning system's overarching objectives are economic, social and environmental.
- 5.10 Paragraph 11 confirms the presumption in favour of sustainable development where in decision making development proposals that accord with an up-to-date development plan should be approved without delay.
- 5.11 In terms of decision-making paragraph 38 advises that local planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.
- 5.12 Paragraphs 54-57 address planning conditions and planning obligations. Paragraph 54 sets out that:
- "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition."*
- 5.13 Paragraph 55 states:
- "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification."*
- 5.14 Paragraph 56 states:
- "Planning obligations must only be sought where they meet all of the following tests:*
- a) necessary to make the development acceptable in planning terms;*
 - b) directly related to the development; and*
 - c) fairly and reasonably related in scale and kind to the development."*
- 5.15 Chapter 11 sets out Government guidance on making the most efficient use of land. Paragraph 117 advises that planning decisions should promote an effective use of land in meeting the need for

homes. Paragraph 118 adds that planning decisions should: encourage multiple benefits from urban land; and promote and support the development of under-utilised land and buildings.

- 5.16 Paragraph 122 advises that planning decisions should support development that makes efficient use of land.
- 5.17 Paragraph 127 requires planning decisions to ensure that developments:
- a) *Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - b) *Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
 - c) *Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
 - d) *Establish or maintain a strong sense of place, using the arrangements of streets, spaces, building types and material to create attractive, welcoming and distinctive places to live, work and visit;*
 - e) *Optimise the potential of the site accommodate and sustain an appropriate amount of mix of development (including green and other public space) and support local facilities and transport networks; and*
 - f) *Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*
- 5.18 In determining applications, Paragraph 192 recommends that local 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.”*

National Planning Practice Guidance

- 5.19 In respect of planning obligations, paragraph: 003 Reference ID: 23b-003-20190901 advises that:
- “Local authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Developers will have to comply with any conditions attached to their planning permission. Conditions should be kept to a minimum and only imposed where they are necessary, relevant, enforceable, precise and reasonable.*

Planning obligations, in the form of section 106 agreements and section 278 agreements should only be used where it is not possible to address unacceptable impacts through a planning condition.”

- 5.20 Paragraph: 023 Reference ID: 23b-023-20190901 asks the question whether there are any specific circumstances where contributions through planning obligations should not be sought from developers? In the response the NPPG states:

“Planning obligations should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home.”

Supplementary Planning Guidance

- 5.21 Camden Planning Guidance Design CPG (2019) states that:

“3.9 The Council will only permit development within conservation areas, and development affecting the setting of conservation areas, that preserves and where possible enhances the character and appearance of the area in line with Local Plan policy D2 and the NPPF.

5.12 Proposals should assess the impacts of the scheme from a design perspective and the contribution it makes to townscape character including:

- having regard to the scale, form and massing of neighbouring buildings;*
- using materials and detailing that are sympathetic to the host building and buildings nearby;*
- respecting and preserving existing architectural features, such as projecting bays or chimney stacks;*
- respecting and preserving the historic pattern where it exists, and the established townscape of the surrounding area, including the ratio of built to unbuilt space;*
- the effects of the proposal on the amenity of adjacent residential properties with regard to daylight, sunlight, outlook, light pollution/spillage, privacy or the working conditions of occupants of adjacent non-residential buildings;*
- the desirability of retaining existing areas of landscaping (or areas that can be enhanced) to meet the amenity needs of workers, e.g. for social interaction; • the effects of the scheme on important local views;*
- making use of sustainable materials wherever possible taking into account their lifespan, environmental performance (e.g. U values) and durability, e.g. changes to the visual appearance of materials from weathering.”*

- 5.22 Camden Planning Guidance Altering and extending your home (2019) states that:

“2.5 Alterations to a property and the materials used should always be complementary to the existing building and its original features. Consideration of materials should form an integral part of the design process. To do this, you must take into account its existing colours and textures, character and design and the surrounding area. Materials for alterations should weather well, so their ageing process contributes positively to the character of the building, and the site’s wider context.

2.6 New work to a property should blend with the old, though in some cases it may be appropriate for the alteration to be more distinct from the original building. In other cases, closely matching materials and design details are more appropriate to ensure the new work blends with the old.

2.16 The original exterior wall finish of a building is normally an important aspect of its architecture and should be preserved, while consistency of original façade finishes can be important to the character and appearance of a group of buildings, especially in conservation areas. Where original masonry - or in modern buildings concrete or cladding - is exposed on exterior walls it should not be painted, rendered or over-clad.

3.1 following considerations should be reflected in an extension to ensure it is not insensitively or inappropriately designed and to ensure it does not spoil the appearance of the property or group of properties or harm the amenity of neighbouring properties. Proposals should:

- a) be secondary to the building being extended, in relation to its location, form, scale, proportions, dimensions and detailing;*
- b) be built from materials that are sympathetic to the existing building wherever possible*
- c) respect and preserve the original design and proportions of the building, including its architectural period and style;*
- d) respect and preserve existing architectural features, such as projecting bays, decorative balconies or chimney stacks;*
- e) respect and preserve the historic pattern and established townscape of the surrounding area, including the ratio of built to unbuilt space;*
- f) not cause a loss of amenity to adjacent properties with regard to daylight, sunlight, outlook, light pollution/spillage, privacy. Please ensure the extension complies with the 45 degree test and 25 degree test as set out in the CPG for Amenity – or demonstrate BRE compliance via a daylight test.*
- g) allow for the retention of a reasonably sized garden;*
- h) retain the open character of existing natural landscaping and garden amenity, including that of neighbouring properties, proportionate to that of the surrounding area.*
- l) allow for the retention of wildlife corridors, in particular at the end of streets*

Height and depth of a rear extension

3.3 In order for a new extension to be subordinate to the original building, its height and depth should respect the existing common pattern of rear extensions at neighbouring sites, where they exist. As such, the following is advised:

- A single storey ground floor extension is generally preferable to those proposed at higher levels/floors, as extensions above ground floor tend to have greater negative impacts on neighbouring amenity. In cases where a higher extension is found to be appropriate, a smaller footprint will generally be required in order to mitigate any increase in visual mass and bulk,

overshadowing and sense of enclosure that would be caused by the additional height of the extension.

- Extensions that are higher than one full storey below roof eaves/parapet level, or that rise above the general height of neighbouring projections and nearby extensions, will be strongly discouraged. This is because such extensions no longer appear subordinate to the building.

Width of a rear extension

3.4 The width of a rear extension should be designed so that it is not visible from the street and should respect the rhythm of existing rear extensions in neighbouring sites.

3.5 Sometimes the rear of a building may be architecturally distinguished, either forming a harmonious composition, or visually contributing to the townscape. Where architectural merit exists, the Council will seek to preserve it where it is considered appropriate. Some of the Borough's important rear elevations are identified in conservation area statements, appraisals and management plans.

Side extensions

3.9 Certain building forms may lend themselves to side extensions. Such extensions should be designed in accordance with the general principles set out in paragraph 3.1 and should also be:

- located adjacent to the side and rear elevations of the building;*
- subordinate to the original building in height and scale;*
- no taller than the porch; and*
- set back from the main building."*

4.7 Alterations should always take into account the character and design of the property and its surrounding. A harmonious contrast with the existing property and surroundings may be appropriate for some new work to distinguish it from the existing building; in other cases closely matching materials and design details are more appropriate so as to ensure the new work blends with the old.

- Where it is necessary to alter or replace windows that are original or in the style of the originals, they should be replaced like with like wherever possible in order to preserve the character of the property and the surrounding area. New windows should match the originals as closely as possible in terms of type, glazing patterns and proportions (including the shape, size and placement of glazing bars), opening method, materials and finishes, detailing and the overall size of the window opening.

- Wherever possible you should use materials that complement the colour and texture of the materials in the existing building. In historic areas traditional materials such as brick, stone, timber and render will usually be the most appropriate complement to the existing historic

fabric; modern materials such as steel and glass may be appropriate but should be used sensitively and not dominate the existing property.

4.8 Extensions should be subordinate to the original building in terms of scale and situation unless the specific circumstances of the site, such as the context of the property or its particular design, would enable an exception to this approach.

4.14 The width of rear extensions should be designed so that they are not visible from the street and should respect the rhythm of existing rear extensions.

4.16 Certain building forms may lend themselves to side extension. Side extension should also:

- Be not taller than the porch;*
- Set back from the main building.”*

Summary

5.23 As evident from the email correspondence attached at Appendix 1, the proposals satisfy the Camden Local Plan policies A1, D1 and D2 given that the Planning Officer confirmed that the authority was satisfied with the application and would issue an approval as soon as the DAS was updated (Appendix 1).

6.0 Assessment of Application Proposals

6.1 The key matters considered relevant to the determination of this appeal relate to:

- Design, height and massing;
- Impact on the Highgate Conservation Area;
- Amenity;
- Trees;
- The requirement for a s106 agreement to secure a Construction Management Plan (CMP)

6.2 The Council has indicated that the appeal proposals are acceptable in terms of design, the impact on the conservation area, amenity and trees and these matters are addressed below. The matter in relation to the imposition of a planning obligation for a CMP is addressed in section 7.

Design, Height and Massing

6.3 The site comprises of an existing two storey dwelling located within The Hexagon, a cul-de-sac of six dwellings constructed in the 1960's. The property is a detached dwelling with a detached side garage, situated on the south-eastern end of The Hexagon. There is an external passage between the house and the garage. In terms of materials, all elevations are of yellow brick and black painted timber.

6.4 The existing windows are timber externally and aluminium internally and are in a fairly poor condition. It is proposed to replace the existing windows with black metal framed double glazed windows.

6.5 As demonstrated on Page 18 of the Design and Access Statement, the proposed scheme has been reduced in size compared with the pre-application scheme. The proposals involve single storey front and side extensions and a two storey rear extension.

6.6 The proposed front extension comprising a porch has been reduced from 15 sqm (in the pre-application scheme) to 6 sqm in order to address the concerns raised by CC relating to the bulk, form and massing. The design is inspired by the precedents set by the enclosed front porches at no.2 and no.3 The Hexagon. It is sub-ordinate to the host building and would minimise any disruption to the front elevation.

6.7 The proposed side extension has been reduced to a single storey from the two storey pre-application proposals. The depth has also been reduced to occupy the same footprint as the existing garage but set back 500mm from the front line of the host building from the pre-application scheme. It is considered to be subordinate to the host building, blends into the existing building fabric and maintains views of the rear garden.

6.8 The proposals for the rear extension respond to comments raised by CC during pre-application discussions. The two-storey rear extension is 3m in depth and half the width of the host building. The existing chimney feature will be retained. The proposed height of the extension matches the height

of the existing property. The existing roof of the property will extend over the proposed extension and will read as one, blending with the existing roof of the host building.

- 6.9 The proposed materials will match or complement existing materials as detailed in section 7 of the DAS. This includes charred timber cladding and new metal framed glazing. Existing windows and cladding will be replaced.
- 6.10 Email correspondence received from CC on the 5 April 2019 (Appendix 1) confirms that CC have no objection to the design, height and massing of the proposals. The proposals are sympathetic and respectful of the host building and follow the guidance in the Camden CPG's. Overall, it is considered that the proposals are entirely in keeping with the neighbouring context and have been sensitively designed, complying with Camden Local Plan Policy D1 (2007) and Camden CPG Design (2019) and Altering and extending your own home (2019).

Impact on the Highgate Conservation Area

- 6.11 The property is not a statutory listed building. It is located within the Highgate Conservation Area.
- 6.12 Policy D1 states that the Council will require all developments to be of the highest standard of design and to respect the character, form and scale of neighbouring buildings, and the character and proportions of the existing building. Policy D2 states that within conservation areas, the Council will only grant permission for development that 'preserves or, where possible, enhances' its established character and appearance.
- 6.13 The Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013. As such, there is a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas.
- 6.14 The Highgate Conservation Area Appraisal and Management Strategy notes that
- "The Hexagon, formed around a cul-de-sac in a dip in the land, consists of flat-roofed two-storey houses in brick with timber cladding by the architect Leonard Michaels, dating from c1960. No 1 The Hexagon has a strange, open timber structure. No 3 is notable for its glazed first-floor corridor, albeit in poor condition. The site of the houses sits snugly below the road level making the roofscape more visible."*
- 6.15 Each individual dwelling in The Hexagon differs in design, however they are all of a similar form and scale and share common building materials. In pre-application discussions, the Council's Conservation Officer considered that the buildings along The Hexagon have a strong architectural and group value and they are all therefore considered make a positive contribution to the character and appearance of the Highgate Village Conservation Area. The Council also described the road as having an 'open character and appearance of front gardens and boundary treatments'. The Council has also indicated that views of mature vegetation in the rear garden of the building are considered to be important to the character of the buildings along The Hexagon and the conservation area as a whole.

- 6.16 The local architectural character comprises of some modernist and contemporary development along Fitzroy Park. In terms of The Hexagon, the group of six properties are of a modest scale and have limited views to Fitzroy Park.
- 6.17 The proposals are modest in scale and subordinate to the host dwelling. The proposed design is sympathetic to the local character and draws inspiration from the neighbouring properties, many of which have had buildings work carried out in recent years. The proposed front porch is similar in design to those at no's 2 and 3 The Hexagon. The proposed side extension occupies the majority of the same footprint as the existing garage to be demolished, albeit is set back from the front building line of the host dwelling. It is single storey allowing views through to the trees in the rear garden. The two storey rear extension will not be visible from the front of the property and by only occupying half of the width of the rear elevation will remain subordinate to the host dwelling. The chimney feature will be retained. Materials will reflect those on the existing building and surrounding properties.
- 6.18 No objections have been raised by the Highgate Conservation Area Advisory Committee or the Fitzroy Park Residents Association in relation to the design of the proposals or the impact of the proposals on the Highgate Conservation Area.
- 6.19 The modest proposals will therefore preserve the character and appearance of the Highgate Conservation Area. The replacement of the existing windows and cladding, which are in poor condition will in fact enhance the character and appearance of this part of the conservation area. No harm will result to the character and appearance of the conservation area as a result of the proposals and as such paragraphs 194 to 196 of the NPPF (2019) are not engaged. The proposals will both preserve and enhance this part of the conservation area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 6.20 The scheme complies with all local heritage policy and guidance, in particular Policy D2: Heritage of the Camden Local Plan (2017). This is confirmed in the email correspondence received from CC on the 5 April 2019 (Appendix 1) confirming that the application would be recommended for approval.

Amenity

- 6.21 The adjacent property (no.6 The Hexagon) is located behind the front line of no.5 The Hexagon, it is therefore not considered that the proposed extensions would have any impact on the residential amenities of No.6.
- 6.22 No's 18 and 19 Highfields Grove are located to the north and east of the site. Given the difference in levels between these properties and the host building along with the high level of existing screening from vegetation between the properties, it is not considered that the proposed side extension would result in a loss of light, outlook or privacy to no's 18 and 19 Highfields Grove. A view taken by the Council.
- 6.23 The proposals would therefore not impact any of the amenities of any neighbouring properties and comply with all local amenity policies, in particular Policy A1: Amenity and CPG Amenity. This is also confirmed in the email correspondence received from CC on the 5 April 2019 (Appendix 1) advising that the application would be recommended for approval.

Trees

- 6.24 An Arboricultural Report and Tree Protection Plan prepared by Andrew Day Consultants were submitted to accompany the application proposals to assess the potential impact of any existing and neighbouring trees to the site from the proposed development.
- 6.25 No trees are proposed to be removed as part of the proposals and the report concludes that subject to all of the recommendations being adhered to within the Arboricultural Report, there will be no impact on the existing trees on site. The proposals are in accordance with Local Plan policy A3. This is confirmed in the email correspondence received from CC on the 24 May 2019 (Appendix 2) confirming that the Tree Officer was satisfied with the Arboricultural Report and Tree Protection Plan and that the need for a trial pit could be secured by planning condition.

7.0 Requirement for a s.106 agreement to secure a Construction Management Plan

Introduction and Background

- 7.1 As referenced in section 4 of this statement, CC advised the appellant on 5th April 2019 that a S106 agreement for a Construction Management Plan (CMP) was required. Unfortunately, the appellant's mortgage company has refused to enter into a S106 Agreement and as such planning permission cannot be secured.
- 7.2 The appellant has no objection to preparing and implementing a Construction Management Plan as part of the development however it is not considered necessary that this is secured via a S106 Agreement. The proposals comprise a small and uncontroversial householder extension and it is considered that it would be entirely appropriate to secure a CMP via a planning condition in this instance.
- 7.3 This would allow for the planning permission to be issued, and works to begin on the appellant's family home.
- 7.4 This section of the statement outlines the relevant policies and guidance in respect of the requirement for planning obligations for developments (and specifically residential extensions) and CMPs. A planning assessment is then undertaken, setting out that it is inappropriate to secure a planning obligation for a householder extension and that a CMP for the appeal scheme can be secured by the imposition of a planning condition.

Relevant policies and guidance

Camden Local Plan

- 7.5 Camden Local Plan (2017) policy A1 (Managing the impact of development) is set out in section 5 above. The policy seeks to protect the quality of life of occupiers and neighbours. Planning permission will be granted for development unless this causes unacceptable harm to amenity.
- 7.6 The policy seeks to ensure that the amenity of communities, occupiers and neighbours is protected; and development that fails to adequately assess and address transport impacts affecting communities, occupiers will be resisted. This includes the construction phases of developments. Accompanying text in paragraph 6.12 states:
- “Disturbance from development can occur during the construction phase. Measures required to reduce the impact of demolition, excavation and construction works must be outlined in a Construction Management Plan.”*
- 7.7 Para. 6.13 states: Construction Management Plans may be sought for:
- major developments;
 - basement developments;
 - developments involving listed buildings or adjacent to listed buildings;

- developments that could affect wildlife;
- developments with poor or limited access on site;
- developments that are accessed via narrow residential streets;
- developments in areas with a high number of existing active construction sites; and;
- developments that could cause significant disturbance due to their location or the anticipated length of the demolition, excavation or construction period.

7.8 Para. 6.15 advises that whether a Construction Management Plan is required for a particular scheme will be assessed on a case by case basis. In terms of securing the CMP, Para. 6.16 states:

“A Construction Management Plan will usually be secured via planning obligations between the developer and the Council after an application is approved. We will expect developers to sign up to the Considerate Constructors Scheme and follow guidance within Camden’s Considerate Contractors Manual. Financial contributions and monitoring fees may also be sought if necessary” (our emphasis).”

7.9 Para. 6.17 advises that the level of detail contained within a Construction Management Plan should be proportionate to the scale and/or complexity of the development. To assist developers in providing the right information, the Council has created a Construction Management Plan Pro-forma.

7.10 Policy DM1 (Delivery and Monitoring), part d, iii advises that the Council will use planning contributions where appropriate to mitigate the impact of development.

7.11 Accompanying text in para. 11.29 states that *“the Council will use planning obligations in appropriate circumstances and in accordance with paragraphs 203-205 of the National Planning Policy Framework to mitigate or compensate for the potential effects of developments” (our emphasis).*

7.12 Paragraph 11.30 confirms that planning obligations can ensure that development does not give rise to unacceptable planning impacts. *“Planning obligations will only be sought where it is not possible to deal with the matter through the imposition of a condition on a planning permission” (our emphasis).*

Camden Planning Guidance

7.13 **Camden Planning Guidance: Developer Contributions** (March 2019) covers general issues around developer contributions and provides guidance to support policies in the Local Plan.

7.14 Paragraph 1.5 confirms that the purpose of the guidance is *“to set out why ‘developer contributions’ are required. This term covers both Community Infrastructure Levy (CIL) requirements and S106 legal agreements, which are also known as planning obligations”.*

7.15 **Camden Planning Guidance: Amenity** (March 2018) in section 5 sets out guidance in relation to the application of Policy A1 and Construction Management Plans. The guidance advises that the CMP should be prepared in accordance with the Council’s pro-forma and a neighbourhood consultation is required prior to the submission of the CMP (paragraph 5.14).

7.16 The CPG sets out the circumstances where the Council will expect a CMP:

- Major developments;
- other developments, assessed on a case-by-case basis, where: the construction process has a significant impact on adjoining properties particularly on sensitive uses; particular 'on-site' issues arising from the construction process are identified (e.g. large scale demolition or complicated or intrusive remediation measures);
- sites with poor or limited access;
- sites with restricted access through narrow residential streets;
- basement developments;
- where substantial work to listed buildings or adjacent to listed buildings is proposed;
- where wildlife could be seriously affected; the anticipated length of the demolition, excavation or construction period could cause significant disturbance;
- the construction process is likely to take place outside normal working hours;
- specific issues have been identified in the light of external consultation (where these are supported by objective evidence);
- where constraints arising from the layout or size of the site could impact on the surrounding road network;
- where there are already a high number of existing active construction sites within the local area; o canal side sites; and
- rail-side sites

7.17 The CPG goes on to state that CMPs are expected for all major developments and that when assessing whether CMPs should be submitted for other developments, particular attention will be paid to the nature and layout of the site and any on-site factors that are likely to seriously exacerbate the impact of the works on the surrounding area. These could include development in residential areas, in close proximity to a school or a care home, or very narrow or restricted site access (e.g. development in a mews with no footways). For smaller developments, a lack of on-site space for plant, storage of materials, and loading and unloading of vehicles may mean that construction effects will inevitably take place close to the boundary and encroach onto the public highway.

National Planning Policy Framework (2019)

7.18 There are no specific chapters or paragraphs within the NPPF that provide policy guidance in respect of CMP's.

7.19 Paragraphs 54 to 57 'Planning conditions and obligations' state:

"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

"Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

Planning obligations must only be sought where they meet all of the following tests:

- a) *Necessary to make the development acceptable in planning terms;*
- b) *directly related to the development; and*
- c) *fairly and reasonably related in scale and kind to the development” (our emphasis).”*

7.20 The final paragraph (56) is the same as Regulation 122 of the Community Infrastructure Levy regulations.

Planning Practice Guidance

7.21 The section on ‘*Planning Obligations*’ confirms that “*Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal*” (Paragraph: 001 Reference ID: 23b-001-20190315). This can be via a planning agreement entered into under section 106 of the Town and Country Planning Act 1990 by a person with an interest in the land and the local planning authority. Planning obligations run with the land, are legally binding and enforceable.

7.22 Local authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Developers will have to comply with any conditions attached to their planning permission. Conditions should be kept to a minimum and only imposed where they are necessary, relevant, enforceable, precise and reasonable.

7.23 Planning obligations, in the form of section 106 agreements should only be used where it is not possible to address unacceptable impacts through a planning condition (Paragraph: 003 Reference ID: 23b-003-20190901).

7.24 The PPG at Paragraph: 023 Reference ID: 23b-023-20190901 asks: “*Are there any specific circumstances where contributions through planning obligations should not be sought from developers?*” One of the circumstances where planning obligations should not be sought is from any development consisting only of the construction of a residential annex or extension to an existing home. This paragraph was amended on 1st September 2019 to explicitly state that planning obligations should not be sought from development consisting only of a residential annex or extension. Previously the paragraph only referred to circumstances where affordable housing contributions should not be sought from developments.

Planning Assessment

7.25 Camden Local Plan policy A1 seeks to ensure that development does not result in any unacceptable harm to amenity, including any impacts from the construction phase. Examples of the types of development where CMPs should be provided are listed in the accompanying text to the policy. The accompanying text highlights that CMP’s should be used where there will be very significant impacts. The accompanying text also advises that a CMP is usually secured via a planning obligation, thereby implying that it is not mandatory for CMP’s to always be secured via a planning obligation.

7.26 The proposed development is a small scale householder development comprising a modest extension and alterations to the property with the proposed additional floorspace amounting to 49sqm. The only building to be completely demolished is the garage which is a small scale structure to the side of the property. No basement is proposed. Developments of this small scale are common

across London and the UK, in some cases comprise permitted development. As such, it is not considered that the construction of the extension would lead to significant disturbance or a lengthy construction period.

- 7.27 The development is located off a private road, Fitzroy Park. The Fitzroy Park Resident's Association has provided a consultation response to the planning application. They note that there is no right to park along the private road and comment on construction as follows:

"Despite it being more usual to provide CMP-type details for such an extension/renovation after an Application has been considered, the Applicant has kindly provided FPRA with draft notes demonstrating a modest number of deliveries for the project.

The key issues for FPRA, as with all CMPs, are that construction access can be achieved in forward gear (arriving and leaving) for all HGVs, concrete trucks and exceptional loads to the site, and that access for emergency vehicles is maintained at all times. This should be demonstrated by a digitally created Swept Path Analyses being provided that takes account of safety buffers around the property and material storage, as the development site area is very constrained.

Swept Path Analyses must also show that vehicles, under no circumstances, over-sailing third-party neighbouring properties/land and that they are able to turn safely into/out of the Hexagon from Fitzroy Park without parking bay suspensions. Based on previous analyses, we do not believe this is possible for the Hexagon, so consider construction traffic/deliveries will need to be limited to smaller vehicles. We would also request the Applicant is required to set up a formal Community Working Group (as is usual) in order to deal with such construction access issues as they arise during the project.

As a consequence of these specific site constraints, FPRA would respectfully ask these issues are embedded into any planning conditions relating to a grant of permission should the Council be so minded. Thank you."

- 7.28 As outlined in the FPRA response above, the appellant has already consulted with the local community in respect of the proposals, and is very happy to secure a CMP which meets the requirements of the FPRA and the local authority. A draft CMP has been produced and this has been shared with the FPRA and provided at Appendix 4.
- 7.29 The draft CMP has been prepared using the Council's template and has been drafted by Credibuild a contractor that the applicant has worked with before. It has been prepared in association with the architects. The draft CMP is itself a very comprehensive document in that it sets out how matters such as construction traffic will be managed, identifies unloading and storage areas and hours of working. It sets out how the FPRA and neighbours will be consulted prior to the implementation of the CMP and throughout its operation through the establishment of a working group.
- 7.30 Details of the proposed routing for construction vehicles is included along with arrangements for booking deliveries, the timing of deliveries and support for delivery vehicles. This includes drivers checking that the route is clear and for a banksman to meet the vehicle at the top of Merton Lane. This draft CMP will form the basis for the final version of the CMP once a contractor has been appointed.

- 7.31 The draft CMP already addresses the issues raised by the FPRA. As requested by the FPRA, it is perfectly feasible to secure the issues raised are embedded in a planning condition.
- The question of whether a planning obligation can be secured on proposals for an extension to a house
- 7.32 The NPPG, at paragraph 023 confirms that planning obligations should not be sought from any development consisting only of a residential annex or of an extension to an existing home. Planning obligations should therefore not be sought for the proposed development at no. 5 The Hexagon, as the development comprises an extension to an existing home. While previously, this paragraph in the PPG related to affordable housing contributions, the PPG was amended on 1st September 2019 and the Developer Contributions team at MHCLG (see email at Appendix 5) have confirmed that “*the guidance refers to planning obligations. It does not specify affordable housing contributions*”.
- 7.33 As such, it is considered that paragraph 023 of the NPPG applies to all planning obligations (secured either by S106 Agreement or Unilateral Undertaking) and the intention of this paragraph is clearly that proposals for residential extensions and annexes should be excluded from being required to enter into a legal agreement to mitigate the impacts of a development proposal.
- 7.34 Therefore, mitigating the impacts of a house extension should not be secured via a legal agreement. Furthermore, planning obligations should only be sought where it is not possible to address unacceptable impacts through a planning condition (NPPF para 54).
- 7.35 The appellant accepts that the NPPG does not preclude entirely the use of planning obligations for residential annexes or extensions, however there must be a good reason for doing so and, if unacceptable impacts can be secured via planning condition, this should be the method used to secure appropriate mitigation.
- 7.36 There is no Camden planning policy requirement that all Construction Management Plans must be secured via legal agreement. Policy A1 of the Local Plan sets out the circumstances when a CMP is likely to be required. The reasoned justification sets out that a CMP will “usually be secured via planning obligation,” and that “*Financial contributions and monitoring fees may also be sought if necessary.*”
- 7.37 Para. 6.17 advises that the level of detail contained within a Construction Management Plan should be proportionate to the scale and/or complexity of the development. To assist developers in providing the right information, the Council has created a Construction Management Plan Pro-forma.
- 7.38 Policy DM1 (Delivery and Monitoring), part d, iii advises that the Council will use planning contributions where appropriate to mitigate the impact of development.
- 7.39 Accompanying text in paragraph 11.30 confirms that “*Planning obligations will only be sought where it is not possible to deal with the matter through the imposition of a condition on a planning permission*” (our emphasis).
- 7.40 The CPG (March 2018) on Amenity sets out that a CMP will be secured via legal agreement ‘in most cases’. It also sets out that the Council has introduced an implementation support contribution that is payable by developers and secured through S106 legal agreements that is used to contribute towards the costs of the Council of reviewing, monitoring and (if necessary) enforcing CMPs. The

charging structure is based on the projected officer time, which could include managing complaints from residents, meetings with the applicants and site visits in addition to the time taken to review CMPs.

- 7.41 The Council's position on monitoring fees is provided in an Advice Note Construction and Demolition Management Plans: updated Implementation Support Contribution levels (October 2017) (see Appendix 6).
- 7.42 This document sets out a minimum charge depending on the scale and type of construction, alongside a bespoke option which appear to relate mainly to particularly large schemes. The smallest charge is for low impact sites/ small developments of under 10 homes or 2,000sqm and up to 16 weeks of construction. The indicative charge for this is £3,136 and the note advises that this is made up of officer time set at an hourly rate of £61.50 inclusive of VAT.
- 7.43 This monitoring fee has been included in the Council's draft S106 and has actually been paid by the appellant (prior to realising that their mortgage lender would not enter into the S106 Agreement, and indicative of the appellant's willingness to cooperate).
- 7.44 It is however acknowledged that a contribution cannot be secured via condition. It is however not considered that a monitoring fee would be appropriate for a scheme of this size, i.e. 49sqm. Dividing the total monitoring fee by the officer hourly rate amounts to over 50 hours of monitoring. This is completely unnecessary and unjustifiable.
- 7.45 On consideration, it is considered that a monitoring fee of £3,136 for an extension of 49sqm would fail to meet the tests set out at paragraph 56 of the NPPF, namely that the fee would not be necessary to make the development acceptable in planning terms, and that it would not be fairly and reasonably related in scale and kind to the development.

The question of whether a CMP for the appeal scheme can be secured by the imposition of a planning condition

- 7.46 Planning conditions should only be used where they satisfy the six tests set out in the NPPF and NPPG as follows:
1. Necessary
 2. Relevant to planning
 3. Relevant to the development to be permitted
 4. Enforceable;
 5. Precise; and
 6. Reasonable in all other respects.
- 7.47 The appellant is aware of the Council's CMP template and their desire that local residents should be consulted on the CMP prior to its submission and approval to the Council. A pre-commencement planning condition requiring the submission and approval of a CMP by the local planning authority and then its compliance is considered to meet all six tests for a planning condition. The appellant

would suggest the following suitably worded condition that would satisfy the six tests above. This contains the majority of the measures sought by LBC in the draft planning obligation (Appendix 7).

“No development or site works shall take place on site until a Construction Management Plan prepared in the form of the Council’s Pro Forma Construction Management Plan, using good site practices in accordance with the Council’s Considerate Contractor Manual has been submitted to and approved in writing by, the Local Planning Authority.

The Plan shall include the following (but not limited to): -

- i. a statement to be submitted to Council giving details of the environmental protection, highways safety and community liaison measures proposed in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the existing structures on the Property and the building out of the Development;*
- ii. proposals to ensure there are no adverse effects on the Conservation Area features;*
- iii. amelioration measures over construction traffic including procedures for notifying the owners and or occupiers of the residences and businesses in the locality in advance of major operations delivery schedules and amendments to normal traffic arrangements (if any);*
- iv. the inclusion of a waste management strategy for handling and disposing of construction waste; and*
- v. evidence of consultation with and in principle approval from the Fitzroy Park Residents Association of the measures proposed*

b) The development shall thereafter be implemented in accordance with the measures detailed within the Plan.

- 7.48 The property is located on a private road shared with only 4 neighbours. The proposed extensions are small scale and to a single dwelling house. No substantial demolition works or basement construction are proposed. These types of extensions are commonplace across the UK and result in minimal impacts. The appellant’s will continually liaise closely with their neighbours and the FPRA and will ensure that the neighbours are well-informed of construction matters and that any impacts are minimised. The above condition is considered to be entirely adequate to secure any necessary construction management measures.
- 7.49 The appellant does not consider that all of the proposed measures set out in the draft s106 agreement are relevant and necessary to the proposed development. The appellant does not consider that there needs to be a separate requirement for the Plan to include ‘*amelioration and monitoring effects on the health and amenity of local residences, site construction workers, local businesses and adjoining developments undergoing construction*’ (iii) and criteria (vi) suggests that the CMP should “*identify means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and review as required from time to time.*”
- 7.50 Due to the small scale nature of the proposals, a simple residential extension to an existing property, the appellant does not consider that there is a requirement for the Council to monitor the effects of construction within the CMP. The construction process will be in a single phase, not multiple phases and will not deviate from the CMP once approved. There are only 4 neighbouring properties on The Hexagon and no nearby businesses or other development projects.

- 7.51 The appellant is unsure what CC would wish to monitor given the small scale nature and short construction timeframe of the proposal which is to be constructed within a single phase. Nevertheless, the appellant would not object should the Inspector consider it necessary to include these items within the condition.
- 7.52 Notwithstanding the above, the appellant considers that such a worded planning condition would satisfy the six tests as follows:
- 1) **Necessary** – the local planning authority considers that it is necessary to impose the planning condition to ensure that there is no unacceptable harm to the amenity of local residents or properties during the demolition and construction process. A CMP would identify any potential harmful impacts from the construction process and set out mitigation measures to overcome any identified impacts. The approval of the CMP through an application to discharge the requirements of the planning condition (a fee for which would be paid) would provide the local authority the opportunity to review and comment on the CMP.
 - 2) **Relevant to planning** – CMPs are required to mitigate any potential unacceptable harm from the construction of development on the amenity of adjoining occupiers. Amenity is a valid planning consideration and Camden Local Plan policy A1 seeks to protect amenity. As such the condition is relevant to planning.
 - 3) **Relevant to the development to be permitted** – the local authority consider that a CMP is required to protect the amenity of adjoining occupiers and local residents during the construction process.
 - 4) **Enforceable** – The second part of the suggested planning condition requires the measures detailed in the CMP to be implemented. This is likely to include measures such as working hours; delivery times etc. The appellant fully commits to all implementing all of the measures within the CMP. If however, there was to be a breach of the measures in the CMP and the Council were notified of a breach, then the Council has powers within the Enforcement Regulations to deal with any breach. This would be the case with any other proposed extension to a house.
 - 5) **Precise** – The condition as worded is precise and clearly explains that the submission and approved of a CMP is required prior to the commencement of the development. Compliance with the approved CMP is required throughout the duration of the construction period.
 - 6) **Reasonable in all other respects** – the local planning authority consider that a CMP is required to protect the amenity of adjoining occupiers and local residents during the construction process
- 7.53 It is common practice for local planning authorities to secure CMPs via condition. A selection of standard wording examples from different local planning authorities in London is summarised at Appendix 8.
- 7.54 There are also examples in Camden where an Inspector has determined that the requirement for a CMP could be dealt with satisfactorily by an appropriate condition requiring the details to be submitted to and agreed by the local planning authority (see paragraph 15 of appeal ref:

APP/X5210/A/14/2221432, paragraph 21 of appeal ref: APP/X5210/A/14/2229005 and paragraph 18 of appeal ref: APP/X5210/W/17/3172668) (Appendix 9).

- 7.55 In summary, the appellant accepts the need for a CMP however disputes the need for this to be secured via S106 Agreement given the small scale nature, and therefore limited construction impact, of the development and that a monitoring fee would be entirely unnecessary and unjustifiable. It is considered that a pre-commencement planning condition as worded above, requiring the submission and approval of a CMP and its implementation for the duration of the construction phase, could be imposed on the planning permission.

The question of whether a CMP can be secured through the imposition of a planning obligation in respect of the proposed development.

- 7.56 The appellant does not consider that the requirement for a CMP secured by a planning obligation would meet the tests for planning obligations in paragraph 56 of the NPPF or paragraph 122 of the CIL Regulations. The reasons for this are set out below.
- (a) **necessary to make the development acceptable in planning terms.** Paragraph 54 of the NPPF sets out that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. As set out above, a CMP could be secured via a planning condition. This is not unusual for developments of this scale and Appendix 9 provides examples where this has been secured in CC. The suggested planning condition would meet all six tests for the imposition of a planning condition.
 - (b) **directly related to the development.** A CMP relating to the construction of the proposed development would be related to the proposed development. However, as explained above a planning condition would suffice.
 - (c) **fairly and reasonably related in scale and kind to the development.** The development is a small scale extension to an existing property that will be constructed in a single phase. Access is via a private road containing 4 other residential properties. There are numerous house extensions constructed each year (many of which of a similar scale that are permitted development) which do not require a CMP to be prepared but rely on other legislation to ensure an acceptable construction process. No significant or harmful impacts are anticipated from the construction process. The CMP will therefore not be a large document (see draft CMP at Appendix 4) and as set out above it is difficult to understand what precisely the Council would monitor. The appellant does not consider that there is any need for the Council to monitor any part of the construction process. The requirement for a planning obligation for the preparation and contribution for the monitoring of a CMP is not fairly and reasonably related in scale and kind to the development. Furthermore, the Fitzroy Park Residents Association has its own approval process. The planning obligation set out in the draft S106 is not considered to meet this test.

Summary and Conclusion

To summarise the above it is the appellants view that:

- The proposal is for the extension of an existing house which is a small scale householder development on private land accessed by a private road. Numerous proposals of a similar scale are submitted each year across England and it is uncommon for CMPs to be required for such small scale developments. The appellant has no objection to the principle of providing a CMP however considers that this should be secured via condition and not via a legal agreement.
- In accordance with paragraph 023 of the NPPG a planning obligation should not be sought from the proposed development as it comprises of an extension to an existing home. Furthermore, paragraph 54 of the NPPF makes clear that planning obligations should not be sought where such mitigation can be secured via condition.
- It is also clear from accompanying text in Camden Local Plan, CPG and guidance in the NPPG that planning obligations should only be sought where it is not possible to deal with the matter through the imposition of a planning condition.
- It has been demonstrated that the requirement to prepare and submit a CMP for approval and to carry out the proposed development in compliance with the CMP satisfies all of the tests for planning conditions. A planning condition would satisfactorily overcome any concerns raised by the Council in respect of construction impacts.
- It is also considered that a monitoring fee of £3,136 amounting to over 50 hours of officers time would be unnecessary and unjustifiable for a householder scheme comprising 49sqm of new development which is highly unlikely to take more than 16 weeks to construct.
- A planning obligation for a CMP would not satisfy all of the tests set out in the NPPF and CIL Regulations.
- The NPPG is clear that planning obligations should not be sought from an extension to an existing home. This is a material consideration in the determination of this appeal and it is up to the decision maker to determine the weight that is applied to the NPPG. The NPPF is clear that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. A draft but very comprehensive CMP has already been prepared by the appellant in accordance with the Council's standard template. The appellant has discussed the content of the draft CMP with the FPRA and neighbours. The requirement for a final version of the CMP to be approved by the Council and implemented by the appellant for the duration of the construction works would satisfy all of the tests for planning conditions in the NPPF. There is no case requiring the preparation, approval and implementation of the CMP to be dealt with via a S106 agreement.

8.0 Conclusions

8.1 The appeal is made by Mr and Mrs Munro-Peebles against the non-determination of a planning application at no. 5 The Hexagon for the following proposed development:

“Erection of single storey front extension, two-storey rear extension, and single storey side and rear extension to replace existing garage; replacement of front, rear and side windows and doors and front cladding, installation of 2 x rooflights to main roof.”

8.2 The proposed extensions respect and are subordinate to the host property as well as being in keeping with this part of the Highgate Conservation Area. The proposed development will not only preserve this part of the conservation in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, but will provide an enhancement to the conservation area.

8.3 The proposals result in no adverse impacts on neighbouring properties in terms of loss of daylight, sunlight, privacy or overlooking. No trees are proposed to be removed and measures to protect trees during the construction process are set out in the Arboricultural report.

8.4 The proposed development is in accordance with design, heritage and biodiversity policies, specifically policies D1, D2, A1 and A3 of the Camden Local Plan. The Council has indicated that they would approve the proposed development, subject to the completion of a s106 agreement for a CMP and its implementation.

8.5 The appellant does not consider there to be a requirement for a CMP, based on the small scale nature of the proposed development, its unarmful construction impacts and the guidance in the NPPG. Notwithstanding this, the appellant has prepared an outline CMP and discussed this with the FPRA and neighbours. If the Inspector does consider that a CMP is required, the appellant has set out the case that a CMP and its implementation could be secured through a planning condition that would meet the six tests for a planning condition in the NPPF. The appellant is not of the view that the imposition of a planning obligation requiring the submission and implementation of a CMP would meet the tests set out in the CIL Regulations and NPPF. There is no case requiring the preparation, approval and implementation of a CMP to be dealt with via a s106 agreement.

8.6 We therefore respectfully request that the Inspector allows this appeal and if a CMP is considered to be necessary this is sought via a planning condition.



9.0 Appendices



Appendix 1: Email from CC dated 5 April 2019

From: Meynell, Charlotte [<mailto:Charlotte.Meynell@camden.gov.uk>]

Sent: 05 April 2019 12:09

To: Mathew Witts <mathew.witts@chrisdyson.co.uk>

Subject: RE: 2019/0508/P - 5 The Hexagon, Fitzroy Park

Dear Mathew,

Thank you for your email and apologies for not getting in touch about this application earlier this week.

I am now happy with the revised drawings and ready to recommend the application for approval. However, please note that you will not receive the final decision notice until the s106 Legal Agreement for the required Construction Management Plan has been finalised. I instructed Legal Services to draft the s106 agreement at the start of this week after I received the formal comments from the Transport Planner, and so they should be in contact next week if you haven't heard from them already.

Thank you for sending me the revised drawings. I note that you have included a proposed aerial view drawing as a revision of the originally submitted front rendered elevation. Please can you confirm whether this was intentional to superseded the four proposed rendered elevations, or if you would like to submit revised versions of these.

Please can you also send me a revised Design and Access Statement which includes the revised drawings of the side extension.

I will recommend the application for approval as soon as I receive the amended Design and Access Statement.

Kind regards,

Charlotte Meynell
Planning Officer
Regeneration and Planning
Supporting Communities
London Borough of Camden

Telephone: 020 7974 2598

Web: camden.gov.uk

2nd Floor

5 Pancras Square

London N1C 4AG

Please consider the environment before printing this email.



Appendix 2: Email from CC dated 24 May 2019

From: Whittredge, Emily [mailto:Emily.Whittredge@camden.gov.uk]
Sent: 24 May 2019 16:57
To: Mathew Witts <mathew.witts@chrisdyson.co.uk>; Victoria Bromm <victoria.bromm@chrisdyson.co.uk>
Subject: RE: 2019/0508/P - 5 The Hexagon, Fitzroy Park - Tree report required

Dear Mathew,

Thank you for your response. The tree officer has agreed to a planning condition to secure the details. The proposed wording is as follows, and I would be grateful if you could review both proposed tree conditions and confirm within 11 working days whether they are acceptable. The reason for the conditions being pre-commencement is for tree protection and health and safety reasons.

1. Prior to the commencement of construction/demolition works on site, tree protection measures shall be installed in accordance with approved drawing TREE PROTECTION PLAN. The protection shall then remain in place for the duration of works on site, unless otherwise agreed in writing by the local authority.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

2. Prior to commencement of any works on site, evidence from trial pits and details of the design of building foundations and the layout, with dimensions and levels, of service trenches and other excavations on site in so far as these items may affect trees on or adjoining the site, shall be submitted to and approved in writing by the local planning authority. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

Kind regards,

--

Emily Whittredge
Junior Planner

Telephone: 020 7974 2362



From: Mathew Witts <mathew.witts@chrisdyson.co.uk>
Sent: 24 May 2019 14:36
To: Whittredge, Emily <Emily.Whittredge@camden.gov.uk>; Victoria Bromm <victoria.bromm@chrisdyson.co.uk>
Subject: RE: 2019/0508/P - 5 The Hexagon, Fitzroy Park - Tree report required

Dear Emily,

I've referred your question back to our arborist, his response is attached to this e-mail. In his experience trial pits like the ones requested are usually done as a planning condition after approval, rather than before.

His report contains a detailed method statement for excavating carefully in potential tree root zones, and dealing with any roots that are found during construction, specifically tree T3. Extracts of this can be found in his attached e-mail.

Please can you ask the tree officer if he is happy for you to approve our application on the basis of the method statement provided and condition the digging of any trial holes or trenches as a planning condition.

Kind regards,

Mathew Witts RIBA
Partner

Chris Dyson Architects LLP

T: 0044 20 7247 1816

E: mathew.witts@chrisdyson.co.uk

From: Whittredge, Emily [<mailto:Emily.Whittredge@camden.gov.uk>]
Sent: 23 May 2019 10:59
To: Victoria Bromm <victoria.bromm@chrisdyson.co.uk>
Cc: Mathew Witts <mathew.witts@chrisdyson.co.uk>
Subject: RE: 2019/0508/P - 5 The Hexagon, Fitzroy Park - Tree report required

Dear Victoria,

Thank you for providing the report as requested. The tree officer has reviewed the information, and is largely happy with the information provided; however there is one matter he has raised:

The incursion into the root protection area of T3 is potentially of concern as it extends closer to the tree than the existing building. It is possible that the hard standing has restricted the roots sufficiently to allow the excavation of foundations and the recommendations in the arboricultural report provide feasible solutions in the form of hand digging and engineering solutions. I would recommend that a trial pit along the proposed foundation line is requested to inform on the best method prior to any approval.

Is it possible that a trial pit could be undertaken as described above?

Kind regards,

--

Emily Whittredge
Junior Planner

Telephone: 020 7974 2362





Appendix 3: Email from CC dated 14 August 2019

From: Obushenkova, Olga [<mailto:Olga.Obushenkova@camden.gov.uk>]

Sent: 14 August 2019 11:52

To: Bahar Seyedtabatabaei <bahar.s.tabatabaei@chrisdyson.co.uk>

Subject: 5 The Hexagon 2019/0508/P - draft s106

Dear Bahar

I act for the Council's planning department in relation to the s106 agreement on the above planning application and understand you are the agent/solicitor acting on behalf of the applicant.

In accordance with my instructions, I have prepared the attached draft Agreement. I point out that this draft should not be taken as a guarantee that the Council will resolve to grant approval; rather, it is merely an attempt on our part to ensure that matters can be progressed in good time in the event that it is approved. It is important to note that further heads of term may be added as the application progresses and that this Agreement remains subject to my client Department's further comments and final approval.

Please note the following:

1. Completion Date

This Agreement must be completed as soon as possible. The Council also reserves the right to treat as withdrawn any application where there has been a failure to progress the matter expeditiously.

In any event, the Council seeks your undertaking that in agreeing to work toward the satisfactory conclusion of the s106 Agreement you will not to seek a refund of planning fees if this matter is not concluded in 26 weeks from the date the application was submitted in a valid form. I should be grateful if you would kindly provide this undertaking by return.

2. Parties to the Agreement

All parties with an interest in the land are required to be a party to the Agreement so please check the draft to ensure all such parties have been referred to. If details change or new parties (e.g. mortgagees) are subsequently added to the title please let me know forthwith as failure to do this may prevent completion taking place prior to the deadline. Finally please ensure that arrangements are in place for all parties to sign the Agreement as soon as engrossments are sent to you.

3. Legal fees and monitoring fees

Please note that your client will need to pay our costs in relation to this matter, whether or not the matter proceeds to completion. We anticipate the costs as being £1,364.52 made up of £769.08 as to our legal fees, a one off monitoring fee of £583.44 (being £583.44 per head of term), and £12.00 for Land Registry Charges. If negotiations become protracted and costs exceed the £769.08 fee we will charge on a £328.44 per hour basis until such time as the matter is completed. I will provide you with an invoice when I send you the engrossment copies of the Agreement for signature, but in the meantime I should be grateful to receive your client's undertaking that those costs will be met. I attach our standard undertaking which is to be completed and returned to me.

I look forward to receiving any comments you may have, or your approval of the draft, so that I can issue engrossment copies for signature.

Kind regards,

Olga Obushenkova
Lawyer
Law and Governance
London Borough of Camden

Telephone: 020 7974 4125
Web: camden.gov.uk
9th Floor
5 PANCRAS SQUARE
5 PANCRAS SQUARE
London N1C 4AG
DX 161055 Kings Cross 4
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Appendix 4: Draft Construction Management Plan

No. 5 The Hexagon – Construction Management Plan.

Draft Date: 30/08/2019

Construction Management Plan

pro forma v2.0

Contents

| | |
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Review

For Internal use only

Please initial and date in the relevant section of the table.

The **highlighted areas** of the Draft table will be deleted by their respective teams during pre app review if these sections are no longer applicable.

Pre app

| | |
|----------------------|---------------------------------------|
| Community liaison | |
| CLOCS | |
| Transport | |
| Highways | |
| Parking | |
| Environmental health | |
| Sustainability | <i>(attach appendix if necessary)</i> |
| Sign off | |

Draft

| | |
|-----------------------|--|
| Community liaison | |
| CLOCS | |
| Transport | |
| Highways | |
| Parking | |
| Environmental health | |
| Sustainability | |
| Sign off | |

- INDICATES INPUT REQUIREMENT FROM MULTIPLE TEAMS THROUGHOUT DOCUMENT

Introduction

The purpose of the **Construction Management Plan (CMP)** is to help developers to minimise construction impacts, and relates to both on site activity and the transport arrangements for vehicles servicing the site.

It is intended to be a live document whereby different stages will be completed and submitted for application as the development progresses.

The completed and signed CMP must address the way in which any impacts associated with the proposed works, and any **cumulative impacts of other nearby construction sites**, will be mitigated and managed. The level of detail required in a CMP will depend on the scale and kind of development. Further policy guidance is set out in Camden Planning Guidance ([CPG 6: Amenity](#)) and ([CPG 8: Planning Obligations](#)).

This CMP follows the best practice guidelines as described in [Transport for London's](#) (TfL's Standard for [Construction Logistics and Cyclist Safety \(CLOCS\)](#) scheme) and [Camden's Minimum Requirements for Building Construction \(CMRBC\)](#).

The approved contents of this CMP must be complied with unless otherwise agreed with the Council in writing. The project manager shall work with the Council to review this CMP if problems arise in relation to the construction of the development. Any future revised plan must also be approved by the Council and complied with thereafter.

It should be noted that any agreed CMP does not prejudice or override the need to obtain any separate consents or approvals such as for road closures or hoarding licences.

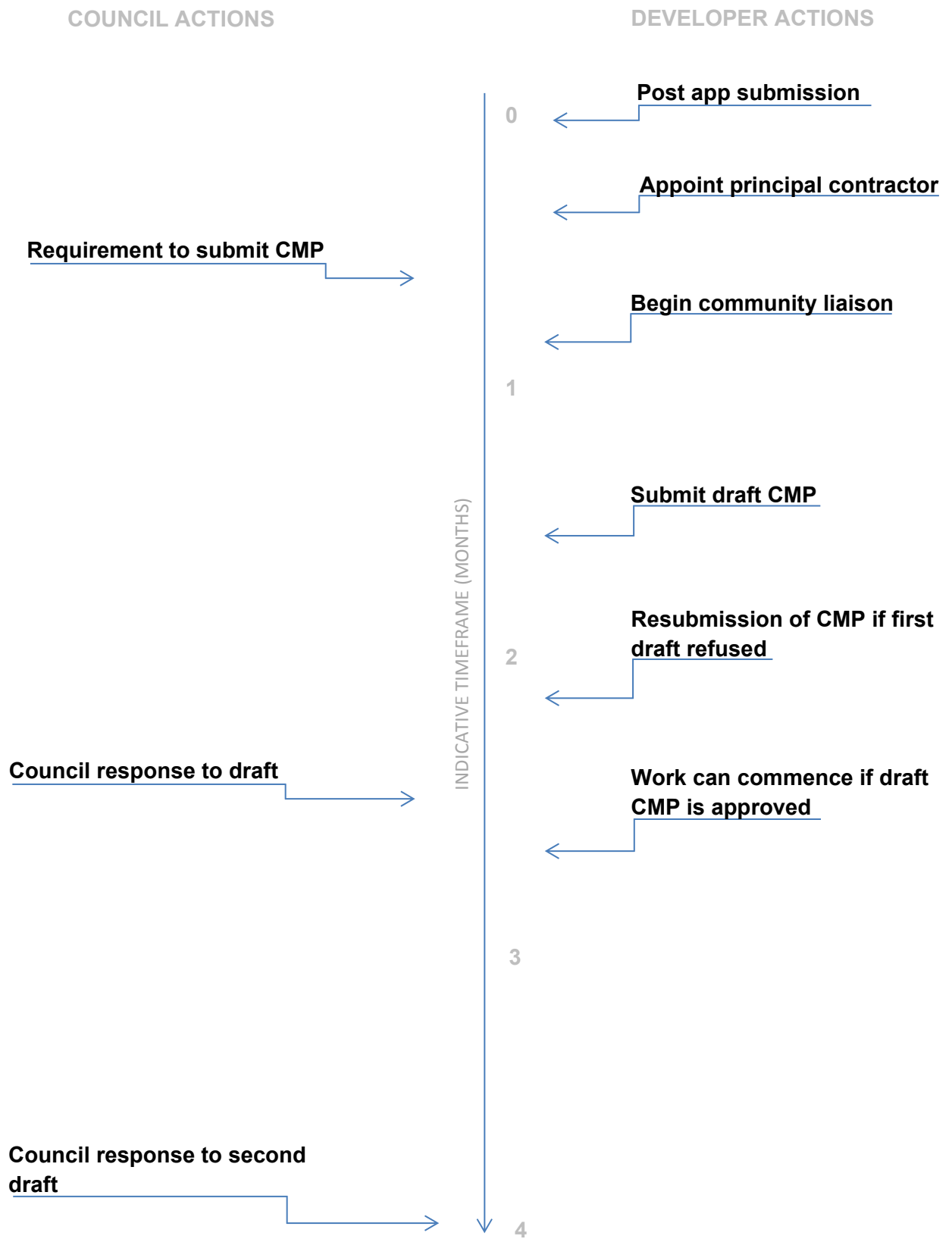
If your scheme involves any demolition, you need to make an application to the Council's Building Control Service. Please complete the "[Demolition Notice](#)"

Please complete the questions below with additional sheets, drawings and plans as required. The boxes will expand to accommodate the information provided, so please provide as much information as is necessary. It is preferable if this document is completed electronically and submitted as a Word file to allow comments to be easily documented.

(Note the term 'vehicles' used in this document refers to all vehicles associated with the implementation of the development, e.g. demolition, site clearance, delivery of plant & materials, construction, etc.)

Revisions to this document may take place periodically.

Timeframe



Contact

1. Please provide the full postal address of the site and the planning reference relating to the construction works.

Address: No. 5 The Hexagon, London, N6 6HR

Planning ref: 2019/0508/P

Type of CMP – Draft CMP

2. Please provide contact details for the person responsible for submitting the CMP.

Name: Credibuild Ltd

Address: Hawley Manor, Hawley Road, Dartford,

Kent, DA1 1PX

Email: hq@credibuild.com

Phone: 01322 285568

3. Please provide full contact details of the site project manager responsible for day-to-day management of the works and dealing with any complaints from local residents and businesses.

Name: Details to be provided by the contractor once appointed and prior to commencement.

Address:

Email:

Phone:

4. Please provide full contact details of the person responsible for community liaison and dealing with any complaints from local residents and businesses if different from question 3.

Name: Details to be provided by the contractor once appointed and prior to commencement.

Address:

Email:

Phone:

5. Please provide full contact details of the person responsible for community liaison/dealing with any complaints from local residents and businesses if different from question 3. In the case of [Community Investment Programme \(CIP\)](#), please provide contact details of the responsible Camden officer.

Name: Details to be provided by the contractor once appointed and prior to commencement.

Address:

Email:

Phone:

6. Please provide full contact details including the address where the main contractor accepts receipt of legal documents for the person responsible for the implementation of the CMP.

Name: Details to be provided by the contractor once appointed and prior to commencement.

Address:

Email:

Phone:

Site

1. Please provide a site location plan and a brief description of the site, surrounding area and development proposals for which the CMP applies.

The site is located on The Hexagon, a private road accessible from Fitzroy Park and located to the north of Hampstead Heath and to the west of Fitzroy Park Allotments. The location of the site in relation to the surrounding area is shown in **Figure 1**, attached to this document.

The Hexagon provides access to numbers 3-6 The Hexagon. Number 1 and 2 The Hexagon are accessed from Fitzroy Park. Fitzroy Park is a private road, which is managed and maintained on behalf of residents by the Fitzroy Park Residents Association. Fitzroy Park is also located within the Highgate Conservation Area and forms part of designated Fitzroy Open Space area.

The proposed scheme at 5 The Hexagon comprises: erection of porch, two-storey rear extension, and single storey side extension to replace existing garage; replacement of front, rear and side windows and doors, installation of 2 x rooflights to main flat roof and structural alterations.

2. Please provide a very brief description of the construction works including the size and nature of the development and details of the main issues and challenges (e.g. narrow streets, close proximity to residential dwellings).

The proposed works consist of demolition of the existing garage and internal reconfiguration with side and rear extensions to create open plan ground floor and 4 bedrooms to the first floor. The site also benefits from a rear garden which will be retained and repaired.

The property is fronted to the north by The Hexagon which is a 3 metre wide single carriageway which provides access to the 6 residential properties.

Fitzroy Park connects between Merton Lane/ Millfield Lane to the south and The Grove to the north. Fitzroy Park has a carriageway width that varies between 3.76 and 5.36 metres between the site and Merton Lane. It is circa 5 metres wide in the vicinity of the site and has a 20mph speed restriction along its length. The narrowest section occurs at the southern extent of the road between the junction with Merton Lane and Millfield Lane and Fitzroy Lodge. Between Fitzroy Lodge and the site, the carriageway is typically in excess of 4.1 metres wide, which is sufficient for a Heavy Goods Vehicle and cyclist to pass.

A topographical survey was undertaken 16 May 2019 which is included in [Appendix 1](#)

The Hexagon provides access to 4 residential properties (no. 3-6) and is 3 metres wide at its narrowest point.

3. Please identify the nearest potential receptors (dwellings, business, etc.) likely to be affected by the activities on site (i.e. noise, vibration, dust, fumes, lighting, etc.).

The property is located at the eastern end of The Hexagon which also provides access to numbers 3, 4 and 6 The Hexagon. As such, the residents of these properties will be the nearest possible receptors likely to be affected by activities on site. Further details, including mitigation measures will be provided by the contractor once appointment and prior to commencement of the works.

4. Please provide a scaled plan detailing the local highway network layout in the vicinity of the site. This should include details of on-street parking bay locations, cycle lanes, footway extents and proposed site access locations.

As Fitzroy Park is a private road, parking is provided on the carriageway on an informal basis and private parking restrictions in force. There are no cycle lanes on Fitzroy Park and no footway is provided adjacent to the carriageway.

Please see appendix 2

5. Please provide the proposed start and end dates for each phase of construction as well as an overall programme timescale. (A Gantt chart with key tasks, durations and milestones would be ideal).

As planning approval has yet to be granted for the site, the programme of works set out below provides an indication of the duration of each phase of the works. The programme will be updated with the dates envisaged for each phase of the works once planning permission has been granted and the date for works to start on site has been determined. TBC

| Phase | Estimated Programme (Weeks) |
|---------------------------------------|-----------------------------|
| Site Setup | 2 |
| Demolition | 4 |
| Structural Works | 16 |
| Non-structural Works/Internal Fit Out | 16 |
| Site Clear Up | 2 |

6. Please confirm the standard working hours for this site, noting that the standard working hours for construction sites in Camden are as follows:

- 8.00am to 6pm on Monday to Friday
- 8.00am to 1.00pm on Saturdays
- No working on Sundays or Public Holidays

The provisional working hours for the site will be 08:00 to 18:00 Monday to Friday and 08:00 13:00 on Saturdays. No work will be permitted on Sundays or public holidays.

Deliveries to the site by HGVs will be limited to between 10am-12noon and 2pm-4pm daily so as to avoid peak periods in pedestrian activity.

7. Please indicate if any changes to services are proposed to be carried out that would be linked to the site during the works (i.e. connections to public utilities and/or statutory undertakers' plant). Larger developments may require new utility services. If so, a strategy and programme for coordinating the connection of services will be required. If new utility services are required, please confirm which utility companies have been contacted (e.g. Thames Water, National Grid, EDF Energy, BT. etc.) You must explore options for the utility companies to share the same excavations and traffic management proposals. Please supply details of your discussions.

There are not expected to be any changes to services as a result of the development proposals. This will be confirmed by the contractor once appointed and prior to the commencement of works on site. If works are required, the scope of works will be discussed and agreed with the residents of The Hexagon at an early stage.

Community Liaison

A neighbourhood consultation process must have been undertaken prior to submission of the CMP first draft.

Significant time savings can be made by running an effective neighbourhood consultation process. This must be undertaken in the spirit of cooperation rather than one that is dictatorial and unsympathetic to the wellbeing of local residents and businesses.

These are most effective when initiated as early as possible and conducted in a manner that involves the local community. Involving locals in the discussion and decision making process helps with their understanding of what is being proposed in terms of the development process. The consultation and discussion process should have already started, with the results incorporated into the CMP first draft submitted to the Council for discussion and sign off. This communication should then be ongoing during the works, with neighbours and any community liaison groups being regularly updated with programmed works and any changes that may occur due to unforeseen circumstances through newsletters, emails and meetings.

Please note that for larger sites, details of a construction working group may be required as a separate S106 obligation. If this is necessary, it will be set out in the S106 Agreement as a separate requirement on the developer.

Cumulative impact

Sites located within high concentrations of construction activity that will attract large numbers of vehicle movements should consider establishing contact with other sites in the vicinity in order to manage traffic routeing and volumes. Developers in the Tottenham Court Road area have done this to great effect.

The Council can advise on this if necessary.

1. Consultation

The Council expects meaningful consultation. For large sites, this may mean two or more meetings with local residents **prior to submission of the first draft CMP**.

Evidence of who was consulted, how the consultation was conducted and a summary of the comments received in response to the consultation. Details of meetings including minutes, lists of attendees etc. must be included.

In response to the comments received, the CMP should then be amended where appropriate and, where not appropriate, a reason should be given. The revised CMP should also include a list of all the comments received. Developers are advised to check proposed approaches to consultation with the Council before carrying them out. If your site is on the boundary between boroughs then we would recommend contacting the relevant neighbouring planning authority.

Please provide details of consultation of draft CMP with local residents, businesses, local groups (e.g. residents/tenants and business associations) and Ward Councillors.

As both Fitzroy Park and The Hexagon are private roads, consultation on the draft CMP will be undertaken with the Fitzroy Park Residents Association and the residents of numbers 3, 4 and 6 The Hexagon on the **TBC**. The points raised by the residents association and our responses will be appended to this draft CMP.

2. Construction Working Group

Please provide details of community liaison proposals including any Construction Working Group that will be set up, addressing the concerns of the community affected by the works, the way in which the contact details of the person responsible for community liaison will be advertised to the local community, and how the community will be updated on the upcoming works i.e. in the form of a newsletter/letter drop, or weekly drop in sessions for residents.

It is proposed that a Construction Working Group will be formed by the Construction Project Manager to ensure that residents are aware of how the construction works are progressing and provide them with the opportunity to raise any issues that may arise as they occur. A direct dial number of the Construction Project Manager will also be provided on the site hoarding so that any issues can be reported.

Representatives of the Fitzroy Park Residents Association will be invited to join the Construction Working Group as well as the residents of number 2, 3, 4 and 6 The Hexagon, the residents of Highfield Grove and Council Officers. This will give the residents of neighbouring properties and properties that border the construction vehicle route on Fitzroy Park to voice any issues they have.

The Construction Project Manager will keep in regular contact with local residents, affected parties and the Council by sending a regular update by email, and post if necessary. It is also proposed that regular meetings will be held with local residents if all parties agree that they are required.

Further details will be provided by the Contractor, once appointed.

3. Schemes

Please provide details of any schemes such as the 'Considerate Constructors Scheme', such details should form part of the consultation and be notified to the Council. Contractors will also be required to follow the "[Guide for Contractors Working in Camden](#)" also referred to as "[Camden's Considerate Contractors Manual](#)".

Details to be provided by the contractor prior to the commencement of works.

4. Neighbouring sites

Please provide a plan of existing or anticipated construction sites in the local area and please state how your CMP takes into consideration and mitigates the cumulative impacts of construction in the vicinity of the site. The council can advise on this if necessary.

We are not aware of consented developments in the local area. The Construction Project Manager will liaise with the Project Managers of any consented developments to ensure that deliveries are coordinated where possible. Further details will be provided by the contractor prior to the commencement of works.

Transport

This section must be completed in conjunction with your principal contractor. If one is not yet assigned, please leave the relevant sections blank until such time when one has been appointed.

Camden is a CLOCS Champion, and is committed to maximising road safety for Vulnerable Road Users (VRUs) as well as minimising negative environmental impacts created by motorised road traffic. As such, all vehicles and their drivers servicing construction sites within the borough are bound by the conditions laid out in the [CLOCS Standard](#).

This section requires details of the way in which you intend to manage traffic servicing your site, including your road safety obligations with regard to VRU safety. It is your responsibility to ensure that your principal contractor is fully compliant with the terms laid out in the CLOCS Standard. It is your principal contractor's responsibility to ensure that all contractors and sub-contractors attending site are compliant with the terms laid out in the CLOCS Standard.

Checks of the proposed measures will be carried out by the council to ensure compliance. Please refer to the CLOCS Standard when completing this section. Guidance material which details CLOCS requirements can be accessed [here](#), details of the monitoring process are available [here](#).

Please contact CLOCS@camden.gov.uk for further advice or guidance on any aspect of this section.

Please refer to the CLOCS Overview and Monitoring Overview documents which give a breakdown of requirements.

CLOCS Considerations

1. Name of Principal contractor:

Details to be provided by the contractor prior to the commencement of works.

The details provided within this document are indicative and further details will be provided following the appointment of a contractor and prior to commencement.

2. Please submit the proposed method for checking operational, vehicle and driver compliance with the CLOCS Standard throughout the duration of the contract (please refer to our CLOCS Overview document in the appendix and CLOCS Standard point 3.4.7).

Details to be provided by the contractor prior to the commencement of works.

3. Please confirm that you as the client/developer and your principal contractor have read and understood the [CLOCS Standard](#) and included it in your contracts. Please sign-up to join the [CLOCS Community](#) to receive up to date information on the standard by expressing an interest online.

I confirm that I have included the requirement to abide by the CLOCS Standard in my contracts to my contractors and suppliers:

Details to be provided by the contractor prior to the commencement of works.

Please contact CLOCS@camden.gov.uk for further advice or guidance on any aspect of this section.

Site Traffic

Sections below shown in blue directly reference the CLOCS Standard requirements. The CLOCS Standard should be read in conjunction with this section.

4. Traffic routing: *“Clients shall ensure that a suitable, risk assessed vehicle route to the site is specified and that the route is communicated to all contractors and drivers. Clients shall make contractors and any other service suppliers aware that they are to use these routes at all times unless unavoidable diversions occur.” (P19, 3.4.5)*

Routes should be carefully considered and risk assessed, taking into account the need to avoid where possible any major cycle routes and trip generators such as schools, offices, public buildings, museums etc. Where appropriate, on routes that use high risk junctions (ie. those that attract high volumes of cycling traffic) installing Trixi mirrors to aid driver visibility should be considered.

Consideration should also be given to weight restrictions, low bridges and cumulative impacts of construction (including neighbouring construction sites) on the public highway network. The route(s) to and from the site should be suitable for the size of vehicles that are to be used.

a. Please indicate routes on a drawing or diagram showing the public highway network in the vicinity of the site including details of links to the [Transport for London Road Network \(TLRN\)](#).

Construction vehicles will access the site from Highgate West Hill, turning left onto Merton Lane and right into Fitzroy Park. Vehicles will proceed along Fitzroy Park, before reversing into The Hexagon facilitated by a banksman. Given a banksman will be instructing the vehicle and will be aware of any pedestrian movement, vehicle reversing warnings will be switched off to avoid creating unnecessary noise for local residents. Vehicles will leave the site in forward gear travelling southbound along Fitzroy Park, turning left onto Merton Lane and right onto Highgate West Hill. A vehicle routing plan is shown in **Figure 2**, appended to this CMP.

The vehicle routeing plan will be reviewed and confirmed following the appointment of a contractor and following discussions with officers at Camden Borough Council. Any changes to the vehicle routeing will be discussed and agreed in advance with the Fitzroy Park Residents Association and Officers at Camden Borough Council.

All deliveries will be booked in with the Construction Project manager a minimum of 24 hours in advance and drivers will be required to call a minimum of 20 minutes prior to arriving at the site to arrange to be met by a banksman at the top of Merton Lane. Banksmen will supervise all vehicle movements along Fitzroy Park and The Hexagon as outlined in Q6b.

Emergency access to The Hexagon will be maintained at all times. At any point, if emergency access is required, construction vehicles will be required to move immediately. In addition, notices will be installed at each end of Fitzroy Park 24 hours in advance of major road use with expected start and end times.

b. Please confirm how contractors, delivery companies and visitors will be made aware of the route (to and from the site) and of any on-site restrictions, prior to undertaking journeys.

All contractors, delivery companies and visitors will be advised of and required to adhere to the specified route and all other measures detailed in this plan prior to journeys being undertaken. All contractors will also be made aware of the banksmen strategy and that they are required to call the Construction Project Manager a minimum of 20 minutes prior to arriving at the site to check that Fitzroy Park and The Hexagon are clear of construction vehicles and to arrange to be met by a banksman at the top of Merton Lane. If Fitzroy Park or The Hexagon are not clear, vehicles will not be permitted to proceed to the site and will be given an alternative delivery time. Vehicles will not be permitted to wait or circulate on any roads within the borough.

All contractors and visitors to the site will be advised to travel to the site by public transport or on foot or by cycle. The Construction Project Manager will provide all site personnel with details of local public transport services.

Contractors carrying heavy equipment/tools will be permitted to unload/load their vehicles however contractors will not be permitted park on The Hexagon or along Fitzroy Park.

5. Control of site traffic, particularly at peak hours: “Clients shall consider other options to plan and control vehicles and reduce peak hour deliveries” (P20, 3.4.6)

Construction vehicle movements are generally acceptable between 9.30am to 4.30pm on weekdays and between 8.00am and 1.00pm on Saturdays). If there is a school in the vicinity of the site or on the proposed access and/or egress routes, then deliveries must be restricted to between 9.30am and 3pm on weekdays during term time. (Refer to the [Guide for Contractors Working in Camden](#)).

A delivery plan should ensure that deliveries arrive at the correct part of site at the correct time. Instructions explaining such a plan should be sent to all suppliers and contractors. Consideration should be given to the location of any necessary holding areas for large sites with high volumes of traffic. Vehicles must not wait or circulate on the public highway. Whilst deliveries should be given set times to arrive, dwell and depart, no undue time pressures should be placed upon the driver at any time.

a. Please provide details of the typical sizes of all vehicles and the approximate frequency and times of day when they will need access to the site, for each phase of construction. You should estimate the average daily number of vehicles during each major phase of the work, including their dwell time at the site. High numbers of vehicles per day and/or long dwell times may require vehicle holding procedures.

As a contractor is yet to be appointed, an indicative programme of works is provided in the table below highlighting the approximate duration of key phases of the construction project. The dates of each phase of the works, the vehicle sizes and number of vehicle movements will be confirmed and revised if necessary by the building contractors’ Construction Project Manager (CPM), once appointed.

| Phase | Estimated Programme (Weeks) | Max. HGV deliveries per day | Anticipated HGV deliveries per phase | Max. LGV deliveries per day |
|---------------------------------------|-----------------------------|-----------------------------|--------------------------------------|-----------------------------|
| Site setup | 2 | 1-2 | 4-6 | 1-2 |
| Demolition | 4 | 2 | 10 | 1-2 |
| Structural Works | 16 | 2 | 40 | 1-2 |
| Non-structural works/Internal Fit Out | 16 | 1 | 40 | 3-4 |
| Site Clear Up | 2 | 1-2 | 5-7 | 3-4 |

Small Tipper (equivalent in size to a Skip Lorry)

This vehicle will be a maximum of 6.5m long and 2.5m wide and 3.5m high. Up to 2 vehicles per day will access the site during the demolition, structural and not structural phases of the works with a maximum dwell time of 60 minutes.

Small Concrete Lorry

The concrete lorry will be a maximum Length 6.66m, Width 2.6m (mirrors out); 2.5m (mirrors in), Height 3.87 top of rubber – 12cm. Up to 2 vehicles per day will access the site During the structural works with a maximum dwell of 60 minutes.

HGV

The HGV's would be small 7.5 tonnes and Length 8.32m, width 2.5m and height of 3.5m. These would deliver the larger items e.g the windows, doors and larger building materials etc during the structural and non structural elements of works. Max 1-2 a day and a max dwell of 45-60 mins.

Flat bed truck

These vehicles will be up to 6.5 metres long and 2.4m wide. These vehicles will be used to deliver and collect scaffolding, and building materials such as plaster, cement, concrete, steel work, blockwork and plant. Deliveries will be expected a maximum of once every 1-2 days during the site set-up, structural works and fit out/clear up phases of the works with a maximum dwell time of 40-60 minutes with the exception of scaffold erection and dismantling, when the vehicle would need to be on site for a maximum of 5 hours.

LGV Box van (Luton/Transit)

These will be up to 6 metres in length with a maximum width of 2.0 metres. Approximately 1-2 deliveries per day could be expected throughout the works with a maximum dwell time of 40 minutes. Higher volumes of deliveries could be expected towards the end of the programme when contractors are delivering parts for the internal fit out phase of the works.

It is anticipated that the maximum number of vehicles which will be required to visit the site each day will be 6, however, it is expected that an average of 2-3 deliveries to the site will visit the site daily throughout the duration of the works. Further details will be provided following the appointment of a contractor.

Deliveries by HGV's will be limited to between the hours of 10am-12noon and 2pm-4pm to avoid the peak periods in pedestrian activity along Fitzroy Park.

All contractors will also be made aware of the banksmen strategy and that they are required to call the Construction Project Manager a minimum of 20 minutes prior to arriving at the site to check that Fitzroy Park and The Hexagon are clear of construction vehicles and to arrange to be met by a banksman at the top of Merton Lane.. If Fitzroy Park or The Hexagon are not clear, vehicles will not be permitted to proceed to the site and will be given an alternative delivery time. Vehicles will not be permitted to wait or circulate on any roads within the borough.

b. Please provide details of other developments in the local area or on the route.

We are not aware of consented developments in the local area. The Construction Project Manager will liaise with the Project Managers of the consented developments to ensure that deliveries are coordinated where possible. The contractor will continue to monitor the progress of planning applications in the area and will ensure that deliveries are coordinated with any consented schemes if appropriate.

c. Please outline the system that is to be used to ensure that the correct vehicle attends the correct part of site at the correct time.

All deliveries will be booked in with the Construction Project manager a minimum of 24 hours in advance and will be provided with details of the routing plan and the banksman strategy at this point. Drivers will be required to call a minimum of 20 minutes prior arriving at the site to check that the loading area adjacent to the frontage of the site is available and that no other construction vehicles are present on Fitzroy Park. If the vehicle loading area and Fitzroy Park are clear, drivers will be permitted to proceed to the site and will arrange to be met by a banksman at the top of Merton Lane. Deliveries will only be permitted between 10am and 4pm Monday to Friday so as to avoid the typical peak period of vehicle movements along Fitzroy Park. No deliveries will be permitted outside of these hours.

A banksmen will be based on site. A banksman will be required to walk in front of, and monitor all vehicles along Fitzroy Park and The Hexagon to ensure they only travel at walking speed (4mph). When leaving the site, the vehicle will be accompanied by the banksman usually stationed at the site entrance.

d. Please identify the locations of any off-site holding areas (an appropriate location outside the borough may need to be identified, particularly if a large number of delivery vehicles are expected) and any measures that will be taken to ensure the prompt admission of vehicles to site in light of time required for necessary compliance checks. Please refer to question 5 if any parking bay suspensions will be required for the holding area.

Please see attached Planning Drawing 0398P0011-00.

e. Please provide details of any other measures designed to reduce the impact of associated traffic (such as the use of construction material consolidation centres).

The contractor will investigate the potential for using construction material consolidation centres and other measures such as electric vehicles to reduce the impact of traffic associated with the development works.

6. Site access and egress: *“Clients shall ensure that access to and egress from the site is appropriately managed, clearly marked, understood and clear of obstacles.” (P18, 3.4.3)*

Vehicles entering and leaving the site should be carefully managed, using gates that are clearly marked and free from obstacles. Traffic Marshalls must ensure the safe passage of pedestrians, cyclists and other traffic when vehicles are entering and leaving site, particularly if reversing.

a. Please detail the proposed access and egress routes to and from the site

b. Please describe how the access and egress arrangements for construction vehicles will be managed.

It is proposed that all deliveries will take place from a temporary vehicle loading area located to the frontage of no. 4 The Hexagon. Vehicles will reverse into The Hexagon facilitated by a banksman. Construction vehicles will then reverse into the proposed loading area . Vehicles will leave the site in a forward gear. Vehicular access to adjacent properties will be maintained at all times. Banksmen will be available on site at all times to manage the interaction between construction vehicles, pedestrians, cyclists and other road users. Vehicles will leave the site in a forward gear.

To ensure that pedestrian and road user safety can be maintained, it is proposed to implement a banksman strategy, which will be managed by a Banksman Co-ordinator. The following measures will be put in place:

- A Banksman Co-ordinator will be appointed who will keep a log of all construction vehicle movements to and from the site in order to monitor them closely.
- No construction vehicles will be permitted to stop, be held, or wait in the public highway (including Fitzroy Park). Vehicles will instead be waived on by a banksman stationed at the top of Merton Lane down Highgate West Hill into a circling pattern if either Merton Lane or Fitzroy Park is occupied by an exiting construction vehicle.
- A banksman will be stationed at the junction of Fitzroy Park and Merton Lane to monitor construction vehicle manoeuvres into Fitzroy Park. This will ensure that pedestrians crossing from Merton Lane, Millfield Lane or from the Heath do not conflict with construction vehicles.
- A banksman will be required to walk in front of, and monitor all lorries along Fitzroy Park and The Hexagon to ensure they only travel at walking speed (4mph). When vehicles approach the site, the banksman stationed at the junction of Fitzroy Park with Millfield Lane and Merton Lane will carry out this task.
- A further banksman will be stationed at the junction of The Hexagon with Fitzroy Park. This banksman will control traffic approaching from the northern arms of Fitzroy Park when a construction vehicle is manoeuvring to and from The Hexagon. This banksman will also guide construction vehicles reversing into and along The Hexagon into the proposed loading area adjacent to the frontage of the property.
- The banksman team will have a minimum of four members, who will all be on site Monday to Friday between 10:00 and 16:00 when construction traffic movements will take place. The banksmen will have radios in order to contact each other whilst working.
- Temporary road signage will be positioned on Fitzroy Park at either end of the construction vehicle route warning road users of the presence of construction traffic.
- Banksmen will be positioned at either end of the construction route along Fitzroy Park and other vehicles will be held by a banksmen when construction vehicles are accessing or leaving the site.

The narrowest section of Fitzroy park carriageway occurs at the southern end of the road between the junction with Merton Lane, Millfield Land and Fitzroy Lodge. Between Fitzroy Lodge and the site, the carriageway is typically in excess of 4.1 metres wide, which is sufficient for a Heavy Goods Vehicle and cyclist to pass. The CPM will ensure that the route is clear for HGVs when deliveries are scheduled. Further details will be provided by the Contractor once appointed.

c. Please provide swept path drawings for any tight manoeuvres on vehicle routes to and from the site including proposed access and egress arrangements at the site boundary (if necessary).

TBC.

d. Provision of wheel washing facilities should be considered if necessary. If so, please provide details of how this will be managed and any run-off controlled.

Site vehicles will have wheels washed down prior to leaving the site so as to reduce unwanted debris spreading onto The Hexagon or Fitzroy Park. The drainage methodology and/or waste water storage will be confirmed by the contractor, once appointed.

In addition, all muck away vehicles will be covered so as to prevent the further spread of material to the highway. Any material transferred to The Hexagon or Fitzroy Park will be cleared immediately. Further details will be provided by the contractor on appointment, prior to commencement.

7. Vehicle loading and unloading: *“Clients shall ensure that vehicles are loaded and unloaded on-site as far as is practicable.” (P19, 3.4.4)*

If this is not possible, Traffic Marshalls must ensure the safe passage of pedestrians, cyclists and motor traffic in the street when vehicles are being loaded or unloaded.

Please provide details of the parking and loading arrangements for construction vehicles with regard to servicing and deliveries associated with the site (e.g. delivery of materials and plant, removal of excavated material). This is required as a scaled site plan, showing all points of access and where materials, skips and plant will be stored, and how vehicles will access and egress the site. If loading is to take place off site, please identify where this is due to take place and outline the measures you will take to ensure that loading/unloading is carried out safely. Please outline in question 8 if any parking bay suspensions will be required.

The strategy presented below provides an indicative parking and loading arrangement for construction vehicles associated with the site. Full details and the final strategy will be provided by the contractor once appointed and discussed and agreed with the Fitzroy Park Residents Association, the adjoining residents and Camden Borough Council.

Vehicular access to the adjacent properties will be maintained at all times, however, in the event that vehicular access is blocked, construction vehicles will be required to move immediately. All vehicle movements will be undertaken under the control of trained banksmen who will manage the interaction between construction vehicles, pedestrians, cyclists and other users of The Hexagon.

Vehicles will reverse into The Hexagon facilitated by a banksman. Construction vehicles will then reverse into the proposed loading area to the frontage of No.5. Vehicles will leave the site in a forward gear. All vehicle movements along The Hexagon and Fitzroy Park will be managed by trained banksmen.

A hoarding will be installed around the site with a lockable access. All scaffolding will be installed within the curtilage of the site. All materials and plant will be stored within the rear garden of the property. Where necessary, ground protection such as ground guards will be provided to protect tree roots from damage and the underlying ground from compaction. The ground protection will be provided as advised by the arboriculturalist. Deliveries will also be made on a 'just-in-time' bases so as to minimise the storage requirements on site.

Once planning approval has been obtained, a full arboricultural report of the Hexagon and surrounding area will be undertaken. This will assess the existing location of vegetation including root protection areas and canopy heights and widths. In collaboration the arboriculturalist, a strategy for tree protection will be formulated and adhered to by the contractor.

Further details will be provided following the appointment of a contractor, prior to commencement.

Highway interventions

8. Parking bay suspensions and temporary traffic management orders

Please note that a parking bay suspension should only be requested where absolutely necessary. Parking bay suspensions are permitted for a maximum of 6 months, suspensions whose duration exceeds 6 months must apply for a Temporary Traffic Order (TTO). For parking bay suspensions of one year or longer, a Traffic Management Order (TMO) must be applied for.

Please provide details of any proposed parking bay suspensions and temporary traffic management orders which would be required to facilitate construction.

Information regarding parking suspensions can be found [here](#).

As The Hexagon and Fitzroy Park are private roads, no formal parking bay suspensions will be required, however it is recognised that on street parking along Fitzroy Park occurs and this will need to be managed in discussions with local residents, advance warning will be given during appropriate periods setting out timescale and duration for construction works.

It is noted that vehicles often park along Fitzroy Park adjacent to The Hexagon and in close proximity to the junction between Fitzroy Park, Bowling Club Lane and Dancers End. As such, temporary 'parking suspensions' will be put in place when HGV deliveries are scheduled.

The Construction Project Manager will liaise with the neighbours at adjacent properties to ensure that the proposed loading area and vehicle route is clear of vehicles at the beginning of each day will also make residents aware of the delivery schedule. Vehicular access to the adjacent properties will be maintained at all times and banksmen will be on site at all times to manage the interaction between construction vehicles, pedestrians, cyclists and other road users.

9. Scaled drawings of highway works

Please note that use of the public highway for storage, site accommodation or welfare facilities is at the discretion of the Council and is generally not permitted. If you propose such use you must supply full justification, setting out why it is impossible to allocate space on-site. You must submit a detailed (to-scale) plan showing the impact on the public highway that includes the extent of any hoarding, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements. We prefer not to close footways but if this is unavoidable, you should submit a scaled plan of the proposed diversion route showing key dimensions.

- a. Please provide accurate scaled drawings of any highway works necessary to enable construction to take place (e.g. construction of temporary vehicular accesses).

No temporary highway works will be necessary to enable construction vehicles to access the site. All vehicles will load from the temporary loading area. Vehicle access to The Hexagon will be taken from Fitzroy Park.

- b. Please provide details of all safety signage, barriers and accessibility measures such as ramps and lighting etc.

Details to be provided by the contractor one appointed and prior to commencement.

10. Diversions

Where applicable, please supply details of any diversion, disruption or other anticipated use of the public highway during the construction period (alternatively a plan may be submitted).

No diversions are currently proposed. Banksmen will be used to manage the interaction of construction vehicles with pedestrians, cyclists and other road users. Further details and confirmation of the delivery strategy will be provided by the contractor, once appointed and prior to commencement.

11. VRU and pedestrian diversions, scaffolding and hoarding

Pedestrians and/or cyclist safety must be maintained if diversions are put in place. Vulnerable footway users should also be considered, these include wheelchair users, the elderly, those with walking difficulties, young children, those with prams, the blind and partially sighted. Appropriate ramping must be used if cables, hoses, etc. are run across the footway.

Any work above ground floor level may require a covered walkway adjacent to the site. A licence must be obtained for scaffolding and gantries. The adjoining public highway must be

kept clean and free from obstructions. Lighting and signage should be used on temporary structures/skips/ hoardings, etc.

A secure hoarding will generally be required to the site boundary with a lockable access

a. Please provide details describing how pedestrian and cyclist safety will be maintained, including any proposed alternative routes (if necessary), and any Traffic Marshall arrangements.

The potential risks to both cyclists and pedestrians have been considered and vehicles with appropriate safety equipment will be used. It will be required that all vehicles will be fitted with safety bars, additional mirrors and advisory signage. It will also be required that drivers must have undertaken a cyclist safety awareness course.

In addition, trained banksmen will escort construction vehicles along Fitzroy Park and The Hexagon to manage the interaction of construction activity with pedestrians, cyclists and other vehicles. The narrowest section of Fitzroy park carriageway occurs at the southern end of the road between the junction with Merton Lane, Millfield Land and Fitzroy Lodge. Between Fitzroy Lodge and the site, the carriageway is typically in excess of 4.1 metres wide, which is sufficient for a Heavy Goods Vehicle and cyclist to pass.

Banksmen will also supervise vehicles along the Hexagon and will manage the interaction between construction vehicles, pedestrians, cyclists and other highway users.

b. Please provide details of any temporary structures which would overhang the public highway (e.g. scaffolding, gantries, cranes etc.) and details of hoarding requirements or any other occupation of the public highway.

A lockable site hoarding will be installed around the site and scaffolding will be installed within the boundary of the site. No temporary structures will be required that will overhang the public highway. Details of hoarding and scaffolding will be confirmed by the contractor prior to appointment and the residents of neighbouring properties will be consulted with.

SYMBOL IS FOR INTERNAL USE

Environment

To answer these sections please refer to the relevant sections of **Camden's Minimum Requirements for Building Construction (CMRBC)**.

1. Please list all [noisy operations](#) and the construction method used, and provide details of the times that each of these are to be carried out.

The following measures will be implemented:

- Noisy work will be restricted to between 0800 and 1300 Monday to Friday and between 0800 and 1300 on Saturdays. No noisy works will be permitted on Sundays or Bank Holidays.
- Deliveries by HGVs will be restricted to between the hours of 1000 and 1200 and 1400 and 1600 and will be scheduled to distribute vehicle movements throughout these hours so as to avoid periods of intensive activity.
- In order to reduce the effect of noisy works on neighbouring properties, where practical and possible contractors will use well-maintained and silenced plant and equipment including compressors, generators and power tools.

The construction contractor will provide further details prior to commencement.

2. Please confirm when the most recent noise survey was carried out (before any works were carried out) and provide a copy. If a noise survey has not taken place please indicate the date (before any works are being carried out) that the noise survey will be taking place, and agree to provide a copy.

A noise survey will be carried out following the appointment of a contractor prior to commencement. A copy of the noise survey will be supplied to the Borough once completed.

3. Please provide predictions for [noise](#) and vibration levels throughout the proposed works.

Details to be provided by the contractor prior to commencement.

4. Please provide details describing mitigation measures to be incorporated during the construction/[demolition](#) works to prevent noise and vibration disturbances from the activities on the site, including the actions to be taken in cases where these exceed the predicted levels.

Details to be provided by the contractor prior to commencement.

5. Please provide evidence that staff have been trained on BS 5228:2009

Details to be provided by the contractor prior to commencement.

6. Please provide details on how dust nuisance arising from dusty activities, on site, will be prevented.

Hoardings bordering the property will help contain any dust. Where required, scaffolding and sheeting can be erected to further contain dust. Water dampening measures will also be used if considered necessary. More details will be provided by the contractor once appointed and prior to commencement. The final details of the arrangement will be supplied to the residents of the adjacent properties and any comments regarding the site set up will be addressed.

7. Please provide details describing how any significant amounts of dirt or dust that may be spread onto the public highway will be prevented and/or cleaned.

No vehicles will enter the site and as such, the transferal of detritus to the public highway will be limited. Site vehicles will have wheels washed down prior to leaving the site so as to reduce unwanted debris spreading onto The Hexagon or Fitzroy Park. The drainage requirements and/or storage of waste water will be confirmed by the contractor once appointed.

In addition, all muck away vehicles will be covered so as to prevent the further spread of material to the highway. Any material transferred to The Hexagon or Fitzroy Park will be cleared immediately. Further details will be provided by the contractor on appointment, prior to commencement.

8. Please provide details describing arrangements for monitoring of [noise](#), vibration and dust levels.

Details to be provided by the contractor prior to commencement.

9. Please confirm that a [Risk Assessment](#) has been undertaken at planning application stage in line with the [GLA's Control of Dust](#) and Emissions Supplementary Planning Guidance (SPG), and the risk level that has been identified, with evidence. Please attach the risk assessment as an appendix if not completed at the planning application stage.

Details to be provided by the contractor prior to commencement.

10. Please confirm that all of the GLA's 'highly recommended' measures from the [SPG](#) document relative to the level of risk identified in question 9 have been addressed by completing the [GLA mitigation measures checklist](#). Please attach this as an appendix.

Details to be provided by the contractor prior to commencement.

11. If the site is a High Risk Site, 4 real time dust monitors will be required, as detailed in the [SPG](#). Please confirm the location, number and specification of the monitors in line with the SPG and confirm that these will be installed 3 months prior to the commencement of works, and that real time data and quarterly reports will be provided to the Council detailing any exceedances of the threshold and measures that were implemented to address these.

Details to be provided by the contractor prior to commencement.

12. Please provide details about how rodents, including [rats](#), will be prevented from spreading out from the site. You are required to provide information about site inspections carried out and present copies of receipts (if work undertaken).

Details to be provided by the contractor prior to commencement.

13. Please confirm when an asbestos survey was carried out at the site and include the key findings.

An asbestos survey will be carried once a contractor has been appointed and prior to commencement. The key findings will be included in the final CMP.

14. Complaints often arise from the conduct of builders in an area. Please confirm steps being taken to minimise this e.g. provision of suitable smoking area, tackling bad language and unnecessary shouting.

Details to be provided by the contractor prior to commencement.

 SYMBOL IS FOR INTERNAL USE

Agreement

The agreed contents of this Construction Management Plan must be complied with unless otherwise agreed in writing by the Council. This may require the CMP to be revised by the Developer and reapproved by the Council. The project manager shall work with the Council to review this Construction Management Plan if problems arise in relation to the construction of the development. Any future revised plan must be approved by the Council in writing and complied with thereafter.

It should be noted that any agreed Construction Management Plan does not prejudice further agreements that may be required such as road closures or hoarding licences.

Signed:

Date:

Print Name:

Position:

Please submit to: planningobligations@camden.gov.uk

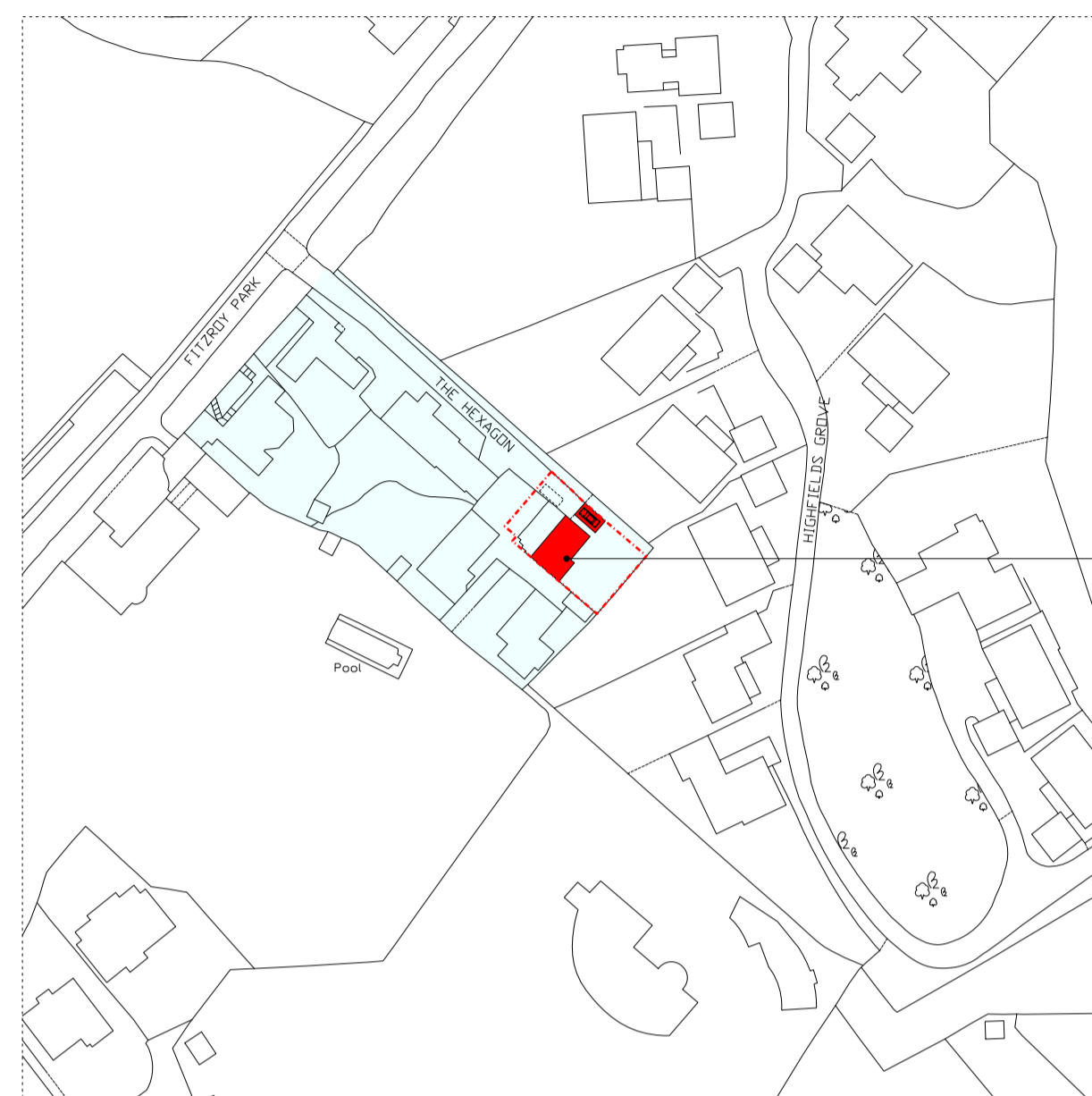
End of form.

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SITE SPECIFIC HAZARDS

IN ACCORDANCE WITH THE REQUIREMENTS OF THE COM REGULATIONS 2007 THE FOLLOWING SIGNIFICANT RESIDUAL HAZARDS HAVE NOT BEEN ISSUED OUT OF THIS PROJECT AND MUST BE TAKEN INTO CONSIDERATION BY CONTRACTORS PLANNING TO UNDERTAKE THE WORKS SHOWN ON THIS DRAWING:

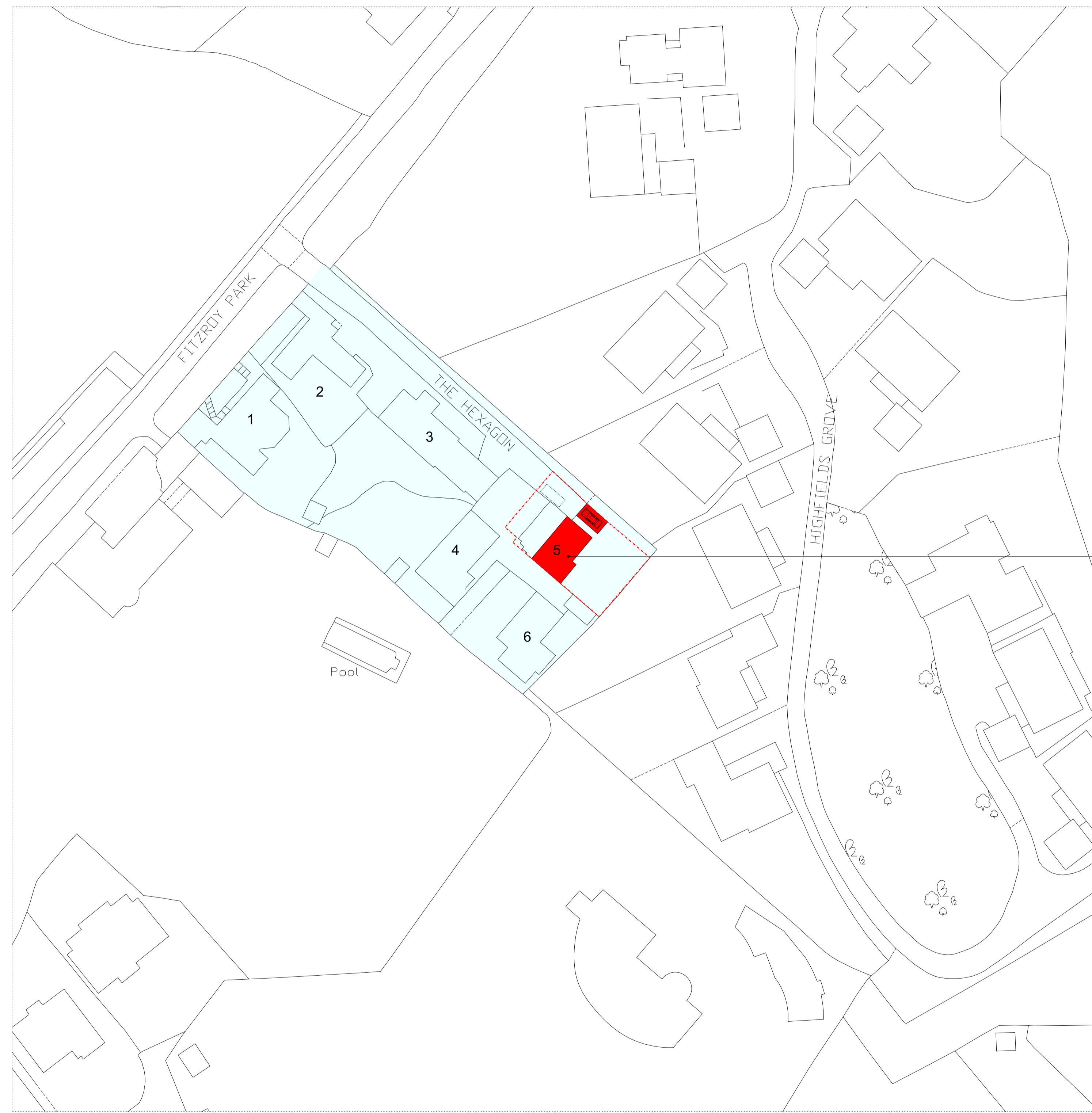
- KEY**
- SITE BOUNDARY
 - APPLICATION SITE NO.5 THE HEXAGON
 - THE HEXAGON



APPLICATION SITE:
NO.5 THE HEXAGON

1 1:1250
SITE LOCATION PLAN

0 10 20 50
SCALE IN METRES: 1:1250@A1



APPLICATION SITE:
NO.5 THE HEXAGON

2 1:500
SITE PLAN

0 5 10 20
SCALE IN METRES: 1:500@A1

| | | | |
|----|----------|-----------------|-----|
| 02 | 21.08.19 | FOR INFORMATION | DR |
| 01 | 28.07.19 | PLANNING ISSUE | BST |
| 00 | 21.06.18 | PRE-APP ISSUE | BST |

PROJECT
NO.5 THE HEXAGON, FITZROY PARK, LONDON, N6 6HR

DRAWING TITLE
EXISTING LOCATION AND SITE PLANS

STATUS **PLANNING**

| DATE | DRAWN | CHECK | SCALE @ A1 |
|----------|-------|-------|-------------|
| APRIL 18 | KS | MW | 1:1250 @ A1 |

| PROJECT NUMBER | CODE | STATUS | TYPE & NUMBER | REVISION LETTER |
|----------------|------|--------|---------------|-----------------|
| 0398 | P | | 0010 | 02 |

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SITE SPECIFIC HAZARDS

IN ACCORDANCE WITH THE REQUIREMENTS OF THE CDM REGULATIONS 2007 THE FOLLOWING SIGNIFICANT RESIDUAL HAZARDS HAVE NOT BEEN IDENTIFIED OUT OF THIS PROJECT AND MUST BE TAKEN INTO CONSIDERATION BY CONTRACTORS PLANNING TO UNDERTAKE THE WORKS SHOWN ON THIS DRAWING:

- KEY**
- SITE BOUNDARY
 - APPLICATION SITE, NO.5 THE HEXAGON
 - THE HEXAGON



- TEMPORARY VEHICLE LOADING AREA
- SKIP
- HATCHED AREA - UNDER LEASEHOLD BY CLIENTS
- HOARDING AROUND SITE
- APPLICATION SITE: NO.5 THE HEXAGON. SITE OFFICE/WELFARE INSIDE BUILDING AND MOVED DEPENDING ON CURRENT WORKS BEING CARRIED OUT
- PORTALOO
- MATERIAL STORAGE AREA







1 1:250 SITE PLAN

| | | | |
|--|----------|-----------------|-------------------------------|
| 01 | 30.08.19 | FOR INFORMATION | DR |
| 00 | 21.08.19 | FOR INFORMATION | DR |
| REV | DATE | NOTES | INIT. |
| PROJECT | | | |
| NO.5 THE HEXAGON, FITZROY PARK, LONDON, N6 6HR | | | |
| DRAWING TITLE | | | |
| SITE WITH PROPOSED HIGHWAY ARRANGEMENT | | | |
| STATUS PLANNING | | | |
| DATE | DRAWN | CHECK | SCALE @ A1 |
| APRIL 18 | KS | MW | 1:1250 @ 1:200 |
| PROJECT NUMBER | CODE | STATUS | TYPE & REVISION NUMBER LETTER |
| 0398 | P | | 0011 01 |

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SITE SPECIFIC HAZARDS

IN ACCORDANCE WITH THE REQUIREMENTS OF THE COM REGULATIONS 2007 THE FOLLOWING SIGNIFICANT RESIDUAL HAZARDS HAVE NOT BEEN DESIGNATED OUT OF THIS PROJECT AND MUST BE TAKEN INTO CONSIDERATION BY CONTRACTORS PLANNING TO UNDERTAKE THE WORKS SHOWN ON THIS DRAWING:

- KEY**
-  SITE BOUNDARY
 -  APPLICATION SITE, NO.5 THE HEXAGON
 -  THE HEXAGON
 -  DELIVERIES TO SITE
 -  DELIVERIES LEAVING SITE
 -  NARROW ROAD SECTIONS



1:500 LOCATION PLAN
1

| | | | |
|--|----------|-----------------|-------------------------------|
| 00 | 21.08.19 | FOR INFORMATION | DR |
| REV | DATE | NOTES | INT. |
| PROJECT | | | |
| NO.5 THE HEXAGON, FITZROY PARK, LONDON, N6 6HR | | | |
| DRAWING TITLE | | | |
| LOCATION PLAN & DELIVERIES | | | |
| STATUS PLANNING | | | |
| DATE | DRAWN | CHECK | SCALE @ A1 |
| APRIL 18 | KS | MW | 1:500 |
| PROJECT NUMBER | CODE | STATUS | TYPE & REVISION NUMBER LETTER |
| 0398 | P | | 0012 00 |

Allotment Gardens

The Water House

Pond

PCs

D.Fn

El Sub Sta

Kenview

Ashridge

Sunbury

FITZROY CLOSE

FITZROY PARK

FITZROY PARK

FITZROY PARK

THE HEXAGON

Merton House

WESTHILL PARK

WEST HILL PARK

MERTON LANE

HARESHAM LANE

HIGHFIELDS GROVE

HIGHGATE WEST HILL

Pool

Heathfield Park

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15

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35a

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Appendix 5: Email from MHCLG



Sarah Ballantyne-Way <sballantyneway@hghconsulting.com>

RE: Planning Obligations NPPG

CIL <CIL@communities.gov.uk>

19 November 2019 at 11:13

To: Sarah Ballantyne-Way <sballantyneway@hghconsulting.com>

Hi Sarah

Yes the change was made to ensure consistency across CIL and S106.

Thanks

Harriet

From: Sarah Ballantyne-Way <sballantyneway@hghconsulting.com>

Sent: 14 November 2019 10:23

To: CIL <CIL@communities.gov.uk>

Subject: Re: Planning Obligations NPPG

Dear Harriet,

I have a further query in relation to the below. Was the change made so that it is in line with the CIL regulations? I.e. that extensions/ annexes are not CIL liable (below 100sqm)?

Many thanks

Sarah

On Tue, 12 Nov 2019 at 12:57, CIL <CIL@communities.gov.uk> wrote:

Hi Sarah

The guidance refers to 'planning obligations'. It does not specify affordable housing contributions.

Thanks

Harriet

Developer contributions team

Planning Infrastructure Division

Ministry of Housing, Communities & Local Government

[2 Marsham Street](#)

London SW1P 4DF

From: Sarah Ballantyne-Way <sballantyneway@hghconsulting.com>
Sent: 12 November 2019 11:13
To: CIL <CIL@communities.gov.uk>
Subject: Re: Planning Obligations NPPG

Hi there,

Thank you for your response. Please could you confirm whether this applies only to affordable housing contributions, or to all S106 obligations?

Many thanks

Sarah

On Tue, 12 Nov 2019 at 11:00, CIL <CIL@communities.gov.uk> wrote:

Dear Sarah

The previous guidance has been amended and replaced by the version published 1 September 2019. The version dated 1 September 2019 is the most up to date guidance on this issue and it says:

Planning obligations should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home.

Kind regards

Harriet

Developer contributions team

Planning Infrastructure Division

Ministry of Housing, Communities & Local Government

[2 Marsham Street](#)

[London SW1P 4DF](#)

From: Sarah Ballantyne-Way <sballantyneway@hghconsulting.com>
Sent: 11 November 2019 11:09
To: CIL <CIL@communities.gov.uk>
Subject: Planning Obligations NPPG

Hi there,

I have a query about the purpose of a recent change to the NPPG at paragraph:023 which was made in September 2019.

Paragraph: 023 Reference ID: 23b-023-20190901 sets out the specific circumstances where contributions through planning obligations should not be sought from developers. This paragraph has recently been amended (1st September 2019) and now states specifically:

"Planning obligations should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home."

Previously, this paragraph related only to affordable housing, as follows:

"Affordable housing contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home."

I'd be grateful if you could confirm whether this still applies only to affordable housing contributions, or whether it should be read that planning obligations should not be sought from developments consisting of residential annexes or extensions.

I look forward to hearing from you.

Kind regards

Sarah

..--

Sarah Ballantyne-Way

Director

Planning &
Development
Services

[45 Welbeck Street, London W1G 8DZ](#)

020 3409 7755 | [07766311513](tel:07766311513)

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--

Sarah Ballantyne-Way

Director

[REDACTED]

Planning &
Development
Services

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020 3409 7755 | [07766311513](tel:07766311513)

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--

Sarah Ballantyne-Way

Director

Planning &
Development
Services

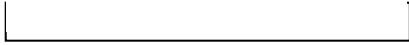
[45 Welbeck Street, London W1G 8DZ](#)

020 3409 7755 | [07766311513](#)

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Appendix 6: CC Advice Note Construction and Demolition Management Plans: Updated Implementation Support Contribution Levels (October 2017)

Advice note

Construction and Demolition Management Plans: updated Implementation Support Contribution levels

In April 2016 a formal charge was introduced to support the review and approval of Construction Management Plans (CMPs) and the ongoing monitoring of approved CMPs. This Implementation Support Contribution is secured as part of Section 106 agreements and applies to all development schemes that are required to provide a CMP.

Paragraph 2.27 of Camden Planning Guidance 8 Planning Obligations states:

“The Council will take the implementation costs of any obligations into account and will expect there to be a neutral impact on Council expenditure and resources. Obligations may need to include fees or associated costs for delivery of obligations where such costs fall to the Council.”

Standard charging rate: £61.50 charge for officer time per hour (including VAT).

The £61.50 hourly rate will allow the Council to set charges that address the specific impacts and issues of each development scheme. However, indicative standard charges per development type are set out below to provide an indication of the levels of charges that can be expected. Applicants will be advised where the fee will be different to the rates indicated below, as determined by site-specific circumstances.

From 9th October 2017, following a review of the officer time required to review CMPs and monitor their implementation, the following indicative charging rates will now be used as a guide:

Implementation Support Contribution: indicative charging rates from 9th October 2017

| Scale/type of construction | Indicative charge |
|--|-------------------|
| <i>Low impact sites / small developments</i> <ul style="list-style-type: none"> • Under 10 homes or 2,000 sqm other uses • Up to 16 weeks of construction | £3,136 |
| <i>Medium impact sites/ medium size developments</i> <ul style="list-style-type: none"> • Basements/ 10-50 homes, 2000-4999sqm other use • From 16 - 50 weeks of construction | £7,564.5 |
| <i>High impact sites / large developments</i> <ul style="list-style-type: none"> • 50-499 homes/ 5,000-9,999sqm other uses • 50 weeks plus of construction | £22,816 |

In determining whether a bespoke fee will be needed (as opposed to the indicative charging rates above), the following factors will be considered:

- Potential cumulative impacts
- Particularly large sites involving greater levels of construction
- Schemes that include basements and other significant excavation
- Proximity to sensitive receptors (e.g. residents, schools)
- Highly constrained sites (e.g. access)
- Whether a development involved significant amounts of demolition
- Likely complaints follow up requirements based on opposition to the scheme during the planning process
- Likelihood of complaints due to building method e.g. piling.

October 2017

Application of Implementation Support Contribution

Where a proposed scheme includes demolition, Construction Management Plans are required to address the proposed approach to demolition as well as construction works. Where a two-stage process is specified in the S106 (a Demolition Management Plan to be followed by a Construction Management Plan), a single support contribution will be sought, covering the overall costs involved in supporting the implementation of these obligations.

The CMP Implementation Support Contribution will be used to fund the specific technical inputs and sign off that are required to ensure that the obligation is complied with and ensure that the planning objectives we are seeking to secure are actually achieved.

Considerate Constructors - Construction Logistics and Community Safety

While Camden uses the CMP process to ensure that the impacts of construction are addressed in terms of transport and environmental health, the wider road safety impacts of construction also need to be considered. Construction Logistics and Community Safety (CLOCS) is an initiative that brings the construction logistics industry together to revolutionise the management of work related road risk and ensure a road safety culture is embedded across the industry.

As a CLOCS champion, Camden will expect developers to sign up for enhanced CCS registration to include CLOCS monitoring in addition to Camden's CMP Implementation Support Contribution.

More information on CLOCS and enhanced CCS registration is available via [this link](#).



Appendix 7: Draft S106 Agreement

DATED

2019

(1) RACHEL MARY MUNRO-PEEBLES

and

(2) ONESAVINGS BANK PLC

and

**(3) THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF CAMDEN**

A G R E E M E N T

relating to land known as

5 The Hexagon, Fitzroy Park, London N6 6HR

pursuant to

Section 106 of the Town and Country Planning Act 1990 (as amended);

Section 16 of the Greater London Council (General Powers) Act 1974;

Section 111 of the Local Government Act 1972;

Section 1(1) of the Localism Act 2011

Andrew Maughan
Borough Solicitor
London Borough of Camden
Town Hall
Judd Street
London WC1H 9LP

Tel: 020 7974 4125
CLS/COM/OO.1800.1112

v1

THIS AGREEMENT is made the

day of

2019

B E T W E E N:

- A. **RACHEL MARY MUNRO-PEEBLES** of 9 Gardnor Road, London NW3 1HA (hereinafter called "the Owner") of the first part
- B. **ONESAVINGS BANK PLC** (Co. Regn. No. 7312896) of Reliance House, Sun Pier, Chatham, Kent ME4 4ET, trading as Kent Reliance Banking Services, Kent Reliance and krbs (hereinafter called "the Mortgagee") of the third part
- C. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the fourth part

1. **WHEREAS**

- 1.1 The Owner is registered at the Land Registry as the freehold proprietor with Title absolute of the Property under Title Number LN210137 subject to a charge to the Mortgagee.
- 1.2 The Owner is the freehold owner of and is interested in the Property for the purposes of Section 106 of the Act.
- 1.3 A Planning Application for the development of the Property was submitted to the Council and validated on 28 January 2019 and the Council resolved to grant permission conditionally under reference number 2019/0508/P subject to the conclusion of this legal Agreement.
- 1.4 The Council is the local planning authority for the purposes of the Act and is the local authority for the purposes of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 for the area in which the Property is situated and considers it expedient in the interests of the proper planning of its area that the development of the Property should be restricted or regulated in accordance with this Agreement.

- 1.5 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.6 The Mortgagee as mortgagee under a legal charge registered under Title Number LN210137 and dated 20 July 2018 is willing to enter into this Agreement to give its consent to the same.

2. **DEFINITIONS**

In this Agreement the following expressions (arranged in alphabetical order) shall unless the context otherwise requires have the following meanings:-

- | | | |
|-----|---|---|
| 2.1 | "the Act" | the Town and Country Planning Act 1990 (as amended) |
| 2.2 | "the Agreement" | this Planning Obligation made pursuant to Section 106 of the Act |
| 2.3 | "the Certificate of Practical Completion" | the certificate issued by the Owner's contractor architect or project manager certifying that the Development has been completed |
| 2.4 | "Construction Management Plan" | a plan setting out the measures that the Owner will adopt in undertaking the demolition of any existing structures the construction of the Development using good site practices in accordance with the Council's Considerate Contractor Manual and in the form of the Council's Pro Forma Construction Management Plan as set out in the First Schedule hereto to ensure the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network including (but not limited to):- |

- (i) a statement to be submitted to Council giving details of the environmental protection highways safety and community liaison measures proposed to be adopted by the Owner in order to mitigate and offset potential or likely effects and impacts arising from the demolition of the existing structures on the Property and the building out of the Development;
- (ii) proposals to ensure there are no adverse effects on the Conservation Area features;
- (iii) amelioration and monitoring effects on the health and amenity of local residences site construction workers local businesses and adjoining developments undergoing construction;
- (iv) amelioration and monitoring measures over construction traffic including procedures for notifying the owners and or occupiers of the residences and businesses in the locality in advance of major operations delivery schedules and amendments to normal traffic arrangements (if any);
- (v) the inclusion of a waste management strategy for handling and disposing of construction waste; and
- (vi) identifying means of ensuring the provision of information to the Council and provision of a mechanism for monitoring and reviewing as required from time to time
- (vii) evidence of in principle approval from the Fitzroy Park Residents Association of the measures proposed

| | | |
|-----|--|--|
| 2.5 | “the Construction Management Plan Implementation Support Contribution” | <p>the sum of £3,136 (three thousand one hundred and thirty-six pounds) to be paid by the Owner to the Council in accordance with the terms of this Agreement and to be applied by the Council in the event of receipt for the review and approval of the draft Construction Management Plan and verification of the proper operation of the approved Construction Management Plan during the Construction Phase</p> |
| 2.6 | "the Construction Phase" | <p>the whole period between</p> <p>(i) the Implementation Date and</p> <p>(ii) the date of issue of the Certificate of Practical Completion</p> <p>and for the avoidance of doubt includes the demolition of any existing structures</p> |
| 2.7 | “the Council’s Considerate Contractor Manual” | <p>the document produced by the Council from time to time entitled “Guide for Contractors Working in Camden” relating to the good practice for developers engaged in building activities in the London Borough of Camden</p> |
| 2.8 | "the Development" | <p>erection of single storey front extension, two-storey rear extension, and single storey side and rear extension to replace existing garage; replacement of front, rear and side windows and doors and front cladding; installation of 2 x rooflights to main flat roof as shown on drawing numbers:- 0398 P 1100 Rev. 02, 0398 P 1200 Rev. 02, 0398 P 1001 Rev. 02, 0398 P 1000 Rev. 02, 0398 P 0200 Rev. 01, 0398 P 0100 Rev. 01, 0398 P 0010 Rev. 01, 0398 P 0001 Rev. 01, 0398 P 0000 Rev. 01, 0398 A 1101 Rev. 01, 0398 A 1102 Rev. 01, 0398 A 1103 Rev. 01., TREE PROTECTION PLAN, Arboricultural Report (Andrew Day Arboricultural Consultancy 16th May 2019), Design and Access Statement (Chris Dyson Architects 12th April 2019)</p> |

- 2.9 "the Implementation Date" the date of implementation of the Development by the carrying out of a material operation as defined in Section 56 of the Act and references to "Implementation" and "Implement" shall be construed accordingly
- 2.10 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.11 "the Parties" mean the Council, the Owner and the Mortgagee
- 2.12 "the Planning Application" a planning application in respect of the development of the Property submitted to the Council and validated on 28 January 2019 for which a resolution to grant permission has been passed conditionally under reference number 2019/0508/P subject to conclusion of this Agreement
- 2.13 "Planning Obligations Monitoring Officer" a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to S106 of the Act to whom all notices, correspondence, approvals etc must be sent in the manner prescribed at clause 6.1 hereof
- 2.14 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.15 "the Property" the land known as 5 The Hexagon, Fitzroy Park, London N6 6HR the same as shown shaded grey on the plan annexed hereto
- 2.16 "Residents Parking Bay" a parking place designated by the Council by an order under the Road Traffic Regulation Act 1984 or other relevant legislation for use by residents of the locality in which the Development is situated

- 2.17 "Residents Parking Permit" a parking permit issued by the Council under section 45(2) of the Road Traffic Regulation Act 1984 allowing a vehicle to park in Residents Parking Bays

3. **NOW THIS DEED WITNESSETH** as follows:-

- 3.1 This Agreement is made in pursuance of Section 106 of the Act, and is a planning obligation for the purposes of Section 106 as aforesaid, and is also made in pursuance of Section 16 of the Greater London Council (General Powers) Act 1974 Section 111 of the Local Government Act 1972; and Section 1(1) of the Localism Act 2011 and shall be enforceable by the Council against the Owner as provided herein and against any person deriving title to any part of the Property from the Owner and insofar as it is not a planning obligation its provisions may be enforceable by the Council under any relevant statutory powers.
- 3.2 Words importing the singular shall include the plural and vice versa and any words denoting actual persons shall include companies, corporations and other artificial persons.
- 3.3 Any reference to a specific statute or statutes include any statutory extension or modification amendment or re-enactment of such statute and any regulation or orders made under such statute.
- 3.4 The clause and paragraph headings do not form part of this Agreement and shall not be taken into account in its construction or interpretation.
- 3.5 It is hereby agreed between the Parties that save for the provisions of clauses 1, 2, 3, 5, 6, 7 and 8 hereof all of which shall come into effect on the date hereof the covenants undertakings and obligations contained within this Agreement shall become binding upon the Owner upon the Implementation Date.
- 3.6 The Council hereby agrees to grant the Planning Permission on the date hereof.
- 3.7 The Parties save where the context states otherwise shall include their successors in title.

4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

4.1 CONSTRUCTION MANAGEMENT PLAN

4.1.1 On or prior to the Implementation Date to:

- (i) pay to the Council the Construction Management Plan Implementation Support Contribution in full; and
- (ii) submit to the Council for approval a draft Construction Management Plan.

4.1.2 Not to Implement nor allow Implementation of the Development until such time as the Council has:

- (i) received the Construction Management Plan Implementation Support Contribution in full; and
- (ii) approved the Construction Management Plan as demonstrated by written notice to that effect.

4.1.3 The Owner acknowledges and agrees that the Council will not approve the Construction Management Plan unless it demonstrates to the Council's reasonable satisfaction that the Construction Phase of the Development can be carried out safely and with minimal possible impact on and disturbance to the surrounding environment and highway network.

4.1.4 To ensure that throughout the Construction Phase the Development shall not be carried out otherwise than in strict accordance with the requirements of the Construction Management Plan and not to permit the carrying out of any works comprised in demolition or building out the Development at any time when the requirements of the Construction Management Plan are not being complied with and in the event of non-compliance with this sub-clause the Owner shall forthwith take any steps required to remedy such non-compliance.

5. **NOTICE TO THE COUNCIL/OTHER MATTERS**

- 5.1 The Owner shall give written notice to the Council on or prior to the Implementation Date specifying that Implementation of the Development has taken or is about to take place.
- 5.2 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligations Monitoring Officer in the manner outlined at clause 6.1 hereof quoting planning reference 2019/0508/P the date upon which the Development will be ready for Occupation.
- 5.3 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access to any part of the Property or any requests to provide documentation within the Owner's possession (at the Owner's expense) for the purposes of monitoring compliance with the obligations contained herein.
- 5.4 The Owner agrees declares and covenants with the Council that it shall observe and perform the conditions restrictions and other matters mentioned herein and shall not make any claim for compensation in respect of any condition restriction or provision imposed by this Agreement and further shall jointly and severally indemnify the Council for any expenses or liability arising to the Council in respect of breach by the Owner of any obligations contained herein save to the extent that any act or omission of the Council its employees or agents has caused or contributed to such expenses or liability.
- 5.5 If satisfied as to the compliance of the Owner in respect of any obligation in this Agreement the Council shall (if requested to do so in writing and subject to payment of a fee of £1,000 in respect of each such obligation) provide through its Borough Solicitor a formal written certification of compliance, partial compliance or ongoing compliance (as and if appropriate) with the provisions of any such obligation.
- 5.6 Submission of any plan for approval by the Council under the terms of this Agreement shall be made by the Owner to the Council sending the full document and any appendices in electronic format (where practicable) to the Planning Obligations

Monitoring Officer referring to the names dates and Parties to this Agreement and citing the specific clause of this Agreement to which such plan relates quoting the Planning Permission reference 2019/0508/P.

- 5.7 Payment of the Construction Management Plan Implementation Support Contribution pursuant to Clause 4.1 of this Agreement shall be made by the Owner to the Council sending the full amount via electronic transfer (where practicable). The Owner shall notify the Planning Obligations Monitoring Officer that payment has been made referring to names date and Parties to this Agreement and citing the specific clause of this Agreement to which such contribution relates quoting the planning reference 2019/0508/P. Electronic Transfer be made directly to the National Westminster Bank of Hampstead Village quoting Sort Code 50-30-03 and London Borough of Camden General Account no. 24299480.
- 5.8 All consideration given in accordance with the terms of this Agreement shall be exclusive of any value added tax properly payable in respect thereof and all parties other than the Council shall pay and indemnify the Council against any such value added tax properly payable on any sums paid to the Council under this Agreement upon presentation of an appropriate value added tax invoice addressed to the Owner.
- 5.9 Any sums referred to in this Agreement as payable or to be applied by any party other than the Council under this Agreement shall be paid or applied TOGETHER WITH if such payment or application is made more than three months from the date of this Agreement a further sum ("A") being equal to the original sum payable ("B") multiplied by a figure being a fraction of which the All Items of Retail Prices ("the AIIRP") figure last published by the Central Statistical Office at the date hereof is the denominator ("X") and the last AIIRP figure published before the date such payment or application is made ("Y") less the last published AIIRP figure at the date hereof ("X") is the numerator so that

$$A = B \times \frac{(Y-X)}{X}$$

- 5.10 All costs and expenses payable to the Council under this Agreement shall bear interest at the rate of 4% above the Base Rate of the National Westminster Bank plc from time to time being charged from the date such payment is due until payment is made.

6. **IT IS HEREBY AGREED AND DECLARED** by the Parties hereto that:-
- 6.1 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Agreement and any such notice or approval shall be in writing and shall specifically refer to the name, date and Parties to the Agreement and shall cite the clause of the Agreement to which it relates and in the case of notice to the Council shall be addressed to the London Borough of Camden, Planning Obligations Officer, Placeshaping Service, Urban Design and Development Team, 2nd Floor, 5 Pancras Square, London, N1C 4AJ and sent to planning obligations on PlanningObligations@camden.gov.uk quoting the planning reference number 2019/0508/P and in the case of any notice or approval or agreement from the Council this shall be signed by a representative of the Council's Environment Department.
- 6.2 This Agreement shall be registered as a Local Land Charge.
- 6.3 The Owner agrees to pay the Council its proper and reasonable legal costs incurred in preparing this Agreement on or prior to the date of completion of the Agreement.
- 6.4 The Owner hereby covenants with the Council that it will within 28 days from the date hereof apply to the Chief Land Registrar of the Land Registry to register this Agreement in the Charges Register of the title to the Property and will furnish the Council forthwith with official copies of such title to show the entry of this Agreement in the Charges Register of the title to the Property.
- 6.5 Nothing contained or implied in this Agreement shall prejudice or affect the Council's powers to enforce any specific obligation term or condition nor shall anything contained or implied herein prejudice or affect any provisions, rights, powers, duties and obligations of the Council in the exercise of its functions as Local Planning Authority for the purposes of the Act or as a local authority generally and its rights, powers, duties and obligations under all public and private statutes, bye laws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 6.6 Neither the Owner or the Mortgagee nor their successors in title nor any person deriving title from them shall be bound by the obligations in this Agreement in respect

of any period during which it no longer has an interest in the Property but without prejudice to liability for any breach committed prior to the time it disposed of its interest.

6.7 For the avoidance of doubt the provisions of this Agreement (other than those contained in this sub-clause) shall not have any effect until this Agreement has been dated.

6.8 If the Planning Permission is quashed or revoked or otherwise withdrawn or expires before effluxion of time for the commencement of Development this Agreement shall forthwith determine and cease to have effect.

7. **MORTGAGEE EXEMPTION**

7.1 The Mortgagee hereby consents to the completion of this Agreement and agrees to be bound by it and to the same being registered at the Land Registry as provided in Clause 6.4 hereof and for the avoidance of doubt agrees to be bound by the said obligations only in the event that it becomes a mortgagee in possession of the Property.

7.2 The Parties agree that the obligations contained in this Agreement shall not be enforceable against any mortgagee or chargee of the whole or any part of the Property unless it takes possession of the Property in which case it will be bound by the obligations as a person deriving title from the Owner.

8. **RIGHTS OF THIRD PARTIES**

8.1 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement

CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 5 THE HEXAGON, FITZROY PARK, LONDON N6 6HR

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Owner and the Mortgagee have executed this instrument as their Deed the day and year first before written

EXECUTED AS A DEED BY)
RACHEL MARY MUNRO-PEEBLES)
in the presence of:)

.....
Witness Signature

Witness Name:

Address:

Occupation:

EXECUTED AS A DEED BY)
ONESAVINGS BANK PLC)
by)
in the presence of:-)

.....

**CONTINUATION OF SECTION 106 AGREEMENT IN RELATION TO 5 THE HEXAGON, FITZROY
PARK, LONDON N6 6HR**

**THE COMMON SEAL OF THE MAYOR)
AND BURGESSES OF THE LONDON)
BOROUGH OF CAMDEN was hereunto)
Affixed by Order:-)**

.....
Authorised Signatory

THE FIRST SCHEDULE
Pro Forma
Construction Management Plan

The Council has produced a pro-forma Construction Management Plan that can be used to prepare and submit a Construction Management Plan to meet technical highway and environmental health requirements. This document should be prepared, submitted and receive approval from the Council well in advance of works starting.

The pro-forma Construction Management Plan can be found on the Council's website at:-

<https://beta.camden.gov.uk/web/guest/construction-management-plans>

Please use the Minimum Requirements (also available at the link above) as guidance for what is required in the CMP and then download the Construction Management Plan

It should be noted that any agreed Construction Management Plan does not prejudice further agreement that may be required for things such as road closures or hoarding licences



Appendix 8: Construction Management Plan Condition Wording from other London Boroughs

| London Borough | Standard Condition Wording for Construction Management Plan |
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| Islington | <p><i>“A Construction Environmental Management Plan assessing the environmental impacts (including (but not limited to) noise, air quality including dust, smoke and odour, vibration and TV reception) of the development shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing on site. The report shall assess impacts during the construction phase of the development on nearby residents and other occupiers together with means of mitigating any identified impacts. The development shall be carried out strictly in accordance with the details so approved and no change therefrom shall take place without the prior written consent of the Local Planning Authority.</i></p> <p><i>REASON: to protect neighbouring occupiers living conditions.”</i></p> |
| Barnet | <p><i>“a) No development or site works shall take place on site until a 'Demolition & Construction Method Statement' has been submitted to and approved in writing by, the Local Planning Authority. The Statement shall provide for: - Routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures; - Site preparation and construction stages of the development; - The parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; - The storage of plant and materials used in the construction of the development; - The erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise dust, noise and vibration pollution. b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.</i></p> <p><i>Reason: In the interests of highway safety, noise and good air quality in accordance with Policies DM04 and DM17 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and Policy 5.21 of the London Plan (2011).”</i></p> |
| Harrow | <p><i>“No development shall take place, including any works of demolition, until a demolition and construction logistics plan has first been submitted to the Local Planning Authority in writing to be agreed. The plan shall detail the arrangements for: a) the parking of vehicles of site operatives and visitors; b) loading and unloading of plant and materials; c) storage of plant and materials used in construction the development; d) the erection and maintenance of security hoardings including decorative displays and facilities for public viewing; e) wheel washing facilities; and f) a scheme for recycling/disposing of waste</i></p> |

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| | <p><i>resulting from demolition and construction works. g) measures for the control and reduction of dust h) measures for the control and reduction of noise and vibration. The demolition and construction of the development shall be carried out in accordance with the plan so agreed.</i></p> <p><i>REASON: To ensure that measures are put in place to manage and reduce noise and vibration impacts during demolition and construction and to safeguard the amenity of neighbouring occupiers, in accordance with Policies 7.14 and 7.15 of the London Plan (2016) and Policy DM1 of the Local Plan (2013) and to ensure that the transport network impact of demolition and construction work associated with the development is managed in accordance with Policy 6.3 of the London Plan (2016). To ensure that measures are agreed and in place to manage and reduce dust, noise and vibration during the demolition and construction phases of the development and manage transport impacts during the demolition and construction phases of the development. This condition is a PRE-COMMENCEMENT condition."</i></p> |
| Southwark | <p><i>"No development shall take place, including any works of demolition, until a written Construction Environmental Management Plan (CEMP) for the site has been devised. The CEMP shall oblige the applicant, developer and contractors to commit to current best practice with regard to site management and to use all best endeavours to minimise off site impacts. A copy of the CEMP shall be available on site at all times and shall include the following information:</i></p> <ol style="list-style-type: none"> <i>1) A detailed specification of demolition and construction works at each phase of development including consideration of all environmental impacts and the identified remedial measures;</i> <i>2) Compliance with the GLA guidance on Non-Road Mobile Machinery;</i> <i>3) Engineering measures to eliminate or mitigate identified environmental impacts e.g. acoustic screening, sound insulation, dust control, emission reduction, location of specific activities on site, etc., together with air and noise monitoring to demonstrate that potential impacts are being successfully controlled;</i> <i>4) Arrangements for direct responsive contact for nearby occupiers with the site management during demolition and/or construction (signage on hoardings, newsletters, resident's liaison meetings);</i> <i>5) A commitment to adopt and implement of the ICE Demolition Protocol and Considerate Contractor Scheme;</i> <i>6) Details of the routing of in-bound and outbound site traffic, one way site traffic, lay off areas, etc.and</i> <i>7) Details of accurate waste identification, separation, storage, registered waste carriers for transportation and disposal to appropriate destinations.</i> |

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| | <p><i>All demolition and construction work shall then be undertaken in strict accordance with the CEMP and relevant codes of practice, unless otherwise agreed in writing by the Local Planning Authority.</i></p> <p><i>Reason: To ensure that occupiers of neighbouring premises and the wider environment do not suffer a loss of amenity by reason of unnecessary pollution or nuisance, in accordance with strategic policy 13 'High environmental standards' of the Core Strategy (2011) saved policy 3.2 'Protection of amenity' of the Southwark Plan (2007) and the National Planning Policy Framework 2012."</i></p> |
| Hackney | <p><i>"No development shall take place until a detailed Demolition and Construction Management Plan covering the matters set out below has been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the details and measures approved as part of the demolition and construction management plan, which shall be maintained throughout the entire construction period. a) Construction method statement covering all phases of the development to include details of noise control measures and measures to preserve air quality (including a risk assessment of the demolition and construction phase); b) Construction traffic management plan to include the following: the construction programme/ timescales; the number/ frequency and size of construction vehicles; construction traffic route; location of deliveries; pedestrian and vehicular access arrangements; any temporary road/ footway closures during the construction period; c) A demolition and construction waste management plan setting out how resources will be managed and waste controlled at all stages during the construction project;</i></p> <p><i>REASON: To avoid hazard and obstruction being caused to users of the public highway and in the interest of public safety and amenity."</i></p> |
| Lambeth | <p><i>"Prior to commencement, a construction management plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority.</i></p> <p><i>The CMP shall include the following information: i. The notification of neighbours with regard to specific works; ii. Advance notification of any access way, pavement, or road closures; iii. Details regarding parking, deliveries and storage including details of freight consolidation, routing, loading, off-loading, parking and turning of delivery and construction vehicles and the accommodation of all site operatives', visitors' and construction vehicles during the construction period; iv. Details regarding dust mitigation and measures to prevent the deposit of mud and debris on the public highway. v. The proposed hours and days of work; vi. Details of any proposed external illumination and/or floodlighting during construction; vii. Details of measures taken to</i></p> |

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| | <p><i>prevent noise disturbance to surrounding residents; viii. Details of any further measures taken to limit and mitigate the impact of construction upon the operation of the highway and the amenity of the area; The development shall be carried out in full accordance with the approved details.</i></p> <p><i>Reason: To avoid unnecessary hazard and obstruction to the public highway and impact on air quality and amenity (Policies EN4, EN7, T8 and Q2 of the Lambeth Local Plan 2015)."</i></p> |
| Tower Hamlets | <p><i>"Prior to commencement of the development a construction logistics and environmental management plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide details of: a. Details of the site manager, including contact details (phone, facsimile, email, postal address) and the location of a large notice board on the site that clearly identifies these details of the site manager and a "Considerate Constructors" contact telephone number; b. The parking of vehicles of site operatives and visitors; c. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; d. wheel washing facilities; e. A scheme for recycling/disposing of waste resulting from demolition and construction works. f. Any means, such as a restriction on the size of construction vehicles and machinery accessing the site, required to ensure that no damage occurs to adjacent streets throughout the construction period; g. Any means of protection of services such as pipes and water mains within the road; h. Measures to be adopted to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage, loading and unloading of building plants and materials and similar demolition/construction activities; i. Measures to be adopted to ensure that pedestrian access past the site on the public footpaths is safe and not obstructed during construction works; j. Location of workers conveniences (e.g. portaloos); k. Ingress and egress to and from the site for vehicles during site works period; l. Proposed numbers and timing of truck movements throughout the day and the proposed routes; m. A commitment to use supplier/ contractors who are registered with TfL Fleet Operator Recognition Scheme (FORS), with a minimum of Bronze accreditation n. Procedures for controlling sediment runoff, dust and the removal of soil, debris and demolition and construction materials from public roads or places; o. Building, engineering and other operations to be carried out only between the hours of 0800 and 1800 Monday to Friday, 0800 to 1300 Saturdays and shall not be carried out at any time on Sundays or Public Holidays p. Location of vehicle and construction machinery accesses during the period of site works; q. Details of the mitigation measures for dust and emissions as well as methodology for monitoring during construction; r. Details of the effects of construction</i></p> |

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| | <p><i>traffic on air pollution; s. Details of maintaining vehicle access to neighbouring development throughout both the demolition and construction phases; t. All non-road mobile machinery, used in connection with the construction of the development hereby approved, (NRMM) must meet the minimum emission requirements set out in the Mayor of London’s Control of Dust and Emissions during Construction and Demolition, Supplementary Planning Guidance 2014 The construction of the proposed development shall then be carried out in accordance with the details set out within the approved Construction Logistics and Environmental Management Plan.</i></p> <p><i>Reason: In the interests of the local residential amenity and in accordance with policies SP09 of the Tower Hamlets Core Strategy (2010) and DM22 of the Tower Hamlets Managing Development Document (2013).”</i></p> |
| Westminster | <p><i>“No construction works shall take place, until a construction management plan for the construction works has been submitted to and approved in writing by the City Council as local planning authority. The plan must include the following details (where appropriate): (i) a construction programme including a 24 hour emergency contact number; 2 (ii) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction); (iii) locations for loading/unloading and storage of plant and materials used in constructing the development; (iv) erection and maintenance of security hoardings (including decorative displays and facilities for public viewing, where appropriate); (v) wheel washing facilities and measures to control the emission of dust and dirt during construction; and (vi) a scheme for recycling/disposing of waste resulting from demolition and construction works. You must not start the construction works until we have approved what you have sent us. You must then carry out the construction works in accordance with the approved details.”</i></p> |



Appendix 9: Relevant Appeal Decisions in Camden

Appeal Decision

Site visit made on 20 June 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 July 2017

Appeal Ref: APP/X5210/W/17/3172668

205 - 207 Queen's Crescent, London NW5 4DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Stavros Fatalios, Tortuga Investments Limited, against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/6808/P, dated 9 December 2016, was refused by notice dated 6 March 2017.
 - The development proposed is a mansard roof addition.
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Decision

1. The appeal is allowed and planning permission is granted for a mansard roof addition at 205 - 207 Queen's Crescent, London NW5 4DP in accordance with the terms of the application Ref 2016/6808/P, dated 9 December 2016 and subject to the conditions below.

Procedural Matter

2. Since the Council issued its decision, the appellant has submitted amended drawings omitting the proposed cycle shelters from the scheme. The Council has confirmed that the proposed amendment overcomes its opposition to the scheme on grounds of the scale and appearance of the shelters. I consider that the amended drawings, in this case, can be accepted without resulting in prejudice to any of the parties. Accordingly the Council's refusal reason 5 falls away and there is no need for me to address this matter in my decision.

Main Issues

3. The main issues are the effect of the development on i) the character and appearance of the existing building and surrounding area; ii) the living conditions of neighbouring residents with particular regard to outlook and iii) whether a planning obligation is necessary to secure a car-free development and a construction management plan.

Reasons

Character and Appearance

4. The appeal site is part of a mixed use area which includes residential and retail uses along Queen's Crescent. It is, however, within a peripheral location, part of a short section of that street situated between its junction with Grafton Road and Gillies Street. The appeal building is detached, comprising an
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amalgamated pair of units with a single front entrance door. On one side is the rear elevation of a three storey residential terrace fronting Grafton Road, which the appeal building is subordinate in height to. On the other side are the relatively open grounds of a primary school. Opposite the site is a shorter two storey building which, constructed in brown brick, differs from the appeal building in both scale and appearance.

5. Given the surrounding context of varied or undeveloped frontages, the appeal building has a 'stand alone' appearance within this short section of Queen's Crescent. The Council has set out that the shorter height of the buildings on Queen's Crescent gives this part of the street the characteristic of appearing secondary and subordinate to the terraces on Grafton Road. However because of the short and varied nature of this part of the street, I do not concur with the Council that such a hierarchy of built form is a strong and distinctive characteristic.
6. The proposed mansard roof would be of limited height and would incorporate sloped front and rear elevations. It would therefore appear as a proportionate rather than dominant extension. In addition the scale and alignment of windows in the front elevation of the extension would give the already amalgamated building a more cohesive and integrated appearance.
7. Taking account of the above context, the proposal would not interrupt any strong sense of uniformity in the scale and appearance of buildings along the street scene. Furthermore, it was apparent from my visit that several buildings along Queen's Crescent further to the west incorporate mansard roofs, with an extension of this type currently under construction at the nearby Mamelon Tower building. The proposal would not therefore appear as an unfamiliar feature within the wider locality.
8. Drawing the above considerations together I conclude that the proposal would not result in harm to the character and appearance of the existing building and surrounding area. It would not therefore conflict with Policy CS14 of the London Borough of Camden Core Strategy 2010 (CS); Policy DP24 of the London Borough of Camden Development Policies 2010 (DP); emerging Policy D1 of the Camden Local Plan Submission Draft (SD) and the Council's Design Planning Guidance 2015 insofar as they seek to promote high quality design which has regard to the character of its surroundings.

Living Conditions

9. There is limited separation between the rear windows in the adjacent Grafton Road terrace and the side elevation of the appeal building. However, outlook from these rear windows is already substantially onto the blank side elevation of the appeal building. Therefore, in this context, and taking into account the limited height of the proposed mansard roof, it seems to me that there would not be any significant impact on outlook for residents, resulting from an increased sense of enclosure, when compared to the impact that is already experienced.
10. I therefore conclude that the proposal would not result in harm to the living conditions of neighbouring residents with particular regard to outlook. Accordingly I find no conflict with Policy CS5 of the CS; Policy DP26 of the DP and Policy A1 of the SD insofar as they seek to protect the living conditions of residents.

Planning Obligation

11. Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for the development where it meets three tests. The tests, which are restated in paragraph 204 of the National Planning Policy Framework (the Framework) are as follows:
 - Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
12. The area is part of a controlled parking zone where residents are required to hold a parking permit due to high levels of demand. Although the proposal would result in the provision of three additional bedrooms, not all new residents may be car owners. Either way, any additional demand for parking is likely to be very small, considering the limited scale of development. Any harm arising from this, in terms of additional parking stress and congestion would therefore be extremely limited.
13. The proposal would extend the existing House in Multiple Occupation and it is undisputed that existing residents there are not excluded from entitlement to parking permits. A planning obligation aimed at securing a car-free development could therefore only reasonably be applied to future occupiers of the extended part of the building. However, from the information before me, such an obligation would be very difficult or impossible to enforce as it would only apply to a small proportion of residents occupying the same address. If, alternatively, the obligation were to apply to all occupiers of the property, it seems to me that this would be unreasonable as it would go beyond addressing the impact of the development itself.
14. Drawing the above considerations together, I am not persuaded that a planning obligation to secure car-free development would meet the relevant Regulation 122 and Framework tests of being necessary or fairly and reasonably related in scale and kind to the development. I conclude that a planning obligation to secure car-free development is not required and I therefore find no conflict with Policy CS19 of the CS in this regard, which is concerned with the appropriate use of planning obligations to mitigate the impact of development.
15. Whilst the proposal not to provide a car-free development would be at odds with Policy CS11 of the CS; Policies DP18 and DP19 of the DP and Policies T1 and T2 of the SD which seek to promote sustainable travel and car-free development and resist proposals that would add to on-street parking demand, for the aforementioned reasons there is not a compelling justification to apply these policies in order to manage the local road network in this specific case.
16. The Council sought a planning obligation from the appellant to secure a construction management plan in order to mitigate the impact of the development on traffic disruption, highway and pedestrian safety and residential amenity. I have had regard to the Council's guidance on when it will seek construction management plans as set out in Camden Planning Guidance 6 – Amenity. I am mindful that the proposal in this case would comprise of a relatively small scale scheme, would not be expected to generate significant amounts of construction related traffic and involves a site which

does not suffer from particularly poor accessibility. Furthermore I have no reason to expect that the project would be unduly lengthy.

17. The site would, however, be immediately adjacent to a primary school and residential accommodation. Accordingly, a planning condition to control construction working hours, in the interests of residential amenity, and dust emissions from the site in order to avoid undue disturbance to surrounding land uses would be appropriate in this case. However, taking into consideration the scale and nature of development proposed, I am not persuaded that a planning obligation to secure further construction and transport management measures would meet the relevant Regulation 122 and Framework tests of being necessary or fairly and reasonably related in scale and kind to the development.
18. I therefore conclude that a planning obligation to secure a construction management plan is not required and find no conflict with Policies CS5, CS11 and CS19 of the CS; Policies DP16, DP20, DP21, DP26, DP28 and DP32 of the DP and Policies A1 and T4 of the SD insofar as they seek development to have regard to environmental protection, highway and pedestrian safety and residential amenity.

Conditions

19. The Council has suggested various conditions. Conditions specifying the plans and requiring details of the external materials are needed to safeguard the character and appearance of the area. A condition requiring a construction management plan to control construction working hours and dust emissions from the site is necessary to protect the living conditions of nearby residents and people present within the nearby school.

Conclusion

20. For the above reasons, and having considered all other points raised, I conclude that the appeal should succeed and planning permission be granted.

Roy Merrett

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: EH01OS; EH01BP; EH03; EH03a Rev A; EH04; EH05; EH06; EH07; EH08; EH09; EH10; EH11; EH12 Rev A; EH13; EH14 Rev A.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning

authority. Development shall be carried out in accordance with the approved details.

- 4) No development shall take place until a construction management plan has been submitted to and approved in writing by the local planning authority. The plan shall provide for the control of construction working hours and the emission of dust and dirt. The approved construction management plan shall be adhered to throughout the construction period for the development.

Appeal Decision

Site visit made on 29 September 2014

by Claire Victory BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 May 2015

Appeal Ref: APP/X5210/A/14/2221432
79 Fortress Road, NW5 1AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class O of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Live/Work Space LLP against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/2154/P, dated 21 March 2014, was refused by notice dated 28 May 2014.
 - The development proposed is "application for confirmation that prior approval is not required for change of use from B1 (a) offices to C3 dwellings".
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the application for confirmation that prior approval is not required for change of use from B1 (a) offices to C3 dwellings at 79 Fortress Road, NW5 1AG, in accordance with the details submitted pursuant to Schedule 2, Part 3 Class O of the GPDO.

Procedural Matters

2. Date of application for prior approval was dated 21 March 2014, and was received by Council on 24 March 2014, while the Council's decision with regard to the application for prior approval was published on 28 May 2014. Even taking the later date, I am aware that the 56 day period for the determination by the Council as to the need for prior approval had expired prior to the Council issuing its Decision Notice. Nonetheless, an appeal has been submitted and I shall therefore deal with the appeal before me.
3. The appeal was made under the provisions of Class J of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (GPDO), which after 15 April 2015 has been contained within the provisions of Class O. These require the local planning authority to assess the proposed development solely on the basis of its impact on highway safety, contaminated land and flood risk, taking into account any representations received. For the purposes of clarity where Class J is referred to in this Decision it should be taken to mean Class O.
4. The Council has confirmed that prior approval of contamination and flood risks are not necessary. Reasons 2, 3, 4 and 5 of the Decision Notice relate to highway safety impacts, but reason 1 relates to the living conditions of existing

residents of adjacent properties on Fortess Road, and the Council has referred to paragraph 17 of the National Planning Policy Framework and Article 8 of the Human Rights Act.

Main Issues

5. The main issues in the appeal are therefore:
- Effect of the development on the living conditions of existing residents of adjacent properties on Fortess Road; and
 - The impact of the development on highway safety.

Reasons

Living conditions

6. No 79 Fortess Road is a four storey building in commercial use located to the rear of Fortess Road, and accessed via a narrow road between Nos 75 and 77 Fortess Road. The rear windows of residential units in the upper floors of buildings fronting Fortess Road are approximately 4m from the eastern elevation of the appeal property. No 77, to the west, is separated by approximately 4m from the western elevation of the appeal building, and appeared from the site visit to be in commercial or mixed commercial and residential use.
7. The proposed internal arrangements are such that there would be four flats on each of the basement, ground, first and second floors. The existing window openings would remain, providing a dual aspect to each flat. However, the proximity of surrounding buildings is such that there is a reasonable likelihood there would be some overlooking of habitable windows in the proposed units, with a consequent impact on privacy for the occupiers of those units. The Council contend that this would interfere with Article 8 of the European Convention on Human Rights (ECHR), which provides that:
- 8(1) everyone has the right to respect for his private and family life, his home and his correspondence, and that
- 8(2) there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
8. Further to the above, an appeal by Utopia Village Sales Ltd¹, against the decision of the Council of the London Borough of Camden to refuse prior approval for the change of use from offices (Class B1(a)) to residential (Class **C3**) **was recovered for the Secretary of State's determination, in pursuance of** section 79 of, and paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990 because it involved proposals which raise important or novel issues of development control and/or legal difficulties.
9. **The Inspector considered as a main issue "whether, as a matter of law, it is open to the Secretary of State to refuse an application for prior approval made**

¹ APP/X5210/A/14/2212605

- under condition J.2 of Class J, Part 3 of Schedule 2 of the GPDO on the ground that the permitted development would result in overlooking and loss of privacy to the occupiers of existing residential properties, contrary to Article 8 of the ECHR.
10. The Secretary of State agreed with the Inspector that the provisions of paragraph N (now paragraph W), which state that the local planning authority must have regard to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a planning application; make it clear that the Framework cannot be taken into account so far as it addresses matters outside the subject matter of the prior approval.
 11. Moreover, whilst the Secretary of State found that it would be open to him to refuse an application for prior approval made under condition J.2 of Class J, on the ground that the permitted development would result in overlooking and loss of privacy to the occupiers of existing residential properties, if he finds that it may be contrary to Article 8 of the ECHR; in that particular case, he found that there is a possibility that a similar impact might occur given the potential for the offices to be occupied during evenings and weekends, and that existing residents would have been aware that their properties were overlooked by offices at the site. The current appeal site is in the same local authority area and has a similar urban context of a relatively constrained site.
 12. Furthermore, he found that even if there was some interference with Article 8(1), it would be justified by the planning benefits of the development, including the boost to the supply of housing at a time of national need. Thus the underlying purpose of Class J to streamline the process by which planning permission of this kind can be obtained would be defeated if a detailed consideration of residential impacts were undertaken in every case. Consequently, the Secretary of State confirmed that Class J is compatible with Article 8, so that the grant of prior approval in a particular case will be justified under Article 8(2) by the general benefits of the legislation, even in a case where there is a sufficiently substantial impact to raise an issue under Article 8(1).
 13. Taking all of the above into account, I conclude that as the matters raised by the Council in relation to living conditions go beyond the scope of the issues specified in paragraph O.2, they are not relevant to the determination of this appeal.

Highway Safety

14. The proposal would involve internal reconfiguration including the installation of internal walls, and kitchens and bathrooms for individual units. Section 8.8 of **the Council's Camden Planning Guidance 6 Supplementary Planning Guidance (CPG6)** states that construction management plans are required for developments that are on constrained sites and for developments that create 10 or more dwellings.
15. Due to the narrow access to the appeal property which is shared by vehicles, cyclists and pedestrians, there is potential for conflict with construction vehicles. A construction management plan would therefore be necessary to manage vehicle movements during the construction process. Although the Council consider a legal agreement is required to secure the management plan,

- I consider the matter could be dealt with satisfactorily by an appropriate condition requiring the details to be submitted to and agreed by the local planning authority.
16. The Council consider a legal agreement is necessary to secure the retention of the 14 proposed cycle parking spaces in the basement, but the spaces are clearly shown on drawing no. 1-500-115, and an appropriate condition requiring the retention of these spaces would **overcome the Council's concern** in this respect.
 17. The Council also contends that a planning obligation is required towards highways improvements in the vicinity of the site, including the reinstatement of any damage to artificial stone paving slabs from construction traffic, the relocation of existing street furniture such as redundant sign posts and any other works required as a result of the development. The estimated figure for such works is £9,200. The appellant has provided a signed and executed unilateral undertaking in regard to this matter for the aforementioned sum but contests the need for the contribution.
 18. The Council have not provided any detailed information to support the estimated figure, but I note that the contribution is also intended to address existing maintenance issues, as well as improving the public realm directly adjacent to the site. Addressing existing deficits in highways infrastructure would not be directly related to the development. In addition, the replacement of any broken paving slabs arising from the construction works could be managed by the Highway Authority outside the planning process. As such I consider that the proposed highways contribution would not be necessary, fairly and reasonably related to the development, or required for the development to be acceptable, and thus would not meet the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010, or paragraph 204 of the Framework.
 19. With regard to car parking, Policy CS11 of the Camden Core Strategy (CS) (2010) seeks to minimise provision for private parking in new developments, **through, amongst other things, car free developments in the borough's most accessible locations.** The appeal property has excellent public transport accessibility with frequent bus services and Underground and Overground stations within walking distance nearby. As such, alternatives to the private car would be available to future occupiers.
 20. The Council contends that if all residents of the proposed units were to apply for parking permits, it could add up to 32 vehicles to the road network. This is not disputed by the appellant. Fortess Road is part of the East Kentish Town Controlled Parking Zone (CPZ) which operates on Monday to Friday 0830 to 1800 with shared business, residents and pay and display bays on Fortess Road and **nearby Lady Somerset Road. The Council's records show the CPZ** has a ratio of 0.84 parking permits to parking spaces. The proposal would thus have a severe impact on parking stress in the local area, if it were not a car free development. The appellant has submitted a signed and executed UU to secure car free development. The Council has confirmed it would overcome the concerns reflected in the second reason for refusal. I am therefore satisfied that the development would not have a adverse impact on highway safety, and would accord with CS Policy CS11 and Regulation 122 of the CIL Regulations and with paragraph 204 of the Framework.

21. For all the above reasons I conclude that the proposed development would not result in an adverse impact on transport and highways in the locality, and would accord with Policies DP18 (Car Free Housing) and DP19 (Managing the impact of parking) of the Camden Development Policies DPD (2010), and CS Policy CS11. It would also accord with CPG6 (Amenity) and CPG7 (Transport), and would not be contrary to the Framework in respect of promoting sustainable transport.

Other Matters

22. Concerns have been raised by businesses occupying the building that approximately 60 staff will have to relocate as a result of the development. However, this matter does not fall within the conditions specified in Class O of the GPDO, and as such cannot be taken into consideration in determining this appeal.

Conclusion

23. For the above reasons I have found that the proposed scheme would be acceptable in terms of its impact on transport and highways, and that the **Council's concerns** in this regard could be dealt with adequately either through a legal agreement or through the imposition of appropriate conditions.

24. **I have also found that the Council's concerns** regarding the impact of the proposal on the living conditions of existing occupiers of adjacent residential properties would be outside the scope of matters to be considered under Class O of the GPDO.

25. I conclude that the appeal should be allowed and approval granted. In granting approval, the appellant should note that the GPDO requires at paragraph O.1(c) that the development is not permitted if the use of the building for Class C3 of the schedule to the Use Classes Order was begun after 30 May 2016. In addition, I have imposed conditions requiring a construction management plan, and the provision and retention of secure bicycle parking spaces within the building, in the interests of highway safety.

Claire Victory

INSPECTOR

Conditions

- 1) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 2) The residential units hereby approved shall not be occupied until the cycle parking facilities for 14 cycles as shown on drawing no. 1-500-115 have been installed in their entirety. The cycle parking facilities shall be permanently retained thereafter.



Appeal Decision

Site visit made on 10 March 2015

by Claire Victory BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 June 2015

Appeal Ref: APP/X5210/A/14/2229005
152 Royal College Street, NW1 0TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by P Ross (Tri Capital (Essex) Limited) against the Council of the London Borough of Camden.
 - The application Ref 2014/5486/P, is dated 11 August 2014.
 - The development proposed is the erection of a new building comprising 5 apartments and a retail unit.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. **The appeal was made against the Council's failure to determine the planning application. The appellant's grounds of appeal stated that they wished to address the 'reasons for refusal' in an amendment to the appeal once these were known.** Further to the above, the appellant provided further drawings, **marked 'for pre-application discussion'**, that were confirmed at the site visit as not part of the original planning application, and that were based on discussions with the Council that took place after the appeal was submitted. The appellant has requested that the revised drawings are taken into account in determining the appeal.
3. **Notwithstanding the appellant's contention that the Council would not have re-**consulted on these drawings, there is no written confirmation from the Council to that effect. In any case, whilst the proposed changes are relatively minor, the Council has not addressed them in its submission, which relates only to the plans originally submitted, and third parties have not had an opportunity to comment. The appeal process should not be a means to progress alternatives to the originally submitted scheme, or a chance to amend a scheme so as to overcome the reasons for refusal. As such, I consider that the revised drawings would need to be submitted to the Council as a new scheme in the first instance, and I have not taken them into account in making my decision. This also applies to a **further 'option' including a mansard roof to the top floor** that was also provided after the appeal was submitted.
4. The Council indicated in its submission that had it determined the application it would have refused planning permission for a number of reasons, relating to design, housing mix, living conditions, highway safety and provision for

infrastructure. I have treated this as the decision which the Council would have made, had it been empowered to do so, and framed the main issues accordingly.

5. Since the appeal was submitted the Council has adopted a Community Infrastructure Levy. I shall refer to this in more detail below.
6. **There was an error in the numbering of the Council's** suggested conditions. For the avoidance of doubt I have considered all 8 conditions suggested by the Council. There are also two drawings submitted with the application marked P103; the proposed third floor plan and proposed roof plan. I have taken both into account in reaching my decision. Furthermore, the flat numbers on section drawing P200 do not tally with those shown on the plan drawings. For clarity I have referred throughout to the flats as numbered on the plan drawings.

Main Issues

7. The main issues in the appeal are:
 - Whether the proposal would preserve or enhance the character or appearance of the Camden Broadway Conservation Area;
 - Whether the proposed housing mix is appropriate;
 - Whether the proposal would provide satisfactory living conditions for potential future occupants;
 - The effect of the development on highway safety;
 - Whether the proposal would make an adequate contribution to infrastructure.

Reasons

Effect on Camden Broadway Conservation Area

8. The appeal site is located at the junction of Royal College Street and Baynes Street. **Regent's** Canal lies to the south of Baynes Street and passes below Royal College Street. The northern section of Royal College Street, including the appeal site, falls within the Camden Broadway Conservation Area. Modern flatted development to the rear of the appeal site and on the far side of the canal on the west side of Royal College Street, lie outside of the Camden Broadway Conservation Area.
9. With regard to the Camden Broadway Conservation Area Appraisal and Management Strategy (2009) and my observations at the site visit, I consider that the heritage significance of this Conservation Area lies in its dense urban form developed in the early 19th century, including main roads and railway corridors, interspersed with quieter residential streets. This section of Royal College Street is characterised by three to four storey terraced properties with ground floor commercial uses. The two adjacent properties, Nos 154 and 156 are identified in the appraisal as buildings which make a positive contribution to the character and appearance of the Conservation Area, and which have good quality traditional shopfronts. The appeal site itself is identified as poor quality vacant space which could contribute more positively to the character and appearance of the Conservation Area through sensitive enhancement or redevelopment.

10. The appeal proposal would involve the erection of a building attached to the remainder of the terrace, forming 5 flats and a retail unit. It would be of broadly similar proportions to the adjacent buildings, but with an additional storey with a flat roof that would be set back from the front building line. The plans and elevations show this space, whilst very narrow, could be accessed by residents for sitting or standing outside.
11. I have had regard to the recessed top floor within the redevelopment of Nos 158-165, within the same terrace, but this is separated from the appeal site by Nos 154 and 156, which have a strong, unaltered parapet roofline. The proposed additional floor would dominate the appearance of these adjacent properties, and would thus cause significant harm to the character and appearance of the Conservation Area. Moreover, the window proportions to the front elevation would not reflect those of the rest of the subject terrace. The existence of examples of modern developments nearby but outside the Conservation Area would not negate or outweigh this harm.
12. Given the size and scale of the proposal, within the context of the Conservation Area as a whole, I consider that the development would cause less than substantial harm to the significance of the Conservation Area. I have therefore weighed any potential public benefits associated with the proposal against the harm caused by the development, in accordance with paragraph 134 of the National Planning Policy Framework (the Framework).
13. I consider that the redevelopment of the vacant site could be a public benefit, but I have found that the redevelopment scheme would cause material harm to the character and appearance of the Conservation Area. Consequently the proposed benefits would not be sufficient to outweigh this harm, and the development would be contrary to national policy.

Housing Mix

14. Five market housing units are proposed on the site. Policy DP5 of the Camden Development Policies 2010-2015 (CDP) (2010) requires all residential development to contribute to meeting the Council's objectives for the provision of a mix of dwelling sizes. The Dwelling Size Priorities Table 1 indicates that 1 bed and studio flats are considered a lower priority for the Borough, and 2 bedroom units are considered a very high priority for market housing, with the aim of least 40% of units to be 2 bedroomed. Whilst the supporting text to Policy DP5 states the Council will be flexible in applying the policy, taking into account particular site constraints, I note that all units would be 1 bedroom, and would thus represent a significant shortfall against the policy requirement of 40%.
15. I conclude that the development would fail to provide an appropriate housing mix, and would thus conflict with the requirements of CDP Policy DP5, and the Framework, which states that local planning authorities should plan for a mix of housing and identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand.

Living conditions

16. The Council are concerned that units 2, 3, and 5 fail to meet the minimum internal floorspace standards set out in Camden Planning Guidance 2 Housing (CPG2) (2013) and the Mayor of London's Housing SPG (2011). The appellant

contends that the proposed flats meet the internal space standards in the **Mayor's Housing SPG, but the flats are all double bedrooms and** would therefore accommodate 2 persons. CPG2 requires 2 person flats to be 48sqm **in area, and the standard for a 1 bedroom, 2 person flat in the Mayor's Housing** SPG is 50sqm. Flats 3 and 5 would fall short of this standard by over 15%, and flat 2 would fall short by almost 10%. Consequently these units would fail to provide an adequate standard of living accommodation, to the detriment of future occupiers.

17. Turning to the outlook from the proposed flats, the living/dining/kitchen area, bedroom and bathroom of Flat 5, and the bedroom and bathroom of Flat 4 would be at basement level. Whilst no daylight and sunlight assessment has been submitted, I consider that Flat 5 would receive only limited daylight from the narrow lightwell formed by the staircase entrance, and the basement level of Flat 4 would only receive indirect daylight from the living space at ground floor level, which is proposed to include a partly glazed floor. Accordingly, I do not consider the amount of daylight penetrating the basement level rooms would be sufficient to achieve a satisfactory standard of accommodation for future residents, and this would add to the harm I have already identified in regard to this main issue.
18. Moreover, the refuse storage for the flats is located at basement level, and there are no elevators within the development, meaning that residents would need to carry refuse down several flights of stairs; and no refuse storage is shown for the commercial unit. This would be contrary to CDP Policy DP26, and would also add to the harm already identified.
19. The Code for Sustainable Homes is no longer mandatory and thus would not constitute a reason for dismissing the appeal. Furthermore, I consider that an appropriate condition could be imposed to require the appellant to demonstrate how Lifetime Homes requirements would be met, as required by Policy DP6, if the proposal was acceptable in all other respects.
20. Nonetheless, for all the above reasons I conclude that the development would fail to provide satisfactory living conditions for potential future occupants. It would be contrary to Core Strategy (CS) (2011) Policy CS6 and CDP Policy DP26. These require new development to provide an acceptable standard of living accommodation for future residents. These policies are consistent with the Framework, insofar as it requires a good standard of living for all new and existing occupants of land and buildings.

Highway safety

21. The proposal would involve new or altered vehicular and pedestrian accesses to the appeal site, and the construction of a basement. As such, a Construction Management Plan would normally be required, in accordance with CPG 6. The Council considers that a Construction Management Plan is required to be provided through a legal agreement and CPG6 states that this would be required where the construction impact would be particularly significant, but given the size and scale of the development I consider it could be dealt with satisfactorily by use of a condition, if the development was acceptable in all other respects. Likewise the provision of suitable cycle parking within the building could also be dealt with by the imposition of a condition requiring the cycle parking specifications to be submitted and approved by the Council.

22. Turning to car parking provision, CS Policy CS 11 seeks to minimise provision for private car parking in new developments, amongst other things, by securing **car free developments in the Borough's most accessible** locations. CDP Policy **DP18 requires new development to be 'car capped' in areas of on-street** car parking stress, including the use of a legal agreement to ensure that future occupants are aware they are not entitled to on-street parking permits.
23. The appeal site has a Public Transport Accessibility Level (PTAL) of 6a, with excellent links to Underground and Overground stations and the bus network. I also saw that Royal College Street has a designated cycle route. The Council has stated that the site lies within the Somers Town Controlled Parking Zone (CPZ), with demand for spaces within the CPZ in excess of 104% during the evening and overnight. The proposal could generate a demand for up to 10 car parking spaces for the residential use and would thus have an adverse impact on parking stress in the locality.
24. The appeal form states that the appellant does not intend to submit a planning **obligation, although the appellant's final comments indicate that he accepts the** need for such an agreement on this matter. Nonetheless, no planning obligation has been provided, and thus I conclude that the development would have a materially adverse effect on highway safety in the vicinity of the site, contrary to CS Policy CS11 and CDP Policy DP18.

Provision for infrastructure

25. The Council requires financial contributions towards public open space, works to the highway and public realm, and for pedestrian, cycling and environmental improvements, in accordance with Policies CS15 and DP31, and CPG8. However, since the application was submitted, the Council has adopted a Community Infrastructure Levy Charging Schedule. In accordance with Regulation 122 (2) of the Community Infrastructure Levy (CIL) Regulations 2010, once a charging schedule has been published, a planning obligation which seeks to provide funding or the provision of infrastructure which is intended to be funded, wholly or partly, by CIL, may not constitute a reason for granting planning permission, and CIL Regulation 122 (3) restricts the use of pooled contributions towards items that may be funded via the levy. This could include contributions to off-site public open space and transport infrastructure.
26. On the balance of the available evidence it has not been adequately demonstrated that these planning obligations would meet the tests in CIL Regulation 122 (2). Nonetheless, as I am dismissing the appeal on the first four main issues, I have not pursued this matter with the parties.

Other Matters

27. **The appellant's addendum to proof of evidence** refers to various minutes of meetings and emails produced after a meeting with the Council on 27 November 2014, after the appeal was submitted. However, officer level **comments are made without prejudice to a Council's formal decision on a** planning application, and should be regarded as such. Accordingly, I have given this matter little weight.
28. I also acknowledge the concerns of the appellant regarding the manner in which the Council dealt with the planning application, but these concerns are

outside the scope of this appeal and should be pursued directly with the Council in the first instance.

29. With regard to the construction of the basement, CDP Policy DP27 requires **consideration of a scheme's impact on local drainage and flooding and structural stability**. Further detail is provided in the Basements and Lightwells SPD (2013), which states at page 10 that a Basement Impact Assessment (BIA) must be carried out by a person qualified in respect of the matters being considered, including surface water flow and flooding, groundwater flow and land stability. The submitted BIA was undertaken by an Incorporated Engineer (IEng) and Associate Member of the Institute of Structural Engineers (AMIStructE). However, the author of the report does not appear to hold any of the qualifications listed in the table on page 10 of the SPD. On the balance of the available evidence therefore, the BIA would not appear to comply with the requirements of the SPD. Again, as I am dismissing the appeal on other matters, I have not pursued this with the parties.
30. Finally, there were concerns regarding the impact of the development on trees in the vicinity of the site. A Tree Protection Plan was submitted with the application which identifies the adjacent street tree on Royal College Street, and indicates that protective fencing will be provided and retained in place during construction. Although the information provided is brief, I consider a condition could be imposed to require further details to be provided and approved by the Council, to ensure adequate protection for the tree and thus safeguard the character and appearance of the area. I acknowledge that there is a group of trees on the other side of Baynes Street adjacent to the Regents Canal, but consider that there is sufficient separation between these and the appeal site to avoid any undue harm, and note that the Council did not raise any concerns in this regard.

Conclusion

31. For the above reasons, and with due regard to all other matters raised, I conclude the appeal should be dismissed.

Claire Victory

INSPECTOR