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Date: 31/03/2016  
PINS Refs: APP/X5210/W/15/3139176  
Our Ref: 2015/4535/P  
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Amanda Baker,  
The Planning Inspectorate  
Room 3/10b  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Dear Ms Baker,

**Appeal Site:**  
91 Kingsgate, London, NW6 4JY

**Appeal by:**  
Mr Roger La Borde

**Proposal:**  
Change of use from B1 (office) to C3 (dwellinghouse) to create 1 no. self-contained 1-bed flat at ground floor (prior approval)

I refer to the above appeal against the Council's refusal to grant prior approval for a change of use under The Town and Country Planning (General Permitted Development) (England) Order 2015 ("the 2015 Order"), Schedule 2, Part 3, Class O.

The Council's case is largely set out in the officer's delegated report. The report details the site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent to the Planning Inspectorate (PINS) with the questionnaire.

In addition to the information sent with the questionnaire, the Council invites the Inspector to consider the following information and comments in determining this appeal.

## **1.0 Summary**

1.1 The application was refused for the following two reasons:

*1. Insufficient information has been submitted to demonstrate that the ground floor of the existing building was in use as an office within Class B1(a) of the schedule to the Use Classes Order on or prior to 29th May 2013. As such, the proposal does not accord with the criteria of Paragraph O.2 (b) of the Town and Country Planning (General Permitted Development Order), sub-paragraph 3, Part 3, Class O for development under Part O to be permitted.*

*2. The proposed development, in the absence of a Section 106 legal agreement to secure the residential unit as car-free, would contribute unacceptably to parking stress and traffic congestion in the surrounding area and would not promote use of sustainable transport contrary to the National Planning Policy Framework chapter 4, paragraphs 29, 30, 35 and 39.*

## **2.0 Status of Policies and Guidance**

2.1 In determining the application the Council has had regard to the relevant legislation, government guidance, statutory development plan and other relevant planning policies and all relevant material considerations.

## **3.0 Comments on appellants' grounds of appeal**

3.1 The appellants' grounds of appeal are summarised below and addressed beneath as follows:

1. The decision notice refers to a certificate of lawfulness, whereas the application was for prior approval.
2. The Council requested information about flooding risk, but this did not form a reason for refusal.
3. The Council requested information about water consumption and sewage disposal but had no power to do so.
4. The Council did not seek further information on the use of the property.
5. The Council has no power to insist that a developer enters into a section 106 planning obligation, when a planning condition would suffice.

### **The decision notice refers to a certificate of lawfulness**

3.2 The decision notice refers to a certificate of lawfulness in error; however, the decision notice does clearly indicate that prior approval is refused and it sets out the reasons why, in accordance with the requirements of The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, paragraph

W. The appellant has suffered no prejudice arising from this typographical error in the decision notice.

**The Council requested information about flooding risk, but this did not form a reason for refusal**

3.3 The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Schedule 2, Part 3, Class O allows for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order 1987, to a use falling within Class C3 (dwellinghouses) of that Schedule. The permitted change of use is qualified within paragraph O.1 which specifies ((a)-(g)) where the change of use is not permitted. Paragraph O.2 which requires the developer to apply to the local planning authority for a determination as to whether prior approval of the authority is required for:

- (a) transport and highways impacts of the development;
- (b) contamination risks on the site; and
- (c) flooding risks on the site.

3.4 The Council wrote to the applicant by letter on 28/08/2016 to notify them that the application site falls within one of Camden's Local Flood Risk Zones and the site is in an area identified in Camden's Strategic Flood Risk Assessment as being at risk of surface water flooding. The Council's letter requested that the applicant demonstrate how methods would be included in their proposal to ensure there would be no additional strain on adjoining sites or the existing drainage infrastructure, and how the development would cope with being flooded.

3.5 The applicant failed to demonstrate how they would mitigate against flooding risks on the site; however, in making its formal decision, the Council decided that this was not a substantial reason for refusal, hence why it does not form one of the reasons for refusal.

**The Council requested information about water consumption and sewage disposal**

3.6 Sub-paragraph O.2 (c) of The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Schedule 2, Part 3, Class O requires the developer to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required for flooding risks on the site.

3.7 The appellant asserts that the Council has no power to request information regarding water consumption and sewage disposal; however, insofar as water consumption and sewage disposal are linked to flooding risk, the Council's view is that such a request was

fully in accordance with discharge of its duty as local planning authority.

- 3.8 As noted in the Camden Development Policies (see Appendix 1) document, the built environment plays a large role in the way water is consumed, distributed and disposed of. Generally, only a small proportion of water that enters a building is consumed; most of the water that is not consumed, including rainfall, ends up in the combined storm water and sewer system. The increased use of water, along with a growing population and increasing use of impervious surfaces, means more waste water is entering the combined storm water and sewer system, putting pressure on it and leading to increased flooding risks.
- 3.9 As outlined above, although the applicant failed to demonstrate how they would mitigate against increased flood risk, in making its formal decision, the Council decided that this was not a substantial reason for refusal.

**The Council did not seek further information on the use of the property**

- 3.10 The appellant states that the Council did not seek further information on the use of the property, when assessing whether or not the proposal constituted permitted development in accordance with The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Schedule 2, Part 3, Class O.1 (b).
- 3.11 At the time of the officer's site visit, it was not clear whether the premises was used for a use falling within Class B1(a) (offices) of the Use Classes Order 1987. Nevertheless, the Council's records do not suggest that the lawful use of the premises was Class B1(a) on the relevant date and the cover letter which accompanies the application is not sufficient proof that the building was last in lawful use as Class B1(a) (offices).
- 3.12 The Council's records indicate that planning permission was granted in 1990 for a change of use of part of the ground floor from a doctor's surgery to a restaurant; and in 1986 planning permission was granted for a change of the ground floor from a doctor's surgery to a retail shop. It is unclear whether either of these permissions were implemented, but regardless, it would appear that the premises was previously used as a doctor's surgery, which falls within Class D1 of the Use Classes Order 1987.
- 3.13 The appellant states, in paragraph 22 of their appeal statement, that *"the evidence provided in these letters demonstrates, on the balance of probability (the relevant test for planning evidence) but also beyond reasonable doubt, that the appeal premises were in use for Class B1(a) offices on May 2013"*. However, the application was

for prior approval, not for a certificate of lawfulness to ascertain the lawful use of the premises and the Council was correct, from the evidence before them, to conclude that the premises was not lawfully used for a use falling within Class B1(a) (offices) of the Use Classes Order on the 29<sup>th</sup> May 2013 (or when it was last in use).

3.14 It is correct that, if the change of use to B1(a) (office) occurred more than 10 years ago, it would be immune from enforcement action, by virtue of The Town and Country Planning Act 1990, Section 171 (3); however, the appellant should apply for a certificate of lawfulness to establish the lawful use. The prior approval process is not the right mechanism for establishing the lawful use of the premises.

3.15 It is also worth noting that an initial investigation suggests that business rates for an office have not been paid on the premises, which also suggests it was not used as an office on the relevant date.

3.16 The Council would also like to highlight that it has 56 days in which to make a decision on a prior approval application. The appellant was not willing to communicate by email during the course of the application (instead preferring to communicate by phone and post) and therefore the Council would not have had sufficient time to seek additional written clarification from the applicant on the use of the premises if they had wanted to do so.

**The Council has no power to insist that a developer enters into a section 106 planning obligation, when a planning condition would suffice**

3.17 The appellant asserts that the local planning authority has no power to insist that a developer enters into a section 106 legal agreement relating to prior approval issues and that it is unreasonable to refuse to grant prior approval on this basis.

3.18 Insofar as planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms, the Council is within their rights to require developers to enter into legal agreements on prior approval applications. Paragraph 005 of the Government's Planning Practice Guidance specifically notes that: *"By its nature permitted development should already be generally acceptable in planning terms and therefore planning obligations would ordinarily not be necessary. Any planning obligations entered into should be limited only to matters requiring prior approval and should not, for instance, seek contributions for affordable housing"*.

3.19 Sub-paragraph O.2 (a) of The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015, Schedule 2, Part 3, Class O requires the developer to apply to the local planning authority for a determination as to whether the prior

approval of the authority will be required for transport and highways impacts of the development.

3.20 The NPPF advocates the promotion of sustainable transport and, as outlined in the Camden Development Policies (see Appendix 2), limiting the supply of car-parking is a key factor for addressing congestion in the borough and encouraging people to use more sustainable modes of transport. The Council generally expects development in areas with high transport accessibility to be car-free (i.e. no car parking on site and occupiers are not issued with on-street parking permits, except Blue Badge holders).

3.21 The appeal site has a Public Transport Accessibility Level (PTAL) rating of 5, which means it is highly accessible by public transport; and it is located within the Kilburn Controlled Parking Zone (CPZ) (CA-Q) which operates between 0830 and 1830 hours on Monday to Friday. The Kilburn CPZ has a parking stress level of 0.98 (98 permits have been given for every 100 available spaces), which means it is highly stressed. The provision of parking permits to future occupiers would put additional pressure on the availability of on-street parking in the vicinity of the site and have associated traffic impacts with vehicles searching for spaces. For this reason, the Council requested that the applicant enter into a section 106 legal agreement to make the dwelling 'car-free'.

3.22 Paragraph 004 of the Government's Planning Practice Guidance advises that the Council must ensure that obligations meet the relevant tests for planning obligations in that they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. Paragraph 18.9 of the Camden Development Policies notes that car-free development will be achieved through seeking a legal agreement with the developer, as it is the only way of ensuring that all incoming occupiers are aware that they are not eligible for a permit to park on the street.

3.23 The appellant was, and still is, unwilling to enter into the legal agreement. A draft copy of the section 106 legal agreement will be sent to The Planning Inspectorate with this appeal statement (see Appendix 3).

#### **4.0 Conclusion**

4.1 Based on the information set out above, and taking into account all the additional evidence and arguments made, the Council considers that insufficient information has been submitted to demonstrate that the ground floor of the existing building was in use as an office within Class B1(a) of the schedule to the Use Classes Order on or prior to 29th May 2013. As such, the proposal does not accord with the criteria of Paragraph O.2 (b) of the Town and Country Planning

(General Permitted Development Order), sub-paragraph 3, Part 3, Class O for development under Part O to be permitted.

4.2 The appellant is unwilling to enter into a legal agreement to secure the new dwelling as car-free and therefore the proposal would contribute unacceptably to parking stress and traffic congestion in the surrounding area and would not promote use of sustainable transport contrary to the National Planning Policy Framework chapter 4, paragraphs 29, 30, 35 and 39.

4.3 The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns.

4.4 For these reasons the proposal fails to meet the requirements of policy and therefore the Inspector is respectfully requested to dismiss the appeal.

4.5 If any further clarification of the appeal submission is required please do not hesitate to contact Kate Phillips on the above direct dial number or email address.

Yours sincerely

Kate Phillips  
Planning Officer  
Culture and Environment

## Appendix 1 – Camden Development Policies (Water)



Strategy policy CS16 - *Improving Camden's health and well-being*. Please see policy DP24 - *Securing high quality design* for further details on other aspects of design.

#### Key references / evidence

- Towards a Sustainable Camden. Camden' Environmental Sustainability Delivery Plan 2008-2012
- Camden Sustainability Task Force Report on Energy and Energy Efficiency; 2007
- Planning Policy Statement: Planning and Climate Change – Supplement to Planning Policy Statement 1; Communities and Local Government; 2007
- Building A Greener Future; Communities and Local Government; 2006
- Sustainable Design and Construction - Supplementary Planning Guidance; Mayor of London; 2006
- Building A Brighter Future. A Guide to Low Carbon Building Design; Carbon Trust; 2005
- Building Research Establishment Environmental Assessment Method (BREEAM); Building Research Establishment; 2006 and 2008
- Strategy for Sustainable Construction; BERR; 2008
- Definition of Zero Carbon Homes and Non-domestic Buildings Consultation; CLG; 2008
- Heat and energy saving strategy Consultation; Department of Communities and Local Government & Department of Energy and Climate Change; 2009

## 23. Water

- 23.1 Our built environment plays a large role in the way water is consumed, distributed and disposed of. The way water is used in a building and the pollutants it picks up running across a site affect the quality of the water that reaches our combined storm water and sewer system. In addition, the location of a development, and any flood mitigation measures used, can have an impact on local and downstream surface water flooding. For example, by capturing surface water on-site so that the flood risk to downstream properties is reduced or, in poorly located and designed schemes, by diverting surface water onto adjoining sites, increasing the risk of flooding on those sites.
- 23.2 As noted in paragraph 22.2 above, although the need for sustainable design and construction is not specific to Camden, our dense built-up environment limits the ways sustainability can be addressed. The efficient use and disposal of water and the minimisation of surface water run-off are elements of sustainable design and construction that need to be addressed sensitively taking into account Camden's specific characteristics.
- 23.3 Core Strategy policy CS13 - *Tackling climate change through promoting higher environmental standards* sets out our overall approach to tackling climate change which includes reducing our water consumption and reducing the risk of surface water flooding. Map 2 and policy CS13 identify areas of the borough that have been affected by sewer or surface water flooding in the past as well as areas identified as being at risk of surface water flooding.
- 23.4 Policy DP23 contributes to the implementation of the strategy set out in policy CS13 by seeking to reduce water consumption and limit the amount of waste water entering the combined storm water and sewer network. Policy DP23 should be read in conjunction with policy Core Strategy CS13, policy DP22 - *Sustainable design and construction* above and the North London Strategic Flood Risk Assessment.

**Policy DP23 - Water**

The Council will require developments to reduce their water consumption, the pressure on the combined sewer network and the risk of flooding by:

- a) incorporating water efficient features and equipment and capturing, retaining and re-using surface water and grey water on-site;
- b) limiting the amount and rate of run-off and waste water entering the combined storm water and sewer network through the methods outlined in part a) and other sustainable urban drainage methods to reduce the risk of flooding;
- c) reducing the pressure placed on the combined storm water and sewer network from foul water and surface water run-off and ensuring developments in the areas identified by the North London Strategic Flood Risk Assessment and shown on Map 2 as being at risk of surface water flooding are designed to cope with the potential flooding;
- d) ensuring that developments are assessed for upstream and downstream groundwater flood risks in areas where historic underground streams are known to have been present; and
- e) encouraging the provision of attractive and efficient water features.

- 23.5 We only consume a small proportion of water that enters a building. Most of the water we use is for washing and flushing the toilet and therefore leaves the site again. The pumping and cleaning of water to drinking level consumes energy. In order to save energy and drinking water, water should be consumed efficiently and, where possible, treated and consumed close to source. Most of the water we do not consume, including rainfall, ends up in the combined storm water and sewer system. Our increased use of water, along with a growing population and increasing use of impervious surfaces, means more waste water is entering the combined storm water and sewer system, putting pressure on it.

**Efficient use of water**

- 23.6 Developments must be designed to be water efficient to minimise the need for further water infrastructure. This can be through the installation of water efficient appliances and by capturing and re-using rain water and grey water on-site. Rainwater harvesting systems are discussed in paragraph 23.8 below. Grey water use captures water from sinks, showers and washing machines for its re-use. Major developments and high or intense water use developments, such as hotels, hostels and student housing, should include a grey water harvesting system. Where such a system is not feasible or practical, developers must demonstrate to the Council's satisfaction that this is the case. We will assess the performance of water-saving measures against the Water category in BREEAM, EcoHomes or the Code for Sustainable Homes assessments (see our Camden Planning Guidance supplementary document for further details).

**Reducing surface water run-off**

- 23.7 The water efficient methods expected above will help reduce the overall amount of waste water entering the combined storm water and sewer system so it retains some capacity to deal with heavy rainfall. The volume and rate of run-off from heavy rainfall can be reduced through the use of sustainable urban drainage systems (SUDS), including green and brown roofs, pervious paving and detention ponds or tanks. We will seek to achieve the most sustainable methods of SUDS wherever possible. The Council's expectations for the design and location of green and brown roofs are set out in policy DP22 - *Promoting sustainable design and construction*. Where green or brown roofs are provided we will expect them to be designed to reduce run-off.

- 23.8 Some sustainable urban drainage methods enable captured water to be re-used, and are generally known as 'rainwater harvesting systems'. These systems capture water falling on a site, in particular on roofs and impervious paved areas, and use the water for irrigation, flushing of toilets and, where the water is clean enough, washing clothes. With appropriate filtration, the capture of rainwater can also be incorporated into a grey water system.
- 23.9 It is important that water is captured from the top of the water catchment area, which generally starts at the top of a hill, to prevent flooding of more susceptible sites below. We will require all new build developments where run-off is likely to have an impact on buildings downstream (see Map 2) to include a green or brown roof and/or a rainwater harvesting system, with the aim of achieving a 'greenfield' rate of run-off. A greenfield run-off rate is one that reflects the natural rate of water run-off from a site before it was developed. All other development that increases the amount of impervious surface will be expected to minimise the amount and rate of run-off from the site to at least the existing rate. The size of a rainwater harvesting system should take into account annual rain yield, consumption rates and the need for on-site detention to prevent flooding. Information on sizing based on annual yield and consumption rates can be obtained from the Environment Agency.

### **Minimising flood risk**

- 23.10 All sites over one hectare are required by government Planning Policy Statement (PPS) 25 - *Development and Flood Risk* to produce a site specific Flood Risk Assessment. In Camden these assessments should focus on the management of surface water run-off and should address the amount of impermeable surfaces resulting from the development and the potential for increased flood risk both on site and elsewhere within the catchment.
- 23.11 The area shown on Map 2 is known to be at risk from local surface water flooding. It is especially important for development within this area to be designed to cope with being flooded without placing additional pressure on adjoining sites and on the combined sewer system. For example, development should not prevent the flow of water across its site where this would lead to water build up or divert water onto an adjoining site. Instead, water should be captured and stored for re-use or for slow release to the combined sewer. Where a site is known to have a particular drainage issue, development should not place additional strain on the existing drainage infrastructure. Within the areas shown on Map 2 we will expect water infrastructure to be designed to cope with a 1 in 100 year storm event (including an appropriate allowance for climate change) in order to limit the flooding of, and damage to, property. Please see Planning Policy Statement 25 and its Practice Guide for further guidance on managing flood risk. The Council's Camden Planning Guidance supplementary document also contains further information on water and sustainable design and construction.
- 23.12 Development can have an impact on the water environment beyond the site where it takes place by altering the flow of water above and below ground and changing where water is absorbed or rises to the surface. For example, the construction of a basement could cause surface water flooding if its location forces water to the surface or could cause flooding elsewhere if the movement of water below ground is altered. Changing water movements can alter soil conditions in the wider area. Applications for developments in areas where historic underground streams are known to have been present will be required to include assessments of the potential for, and management of, groundwater flood risk (see our Camden Planning Guidance supplementary document for further information). Basements also affect the ability of the ground to absorb rain when soil is replaced by an impervious structure and can be particularly susceptible to flooding due to their underground location. In certain circumstances the

use of basements may be restricted to non-habitable uses. For further detail on our approach to basements please see policy DP27-*Basements and lightwells*.

### Water features

- 23.13 Water features can celebrate the importance of water and can be used as an educational tool. We will expect any water feature provided to be of a high quality and, where possible, provide some interpretation of the local environment or community. For example, any water feature provided along the route of the old Fleet River, which used to run from Hampstead Heath to the City of London, could take the opportunity to provide an interpretation of this lost watercourse. Any proposed water feature should also be water and energy efficient.

#### Key references / evidence

- Camden Sustainability Task Force Report on Food, Biodiversity and Water; 2008
- Towards a Sustainable Camden - Camden's Environmental Sustainability Delivery Plan 2008-2012
- Sustainable Design and Construction Supplementary Planning Guidance; Mayor of London; 2006
- Planning Policy Statement 25 - Development and Flood Risk; CLG, 2006
- Planning Policy Statement 25 - Development and Flood Risk - Practice Guide; CLG, 2008
- North London Strategic Flood Risk Assessment; Mouchel; 2008
- Greywater: An information guide; Environment Agency; 2008
- Harvesting Rainwater for domestic uses; Environment Agency; 2008

## Improving and protecting our environment and quality of life

### 24. Securing high quality design

- 24.1 Core Strategy policy CS14 - *Promoting high quality places and conserving our heritage* sets out the Council's overall strategy on promoting high quality places, seeking to ensure that Camden's places and buildings are attractive, safe, healthy and easy to use and requiring development to be of the highest standard of design that respects local context and character. Camden has a unique and rich built and natural heritage, with many areas with their own distinct character, created by a variety of elements including building style and layout, history, natural environment including open spaces and gardens, and mix of uses. We have a duty to respect these areas and buildings and, where possible, enhance them, when constructing new buildings and in alterations and extensions.
- 24.2 Policy DP24 contributes to implementing the Core Strategy by setting out our detailed approach to the design of new developments and alterations and extensions. These principles will ensure that all parts of Camden's environment are designed to the highest possible standards and contribute to providing a healthy, safe and attractive environment.
- 24.3 The Core Strategy also sets out our approach to other matters related to design, such as tackling climate change through promoting higher standards (CS13), the importance of community safety and security (CS17) and protecting amenity from new development (CS5). Further guidance on design is contained in our Camden Planning Guidance supplementary document.

## Appendix 2 – Camden Development Policies (Promoting sustainable and efficient transport)

cannot be used for an alternative leisure use, either because there is no demand, or because the location is no longer suitable for leisure uses.

- 15.10 We recognise the contribution that theatres make to Camden's character both in Central London and in our town centres, where they have important cultural and leisure roles. Therefore, we will protect theatres that are suitable for continued theatre use from being converted to another leisure use or any other use.

***Location and impact of new community and leisure uses***

- 15.11 It is important that Camden's community and leisure facilities are located close to the people who use them. Locating these facilities where they are easily reached by a choice of means of transport, particularly walking, cycling and public transport will enable as many people as possible to have access to them. Central London and our town centres are appropriate locations for community and leisure uses, particularly those that may attract large numbers of people, as they are generally easily reached by a range of means of transport. Smaller facilities which will attract people from a local area should be located within their catchment area or in other locations where they are easily reached by the community they serve.
- 15.12 New community and/or leisure uses should not harm residential amenity, the environment or transport networks in line with all the policies in this document. They must also be consistent with their surroundings in terms of scale, character and mix of uses.

**Key references / evidence**

- Camden Together - Camden's Sustainable Community Strategy; 2007 – 2012
- The London Plan (consolidated with Alterations since 2004); Mayor of London; 2008

## Promoting sustainable and efficient transport

- 16.1 Camden faces significant challenges relating to transport and travel, in particular air pollution and the congestion experienced on its road and public transport networks, as well as the need to address the wider issue of carbon dioxide emissions associated with travel. These issues have significant implications on the health and well being of the community. Camden's Core Strategy aims to promote sustainable and efficient travel (see policy CS11) by supporting strategic infrastructure projects in support of growth, promoting sustainable forms of transport, and making private transport more sustainable. This will support social cohesion and help to address health inequalities by providing better access for all to employment, education, facilities and encouraging more physical activity. In order to meet the challenges we face and to deliver Core Strategy aims, Camden Development Policies includes six policies on transport, covering:
- the transport implications of development (DP16);
  - walking, cycling and public transport (DP17);
  - parking standards and limiting the availability of car parking (DP18);
  - managing the impact of parking (DP19);
  - the movement of goods (DP20);
  - development connecting to the highway network (DP21).
- 16.2 Almost every development that affects the transport network will have impacts in more than one of these areas. Therefore there is a need to refer to all relevant policies.

## 16. The transport implications of development

- 16.3 It is essential that new development is supported by adequate transport infrastructure. Camden Core Strategy policy CS11 states that the Council will pursue the delivery of additional transport infrastructure and promote sustainable transport in order to support growth in the borough, and will manage the impact of growth on the road network. Policy DP16 seeks to help deliver the Core Strategy by ensuring that the transport implications of development are managed, and additional transport infrastructure is delivered where needed, in order to ensure that growth in the borough is integrated with existing places and transport networks, and does not generate excessive demands on transport infrastructure. It should be read in conjunction with Core Strategy Policy CS11 as well as policies DP17 to DP21 below.

### Policy DP16 – The transport implications of development

The Council will seek to ensure that development is properly integrated with the transport network and is supported by adequate walking, cycling and public transport links. We will resist development that fails to assess and address any need for:

- a) movements to, from and within the site, including links to existing transport networks. We will expect proposals to make appropriate connections to highways and street spaces, in accordance with Camden's road hierarchy, and to public transport networks;
- b) additional transport capacity off-site (such as improved infrastructure and services) where existing or committed capacity cannot meet the additional need generated by the development. Where appropriate, the Council will expect proposals to provide information to indicate the likely impacts of the development and the steps that will be taken to mitigate those impacts, for example using transport assessments and travel plans;
- c) safe pick-up, drop-off and waiting areas for taxis, private cars and coaches, where this activity is likely to be associated with the development.

- 16.4 Transport considerations should be integral to a development. Developments should be planned taking into consideration the movement of people and goods, both within the development site and outside it.

#### Movements to, from and within a site

- 16.5 Developments should link in well with their surroundings by allowing for movement to and through development sites, in order to contribute to improved accessibility across the borough. Some developments may need to be designed to accommodate public routes across a site, for example because they straddle an existing road or footpath. Designs for large sites should be permeable so that linkages and public through routes are created and the development is integrated into the wider street pattern. Developments should generally be designed to accommodate movements into and across the site rather than as closed blocks with a single entrance/ exit point. The Council expects design of new developments to be safe and accessible to all (see Core Strategy Policy CS17 – *Making Camden a safer place*), and will resist new development designed as a 'gated community' (see also our Camden Planning Guidance supplementary document).
- 16.6 Creating motor vehicle access from the road network is not sufficient to integrate a development with walking, cycling and public transport networks. To ensure integration into wider networks, development is expected to contribute to off-site measures where existing connections are not appropriate to serve a development. The networks that are relevant, including the Camden road hierarchy, and the measures that may be needed are considered further in policy DP21 - *Development connecting to the highway network* and our Camden Planning Guidance supplementary document).

## Transport capacity

- 16.7 It is essential that there is sufficient transport capacity available to allow for travel demands generated by new development, including cumulative demand. Where necessary, proposals should include on-site measures as well as off-site contributions to increase capacity, including contributions towards the delivery of strategic transport infrastructure (see Core Strategy Policy CS11), in accordance with the London Plan. The enhancement of off-site capacity will particularly arise from developments that generate significant travel demand and for these a formal Transport Assessment and Travel Plan will be required to indicate the measures needed in association with development (see paragraphs 16.9 to 16.19 below). In addition, the Mayor has introduced a policy in the London Plan, and prepared Supplementary Planning Guidance - *Use of planning obligations in the funding of Crossrail*, to seek financial contributions from new development towards the delivery of Crossrail. Crossrail will help to support growth in London by tackling congestion and the lack of capacity on the existing rail network.
- 16.8 Development proposals will need to be accompanied by an indication of their implications for the transport network unless they involve minimal trip generation. It will often be possible to address basic issues (movement on and around the site and linkages to transport networks) through the Design and Access Statement, which is a nationally required submission with most planning applications.

## Transport assessments

- 16.9 Where the transport implications of proposals are significant, the Council will require a Transport Assessment to examine the impact on transport movements arising from the development. An indicative threshold for developments that will require a Transport Assessment is set out in Appendix 1.
- 16.10 The purposes of an assessment are to ensure that a proposal will not cause harm to the transport network or to highway safety, to show that the development will be properly integrated into the network, and indicate the extent to which there is additional capacity available to accommodate new travel patterns.
- 16.11 Transport assessments should:
- consider all types of movement associated with a proposal, both during construction and after completion, including an analysis of existing and proposed trips generated by the existing site and the proposed development for all transport modes and the impact these trips will have on the transport network;
  - identify specific routes over which existing and proposed trips are taking place;
  - address the movement of goods and materials, including the removal of spoil and demolition waste, delivery of construction equipment and materials, and servicing the completed development with refuse and goods vehicles;
  - consider the cumulative impact of the proposal with any others that will affect the same infrastructure, and whether the existing or committed capacity will be able to accommodate all of them; and
  - indicate the steps that a developer will need to take to ensure that a proposal will be connected to existing transport infrastructure and will not have a negative impact on the capacity of existing infrastructure. These steps should include the provision of both on- and off-site measures, as necessary. The enhancements involved are considered further in connection with policy DP17 - *Walking, cycling and public transport*.



- 16.12 An assessment should only take account of planned transport provision where this has fully secured funding and has a firm start date (see policy CS11 and Appendix 1 in the Camden Core Strategy for further information regarding key planned transport infrastructure projects in the borough). Where existing and proposed public transport provision will not have sufficient capacity to serve the development, the Council will expect to secure funding towards the enhancement of public transport capacity.
- 16.13 The depth of analysis for a transport assessment will reflect the scale and kind of a development and the nature and capacity of the transport network in the area. Further information about transport assessments is given in our Camden Planning Guidance supplementary document. Transport for London's *Transport Assessment Best Practice Guidance* (May 2006) also provides guidance on the submission of transport assessments: all applications that are referred to the Mayor should comply with this guidance.
- 16.14 Applicants for developments that are close to London Underground assets should also contact Transport for London's London Underground Infrastructure Protection team at an early stage before the commencement of design work to ensure that any constraints are addressed.
- 16.15 The concentration of schools in some parts of Camden, including the Hampstead and Belsize Park areas, has led to traffic congestion, road safety and parking problems related to the 'school run'. As part of transport assessments, applications for new schools and for the expansion of existing schools will be expected to provide details of the projected growth in student numbers, how students are likely to travel, their impact on the transport system and any measures to offset transport problems. In areas with an existing problem with the school run, it is unlikely that the Council will grant planning permission for educational facilities that are likely to exacerbate the problem.
- 16.16 For larger developments that would have implications for transport, but fall below the threshold for transport assessments, the following information will be required from applicants:
- an indication of the scale, mode, type and frequency of all trips associated with the development on a daily basis;
  - a description of how this transport demand can be accommodated by walking, cycling, public transport, and any other sustainable alternative modes of travel, as set out in policy DP17 below;
  - an overview of how potential highway impacts associated with the construction of the proposed development will be remedied or mitigated, and how local amenity will be preserved during the construction period; and
  - an overview of the servicing requirements of the development after occupation and of the servicing provision made to accommodate this.
- 16.17 The indicative scale of development schemes where this information will be required is set out in Appendix 1.

### ***Travel Plans***

- 16.18 Wherever a Transport Assessment is needed, submission of a travel plan is also expected as one way of mitigating the transport impact of the development. However, travel plans may also be sought from smaller developments if the impacts on transport are considered significant.
- 16.19 The Transport for London *Guidance for Workplace Travel Planning for Development* (2008) states that a simplified travel plan (an Enterprise Scale Travel Plan) should be provided for businesses and establishments below the Travel Plan thresholds where 20 or more staff will be employed. Transport for London also provides guidance on the

production and use of travel plans for residential development in its *Guidance for Residential Travel Planning in London* (2008). Further information is also provided within our Camden Planning Guidance supplementary document, and in *Making residential travel plans work: guidelines for new development* (Department of Transport, 2005).

#### **Other management plans**

- 16.20 Where appropriate, Delivery and Servicing Management Plans, Visitor Management Plans and Construction Management Plans may be required to be submitted alongside planning applications. If these are not required in assessing a planning application but are still considered necessary to mitigate associated impacts, their submission will be secured through legal agreements. Please see policy DP20 for further details regarding the Council's approach to the movement of goods and materials, including the use of Delivery and Servicing Management Plans and Construction Management Plans.

#### **Safe pick-up, drop-off and waiting areas**

- 16.21 Developers will be expected to assess fully the impact of vehicle movements associated with pick-up, drop-off and waiting. Development that is likely to attract significant numbers of taxis, minicabs and coaches should be designed with appropriate passenger pick-up and drop-off points, each providing appropriate spaces and management arrangements to prevent harm to highway safety, pedestrian movements or amenity. Facilities should allow people with disabilities to get safely in and out of taxis and minicabs. Where possible, developments should include the pick-up and drop-off facilities they need on-site, but off-site arrangements will sometimes be necessary. Where it is not possible to provide for a suitable set down point for coaches, the Council may negotiate planning obligations with developers to prevent coach access to these sites.
- 16.22 Visitor attractions and accommodation can generate significant vehicle movements, particularly by taxi and coach. Further information on the Council's approach to proposals for tourism development and visitor accommodation is set out in policy DP14.

#### **Key references / evidence**

- Camden Local Implementation Plan (LIP) 2005/06 - 2010/11
- Draft Camden Green Transport Strategy 2008 - 2012
- Camden Walking Plan Second Edition 2006
- The London Plan (consolidated with Alterations since 2004); Mayor of London; 2008
- Planning Policy Guidance (PPG) 13: Transport; ODPM; 2001
- Transport Assessment Best Practice Guidance; Transport for London; May 2006
- Guidance for Workplace Travel Planning for Development; Transport for London; March 2008
- Guidance for Residential Travel Planning in London; Transport for London; March 2008
- Making residential travel plans work: guidelines for new development; Department of Transport; 2005.

## **17. Walking, cycling and public transport**

- 17.1 The provision of sustainable travel options is essential in order to reduce the environmental impact of travel, to support future growth, to relieve pressure on Camden's existing transport network, and to provide alternatives to the private car. Core Strategy policy CS11 sets out at a strategic level how the Council will promote sustainable transport modes. Policy DP17 sets out in more detail the Council's

requirements for new development in terms of provision for walking, cycling and public transport, in conjunction with CS11 and policies DP16 and DP18 - DP21.

### **Policy DP17 - Walking, cycling and public transport**

The Council will promote walking, cycling and public transport use. Development should make suitable provision for pedestrians, cyclists and public transport and, where appropriate, will also be required to provide for interchanging between different modes of transport. Provision may include:

- a) convenient, safe and well-signalled routes including footways and cycleways designed to appropriate widths;
- b) other features associated with pedestrian and cycling access to the development, where needed, for example seating for pedestrians, signage, high quality cycle parking, workplace showers and lockers;
- c) safe road crossings where needed;
- d) bus stops, shelters, passenger seating and waiting areas, signage and timetable information.

The Council will resist development that would be dependent on travel by private motor vehicles.

The Council will seek to secure travel interchange facilities in locations that maximise travel benefits and minimise environmental harm. Passenger transport interchanges should provide for the co-ordination of arrival and departure timetabling on different services as far as possible. Interchanges catering for longer distance journeys should include toilets, baby changing facilities and facilities to provide refreshment for travellers.

- 17.2 Accessibility in Camden is generally good, with the majority of the borough already served by frequent public transport services through London Underground, London Overground, rail and bus links. There are few areas in the borough where development would have relatively limited accessibility to public transport (for example at the fringes of Hampstead Heath). In such areas, private cars may be the only practical option for some journeys. However, it is possible throughout Camden to provide for some journeys to be made in more sustainable ways. Developments will be dependent on travel by private motor vehicles if they are designed without a safe means of access to footways, nearby bus-stops, and a road or other route appropriate for cyclists. These will therefore be minimum requirements for all development.
- 17.3 The design of a development and the way it relates to transport networks will be major factors influencing the transport choices of future occupiers and visitors. To encourage people to make sustainable transport choices, the options available will need to form a continuous network of convenient and pleasant routes that make people feel safe, link to all parts of the borough, are easy to use by people with mobility difficulties, and be integrated by facilities to make it easy to change between one form of transport and another.

### **Footpaths and cycle routes**

- 17.4 The Council will expect new developments to provide appropriate, safe pedestrian and cycle links as part of schemes in order to promote sustainable travel and enhance accessibility, including for vulnerable users. The provision of pedestrian and cycle links also helps to promote more active, healthy lifestyles. In order to maintain pedestrian and cyclist safety, links should be designed to prevent conflict between motor vehicles, cyclists and pedestrians. Footpaths need to be wide enough for the number of people who will use them so they do not spill onto roads. They should also include features to

assist vulnerable road users, including the provision of dropped kerbs and textured paving where appropriate.

- 17.5 Safe facilities for cyclists, either fully segregated or on the road, offer the best prospect for reducing the level of cycling on pavements. Measures for walking and cycling will often need to extend beyond the site if development will increase flows nearby, for example, footway widening, new pedestrian crossing facilities, and improved sightlines for cyclists. Our Camden Planning Guidance supplementary document and Streetscape Design Manual include guidance on designing spaces for pedestrians and cyclists. Where appropriate, developments will be expected to contribute towards the walking and cycling initiatives set out in Core Strategy policy CS11.
- 17.6 We will seek shared surfaces in appropriate circumstances, and where it will be safe for all users, for example at locations with high levels of pedestrian activity and where traffic speeds and volumes are low. Shared surfaces are unlikely to be appropriate on through-routes for cyclists.
- 17.7 Transport for London's *Walking Plan* (2004) and *Improving Walkability* (2005) good practice guidance documents set out strategic guidance and objectives to improve the pedestrian environment and encourage walking in the capital.

#### **Other features for pedestrians and cyclists**

- 17.8 The availability of routes alone is not sufficient to provide access to a development for pedestrians and cyclists, and many developments will need to make other provisions.
- 17.9 The nature and quality of features for pedestrians and cyclists is also highly important in order to create pleasant public spaces that are accessible to all, including people with mobility difficulties. Developments should provide features for pedestrians and cyclists that contribute towards the Council's objectives for promoting walking and cycling (see Core Strategy policy CS11 – Promoting *sustainable and efficient travel*), and to the creation of high quality public spaces, as required in Core Strategy policy CS14 - *Promoting high quality places and conserving our heritage* (see also policy DP21 - *Development connecting to the highway network* below).
- 17.10 At origins and destinations, cyclists will need storage for bicycles, equipment and protective clothing, and will often need to shower. High quality cycle parking is required in accordance with policy DP18 - *Parking standards and limiting the availability of car parking* and guidance in our Camden Planning Guidance supplementary document.
- 17.11 Contributions towards wider cycle initiatives may also be sought from new developments. See Core Strategy Policy CS11 for further information on cycle hire and cycle stations, which are integral elements of the Council's approach to promoting cycling.

#### **Buses**

- 17.12 In most developments, measures to enable use of buses will focus on provision of information within the development, improving the route to a stop, and enhancing bus-stop facilities: possible measures include signing the route, seating and shelters. There may be occasions when there is no spare capacity on existing bus services, and to enable a development to benefit from public transport services, a financial contribution to increase capacity would be necessary (for example, additional bus lane provision, or priority for buses at traffic lights). It may sometimes be necessary to pool contributions, particularly where there are cumulative impacts from nearby developments and an increase in capacity is needed.

### Provision for interchange between transport modes

- 17.13 Most journeys involve changing between one form of travel and another and developments will sometimes need to cater for this. The creation of convenient and pleasant interchanges will encourage people to use alternatives to the car. A number of existing interchange points in the borough are likely to be developed in conjunction with the borough's growth areas (see Camden Core Strategy policy CS2) and with programmed transport investment. Interchanges around which additional development is expected to come forward include Euston Station, Tottenham Court Road Station, West Hampstead and Camden Town Underground Station.
- 17.14 Where development is proposed at an interchange between public transport services, the Council will expect the inclusion of facilities to make interchange easy and convenient for all users, and maintain passenger comfort. In line with Camden Core Strategy policies CS14 - *Promoting high quality places and conserving our heritage* and CS17 - *Making Camden a safer place*, works affecting interchanges should seek to provide high quality spaces that are safe for all users, and encourage people to use public transport and walk and cycle to destinations.

#### Key references / evidence

- Draft Camden Green Transport Strategy 2008 - 2012
- Camden Walking Plan Second Edition 2006
- Camden Cycling Plan: fourth annual review (2008)
- Camden Local Implementation Plan (LIP) 2005/06 - 2010/11
- Camden Interim Parking and Enforcement Plan 2005/11
- Camden Road Network Management Plan
- Camden Streetscape Design Manual 2005
- The London Plan (consolidated with Alterations since 2004); Mayor of London; 2008
- Planning Policy Guidance (PPG) 13: Transport; ODPM; 2001

## 18. Parking standards and limiting the availability of car parking

- 18.1 Limiting the supply of car-parking is a key factor for addressing congestion in the borough and encouraging people to use more sustainable ways to travel (see Core Strategy policy CS11 – *Sustainable and efficient travel* for our overall approach to this). Policy DP18 sets out the Council's approach to parking in new development. It seeks to minimise the level of car parking provision in new developments, as well as promoting cycle parking, and the provision of spaces for car clubs and electric charging points. This policy should be read in conjunction with policy DP19, which sets out how the Council will address the potential negative impacts of parking associated with new development, and Core Strategy policy CS11.

### Policy DP18 - Parking standards and limiting the availability of car parking

The Council will seek to ensure that developments provide the minimum necessary car parking provision. The Council will expect development to be car free in the Central London Area, the town centres of Camden Town, Finchley Road / Swiss Cottage, Kentish Town, Kilburn High Road and West Hampstead, and other areas within Controlled Parking Zones that are easily accessible by public transport.

Development should comply with the Council's parking standards, as set out in Appendix 2 to

this document. Where the Council accepts the need for car parking provision, development should not exceed the maximum standard for the area in which it is located (excluding spaces designated for disabled people). Developments in areas of on-street parking stress should be 'car capped'.

For car free and car capped developments, the Council will:

- a) limit on-site car parking to:
  - spaces designated for disabled people,
  - any operational or servicing needs, and
  - spaces designated for the occupiers of development specified as car capped;
- b) not issue on-street parking permits; and
- c) use a legal agreement to ensure that future occupants are aware they are not entitled to on-street parking permits.

Developments will also be expected to meet the Council's minimum standards for cycle parking set out in Appendix 2.

The Council will:

- d) strongly encourage contributions to car clubs and pool car schemes in place of private parking in new developments across the borough; and
- e) seek the provision of electric charging points as part of any car parking provision.

### **Car-free development**

18.2 The Council generally expect development in Low Parking Provision Areas (i.e. the Central London area, our town centres and other areas with high public transport accessibility) to be car-free. Camden has been successfully securing car-free housing since 1997 as a way of encouraging car-free lifestyles, promoting sustainable ways of travelling, and helping to reduce the impact of traffic. Policy DP18 extends the car-free concept to non-residential development, which has the potential to reduce commuting by car and promote car-free work-related journeys. Car-free development can facilitate sustainability and wider objectives, including:

- freeing space on a site from car-parking, to allow additional housing, community facilities, play areas, amenity spaces and cycle parking;
- enabling additional development where parking provision would not be acceptable due to congestion problems and on-street parking stress;
- helping to promote alternative, more sustainable forms of transport.

18.3 Car-free development has no car parking within the site and occupiers are not issued with on-street parking permits. (People with disabilities who are Blue Badge holders may park in on-street spaces without a parking permit.) Car-free development should meet the Council's cycle parking standards and may, where required, include on-site space for people with disabilities, servicing, coach and taxi activity. The Central London Area and our town centres, other than Hampstead, are well-equipped to support car-free households and businesses as they have high levels of public transport accessibility, and provide opportunities to access a range of goods, services, workplaces and homes. Camden will expect development in these areas to be car-free, and will resist the inclusion of general car parking unless supported by a Transport Assessment or other compelling justification. See also paragraphs 18.8 and 18.9 below, which set out the Council's approach to removing rights to on-street parking.

18.4 Much of the rest of the borough has public transport accessibility levels that are moderate to excellent. Provided that parking controls are in force, the Council will expect car-free development where public transport accessibility is equivalent to levels in our town centres, and will strongly encourage it elsewhere.

### **Parking standards**

- 18.5 Developments throughout the borough will be expected to comply with the parking standards set out in Appendix 2. The standards include:
- maximum parking standards for general car parking provision, to encourage people to consider all alternatives to private car travel;
  - minimum cycle parking standards, to encourage people to meet their travel needs by cycling;
  - minimum parking standards for people with disabilities to meet their needs; and
  - minimum standards for servicing, taxi and coach activity, to provide an alternative to on-street provision.
- 18.6 The maximum car parking standards include separate figures for Low Parking Provision Areas and for the rest of the borough. As we generally seek car free development in the Low Parking Provision Areas, we will only apply the car parking standards for these areas where a developer can demonstrate to the Council's satisfaction that such parking should be provided on a site.
- 18.7 The maximum car parking standards for employment generating uses are intended to limit the potential for commuting by private car (other than by disabled people). A workplace's operational needs are only considered to include journeys to work if travel is at times when public transport services are severely limited or if employees need continuous access to a car for work purposes whether or not they are at the workplace.
- 18.8 The Council will expect new developments in areas of high on-street parking stress to be car-capped. Car-capped development has a limited amount of on-site car parking, but no access to on-street parking permits in order to avoid any impact on on-street parking. The level of on-site provision must meet the car and cycle parking standards in Appendix 2 for the area in which a development is located, and may, where required, include on-site space for people with disabilities, servicing, coach and taxi activity. Policy DP19 below addresses in more detail the impact of parking associated with new development, including on on-street parking conditions.
- 18.9 To implement car-free and car-capped development, the Council needs to remove entitlements for parking permits from future occupiers. This will be achieved through seeking a legal agreement with the developer, as it is the only way of ensuring that all incoming occupiers are aware that they are not eligible for a permit to park on the street.
- 18.10 The Council's Parking Standards apply to all development, whether involving new construction or a change in the use of an existing building. The Council accepts the need for a flexible approach to some aspects of the minimum parking standards, for example where the nature of the street frontages preclude access to on-site car parking, and may consider the potential for designating disabled parking bays on-street. The Council will also consider the parking requirements from premises that are used by the emergency services.
- 18.11 Details of parking arrangements should be submitted with planning applications, showing how car, servicing and cycle parking requirements will be met. Guidance on the space requirements for car and cycle parking are included in Camden's Supplementary Planning Documents and Streetscape Design Manual.

### **Cycle parking**

- 18.12 All developments will be expected to meet the Council's cycle parking standards, as set out in Appendix 2 to this document, as a minimum. The provision of cycle parking in new developments encourages a healthy and more sustainable alternative to the use of the private car.



- 18.13 Cycle parking provision should be provided with convenient access to street level and must be secure and easy for everyone to use. Cycle parking for residents and employees cannot usually be met off-site due to the security and shelter necessary for long stays. Where applicants demonstrate that cycling provision according to these standards is not feasible on a development site, the Council may seek a contribution to off-site provision in lieu of provision within the site. Please also see policy DP17 for further guidance relating to the provision of facilities for cyclists in new developments. Further guidance on cycle parking and storage is contained in the Camden Planning Guidance supplementary document.

#### **Car clubs and pool cars**

- 18.14 Camden Core Strategy policy CS11 states that the Council will expand the availability of car clubs and business pool cars as an alternative to the private car. Car clubs and pool cars offer the benefit of removing the need for car ownership for many households and discourage the use of the car for journeys, including commuting and business trips that could be made by more sustainable modes, thus reducing the use of cars and the need for car parking spaces.
- 18.15 The Council will strongly encourage developers to provide or contribute towards car club or pool car spaces in as an alternative private parking. Provision of new spaces within developments will be encouraged in locations where they can be made available to car-club members.

#### **Low emission vehicles**

- 18.16 Camden Core Strategy policy CS11 promotes the use of low emission vehicles, including through expanding the availability of electric charging points. The emerging draft replacement London Plan also supports the provision of electric charging points in new developments, and the Mayor's Electric Vehicle Delivery Plan for London sets out a range of measures to encourage the use of electric vehicles and increase the number of charging points across the capital, including through provision as part of new developments.
- 18.17 The Council will encourage the provision of electric vehicle charging spaces in new developments, including for electric pool cars or electric car-club cars. For general car parking, such spaces should be provided within the maximum standards set out in Appendix 2 - *Parking Standards*.

#### **Key references / evidence**

- Camden Green Transport Strategy 2008 – 2012
- Camden Local Implementation Plan (LIP) 2005/06 – 2010
- The London Plan (consolidated with Alterations since 2004); Mayor of London; 2008
- Let's talk rubbish! Camden's waste strategy 2007-2010 (revision 1, 2008)
- Planning Policy Guidance (PPG) 13: Transport; ODPM; 2001

## **19. Managing the impact of parking**

- 19.1 Policy DP18 above sets out our approach to parking standards. Developments that add to the supply of car parking, or relocate car parking, can have an impact on parking conditions in the borough. They can also affect the environment, for example through loss of landscape features and increased surface run-off through additional hard surfacing.



## Appendix 3 – Draft legal agreement

DATED

2016

(1) ALISON SUE TERESA SOLNICK and JENNIFER SARAH GAY  
BARNETT and GILLIAN BARBARA SOLNICK  
and TIMOTHY ALAN GENE SOLNICK

and

(2) BARCLAYS 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  
**91 KINGSGATE ROAD LONDON NW6 4JY**  
pursuant to Section 106 of the Town and Country Planning  
Act 1990 (as amended)

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

Tel: 020 7974 5680  
Fax: 020 7974 1920

1781. 682

DRAFT DO NOT SIGN

**THIS AGREEMENT** is made the                      day of                      2016

**B E T W E E N:**

1. **ALISON SUE TERESA SOLNICK and JENNIFER SARAH GAY BARNETT and GILLIAN BARBARA SOLNICK and TIMOTHY ALAN GENE SOLNICK** all of (hereinafter collectively called "the Owner") of the first part
2. **BARCLAYS BANK PLC** of UK Banking Service Centre PO BOX 299 Birmingham B1 3PF (hereinafter called "the Mortgagee") of the second part
3. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (hereinafter called "the Council") of the third 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 227955 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 24 July 2015.
- 1.4 By a decision letter dated 18 September 2015 the Council gave notice of refusal to grant planning permission for the Development and an appeal against refusal of planning permission was submitted under Section 78 of the Act to the Planning Inspectorate and the appeal has been assigned the reference number APP/X5210/W/15/3139176 ("the Appeal").

- 1.5 The Council is the local planning authority for the purposes of the Act 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.
- 1.6 For that purpose the Owner is willing to enter into this Agreement pursuant to the provisions of Section 106 of the Act.
- 1.7 The Mortgagee as mortgagee under a legal charge registered under Title Number 227955 and dated 1 February 2005 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 Development" change of use from B1 (office) to C3 (dwellinghouse) to create 1 no. self-contained 1-bed flat at ground floor pursuant to Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) as shown on drawing numbers: Site Location Plan at 1:1250; Site Location Plan at 1:500; Floor Plan at 1:50.
- 2.4 "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

- 2.5 "Occupation Date" the date when any part of the Development is occupied and the phrases "Occupy", "Occupied" and "Occupation" shall be construed accordingly
- 2.6 "the Parties" mean the Council, the Owner and Mortgagee
- 2.7 "the Planning Application" any planning permission granted for the Development by the Secretary of State or any person appointed by the Secretary of State pursuant to the appeal under reference number APP/X5210/W/15/3139176 of the Council's refusal of the Planning Application
- 2.8 "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
- 2.9 "the Planning Permission" a planning permission granted for the Development substantially in the draft form annexed hereto
- 2.10 "the Property" the land known as 91 Kingsgate Road London NW6 4JY the same as shown shaded grey on the plan annexed hereto
- 2.11 "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

- 2.12 "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 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.

3.8 The Parties acknowledge that the Development shall be treated as being permanently designated as "car free" housing in accordance with Clause 4.1 for all relevant purposes.

#### 4. **OBLIGATIONS OF THE OWNER**

The Owner hereby covenants with the Council as follows:-

##### 4.1. **CAR FREE**

4.1.1. The Owner hereby covenants with the Council to ensure that prior to occupying any residential unit forming part of the Development each new resident of the Development is informed by the Owner of the Council's policy that they shall not be entitled (unless they are the holder of a disabled persons badge issued pursuant to Section 21 of the Chronically Sick and Disabled Persons Act 1970) to be granted a Residents Parking Permit to park a vehicle in a Residents Parking Bay and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

4.1.2. The Owner for itself and its successors in title to the Property hereby acknowledges that the provision in Clause 4.1.1 above will remain permanently.

4.1.3. On or prior to the Occupation Date the Owner shall inform the Council's Planning Obligations Monitoring Officer of the official unit numbers of the residential units forming part of the Development (as issued and agreed by the Council's Street Name and Numbering Department), identifying those residential units that in the Owner's opinion are affected by the Owner's obligation in Clause 4.1.1 of this Agreement.

#### 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 Planning Permission 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 the Planning Permission reference 2015/4535/P the date upon which the Development is 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 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.
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, Urban Design and Renewal, Planning and Public Protection, Culture and Environment Directorate, Town Hall Annex, Argyle Street, London WC1H 9LP quoting the Planning Permission reference number 2015/4535/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 on written demand 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.

8. **RIGHTS OF THIRD PARTIES**

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

**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 )  
ALISON SUE TERESA SOLNICK )  
in the presence of: )

.....  
**Witness Signature**

**Witness Name:**

**Address:**

**Occupation:**

EXECUTED AS A DEED BY )  
JENNIFER SARAH GAY BARNETT )  
in the presence of: )

.....  
**Witness Signature**

**Witness Name:**

**Address:**

**Occupation:**

EXECUTED AS A DEED BY )  
GILLIAN BARBARA SOLNICK )  
in the presence of: )

.....  
Witness Signature

Witness Name:

Address:

Occupation:

EXECUTED AS A DEED BY )  
TIMOTHY ALAN GENE SOLNICK )  
in the presence of: )

.....  
Witness Signature

Witness Name:

Address:

Occupation:

EXECUTED AS A DEED BY )  
BARCLAYS BANK PLC )  
By )  
in the presence of:- )

.....

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

.....  
Authorised Signatory