

Appeal Statement

London Borough of Camden

23 Ravenshaw Street, London, NW6 1NP

LPA Ref: 2020/2936/P

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- 1) This is an appeal against the decision of Camden Council's refusal of permission dated 3rd March 2021. The application was for *'Erection of a three storey plus basement building comprising 7 flats (4 x 3 bed units and 3 x 2 bed units) with balconies at rear, following demolition of the existing house.'*
- 2) The proposed development represents an intensification of use of these two sites to produce housing for households in inner London, thereby contributing to the London Plan's objective of relieving pressure on the fringes of the metropolis and the Green Belt, and to provide housing in areas of the city with good transport links close to centres of employment, reducing lengthy journeys to work. The proposal represents a net gain of five residential units. These objectives are embodied in the NPPF 2021, the London Plan 2021, the Camden Local Plan 2017 and supporting policy documents, all of which will be referred to later in this statement.
- 3) There are seven reasons for refusal in Camden's decision notice, the first two being substantive and the remainder relating to the absence of a S.106 agreement to cover a construction management plan, the issue of car-free housing, a contribution to affordable housing, a highway contribution and the means by which the structural stability of the public highway would be secured.
- 4) A draft unilateral agreement covering these matters will be included with this appeal. Subject to confirmation from the LPA that it satisfactorily addresses the relevant refusal reasons, the appellant's lawyers will distribute physical copies to the signatories for signing and sealing. The Planning Inspectorate and the LPA will then be provided with a file copy.

5) THE FIRST REASON FOR REFUSAL

The site was the subject of a previous application in 2019 for eight flats which was appealed for non-determination, Ref:

APP/X5210/W/19/3225592. This appeal was dismissed, and this new application is principally the applicant's response to the issues raised by the Inspector in that decision.

The two substantive reasons for refusal which this appeal deals with are:

- (i) *The proposed development, by reason of the scale and bulk of the rear massing would appear disproportionately large and out of keeping with the rear of the surrounding terraced properties, contrary to policy D1 (Design) of the London Borough of Camden Local Plan 2017 and policy 2 (Design & Character) of the Fortune Green & West Hampstead Neighbourhood Plan.*
- (ii) *The proposed development by reason of the provision of self-contained dwellings at basement level within the Sumatra Road Local Flood Risk Zone, would introduce highly vulnerable uses into an area prone to flooding contrary to policies A5 (Basements) and CC3 (Water and Flooding) of the London Borough of Camden Local Plan 2017.*

6) The Appellant's Responses to Reason 1 In his report the case officer sets out in detail what he considers to be his refusal reasons. The report is provided as **Appendix 1**. The following paragraphs set out the appellant's responses to these comments.

- 7)** The officer's report does little to acknowledge the significant public benefits of the scheme, and nothing to weigh those public benefits against the alleged harm. These benefits will be detailed in a later section of this statement.
- 8)** This reason for refusal relating to design issues concentrates on the rear of the building. No issue is raised now about the appearance of the front façade to Ravenshaw Street.
- 9)** The officer's report contains a number of propositions:
- a)** The design results in an 'unconvincing architectural expression'.
 - b)** Parts of the rear elevation '...appear bulky in the context of neighbouring rear elevations.'
 - c)** The proposal does not reflect the urban grain of the area and the pattern of built to unbuilt space.
 - d)** The majority of the ground and first floor 'projects into the garden... and the width of this projection is considerably wider than outriggers found on neighbouring properties. This results in a bulky appearance, especially at first floor level.'
 - e)** The bulkiness is accentuated at roof level with proposed full width roof dormers on the southern part.
 - f)** This would harm the character of this part of Ravenshaw Street.
 - g)** Many of the dormers on other properties in the street were built as permitted development.
 - h)** Whilst the rear of the application site would not be easily seen from the public realm... there will be private views of the development.

- i) The design of the second floor draws on oversized dormers in the street... as a precedent. This results in the proposed southern dormers appearing disproportionately large.
 - j) The scale, mass and overall width and depth of the rear of the block would be excessive and significantly at odds with the surrounding pattern of development which is comprised of smaller rear terrace forms.
 - k) This would be apparent from the private realm of rear gardens.
 - l) This would also be apparent from flats in Ellerton Tower on Mill Lane and from flats on the Brassey Road Estate.
 - m) This would also be visible from the railway line.
- 10)** The challenge that many infill sites present is that they are often not conveniently rectangular. Triangular and other unusually shaped brownfield infills require an inventive and imaginative ‘design led’ approach if they are to be utilised to their fullest potential. The application achieves this.
- 11)** The design intention of the rear of the proposal was not to present as an eye-catching show piece. Instead, it deliberately eschews architectural theatricality in favour of a restrained, pragmatic and, in its own terms, imaginative solution to a challenging infill site. In doing so it creates five additional and much needed high-quality, sustainable dwellings, within permitted density levels while making full use of the available space. It achieves those goals without the need to impose itself on its neighbours or the wider public realm; a design goal that very much came through to the appellant when considering the previous appeal decision. It follows very closely the general pattern of development at the rear of adjacent and other properties in Ravenshaw Street. The rear

elevations of all other properties on this side of Ravenshaw Street have been developed legally over many years, some with the benefit of planning permissions, some with the use of permitted development rights, and while they may not be architectural gems, they form the reality and context to which any new development must respond.

- 12) The previous London Plan's density matrix for an urban location of PTAL 4 indicated a permissible density range of 200-700 habitable rooms per hectare and 55-225 units per hectare. At eight units with a GIA of 657.7sqm, the previous application represented a density 568 habitable rooms and 162 units per hectare; right in the centre of the recommended range. This application is seven units with a GIA of 586.2sqm - 11% less.
- 13) The proposal will remove two on street parking permits, remove a crossover and permanently remove five plus onsite parking spaces.
- 14) In common with all the other terraces along Ravenshaw Street, the public face of the proposed development would be its front façade. The majority of the proposal's overall impact on the public realm will be due to the impression it makes on the street scene, in views from Ravenshaw Street itself, from where, rear elevations facing the railway are entirely concealed from public view. In consequence the rear elevations make absolutely no impression on the public realm, at all, from these very public vantage points.
- 15) The Inspector had no objection to the creation of a well-designed contemporary façade that blends well with its neighbours and indeed, aside from changes to the front lightwells which the Inspector did previously find problematic, the front elevation remains unchanged from

the previous application. As a result, it is welcome that the proposed front elevation now attracts no objection from the Council.

- 16)** To the rear, out of sight from public views on Ravenshaw Street, numerous dormers, additions and extensions have been added to the adjacent properties, resulting in a complex and organic pattern of development lacking any real ‘designed’ cohesion. However, for the occupants who created the extensions, these present as an acceptable and presumably desirable living environment. Open space in the form of gardens has been encroached upon to achieve extended built living space. The Council may find many of these additions objectionable, but permitted development rights are an equally lawful form of planning permission, and these additions now form an intrinsic part of the urban grain. The rear façade of this proposal is designed to work with that reality not some idealised view of it.

17) Views from Residences Across the Rail Tracks

Appendix 2 shows three CGI panoramas of the proposal’s rear elevation along with those of the other adjacent houses on Ravenshaw Street.

Image A contains the houses and the proposed development, deliberately unmarked. **Image B** shows the same view, but this time with the properties labelled. **Image C** shows the same view but with heavily wooded bank of mature trees that intervenes between the rear gardens along Ravenshaw Street and the railway. It must be kept in mind however, that these are purely illustrative views shown to make a point, and not a view that any resident of Ellerton Tower, the Brassey Road Estate, or a passenger on a train would ever be able to see.

- 18) The purpose of these images is to challenge the less moderated and inaccurate statements made by the case officer in his report concerning the claim that the design, massing and scale of this proposal would be excessive and disproportionate when compared with and seen in the context of the rear of the properties in the street seen as a terrace and not a single building. An uninterrupted view of the rear of the terrace simply does not exist, even from a height well above the level of the rooftops of the terrace.
- 19) The first matter to consider in examining the claim made in the officer's report is just how prominent in this composite façade is the proposed development? Is it, as is suggested, quite distinctly different from and bulkier than its neighbours? Does it stand out as materially different from its neighbours, and if so, is that harmful, and if harmful, to whom and why? Finally, and most importantly, from where can it be seen?
- 20) There are three public realm views to consider: views from the Brassey Road Estate, views from Ellerton Tower, and views from trains passing along the lines. The illustrative views CGI's in **Appendix 2** are not a view from any of these viewpoints, because as the photos in **Appendix 3** show, between the rail tracks and the rear of the buildings in Ravenshaw Street is an uninterrupted line of mature deciduous trees. All that can be seen from the other side of the tracks when the leaves are on the trees is predominantly the second floors of the buildings, and in winter, while views are less inhibited, they are nevertheless still semi-obscured. The greater part of the proposed development cannot be seen from any of these viewpoints.

The eye does not automatically penetrate these trees and seek out the views of the rear of the properties even when the leaves are absent.

21) The dwellings on Brassey Road do not front onto the rail tracks, their windows in the habitable living space and bedrooms are on the other side, facing south west away from the rail tracks. All of the single windows present at the rear of the dwellings are bathroom and stairway windows, and the double ones appear to be all kitchens, (see **Appendix 4**) from which views across the rail tracks are at best of the trees and the very tops of the buildings along the rear of Ravenshaw Street opposite. The proposed development would similarly be obscured by those same trees.

22) The views from Ellerton Tower are at a somewhat greater distance (over 80m), than those from Brassey Road, and those residents further up the tower block have wide views well beyond the rear elevations of the rear of Ravenshaw Street, whilst those further down nearer the ground floor have their view of the rear of Ravenshaw Street impeded by the trees; see **Appendix 5**.

23) For the residents of both Brassey Road and Ellerton Tower, the view they will have of the proposed development will be almost entirely lost in the surrounding rear elevations, even if they could see through the trees in winter. At these distances, for it to be claimed that their lives or their daily experiences would be materially harmed in some undefined way by this proposal is not credible, and for such a claim to be a reason for refusing to sanction this development cannot be justified by the real circumstances on the ground.

24) Views from trains passing are similarly obscured by trees, and unless for some reason a train makes an unscheduled halt on this part of the line, a passenger will have what has been described as a mere ‘glimpse’ of the rear of the buildings and could not realistically pick out any one part from the whole line of the rear terrace.

Appendix 6 shows stills from a video (available to view on YouTube, Search Ref: vr0D9qkZt58) shot from a passing train. The rear of the site is visible, through the trees, for just 1.2 seconds.

25) Public realm views, therefore, are extremely limited and even then, very significantly obscured, and are not by any means the important views of residents either in the Brassey Road flats or Ellerton Tower. To claim that real harm to either views or other sensory perceptions would be caused by this proposal are, in the view of the appellant, not tenable.

26) This is an urban, densely populated and intensively developed part of inner London, outside any conservation area, not rural England. The case officer and his colleagues are expressing their own perceptions of and reactions to what they presume the views to be. The ‘views’ they are

criticising exist only on a plan or an elevation drawing; they do not exist in reality. The presumption has to be that the authors of these comments, which form the basis of this part of this refusal, may not have visited the site and seen, or attempted to see the proposed development from these viewpoints. Supporting this contention, the case officer's report does not mention the presence of the tree line at the foot of the gardens of each of the properties in the terrace even once. No assessment of views of the rear of the terrace and the proposal without recognising the presence and effect of the trees is either credible or meaningful.

27) The report speaks of the 'urban grain' of the appearance of the rear of the terrace, and of 'the architectural rhythm' of the terrace. The appellant maintains that the appearance of the rest of this terrace in its present form and appearance is not only significantly obscured by trees, but is the casual result of many unrelated developments over many years. This history has resulted in a scene which could not plausibly be described as giving the appearance or concept of 'architectural rhythm' which implies order and cohesion lending a sense of pleasure to the eye. Furthermore, if there is a 'grain' it is a very rough, multi-varied one. These are overstatements of the Council's purported case and the descriptions bear no resemblance to the view on and from the ground.

28) The appellant has derived considerable support for these views from a decision by an Inspector in 2017 regarding No.71 Ravenshaw Street, Appeal No. 3157363 reproduced as **Appendix 7**, where the Inspector's comments on the Dormer are especially apt.

29) The Views from Adjacent Gardens.

In the preamble of the case officer's report, at 2.32. he states;

'Although the scale and mass would not be visible from the street scene, it would be apparent from the private realm of rear gardens in the street, and in private views from flats in Ellerton Tower on Mill Lane and from flats in the Brassey Road Estate to the south of the railway. It would also be visible from the railway line to the rear.'

30) But later, addressing the dwellings most directly affected (No.21 and No.25) he presents views that seem to support approval:

2.49 The reduction in the size of the second floor also means that this element would no longer have an overbearing appearance when viewed from the dormer window of No.25.

2.53 As such it is not considered that adjoining occupiers would suffer a loss of privacy from overlooking.

2.58 ...the development would no longer appear overbearing or enclosing when viewed from the windows of No.21 or from this property's garden.

2.61 Overall, given the amendments to the appeal scheme, the proposal would appear less overbearing when viewed from the garden of No. 25 and so would not harm the amenity of the occupiers of this property.

31) In the absence of being able to enter most of the adjoining gardens, Appendix 8 contains an annotated series of CGI views of the proposal, as it would be seen from adjoining properties' gardens. These views represent an accurate impression of the degree of intrusion into adjoining

gardens that would be experienced, were the proposed development to take place. Such intrusion that would now occur is a significant reduction on that which might have been experienced in the former application, and is now regarded by the appellant as insignificant.

32) Regarding the loss of daylight, sunlight and overshadowing to the directly adjacent properties at No.21 and No.25, the officer's report itself at 2.49, 2.53, 2.58 and 2.61 concludes that the scheme would not appear overbearing or enclosing, and not harm the amenity of the occupiers. The inspector was concerned about overshadowing to the bedroom dormer of No. 25B. The officer's report at 2.49 explains that in the revised design that *'the degree of overshadowing is considered acceptable'*.

33) The whole terrace has been the subject of rear extensions at all levels either side of this proposal. Residents are well accustomed to neighbouring properties having casual views into their gardens. For residents in inner urban London this is something that rather 'goes with the territory'. They understand that in areas of high density one cannot avoid, and indeed they readily accept, some degree of overlooking and intrusion into and from their properties.

34) The National Model Design Code; Part 2 Guidance Notes at U.1 Variety and Activity outlines ways in which intensification of development could take place without causing harm to adjoining properties. The proposal follows the theme of this document faithfully. An annotated extract from that document is at included at **Appendix 9**. In particular, the illustration on page 64, '66. *Suburban Intensification Options*' would seem to exemplify the appeal applications design intent.

35) The officer's report does not state that the views from adjoining properties would now be impeded or that the proposal would be overbearing or obstruct sunlight and daylight to adjoining properties; in fact, it says they wouldn't be. There is also no assessment of any harm that might be suffered by neighbours further afield. The officer's criticisms are their own perceptions of what they believe the appearance of the development would be, but nowhere do they specify what harm, if any, there would be to adjoining properties. Instead, the officer's report concentrates on size and bulk and how these are disproportionately out of keeping with others in the terrace. But the question which is neither posed nor answered by the report is what kind of harm, if any does the size, bulk and disproportionality which are alleged cause to the lives of the owners and their enjoyment of their properties? In this case, any harm to adjoining property, or to the interests of adjoining owners has to be seen in the context of the present appearance and characteristics of the rear of Ravenshaw Street; it is the appellant's view that there is no such identifiable harm.

36) The current proposal differs materially from that which was the subject of the previous appeal. The second-floor is far smaller, protrudes far less towards the rear, and now makes the proposal almost indistinguishable, in either illustrative or real-world views, from the properties that form the terrace as a whole. Views from the neighbouring gardens shown in **Appendix 8** show that any harmful overlooking or intrusiveness that may have featured in the previous proposal have now been eliminated; and as stated previously, the officer, when minded to go into detail, concludes as much himself at 2.49, 2.53, 2.58 and 2.61 of his report.

37) **The Relevant Policy Context**

The NPPF 2021 states: *Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions... Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.*

The London Plan 2021 proposes more efficient uses of the city's land, it makes multiple references to:

- making them work not only more space-efficiently
- creating places of higher density in appropriate locations to get more out of limited land
- high-density
- making the best use of land means directing growth towards the most accessible and well-connected places
- all options for using the city's land more effectively will need to be explored
- including the redevelopment of brownfield sites and the intensification of existing places
- making the best use of land will allow the city to grow

London Plan Policy GG2 - Making the best use of land, refers to:

- enable the development of brownfield land

- utilising small sites
- to intensify the use of land to support additional homes
- applying a design-led approach to determine the optimum development capacity of sites
- enabling car-free lifestyles that allow an efficient use of land
- to make the best use of land
- reusing large brownfield sites will remain crucial, although vacant plots are now scarce
- the capacity of many of these areas for new homes and jobs will increase significantly.

Policy D3 - Optimising site capacity through the design-led approach. It is quite clear that the core objective of the ‘design-led approach’ is to design-in higher density wherever possible.

The design-led approach

- all development must make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations. Optimising site capacity means ensuring that development is of the most appropriate form and land use for the site
- most appropriate form of development that responds to a site’s context and capacity for growth
- higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport
- where these locations have existing areas of high-density buildings, expansion of the areas should be positively considered by Boroughs
- in other areas, incremental densification should be actively encouraged by Boroughs to achieve a change in densities in the most appropriate way.

This should be interpreted in the context of Policy H2 Small sites.

38) Camden's Local Plan Policy H1 states:

We will seek to exceed the target for additional homes, particularly self-contained homes by:

- a. regarding self-contained housing as the priority land-use of the Local Plan;*
- b. working to return vacant homes to use and ensure that new homes are occupied;*
- c. resisting alternative development of sites identified for housing or self-contained housing through a current planning permission or a development plan document unless it is shown that the site is no longer developable for housing; and*
- d. where sites are underused or vacant, expecting the maximum reasonable provision of housing that is compatible with any other uses needed on the site.*

39) Para 3.33 states *'Given that the majority of the borough has relatively high public transport accessibility and is suitable for development of flats, densities should be towards the higher end of the appropriate density range.'* Para 3.38 contains the following statement of intent: *'positively considering different forms of intermediate affordable housing to take advantage of the funding and credit that is available; • varying the range of home sizes sought, particularly amongst market housing.'*

40) Policy H6 Housing choice and mix: *'The Council will aim to minimise social polarisation and create mixed, inclusive and sustainable*

communities by seeking high quality accessible homes and by seeking a variety of housing suitable for Camden's existing and future households, having regard to household type, size, income and any particular housing needs.'

- 41) Camden's Housing Delivery Test and its Action Plan** The table below is extracted from Camden's Action Plan, (see **Appendix 10**) and shows that over the last three years there has been a deficit in the number of units permitted, which has given rise to the need for this Action Plan.

Camden Housing Delivery Test - Action Plan P.19

	Total dwelling units permitted (net)	Annual housing target	
FY2012/13	1596	665	+ 931
FY2013/14	1124	665	+ 459
FY2014/15	3380	665	+ 2715
FY2015/16	893	857	+ 36
FY2016/17	1086	1120	- 34
FY2017/18	617	1120	- 503
FY2018/19	1091	1120	- 29
Total	9787	6212	

Table showing how the total number of units permitted (net) compares with the annual housing target for that year. The table shows that the total number of permitted dwellings exceeds our cumulative housing target by 3575 units.

The accumulated deficit is 17% of the stated target, which figure had not changed during this three-year period, presumably because during the previous years there had been a surplus of delivery over target. The Action Plan recognises that the majority of development sites in Camden

are small - less than 0.25ha. The resources of the Borough should be adapted to meet this challenge, and each site application given the appropriate amount of human resource investigation. In this case, where it seems apparent that, for example, no site visits were made by officers, who nevertheless went into considerable, and the appellant claims, somewhat misdirected detail about design, sufficient resources were not deployed in the required manner. It is against the background of this shortfall and its resource implications, and the need to improve the rate of delivery that this, and all other applications for more homes should be judged.

42) The Fortune Green and West Hampstead Neighbourhood Plan

The general aim of the Plan so far as it concerns new housing is contained in this statement:

‘Development in Fortune Green & West Hampstead will provide a range of housing and housing types, including social and affordable housing, as well as housing suitable for families, older people and young people.’

Policy A sets these aims out in more detail as they apply to the provision of more housing:

‘All development shall be of a high quality of design, which complements and enhances the distinct local character and identity of Fortune Green and West Hampstead. This shall be achieved by:

i. Development which positively interfaces with the street and streetscape in which it is located.

- ii. Development which maintains the positive contributions to character of existing buildings and structures.*
- iii. Development which is human in scale, in order to maintain and create a positive relationship between buildings and street level activity.*
- iv. Development which has regard to the form, function, structure and heritage of its context - including the scale, mass, orientation, pattern and grain of surrounding buildings, streets and spaces.*
- v. A presumption in favour of a colour palate which reflects, or is in harmony with, the materials of its context.*
- vi. New buildings and extensions that respect and are sensitive to the height of existing buildings in their vicinity and setting. Tall buildings in the Growth Area will need to have regard to their impact on the setting of the two immediately adjacent conservation areas, in order to avoid any negative impact on them.*
- vii. Extensions - and infill development - being in character and proportion with its context and setting, including the relationship to any adjoining properties.*
- viii. The provision of associated high quality public realm.*
- ix. Having regard to the impact on local views across the Area and the streetscapes within the Area.*

The appellant maintains that all of these policy requirements are met by the proposal.

- 43)** The theme running through all these policies is that London needs to create more homes for a growing population by measured intensification wherever possible, rather than expansion at the outer fringe or in the Green Belt. There is no conflict with these policies and a requirement for a ‘design-led approach’ or ‘good design’. However; good

design encompasses far more than a buildings visual style. None of these policies demand that applications should adopt the latest architectural fashions in order to gain approval.

‘Good’ design is not just about aesthetics at the expense of all other considerations. It is about finding an effective solution to a problem that balances an often-long list of conflicting requirements, many of them quite mundane. Sometimes a design brief may require a fashionable or ostentations solution, or as in the present case a more practical and unobtrusive one. The scheme is a pragmatic design and the result of many experimental design decisions.

44) Internally the flats are all dual aspect, the main rooms are predominantly rectangular, while the bathrooms and cupboards have been relegated to the core and more irregular shapes, so that internally there will be almost little sense that the building is in fact triangular. Wherever possible the flat’s layouts are designed to allow borrowed light to penetrate from back and front; this is also why the basement ceilings are deliberately much higher than the other apartments. The resulting appearance of the rear, which melds successfully into the background of its neighbours is the outward and visible manifestation of this increased density which results in five additional homes.

45) These policies are concerned with a range of objectives: higher density, greater housing mix, aesthetics/visual style, compatibility within areas, and the acceptance of the design on the appearance and surrounding urban context. None of them can be singled out to take precedence over others. The above analysis of the real-world circumstances of this proposal explains why the criticisms labelled at the

proposal cannot be justified as being incompatible with any of these policies when taken in the round: in the Camden Local Plan 2017, Camden Planning Guidance 2019 to 2021, Fortune Green and West Hampstead Neighbourhood Plan, The London Plan 2021, NPPF 2021 and accompanying National Model Design Code Guidance. All of these policies prioritise the urgent need for housing in the capital and make it clear that they expect much of that need to be met via sensitively designed incremental densification.

- 46)** Meeting these complex and often competing requirements is what the appellant's design set out to achieve, and while the LPA may choose to disagree about visual details, the scheme, if evaluated objectively and as a whole, achieves its objectives.
- 47)** Concentrating on criticisms of the rear alone, as if it were somehow entirely divorced from the rest of the proposal and from its surroundings, is, the appellant maintains, an inappropriate means by which such proposals should be judged. To criticise it solely for some purported lack of architectural merit at the rear and to use this as a reason for refusing the application ignores many other significant benefits of the proposal: most importantly that it will provide, on this small site, five additional homes in an area with good transport links, close to centres of employment. At the front, the proposals architectural merits are not questioned.

48) THE SECOND REASON FOR REFUSAL

- 49)** The two flats in this proposal are self-contained and are accessible from three sources – the stairs leading to the ground floor, the front light well and the patio windows to the garden. This means they each have three means of escape in the event of an emergency, including the admitted very low risk of flooding. They have good lighting from outside sources and are easily ventilated. In all respects they pose no inherent danger to prospective occupants.

50) Self-contained Units

The two flats in this proposal are self-contained and are accessible from two sources – the stairs leading to the ground floor and the patio windows to the garden. This means they each have two means of escape in the event of an emergency, including the admitted very low risk of flooding. They have good lighting from outside sources and are easily ventilated. In all respects they pose no inherent danger to prospective occupants.

However, the precursor to the second refusal is that *‘The proposal to include a self-contained basement unit in an area prone to flooding...’*

The statement overlooks the fact that in many previous decisions the council has maintained (once at appeal Ref: 3238739) that flats exiting to an internal hallway, are not regarded as self-contained, but *‘akin to the arrangement in a duplex.’*; i.e., de-facto duplex flats, exactly the same as the present case.

51) Although there is no policy requirement for it, detailed in **Appendix A** are 142 ‘duplex’ residential apartments or basements to houses, many with some associated flood risk, most of them passed with little or no comment about flood risk. There are exceptions, but most of them contain bedrooms, habitable rooms and ‘vulnerable’ rooms at basement level. It is a fact that residential basements, in areas ‘prone to flooding’ are being approved routinely by the Council and have been since July 2017.

The council imputes a much higher level of flood risk to true, fully self-contained basement flats than it does to duplex flats. In its decisions it takes-exception to the former, but makes little objection to the latter.

In the decision of 2016/2689/P 190 Goldhurst Terrace NW6 3HN, the officer concludes at: ***4.2 The proposed flat is accessed via a communal entrance ground floor level and internal staircase. This is considered to be akin to the arrangement in a duplex arrangement where, in the event of a flood occurrence, occupants can exit the lower level to the ground floor level and still be within the main building... It is considered in this instance that the proposals for a self-contained unit at basement level are acceptable.***’ This internal arrangement is identical to the present appeal application, it also having two alternative means of escape via patio doors to the rear garden and via a front lightwell ladder to the street; see plans at **Appendix B Page 2**.

52) Furthermore, at least 15 self-contained basement flats, either fully self-contained or with an ‘akin to a duplex’ internal arrangement, in ‘areas prone to flooding’ have been approved (or not refused on flood grounds) by the LPA under current Local Plan; 9 in ‘Local Flood Risk Zones’ and 9 on ‘Previously Flooded Streets’; 3 flats have both risks.

They include at least 28 basement bedrooms, 27 habitable rooms, 5 ‘vulnerable use’ rooms and 28 other use spaces. See **Appendix B Page 1**, which is itself a subset **Appendix A** which will be referred to again later in this statement.

- 53)** It can be shown that the Planning Authority is using different and contradictory interpretations of its adopted basement policies. In this case, it sets aside without explanation or reasons its previously applied definition of these appeal basement flats exit arrangements as being ‘*akin to the arrangement in a duplex*’ and chooses instead to maintain in this case that they are fully self-contained.

In *North Wiltshire District Council v Secretary of State*, (1993) Mann LJ stated ‘... like cases should be decided in a like manner so that there is consistency... Consistency is self-evidently important to both developers and development control authorities. But it is also important for the purpose of securing public confidence in the operation of the development control system.’

Two recent cases have affirmed this principle: *R (Midcounties Co-operative Limited) v Forest of Dean District Council* (2017) EWHC 2050, and *Baroness Cumberlege v Secretary of State for Communities & Local Government* (2017) EWHC (2057).

- 54)** London Borough of Camden Council as Planning Authority has acted inconsistently. By its own definition, the appeal basement flats are not self-contained but de-facto duplex apartments, and should have been regarded as such when making the decision.

Whatever this part of the refusal may imply, there is in this proposal, to repeat, no danger to occupants from any external invasive source given that there are three separate means of escape; that is the issue to be examined in a flood risk situation, as well as whether sufficient measures have been taken to avoid the danger ever materialising.

55) Flood Risk

Camden's Local Plan contains Policy A5 (Basements), states that *'The Council will not permit basement schemes which include habitable rooms and other sensitive uses in areas prone to flooding.'*

56) This policy is, and more importantly was at the time the Plan was approved in July 2017 contrary to government guidance in the form of the original 2012 NPPF (See **Appendix 11**) and its updates to 2017. The guidance and government policy requires planning authorities in these circumstances to call for site specific flood risk assessments to accompany planning applications. They are required to use these assessments, together with any flood risk mitigation measures proposed, to determine whether applications should be given permission.

57) Current Planning Practice Guidance states 'The developer's site-specific flood risk assessment should demonstrate that the site will be safe and that people will not be exposed to hazardous flooding from any source.'

58) The government guidance document 'Review Individual Flood Risk Assessments: Standing Advice for Local Planning Authorities' advises LPAs to require the applicant to provide a flood risk assessment if

the site is within an area of ‘land’ at risk of surface water flooding. It does not indicate that such cases should be refused on the grounds that they are in areas or zones or land which are designated as liable to flooding.

- 59) The reason for this, it is to be assumed, is that a ‘flood area’ or ‘flood zone’ may well contain sites that are demonstrably are not at risk of flooding – they may be, for example, on top of or, as in this case, two thirds of the way up a hill. The consultancy firm, URS, in the Camden Strategic Flood Risk Assessment (SFRA) July 2014, which formed the basis of Policy A5, foresaw and warned against this issue:

‘3.2.11 It should be noted that where streets have experienced flooding during the 1975 and 2002 flood events, this mapping is relatively coarse in scale and does not allow a distinction between, for example, an entire street flooding, or an isolated section of road flooding as a result of a blocked gully.’

*6.4.11 It should be noted that **the uFMfSW** [Updated Flood Map for Surface Water] **should not be used on a site-specific basis** due to the limitations of the modelling, **but instead should be used as a guide for potential risk.**’*

- 60) The 2010 Flood and Water Management Act at S.11 requires a flood management authority to ‘act in a manner which is consistent with the national strategy and guidance’. This applies both to Camden as planning authority and as Lead Local Flood Authority. This requirement is not reflected in Camden Local Plan 2017 Policies A5 and CC3.

61) The Camden policy regarding basements gives no room for exceptions, and states that all applications for habitable rooms in basements in ‘flood risk areas’ should be refused. Whilst this policy is, and always was contrary to national policy, however, it seems evident that the planning authority has not followed this policy in 99% of basement applications (150 out of at least 152) decided since the adoption of the Local Plan in 2017 itself, as listed at **Appendices A, C and D**. During this period, there appears to be only two applications that have been directly refused on flood risk grounds, citing this policy; the present case being one, the other being 2019/0158/P. It would appear on this evidence that the planning authority may have realised the difficulties inherent in this policy, and sought to bypass it in the majority of cases where national guidelines would indicate that it would be inappropriate to follow it.

62) It is clearly the case that where a site or a proposal is, on consideration of site-specific evidence, either at no discernible risk or minimal risk of flooding, the strict implementation of the policy would be contrary to all other rubrics of the planning regime and would lead to questionable decisions. Such decisions could unnecessarily fetter the right of an applicant to develop his or her asset without proper justification. The appellant also derives considerable support in this matter from a decision by an Inspector in March 2020 regarding 190 Goldhurst Terrace NW6 3HN, Appeal No. 3238739 reproduced as **Appendix 12**, where the Inspector’s comments on ‘very specific evidence’ for that particular property are especially prescient.

- 63) This application was the subject of a site-specific assessment by the specialist flood risk consultancy UNDA (**Appendix 13A and 13B**). Prompted by criticisms from LLFA officer, their detailed, two-part report was provided during the course of the application. It includes a comprehensive suite of residual mitigation measures and there is no reason to believe that it does not satisfy all of the LLFA officer's requirements.
- 64) The planning authority in this case, however, has given no credence to this reports' surface water flood risk findings. The report finds that the site is at a 'very low risk' of flooding, and the measures that have been proposed to mitigate any residual pluvial flood risk will prevent any part of the proposed development from flooding.
- 65) Camden, as Lead Local Flood Authority, could have challenged any of the surface water flood risk findings in the UNDA report, but chose not to do so. The LLFA officer has evidently advised the planning department to dismiss this application simply because it is in a 'local flood risk zone' and has to all intents and purposes ignored the site-specific surface water flood assessment requirement. No reason has been advanced by the LPA as to why this change from this basis of previous decisions has occurred. In his report, the case officer refers to the UNDA FRA in so far as it covers flood risk mitigation and SuDS measures but makes no mention of its surface water flood risk evidence and conclusions. On that issue he focuses instead on efforts to down play and delegitimise the surface water flood risk conclusions of the Councils own consultant engineers in their BIA Audit; which also previously concluded that site was a low risk of surface water flooding

66) The officer's report states *'The applicant has advised the existing crossover to the site will be replaced with a 100mm kerb and improved road camber. In addition, the applicant has stated that the entrance floor level would be 0.22m above the maximum predicted depth of surface water flooding for both the 1:100 year and 1:1000 year events and "therefore the possibility of flooding to the basement apartments is extremely remote". The applicant has also offered to install a range of additional permanent and temporary flood proofing measures, including: toughened glass, watertight balustrade and impervious brick wall (450mm at the upper end) to surround the front lightwells along with main entrance and basement flat doors specified as Flood Protection Doors to PAS 1188:2014 standard (water pressure sealed to 600mm).'*

67) Here the officer acknowledges the flood risk mitigation measures put forward in the applicant's Flood Risk Assessment (FRA) but then falls silent. He seems to make no effort to comment on the actual flood risk to the site shown in the FRA which is based on the site-specific facts in accordance with the NPPF. Qualified professionals, supported by nationally recognised studies and detailed evidence of the site's topology have deemed that site itself is at very low risk of surface water flooding. Furthermore, the flood risk mitigation measures put forward are shown to be sufficient to deal with any residual risk. There is no explanation provided as to why this particular application, seemingly one of only two ever refused on flood risk grounds, has been singled out in this manner.

68) The UNDA FRA, which should be taken as the appellant's evidence for this part of the proposal, is a comprehensive site-specific assessment which analyses the susceptibility of the site to flood risks at all the probable levels of present and future rainfall required by policy. It

finds that with the residual flood risk mitigation measures being proposed, including reinstating the pavement and kerb to replace the dropped curb which currently enables access to the car park on the vacant part of the site, the proposed development and in particular the basement will be at negligible risk of flooding. The site has no history of flooding. Indeed, in the very recent serious flooding events in Camden on 12 July 2021 very heavy rainfall can be seen running past the site and on down the pavement.

- 69) A YouTube video is available of that event; see **Appendix 14** and/or search YouTube Ref: 23WDOHGpJr0. In its simplest terms, the FRA conclusions are not that surprising since 23 Ravenshaw Street is located two thirds of the way up a hill and 58m above the OS Datum. The crest of the hill is 90m away and 65m above OS Datum. The bottom of the hill, 180m down the street is 7m lower than the site at 51m above OS Datum where it joins Broomsleigh Street, which is where surface water flows to and pools, something that is clear on the Environment Agency maps.
- 70) A full Basement Impact Assessment was provided and audited by the Council's engineers Campbell Reith who found it to be in order. They found no issue with the construction of the basement in terms of its impact on adjoining properties, going as far as to say that the scheme *'should provide an improvement to the current site conditions and betterment to the wider hydrological environment'*. The report also concluded that *'it is accepted that the proposed development is at very low risk of flooding from all sources'*. Having accepted this conclusion in its previous decision, it is unclear why Camden now seeks to refute it.
- 71) In the absence of any attempt by the Planning Authority or in its capacity as LLFA to evaluate the site-specific flood risk of the proposal itself and in light of its decision without explanation to ignore the pluvial flood risk conclusions in the report from UNDA, an acknowledged expert firm in the field, the appellant respectfully requests the Inspector to dismiss this ground for refusal and to accept the findings of the UNDA report as the only credible evidence relating to flood risk arising from this proposal.

72) THE PUBLIC BENEFITS OF THE PROPOSAL

- a)** The proposal will create five new, sustainable homes in a borough with a notable housing delivery shortfall and a very limited pool of possible development sites.
- b)** It will also see the replacement of the two, part Victorian, part mid-century flats with two more sustainable and energy efficient dwellings.
- c)** Provide an Affordable Housing Contribution in lieu of £264,950.
- d)** While it may not preserve the original plain Victorian façade in this non conservation area, the development provides a visual improvement to the street scene by infilling the ‘broken tooth’, removing the incongruous mid-century extension and replacing it with a building which is overall, far more sympathetic in terms of its built form.
- e)** From wider public views up and down Ravenshaw Street the proposed development compliments the stepped rhythm of terraced roofs by continuing the currently broken roof line as well as continuing the procession of bay windows down the street.
- f)** At street level, the hard standing, incongruous wooden fence and gate will be replaced by a typical front wall, fence and ‘garden’ arrangement.
- g)** Although only seen from distant views, the rear will be far more visually continuous than the existing gap and bulky box addition and, it will be more in keeping with the overall rhythm of development seen in adjacent properties than the extant property.
- h)** Removal of the vehicular cross-over and reinstalment of a level pavement in front of the property to the long-term benefit of pedestrians, especially disabled users.
- i)** Withdrawal of 2 on street parking permits, remove a crossover and permanently remove five plus onsite parking spaces.

73) Accessibility Level and assisted access will be provided to create 6 new wheelchair accessible homes i.e., proposed flats, A, B C, D, E, F. Currently, extant Flats 23A and 23B have only stepped access. Only the proposed Flat G would not be wheelchair accessible.

74) Sustainability Measures proposed are:

A) The creation of additional green roof and rear green wall with no reduction in planted garden area.

B) Mechanical heat recovery and ventilation system increasing air purity for occupants.

C) Increased land stability and underpinning to adjacent properties 21 and 25 due to the basement construction.

D) Reduced railway noise levels on to Ravenshaw Street.

E) Increased insulation and weather protection to the exposed flank wall of No.25.

75) Security Increased security will be provided via additional occupant surveillance to the rear of the site; especially the apex of the Ellerton Tower garden which can be accessed from Mill Lane. There will also be an increase in surveillance due to additional overlooking to street.

76) The proposal will achieve the removal of opportunities to unlawfully access the rear of Ravenshaw Street and adjacent rear gardens via the car park; which is has been a real problem at times in the past.

77) CONCLUSION:

The proposed development will provide five additional homes for London and make a substantial financial contribution to the provision of affordable homes. The proposal causes no harm to any party. Views of it from all perspectives, both public and private, are unexceptionable and meld well into the appearance of the rear of other properties in this part of Ravenshaw Street. A Site-Specific Flood Risk Assessment has shown that the proposed development at basement level is at very low risk of surface after flooding, that the proposed residual flood risk mitigation measures proposed are deemed to be perfectly acceptable, and that the SuDS measures proposed mitigate against any additional risk of flooding to adjoining properties. This would be a sustainable development that provides significant public benefits. For all these reasons, the appellant therefore respectfully requests the Inspector to grant planning permission for this development.