



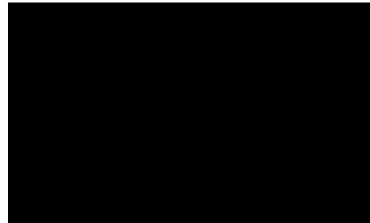
14 April 2022

Norton Rose Fulbright LLP
3 More London Riverside
London SE1 2AQ
United Kingdom

By email

London Borough of Camden
5 Pancras Square
London
N1C 4AG

Attention: 



Your reference

Our reference

PECO/1001139651

Dear Sirs

Representation on O2 Masterplan Application (ref 2022/0528/P) on behalf of Hampstead Asset Management Ltd and Builder Depot Ltd

We write on behalf of our clients Hampstead Asset Management Limited ("HAM") and Builder Depot Limited ("BD"). HAM are the freehold owner of 14 Blackburn Road London, NW6 1RZ, and BD are the leaseholder and operators of Builder Depot – West Hampstead, which is situated at 14 Blackburn Road.

We attach our clients' detailed comments on the application made by Land Securities (the "Applicant") for redevelopment of the O2 site on Finchley Road under reference 2022/0528/P (the "Application"). As you will be aware, 14 Blackburn Road falls within the red line boundary for the Application. Whilst our clients do not object to the wider scheme, our clients are strongly of the view that the Application, and in particular the potential exercise of compulsory purchase powers over the 14 Blackburn Road is unnecessary and therefore strongly object to the inclusion of 14 Blackburn Road within the red line of the Application. Our clients will strongly resist any compulsory purchase order promoted by or on behalf of the Applicant which relates to 14 Blackburn Road.

As a high level summary, the key themes our clients make are:

1. There is an extant planning permission for 14 Blackburn Road (see below) which ensures that BD can continue trading. BD is an important local business and delivers an important retail function (being considered an essential service during the COVID-19 pandemic, staying open to supply essential and emergency services), employing 40 members of staff, some of whom have been at the store since it opened, with one instance of three generations of the same family employed by the business. BD is not only a local employer but a strong investor in its staff, as it offers above London minimum wage, annual bonuses, access to a hardship fund and a monthly cost of energy bonus and also a guaranteed apprenticeship to family members of employees. Employees of BD are largely locally based and with strong community links. The 14BR Permission offers assurance that this business, which is a strong investor in the local community can continue trading, the Application does not.
2. There is a complete lack of regard for the extant planning permission which benefits 14 Blackburn Road, including the explicit mention of this in Policy B9 of the Fortune Green and West Hampstead Neighbourhood Plan. This planning permission is for redevelopment to include two Class B8 and eight

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Class B1 units with associated service yard, together with a four storey plus basement block comprising eight dwellinghouses and six self-contained flats (the "14BR Permission"). Despite this being a highly relevant part of the planning background to this site, the Applicant seems to pay little or no regard to it in the application, save for a passing mention. This means that the environmental impact assessment is flawed as it does not consider the proper baseline for assessment.

3. Given this lack of consideration of the 14BR Permission, there is no consideration given the fact that HAM are in the process of regenerating the site, meaning the Application is not necessary for the redevelopment of 14 Blackburn Road.
4. The retail use of 14 Blackburn Road is supported by the Development Plan at all levels, including recognition of the desirability of ground floor retail on the site in the Fortune Green and West Hampstead Neighbourhood Plan which would likely be extinguished by the Application.
5. The 14BR Permission will provide 14 residential units, which will be much needed housing in the borough. As well as this benefit, the 14BR Permission delivers a net gain in commercial space, including replacement premises for BD and new office space. HAM is in discussions in relation to the pre-letting of these units – there is an appetite and need for this space in this location, with the consequential economic benefits it brings.
6. The 14BR Permission is able to deliver these benefits more quickly than the Application, which has no firm timeline and will take at least around 15 years to be fully constructed, and is therefore subject to more uncertainty due to the unpredictability over the economic climate over such a long period and may not be delivered. Paragraph 69 of the NPPF backs this up, stating that "*Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly*".
7. We note that the Clocktower Apartments at 13 Blackburn Road have not been included in the Application redline. We presume this is because the Applicant considers that the site does not need regenerating either due to the fact it was converted to residential use only in 2014, or due to the outstanding application for planning permission to redevelop the site which is with the Council for consideration. Given the extant 14BR Permission, we see no reason why the same logic should not apply to 14 Blackburn Road.
8. Excluding 14 Blackburn Road from the Application would not prejudice any potential regeneration benefits the Applicant sets out in the Application, as it only forms a small part of the overall scheme, in an isolated location on the edge of the site.
9. Even if there is a loss of any such benefits, because 14 Blackburn Road is not proposed for any special use or purpose that is not provided by the planning permission for 14 Blackburn Road, any loss would be limited to residential and commercial floorspace, which would be offset by the provision of similar uses in the 14BR Permission.

In light of the above, and the points in the attached document, we ask that the Council refuse the Application, and require the Applicant to resubmit a scheme which does not include 14 Blackburn Road. Alternatively we ask that the Council prevail upon the Applicant to amend its redline and exclude 14 Blackburn Road.

We trust the Council will consider these comments. Our clients would welcome the opportunity to discuss any questions you may have on this representation.

Yours faithfully,


Norton Rose Fulbright LLP

**Comments on Planning Application – O2 Centre Application (2022/0528/P) on behalf of
Hampstead Asset Management Ltd (HAM) and Builder Depot Ltd (BD)**

| Document Paragraph | Comment / Response |
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| Environmental Statement | |
| 1.4 | <p>This paragraph, relating to the planning context of the Site, makes no reference to the extant and implemented 14BR Permission, which permits redevelopment to a mixed use site of residential and commercial uses, including provision for BD. This is an important part of the planning history of the Site which is overlooked.</p> <p>In addition, the 14BR Permission is noted in Policy B9 of the Fortune Green and West Hampstead Neighbourhood Plan, which itself forms part of the development plan for the Site. Therefore, the Council must have regard to this policy, and with it the 14BR Permission, under section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.</p> |
| 2.5.4 | <p>This paragraph states that the baseline for the ES is "<i>the existing Site and its surroundings in their current form</i>" as set out in Chapter 1 of the ES.</p> <p>This baseline is incorrect and does not allow proper assessment of the effects of the Scheme. As noted above, Chapter 1 ignores the 14BR Permission, and the forthcoming continuation of building out the already implemented scheme approved by this Permission. This development is consented and will be completed by HAM, with active discussion underway between HAM and third parties in relation to pre-lets in the completed development, and therefore the Application should be assessed against a likely future baseline of that scheme having been completed.</p> <p>The failure to do this means that the ES does not fulfil the obligation in paragraph 3 of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, which requires "<i>description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development</i>".</p> |
| 2.6.1 | <p>The ES is noted to be in accordance with relevant local and national planning policy. However the Applicant has failed to abide by:</p> <ol style="list-style-type: none"> 1. Camden Local Plan (2017) – <ol style="list-style-type: none"> a. Policy TC5 – The Council states "<i>Small shops, often run by independent traders and providing specialist shopping, help to sustain the diversity, vibrancy and character of our centres</i>". This policy also states that the Council will "<i>encourage the occupation of shops by independent businesses</i>". Builder Depot is such an independent business and removal of it is contrary to this policy. |

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| | <p>b. Policy E1 – “We will ... support businesses of all sizes, in particular start-ups, small and medium-sized enterprises” and “support Camden’s industries by safeguarding existing employment sites and premises in the borough that meet the needs of industry and other employers”. 14BR is a suitable employment site as per the 14BR Permission, which provides replacement modern premises for BD, which is a medium sized business. 14BR Permission allows BD to continue to operate.</p> <p>2. The London Plan (2021) – Policy E4 – “A sufficient supply of land and premises in different parts of London to meet current and future demands for industrial and related functions should be provided and maintained ... This should make provision for the varied operational requirements of:</p> <p style="padding-left: 40px;">1) light and general industry (Use Classes B1c and B2)</p> <p style="padding-left: 40px;">2) storage and logistics/distribution (Use Class B8)...”</p> <p>The 14BR Permission includes provision for both B1 and B8 use class uses and therefore is supported by this policy.</p> <p>3. The Fortune Green and West Hampstead Neighbourhood Plan – Policy 12 – promotes “Development of commercial and mixed use premises and sites shall promote economic growth and employment, where viable and appropriate by:</p> <p style="padding-left: 40px;">i. A presumption in favour of retaining existing employment sites.</p> <p style="padding-left: 40px;">ii. Ensuring that where the redevelopment of existing employment sites takes place, the level of employment floorspace is maintained or increased.</p> <p style="padding-left: 40px;">iii. The provision of additional and /or new business space...”.</p> <p>This policy is not supportive of the development of 14BR under the Application as the Applicant admits that there will be a net loss of commercial floorspace (see paragraph 15.9.5 of the ES). This is in stark contrast to the 14BR Permission, which would provide a net gain from 1,643 square metres of commercial floorspace to 7,413 square metres and therefore is in compliance with Policy 12.</p> |
| 2.8.13 | This paragraph confirms that Table 2.4 contains the list of developments used in the cumulative assessment. Again the 14BR Permission is overlooked, and not included in the cumulative assessment, despite potential construction period overlaps, making the assessment in the ES potentially flawed and potential cumulative impacts that could have gone unassessed. |
| 3.3.1 | The stated objectives of the Application set out in this paragraph are not at odds with the development under the 14BR Permission. The Council cannot justify granting consent for a different development, seeking compulsory purchase powers to remove existing land interests and preventing a business from continuing when there is already an extant permission, implemented and shortly to be under principal construction, that already achieves the intended aims. |

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| | <p>Excluding 14BR from the Application redline would not adversely affect the wider scheme and prevent it from delivering the purported benefits to the local area stated in the Application. 14BR is not an integral part of the proposed Application site, rather it sits on the far western extreme, easily removable without affecting the remaining parts of the Application site.</p> |
| 4.3.12 | <p>This paragraph sets out that C3 residential floorspace will cover a number of plots, including S8, which is where 14BR is located within the Applicant's plan.</p> <p>While the ES does not provide a breakdown of where this floorspace will be located, it should be noted that the 14BR Permission already has provision for 14 new dwellings and as such there will be minimal, if any, loss of new dwellings as a result of 14BR being excluded from the Application. There is precedent for this – the Clockwork Factory Apartments, located at 13 Blackburn Road, opposite 14BR, was converted to residential use in 2014 and has an application outstanding for further redevelopment. This site has not been included in the Applicant's proposals, presumably due to it already providing housing and there is no good reason why 14BR should be treated any differently.</p> |
| 5.2.2 | <p>This paragraph discusses the proposed phasing of development. The current phasing plan is for 14BR to be within Phase 2B of the proposed development.</p> <p>The Applicant has provided no certainty on this phasing, however. The ES paragraph 5.2.2 states that a phasing plan is likely to be needed under a condition to any planning permission, and that the final phasing is "expected to be similar" to that in the ES. This, in itself, already creates doubts over what the final plan will be, with the ES also stating that any changes would be subject to a further ES. Whilst the ES sets out timings based on an assumed start date of 2023, measures such as an updated ES would presumably push this start date back further, creating further uncertainty over start dates and timings. Such uncertainty can create problems for local residents and business looking to understand the impacts of the scheme. It also makes it difficult for local businesses who need to plan for relocation to be fully apprised of when they will need to move.</p> <p>It should be noted that even in an ideal world, where the construction programme as stated is followed, the full site would not be completed until 2038. This is a long period until the purported full benefits stated by the Applicant for the scheme are realised. Even then, there is no guarantee that these alleged benefits can even be realised, given the need for CPO, the possibility of changes in economic conditions over such a long period that could lead instead to scaled back versions of the scheme being implemented, or perhaps halting mid development. Dynamic shifts in the market, and consumer trends have been a feature of recent years, as a consequence of Brexit, COVID, and life style changes affecting how people shop, where they live, and how they spend their spare time. It cannot be ruled out that over a 15 year period the development now sought will not meet market demand by the end of that period.</p> <p>This issue is best illustrated by paragraph 69 of the NPPF which states that "<i>Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly</i>". In this way, this policy would be supportive of the development of 14BR in accordance with the 14BR Permission, as a smaller housing scheme that is able to deliver benefits quickly.</p> |
| 5.2.5 | <p>It is stated in this paragraph that the assumption is that the buildings will remain occupied until demolished.</p> <p>The paragraph goes on to outline that delivery would be maintained for the car showroom but makes no mention of maintaining access for deliveries and customers of Builder Depot. Without prejudice to our primary case that 14BR should not be included within the application or any</p> |

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| | <p>planning permission which may be granted, this is in itself an important oversight, underlining the lack of consideration for potential disruption to BD's business as a result of the development. It is telling that later, in paragraph 5.3.41, it is only promised that "efforts would be made to maintain the width of Blackburn Road during construction of Phase 1" with no firm commitment to doing this. If neither customers nor deliveries can access the 14BR site, or access is made difficult, then plainly the buildings will not remain occupied until demolished, as in all likelihood the business would need to relocate early. In any event, BD will need to carefully plan for relocation well in advance of demolition, even if access is maintained to Blackburn Road. The relocation of the business, and the retention of all the services provided by and jobs supported by the BD business is of the utmost importance.</p> |
| 5.2.6 | <p>This paragraph simply states that existing occupants would be decanted, without any mention of any plan for where such occupants would go once removed from their business premises. HAM and BD would expect a more developed plan to be outlined, including provision for sensible compensation or provision of reasonable alternative premises. The lack of a detailed plan is a significant concern to BD. They have engaged with the agents instructed by the Applicant and provided as requested their relocation requirements in January 2022 to seek to replicate their existing provision at 14BR, but have heard nothing and have recently chased the agents for an update.</p> |
| 5.3.1 & 5.7.1 | <p>The Applicant states that it will "consult" with various stakeholders, including HAM and BD, in relation to mitigation of construction impacts. This is not sufficient to provide the assurance of effective mitigation; there is no guarantee that the views of HAM and BD, or indeed any other consultee, would be listened to and measures to mitigate construction impacts incorporated once the incentive of being granted planning permission has been removed.</p> <p>HAM and BD would also question the Applicant's commitment to this consultation and acting on any comments from it, and it would expect such mitigation measures, if to be taken seriously by the Applicant, to be secured by compliance with a robust, specific, and detailed construction management plan (CMP) secured by condition. However, it is noteworthy that these consultation measures are not set out in the list of matters that would be included by the Applicant in the CMP in paragraph 5.7.1. The Council should make consultation with HAM and BD in relation to the mitigation of construction impacts, and the incorporation of appropriate mitigation measures into a CMP a specific obligation in a condition to any planning permission to ensure compliance by the Applicant.</p> |
| 5.7.10 | <p>The Applicant prays in aid the ensuring of local jobs during construction and the development of skills in support of its application. This overlooks the 40 local jobs at Builder Depot, many of which are employees who have been employed by that business since its commencement, including three generations of one family, that would be lost should the Application be granted in its present form, unless relocation of the business can be achieved. This should also be considered against a baseline that HAM, when continuing construction under the 14BR Permission, will similarly provide local construction jobs and as such, local jobs and skills would not be a net benefit of the Application specifically in relation to the 14BR site. HAM and BD are negotiating an agreement that will ensure both the return of BD to the 14BR site once redeveloped, and ensures that the staff currently employed by BD do not face redundancy during BD's temporary relocation from the 14BR site, and can return to their jobs at 14BR on BD's return. This is a key requirement of BD in those negotiations which is accepted and respected by HAM. BD have no such guarantees for their staff in relation to the Application, and as noted above, there has been no engagement from the Applicant's agents in relation to relocation.</p> |
| 15.2.2 | <p>The ES highlights the relevant policy for socio-economics in this paragraph.</p> |

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| | <p>The Applicant sets out the whole of Chapter 5 of the NPPF in this paragraph; this includes paragraph 69, which, as highlighted above, would be more in support of the 14BR Permission than the Application.</p> <p>In addition, Chapter 6 of the NPPF is relied upon, but paragraph 81 in this Chapter states <i>"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development"</i>. The Application does not create conditions for HAM and BD to invest, expand and adapt, but in fact does the opposite as the construction of the development under the Application would mean the cessation of Builder Depot as a business on the 14BR site. The Council must, as the NPPF requires, place significant weight on this factor.</p> |
| 15.4.9 15.6.2 | <p>&</p> <p>There is a statement in this paragraph that 10 jobs would be lost if the Builders' Depot closes. This figure is incorrect, as BD in fact employs 30 staff at this location, plus a further 10 off site who work for the West Hampstead branch in roles such as delivery and back office functions. This is noted to be an estimate but HAM and BD are surprised that this easily verifiable figure, which could have been established with a simple enquiry to either company, has instead massively underestimated the level of local impact of closure of Builder Depot on the local jobs market.</p> |
| 15.9.5 15.9.6 | <p>&</p> <p>The ES is flawed in its assessment that loss of existing uses and employment would be only a <i>"minor negative"</i> <i>"not significant"</i> effect. The Applicant has, though this assessment, clearly underestimated this effect.</p> <p>Paragraph 15.9.5 sets out that:</p> <p><i>"The retail floorspace included within the Outline Proposals could accommodate replacement retail floorspace (Sainsburys). The Applicant are in early discussions with Sainsbury's about the type and format of floorspace that may be provided on-site to replace existing uses. However, overall, there would be a net loss of commercial floorspace."</i></p> <p>This reveals two issues for the outline proposals, which includes 14BR – firstly, in discussing retail provision by Sainsbury's, it is clear there is no direct replacement envisaged for the specific type of specialist retail use that would be lost with the loss of Builder Depot. This would mean the specialist skills of such employees, many of whom have spent all or most of their careers at Builder Depot, may not be accommodated in this location, or in this borough, and lead them to seek job opportunities at other businesses which match their skill set in other areas. This is made more acute when it is considered that although provision for a new Sainsbury's store is mentioned, this is an existing user of the site, so staff are likely simply to be transferred to jobs in a new store, meaning no new job creation.</p> <p>Secondly, the Applicant admits that there will be a net loss of commercial floorspace. This is in stark contrast to the 14BR Permission, which would provide a net gain from 1,643 square metres of commercial floorspace to 7,413 square metres.</p> <p>Given the above, it is difficult to understand how replacing the Builder Depot, with its extant planning permission and forthcoming completion of works under it, would have only a <i>"minor negative effect"</i> given not only the loss of 40 specialist jobs (unless the BD business can be relocated), but the loss of an increase in commercial space.</p> |

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| | This assessment also highlights that, as noted above, the 14BR Permission is more in line with the development plan, specifically Policy 12 of the Fortune Green and West Hampstead Neighbourhood Plan, which promotes development of commercial and mixed use premises and promotion of economic growth. |
| 17.3.2 | As noted above, the list of developments for cumulative assessment overlooks the 14BR Permission and is therefore flawed, as it fails to properly assess the impacts of that development on the Application. |
| Employment, Skills and Supply Plan | |
| General | The commitments made in this document relate to the whole site, and removing 14BR would not negate what the Applicant intends to do in relation to job provision, given that the building out of the 14BR Permission will provide construction and supply chain jobs. |
| 2.8 | The commitments made by the Applicant in relation to local job and skill creation will be matched by the redevelopment of 14BR. There would be no negative impact on these outcomes by the Application excluding the 14BR. |
| 3.4 | As noted above, it is speculative for the Applicant to rely on providing benefits to the local community over a 15 year period, when it is impossible to guarantee the economic climate over such a long horizon. In contrast, the 14BR Permission as a more condensed and focussed scheme can be implemented within a shorter time horizon. |
| 5.2 | The Applicant undertakes to offer employment and training opportunities in the completed development, however, BD already offers such schemes, in particular guaranteeing apprenticeships for the family members of employees. As such, the Application offers no net benefit in this regard. |
| Planning Statement | |
| 1.6 | This paragraph gives a high level description of the Application site, but in so doing leaves out the development to be undertaken under the 14BR Permission, which, as highlighted above, ought to form part of the baseline for the consideration of the Application. |
| 1.7 | This paragraph states that the present site, including 14BR <i>"impedes the connection of the surrounding communities"</i> . Whilst it is clear how this could be true for the O2 Centre, as it forms a physical barrier between areas of Camden borough, it is not clear how 14BR does this or contributes to it. The Applicant does not clarify this point, which it should have done given that this appears to be a key part of the justification for the Application. |
| 3.6 | This paragraph describes the car showrooms and 14BR, and is wholly inaccurate in its characterisation of the Builder Depot when it states <i>"these uses represent an inefficient use of land. They are not compatible with a high-quality residential development and also constrain the ability of the Site to deliver the range of public benefits sought by the Local Planning Authority"</i> . This statement falsely portrays that the Application as the only option for redevelopment of 14BR. This, as noted throughout this representation, demonstrates the disregard of the 14BR Permission as the correct baseline for the current use of 14BR. The 14BR Permission is considered to |

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| | <p>be an efficient use of land, and compatible with a high-quality residential development, indeed the 14BR Permission includes high-quality residential development and it must have been considered appropriate development by Camden in this location, and consistent with the development plan, otherwise permission would not have been granted. The 14BR Permission delivers a range of public benefits for the site at least equal to the public benefits lauded by the Applicant, and better in terms of the increased provision of commercial floorspace.</p> |
| 3.16 | <p>This paragraph discusses the site designations under the Council's Site Allocations Local Development Document.</p> <p>Whilst this paragraph highlights that Site Allocation 29, from the extant plan only covers the O2 Centre car park, and the emerging replacement Site Allocation Draft Plan (2019) (as quoted in paragraph 9.14 of the Planning Statement) relates to the O2 Centre itself, its car park and the car showroom, it does not explicitly highlight that neither allocation includes 14BR as part of the wider development of the O2 Centre.</p> <p>The fact that the Council, during the drafting of, and consultation on, both plans did not see fit to include 14BR in the Site Allocation is a vital point to note, as it undermines the Applicant's inclusion of 14BR in this Application, and any suggestion that the 14BR site is necessary to secure a comprehensive and holistic development. This is worth emphasising, as on the drafting of this paragraph of the Planning Statement the omission of 14BR from the Site Allocation is not made clear. Without this emphasis, given that 14BR is included in the wider site of the Application, this important point may be lost on a reader.</p> <p>This point is also camouflaged as in numerous parts of the Planning Statement the Applicant simply refers to the "Site" when discussing the Site Allocation documents, which is defined in the Planning Statement to include 14BR, being part of the Site Allocations without making any comment on which parts are and are not included (see for example paragraphs 5.9, 9.31, 9.51 and 9.60).</p> <p>HAM and BD ask that the Council consider this important point in determining the Application. Policy support for the redevelopment of 14BR consistent with the Application is not as strong as the Applicant suggests. On the other hand, there is explicit policy support in policy B9 of the Fortune Green and West Hampstead Neighbourhood Plan for the redevelopment pursuant to the 14BR Permission, subject to updated plans being provided, which has been done by HAM.</p> |
| 3.18 | <p>Although the Applicant states in this paragraph that it has assessed the Application against the Fortune Green and West Hampstead Neighbourhood Plan, such assessment has been carried out inadequately.</p> <p>This is demonstrated by the lack of consideration of Policy B9 of the Fortune Green and West Hampstead Neighbourhood Plan. This is a surprising omission given the relevance of this policy for the Application, as it specifically mentions and covers Blackburn Road, and devotes a good portion of its text to discussion of 14BR.</p> <p>Whilst the Applicant does assess the pros and cons of the Application against this policy, there is no mention in the Planning Statement that the 14BR Permission is considered in this policy as having been implemented, stating: <i>"it has historical planning permission dating from 2004 for</i></p> |

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| | <p><i>redevelopment for residential and business use... the NDF is advised that this permission is still valid...the NDF would suggest that new plans are submitted</i>. For clarity, HAM have applied to the Council under s.96A of the Town and Country Planning to amend the plans attached to the implemented 14BR Permission in order to comply with present building standards as suggested in Policy B9.</p> |
| 4.7 | <p>This paragraph contains the only reference to the 14BR Permission in the Planning Statement. In describing it, the Planning Statement contains some fundamental inaccuracies, which show the lack of regard that the Applicant has had to this important permission:</p> <ol style="list-style-type: none"> 1. The 14BR Permission is stated to have been granted on 8 May 2003, when in fact it was granted on 6 January 2004; 2. The Applicant states that HAM <i>"discharged a number of conditions relating to this planning permission; retrospectively"</i>. This is misleading. In fact all five pre-commencement conditions have been discharged. This was done retrospectively with the full consent of the Council, as can be noted by email correspondence available on the Council's planning portal¹ and also in its officer report to discharge condition 1 of the 14BR Permission² which states: <i>"Whilst the condition required that details be submitted prior to the effective start on site, it is considered acceptable for this to be done retrospectively, and in this case does not impact harmfully on the scheme"</i>. 3. This paragraph states <i>"it is unclear whether this planning permission was implemented or not"</i>. The Applicant has again demonstrated its lack of any consideration of the status of this permission. It would have been clear to the Applicant that the 14BR Permission had been implemented if it had carefully reviewed the sources available on the Council's website. <p>Firstly, and most strikingly, given its statement that it has reviewed the development plan, the Fortune Green and West Hampstead Neighbourhood Plan states explicitly in Policy B9 that the 14BR Permission is <i>"still valid"</i>. Further, it can be seen from reviewing the representations to the Neighbourhood Plan that it was the Council themselves who inferentially confirmed the commencement of development under the 14BR Permission³. They refer to the fact that the Neighbourhood Plan <i>"cannot quash a valid planning application"</i>. The reference to <i>"application"</i> was of course an error and was intended to refer to a <i>"permission"</i>. Also of note is the fact that in LandSec's representation⁴ on Neighbourhood Plan they did not refer to Policy B9. If they had had a concern relating to the implementation of the 14BR Permission they could have been expected to have raised it then.</p> <p>Secondly, a review of the planning history of 14BR shows it was implemented. Again the Council acknowledges the commencement of development in its officer report on a discharge application for condition 1 of the 14BR Permission⁵ stating: <i>"It is also acknowledged that work commenced on site prior to the 6 January, so the permission remains extant"</i>.</p> <p>The Planning Statement notes a planning application reference 202/2940/P (as yet undetermined) for the Clockwork Factory Apartments, situated at 13 Blackburn Road, opposite 14BR, stating that the Applicant has reviewed this to understand local context. If the Applicant</p> |

¹ See <http://camdocs.camden.gov.uk/HPRMWebDrawer/Record/3395009/file/document?inline> pdf of email chain available under planning application 2009/0639/P

² <http://camdocs.camden.gov.uk/HPRMWebDrawer/Record/3397290/file/document?inline> pdf available under planning application 2008/5482/P

³ See <http://www.ndpwesthampstead.org.uk/551bcamden.pdf>

⁴ <http://www.ndpwesthampstead.org.uk/5responselandsec5draft.pdf>;

⁵ As per footnote 2 above.

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| | <p>had thoroughly reviewed this application then it would have noticed that the planning statement, at paragraph 3.7 refers to the 14BR Permission and states: "This planning permission was lawfully implemented a number of years ago however has not been fully built out"⁶.</p> <p>Given these errors and/or omissions, which could have been easily avoided with a basic search of the Council's online planning portal, or a simple conversation with HAM and BD or relevant Council officers, doubt must be cast on the accuracy and reliability of the assessment undertaken by the Applicant in this Planning Statement, and the thoroughness of the consideration of relevant factors such as an extant planning permission. The Council has a duty to consider this when it weighs the planning balance of the Application.</p> |
| 4.18 | <p>This paragraph discusses an application reference 2020/2940/P to develop the Clockwork Factory Apartments. It is worthy of note that this application, which is yet to be decided by the Council, appears to carry more weight with the Applicant than the extant 14BR Permission. This is considered strange, given that the 13 Blackburn Road site is not included within the red line for the Application but abuts it, and despite the owner of that site considering full demolition and redevelopment to be necessary. Given that the 14BR site is effectively an extended limb of the Application red line, which the Applicant considers necessary to regenerate itself, it is inexplicable why the Applicant has not included the 13 Blackburn Road site within its red line (but have included the 14BR site), as the 13 Blackburn Road site too (according to its owners) is in need of regeneration, and it is proposed to include the same mix of uses as proposed by the Applicant (residential and commercial). If the Council agree that there is a need to regenerate the 13 Blackburn Road site, they support the mix of uses, and are satisfied that it is appropriate for the owner of that site to deliver the regeneration proposed then the same arguments apply with equal or greater force to the 14BR site. If the Council consider that the 14BR site is in need of regeneration, and support a mix of commercial and residential uses, then they need look no further than the 14BR Permission that already achieves these aims. The owners of the 14BR site (HAM) have confirmed their intention to build out the 14BR Permission. These factors should be given appropriate weight in the planning balance.</p> |
| 8.17 | <p>As noted in relation to paragraph 3.18 above, the Planning Statement does not emphasise that the Site Allocations and draft Site Allocation does not cover 14BR.</p> |
| 8.20 & 8.21 | <p>These paragraphs set out a summary of the relevant policies of the Fortune Green and West Hampstead Neighbourhood Plan.</p> <p>Unfortunately this is an incomplete assessment of this part of the development plan, because, as noted in relation to paragraph 3.18 above, it fails to mention Policy B9, which relates directly Blackburn Road, and therefore is of high relevance to the Application.</p> |
| 8.23 & 8.24 | <p>These paragraphs set out the Applicant's view on the relevant sections of the West End Lane to Finchley Road SPD.</p> <p>This is a highly selective and cherry picked list. Again, as with the Fortune Green and West Hampstead Neighbourhood Plan, the Applicant fails to mention the relevant planning history of 14BR which is contained on page 44 of the SPD, where the approval of 14 homes and B1/B8 space under the 14BR Permission is set out under point 12.</p> |

⁶ See <http://camdocs.camden.gov.uk/HPRMWebDrawer/Record/8356815/file/document?inline> available under planning application 2020/2940/P

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| | It should also be noted that no element of the 14BR Permission would interfere with the achieving of the objects listed by the Applicant in these paragraphs. |
| 8.29 | This paragraph finally makes the point that 14BR is not included in the emerging draft Site Allocations Local Plan. It does not however dwell on the key point here – that the Council has already seen fit for this property not to be included in the development of the O2 Centre, and does not apparently consider it a crucial element of the regeneration of that site. |
| 9.4 | <p>This paragraph incorrectly attributes a quote from paragraph 120 of the NPPF, stating it is from paragraph 118.</p> <p>Aside from this error, the provisions quoted do not apply to 14BR, in particular the final quote, that <i>“planning policies and decisions should promote and support the development of under-utilised land and buildings, especially if this would help meet identified needs for housing where land supply is constrained, and available sites could be used more effectively”</i>.</p> <p>14BR houses an active, thriving business and is therefore not “under-utilised”. In any event, the 14BR Permission provides the solution should this be deemed the case, as it will allow the construction of 14 new dwellings along with a net increase in commercial space that allows the retention of the existing business.</p> |
| 9.17 | <p>This paragraph contains a quote of the objectives and opportunities for the redevelopment of the O2 Centre as set out in the West End Lane to Finchley Road SPD.</p> <p>Whilst the Planning Statement relies on the SPD, stating that development of the O2 Centre should be as part of a <i>“comprehensive approach”</i> as support for including 14BR (and other elements not within its ownership) in its proposals, it is worth noting that the illustrative drawing on page 22 of the SPD, where these extracts are taken from, specifies that “Public open space” should be provided to the west of the Clockwork Factory Apartments, located at 13 Blackburn Road, and there should be “Active Frontages” on this building. The Clockwork Factory Apartments are not part of this Application. On this basis, with the forthcoming development of 14BR, there is no reason therefore why the Applicant must include this site in the Application either, and equally why it has not included the 13 Blackburn Road site so that it can deliver the required public space to ensure full policy compliance. The inclusion of the one site, but the omission of the other is arbitrary, and cannot be explained in policy terms.</p> |
| 9.30 | Once again the Planning Statement does not mention policy B9 of the Fortune Green and West Hampstead Neighbourhood Plan, which specifically relates to Blackburn Road, but instead refers only to policy B8. |
| 9.104 9.106 | <p>– This paragraph seeks to describe the character of the existing use of the site in light of relevant policy, stating that the <i>“car showrooms and Builders Merchant in the west of the Site are also ‘Big Box’ type uses”</i>.</p> <p>This term seems to have been applied to these sites by the Applicant in order to justify these sites as suitable for redevelopment because, as stated in paragraph 9.105, these are <i>“not integrated into the Town Centres”</i> and make, as in paragraph 9.106 <i>“very limited wider contribution to vitality, viability and quality of the Town Centre with no provision for independents/creative businesses”</i>. “Big box” is a mischaracterisation of Builder Depot for the following reasons:</p> |

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| | <p>1. A "big box" store is a term typically reserved for a large retail store that sells a wide range of disparate products in volume to customers, of the nature of Makro or Costco, or Walmart in the USA. No other definition is put forward of the term and indeed, it is used in paragraph 9.137 of the Planning Statement to describe Sainsbury's and Homebase, which are quite different in their business models. Anyone with more than a superficial knowledge of Builder Depot would realise that this is clearly a wholly incorrect description of a business that specialises in selling building supplies and timber, in competition with larger national or international competitors, rather than bulk selling a wide variety of products.</p> <p>2. The term "<i>Big Box</i>" seems to be applied to try to paint Builder Depot as a part of a large chain store. If this is the purpose, it is quite untrue. Builder Depot is a family owned, and locally staffed business, and has been a feature of the West Hampstead Town Centre for around 20 years. It is a SME independent retailer with 4 stores in London. It is exactly the type of business supported by Policy TC2 of the Council's Local Plan, and Policy 13 of the Fortune Green and West Hampstead Neighbourhood Plan, which both encourage diversity of retail and independent shops.</p> <p>3. It is also a mischaracterisation to say that Builder Depot makes "a very limited" contribution to the vitality and viability of the Town Centre. The store has made a valuable contribution to the Town Centre for many years, offering a range of products and services critical to the local and wider economy, including local delivery which are not provided elsewhere, as well as providing local employment. The employment opportunities currently provided by BD include offering employees above the London living wage, annual bonuses, free private health cover, access to a hardship fund, and monthly cost of energy bonus, as well as schemes such as supporting the unemployed back into work, providing employment for college leavers, and offering guaranteed apprenticeships for family members of employees. The business also undertakes charity work within the communities local to its stores, has partnerships with schools providing free building supplies, a partnership with a local cricket club, and has even purchased a school bus for a school local to one of its stores.</p> |
| 9.105 | This paragraph states that the existing site is not integrated into the town centre because customers come to the site by car and do not make linked trips. The Applicant provides no evidence that the site does not generate linked trips, and simply asserts it without evidence. Moreover, the Applicant states in the masterplan that a no through route would be provided for vehicles, and is proposing a car free development and only pedestrian/cycle connections, so it is not clear how this would aid linked trips. |
| 9.110 | This paragraph describes the Builder Depot and its physical appearance, but again the Applicant misses the opportunity to mention the 14BR Permission. |
| 9.112 9.125 | – These paragraphs focus exclusively on the benefits of replacing the O2 Centre without any mention of any benefits of replacing Builder Depot, apart from perhaps an erroneous mention of 'big box' retail (see comments on 9.104 – 9.106 above). The Applicant has made no compelling case for 14BR to be replaced within these paragraphs. |
| 9.140 | This paragraph, in describing the type of business to be provided for as " <i>small, and growing businesses, including local businesses</i> " shines a light on the fact that Builder Depot is exactly within this category and therefore development under the 14BR Permission is also in line with local Plan Policy TC5. |

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| 9.143 | The Planning Statement quotes from Paragraph 81 of the NPPF, but fails to provide the previous sentence of this paragraph, which, importantly, states <i>"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt"</i> . This wording favours the plans of HAM and BD to invest in their site and their business through continuing to build out the 14BR Permission, rather than ending their business at 14BR. |
| 15.29 | This paragraph describes access from the western end of the overall site. The Planning Statement provides at 13.14 for a <i>"mini square"</i> at Granny Dripping Steps, but this paragraph suggests betterment will be provided in terms of access from the Scheme due to the turning head and provision of a dropping off space. There are two issues with this. Firstly, it is not clear how pedestrians would be prioritised if these road use improvements are provided. In addition, this alleged benefit seems overplayed when existing drop off can occur on Blackburn Road currently. |
| 18.3 & 18.4 | These paragraphs set out that the Planning Statement provides a <i>"comprehensive review and analysis of national, regional, local and neighbourhood planning policy and guidance which applies to the Proposed Development"</i> and that the Application is <i>"in accordance with the Statutory Development Plan"</i> . Neither statement is completely correct. As noted above, there are fundamental errors and omissions in the Planning Statement that undermine its credibility as a <i>"comprehensive review"</i> of the development plan, not least the omission of review of Policy B9 of the Fortune Green and West Hampstead Neighbourhood Plan, and the failure to properly consider the 14BR Permission. Had the Applicant properly considered these factors, as the Council must, it would surely have come to the conclusion that the Application can proceed, and achieve its aims, without inclusion of 14BR. |
| Design and Access Statement ("DAS") | |
| 1.2 & 1.6 | The DAS sets out various aspects of the design of the Scheme in order to show the benefits of it, including the provision of community gardens, a green neighbourhood and a biodiversity net gain. It is striking then on the <i>"illustrative roof plan"</i> under paragraph 1.2 and the plan under paragraph 1.6 that few, if any, of these benefits are delivered in the 14BR site, which appears to only house a small number of trees. In other words, the Applicant will have difficulty in showing the contribution of the 14BR site to the overall stated benefit of the Scheme, particularly in light of the forthcoming redevelopment of 14BR. |
| 2.1 | Builder Depot is given various descriptions throughout the Application, with the Applicant not really settling on one. In this paragraph is a particularly inaccurate term, where under bullet 15 it is described as a <i>"Builder's Yard"</i> . This appears intended to denote a facility that is perhaps of low value and of minimal use. In fact, Builder Depot is a well utilised and thriving local business serving the local community. This terminology should not be allowed to mislead the Council. |

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| 3.1 | The summary of relevant planning policy contains many of the same omissions as highlighted in the review of the Planning statement above, in particular, omission of Policy B9 of the Fortune Green and West Hampstead Neighbourhood Plan, and a failure to set out that the Site Allocations Document does not include 14BR. |
| 4.1 | This section establishes a baseline by providing that the current uses, including of 14BR, are <i>"not consistent with creating a new residential-led neighbourhood and high quality place"</i> . As with other documents within the Application, this overlooks the 14BR Permission, which will transform the 14BR site into a mixed residential and commercial use area. |
| 6 | When reviewing the Masterplan Proposal it is abundantly clear how little the 14BR site would contribute to the overall Scheme in terms of allocation of public open space, green landscape and overall character. It is noticeable also that the existing Clockwork Factory Apartments, and any future development under a potential future permission are "designed around", but the inclusion of trees and other features (for example on the Character Areas Diagram in section 6.3, and the One Shared Landscape diagram on section 6.4). This demonstrates that it is not essential that the Applicant redevelops the buildings in this location in order to achieve their overall character aims. |
| Parameter Plans | |
| PL103 & PL106 | <p>Parameter Plan PL103 suggests that all roads would be included as <i>'area of public realm'</i>. However, Parameter Plan PL106 shows that vehicular access routes would be provided off West End Lane, and a turning circle for vehicles to the east of Plot S8 i.e. the existing Blackburn Road.</p> <p>It is disingenuous, therefore, to include this area as public realm and as part of the purported public benefits of the Scheme (including in the Design Code, which shows this as a key tree planting location) as this is simply an access road. The existing Blackburn Road is needed to retain vehicular access to existing properties along it. The Applicant cannot remove vehicular access to existing properties. The reality is that Blackburn Road will remain a vehicular route, but with some additional greening. This is true throughout the redline where vehicular routes through have been shown as <i>'public realm'</i> but are in actuality just vehicular routes with additional greening.</p> <p>The Design Code sets out wider Masterplan strategies (page 29, section 2.3) which would indicate Blackburn Road is a secondary road and again highlights that this would be <i>"main vehicular and cycle routes"</i>.</p> |
| Design Code | |
| 2.3.12 & 5.6.9 | These paragraphs are inconsistent. Paragraph 2.3.12 requires that terraced buildings closest to West End Lane <i>"must have an articulated roof profile"</i> (i.e. pitched roofs), whereas paragraph 5.6.9 states that these roofs <i>'should'</i> have varied articulation, and <i>'could'</i> be expressed as pitch. |
| 2.3.13 | The material strategy lacks a key, so is difficult to properly evaluate. |

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| 3.4.9 5.4.10 | & | The Design Code requires at 3.4.9 that lighting must be provided along 'key routes'. However, the illustrative plan at 5.4.10 shows lighting only within a 'local route' and garden. If lighting is needed, it should be sought to be provided along all routes – including linear parks and as part of the turning circle proposed to the east of Plot S8. |
| 5.4.1 | | The Key Public Realm Spaces plan colouring is too similar to clearly decipher and understand the location of the linear park with Blackburn Road. It is also not clear what the Civic Yard is or if it is intended that vehicles would be able to turn left at the end of Blackburn Road from the west and go north, given the vehicular desire line to the north, supported by the hard landscape approach in paragraph 5.4.4. This In turn conflicts with the illustrative urban greening/play strategies in 5.4.5 and 5.4.6. |
| 5.5.1 5.6.4 | & | There is confusion in these sections, as the first illustration suggests two buildings within Plot S8 but 5.6.4 says the building line should be continuous. |
| 5.5.5 | | The link to Granny Dripping Steps is not explained (other than a passing reference to a "mini square" to be provided at the same location as a turning circle), or shown as secured, but is promoted as a public benefit. |

| Term | Meaning |
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| 14BR | The land and buildings at 14 Blackburn Road, London NW6 1RZ owned by HAM and leased to BD |
| 14BR Permission | <p>Means the planning permission granted in relation to the Builder Depot by the Council referenced PWX0202103, dated 6 January 2004 for:</p> <p><i>"Redevelopment of whole site by the erection of a 4 storey eastern block comprising two Class B8 and eight Class B1 units with associated service yard, together with a 4 storey plus basement western block comprising 8 dwellinghouses and 6 self-contained flats with associated underground car parking; as shown on drawing numbers- BLK-X-101,102; BLK-P-100, 101B, 102B, 103B, 104B, 105B, 106B, 107, 108A; letter dated 20.11.02 and email message dated 3.2.03 from Montagu Evans."</i></p> |
| Applicant | LS (Finchley Road) Limited |
| Application | <p>An application made by the Applicant to the Council for planning permission for:</p> <p><i>"Part full and part outline planning permission comprising the following: Detailed planning permission for Development Plots N3-E, N4, and N5 including demolition of existing above ground structures and associated works, and for residential development (Class C3) and commercial, business and service (Class E) uses in Development Plot N3- E, residential development (Class C3) and local community (Class F2) and commercial, business and service (Class E) uses in Development Plot N4, and residential development (Use Class C3) and commercial, business and service uses (Class E) uses in Development Plot N5 together with all landscaping, public realm, cycle parking and disabled car parking, highway works and infrastructure within and associated with those Development Plots."</i></p> <p><i>"Outline planning permission for Development Plots N1, N2, N3, N6, N7, S1 and S8 including the demolition of all existing structures and redevelopment to include residential development (Class C3) commercial, business and service uses (Class E), sui generis leisure uses (including cinema and drinking establishments) together with all landscaping, public realm, cycle parking and disabled car parking, highway works and infrastructure within and associated with those Development Plots"</i></p> |
| Builder Depot | The business operated by BD at 14BR |
| Council | London Borough of Camden Council |
| Scheme | The redevelopment of the O2 Centre, 255 Finchley Rd, London NW3 6LU, in accordance with the Application |