

# PLANNING STATEMENT

264 Belsize Road, London, NW6

NP12592  
Planning Statement  
Final  
10 October 2022

## REPORT

### Document status

Version	Purpose of document	Authored by	Reviewed by	Approved by	Review date
Draft	Planning Statement	Clare Anscombe	Jim Bailey	Jim Bailey	07.10.2022
Final	Planning Statement	Clare Anscombe	Jim Bailey	Jim Bailey	10.10.2022

### Approval for issue

Jim Bailey

10 October 2022

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# 1 INTRODUCTION

1.1 This Planning Statement (PS) is submitted on behalf of our client, Roxburg Overseas Ltd., to accompany a full planning application submitted to Camden Council ('the LPA') for *'alterations and extensions to existing redundant non-residential institution building to C3 permanent residential use, to form 5 no. two-bedroom duplexes'* at 264 Belsize Road, London, NW6 4BT.

1.2 The application submission comprises:

- This Planning Statement and appendices;
- Completed application forms;
- Design and Access Statement (Alan Power Architects Ltd);
- Drawings:
  - Location plan 564-01 1:250
  - Ground Floor as existing 564-02 Rev A 1:100
  - First Floor as existing 564-03 Rev A 1:100
  - Roof plan as existing 564-04 Rev A 1:100
  - Section AA as existing 564-06 Rev A 1:100
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  - Section CC as existing 564-08 Rev A 1:100
  - Existing site context with Ground Floor Plan 564-09 1:100
  - Sectional Elevation DD as existing 564-10 1:100
  - Sectional Elevation EE as existing 564-11 1:100
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  - Ground Floor as proposed 564-100 Rev D 1:100
  - First Floor as proposed 564-101 Rev B Rev 1:100
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  - Roof plan as proposed 564-103 Rev B 1:100
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  - Sectional Elevation EE as proposed 564-112 Rev A 1:100
  - Sectional Elevation FF as proposed 564-113 Rev A 1:100

- Sustainability Statement
- Overheating Analysis Report
- Energy Statement
- Utility Report
- Whole Life Carbon Assessment
- CIL form;
- Acoustic report (to follow)
- Planning fee of £2,342.20 paid via the Planning Portal

1.3 Section 2 sets out a description of the application site and surrounding context, section 3 sets out the proposed development, a review of key national and local planning policies is provided at section 4, and section 5 sets out our assessment of the proposal against material considerations. Section 6 provides a short summary of the submission.

## 2 THE SITE AND SURROUNDINGS

- 2.1 The application site is located in Kilburn on the northern side of Belsize Road. The site is shown outlined in red on the Site Location Plan.
- 2.2 The site area is approximately 470 sq. m. The site includes the ground floor front part of no. 264, which is accessed from Belsize Road, leading to a steel frame two-storey building at the rear which has access onto Kilburn Place. The upper floors of the front section of No. 264 (that face onto Belsize Road) are excluded from the application.
- 2.3 Kilburn High Road lies approximately 40 metres to the west which is part of the A5 major road and from here there are main bus routes. There is a bus stop directly outside the front of no.264 Belsize Road and Kilburn High Road Overground Station lies around 91 metres to the south-west of the site. There are also many key services and facilities within short walking distance of the site.
- 2.4 The site does not fall within a Conservation Area. There are no Listed Buildings within close proximity of the site. The site lies in an Archaeological Priority Area.
- 2.5 The site is surrounded by other residential uses on the upper floors of adjacent buildings. A summary of these is as follows:
- First floor 44-46 Kilburn High Road (immediately west of the site) – existing use as dental surgery (Class E(e))– application pending determination to convert to residential use (ref. 2021/2404/P)
  - No. 258 Belsize Road (immediately east of the site) – existing residential use (ref. 2014/7511/P)
  - Providence House, 26 Kilburn Place (immediately north-west of the site) – existing residential use (ref. 2012/2363/P)

## Relevant Planning History

### No. 264 Belsize Road

- 2.6 No 264. Belsize Road was granted planning permission for the change of use from office use (Class B1) to non-residential institution (Class D1) in October 2009 under permission reference 2009/2500/P. This included the ground floor frontage area and 2-storey building to the rear, the same site the subject of this application.
- 2.7 Under the revised Use Classes Order, which revokes Class D uses, the current use is therefore F1(f) - Public worship or religious instruction (or in connection with such use). A key consideration here was impact on the amenity of neighbouring residents. This is also considered in section 4 below.

## No. 258 Belsize Road

- 2.8 No. 258 Belsize Road lies immediately to the east of the application site. Planning permission was refused in March 2017 under reference 2016/6703/P to change the use of the building from residential flats (C3 use class) to flexible use as either permanent residential accommodation or serviced apartments. The application was refused for the following reasons:
- 'The proposed development would fail to provide adequate cycle storage facilities for occupants of the new residential units, contrary to policies DP17, DP18 of the London Borough of Camden LDF Development Policies, and CS11 of the London Borough of Camden LDF Core Strategy.'*
- 2.9 'The proposed development, in the absence of a legal agreement to secure the development as 'car-free', would be likely to contribute unacceptably to parking congestion in the surrounding area and promote the use of non-sustainable modes of transport, contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Core Strategy and DP18 (Parking standards and limiting the availability of car parking) of the London Borough of Camden LDF Development Policies.'
- 2.10 We set out in section 3 what is proposed to secure adequate cycle storage facilities as part of the development and the reasons for proposing a 'car-free' development.

## 17 Lyndhurst Gardens

- 2.11 Permission was granted in September 2021 for the: 'Change of use from Class D1 use (non-residential institution) to Class C3 Use (residential) as 2 x 5-bedroom units, and 1 x 4-bedroom unit...' at 17 Lyndhurst Gardens (ref. 2019/6151/P).
- 2.12 Whilst not near the proposed site, the application was similar, because it included the change of use of a building from a non-residential institution to residential use. The building had been previously used as an NHS rehabilitation and recovery centre and as a base for mental healthcare teams. A letter was provided from the NHS Associate Director of Estates and Facilities setting out the Trust's rationale behind the closure and disposal of the premises. The letter described that the premises had been declared surplus to requirements of the Trust, and that the service had been re-located to another Trust freehold.
- 2.13 The LPA concluded that it had been demonstrated that the loss of the existing D1 facility would not be detrimental to existing service users, because a replacement facility would be provided elsewhere, which meant that the proposed change of use would be acceptable. Section 4 of this planning statement follows a similar approach.
- 2.14 Regarding affordable housing, a viability assessment was submitted by the applicant and it was concluded that a deferred affordable housing contribution would be secured by S106 agreement in case a surplus is generated in future.

- 2.15 The Council also accepted the development as 'car-free,' and a S106 agreement was agreed to secure this.

### **Pre-application advice**

- 2.16 A request for pre-application advice was submitted in August 2022. To date, we have not received any advice from the Council. Due to time constraints, our client has decided to go ahead with submitting a full planning application without the full advice.

### **Design Evolution**

- 2.17 Despite no pre-app response being received, the proposed development has undergone design amendments as the planning policy context of the site and technical reports have been prepared and reviewed.



### 3 THE PROPOSED DEVELOPMENT

3.1 The proposed development includes alterations and extensions to an existing redundant non-residential institution building and change of use to C3 permanent residential use, to form 5 no. two-bedroom duplexes. In summary, the proposed development would include:

- The creation of five two-bedroom duplexes on three levels
- The southern side of the building opened up at first floor, to create a sequence of individual landscaped courtyards on the southern side, between the new accommodation and the access corridor running along the southern boundary of the site
- New lightwells at ground floor level within this area, to provide natural light and ventilation to the existing ground floor, to be laid out for the bedrooms. The existing ground floor will be used for bedrooms, the first floor on the north side as living areas, and a new mezzanine level is added over the rear (north) part of each duplex, open to the living spaces below
- The removal of external cladding, to be replaced by an enclosure with a significantly improved thermal performance, including new windows
- The removal of existing high-level glazing along the southern boundary to provide natural light into the new corridor. New glazing is proposed between the corridor and new residential patios
- The replacement of the existing grey metal roofing with a sequence of green roofs at all levels to promote bio-diversity within the site
- The provision of 10 bicycle spaces/storage racks on the ground floor of the front unit
- Significant sustainability improvements, including the refurbishment of the fabric of the building to meet current regulations for carbon reduction targets and the installation of solar pv at the main roof level

3.2 Plans of the proposed development are submitted with the application.

## 4 PLANNING POLICY REVIEW

- 4.1 Any proposed development must be judged against the relevant development plan and other government planning policy and guidance, including the National Planning Policy Framework (NPPF). Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications should be determined in accordance with the statutory development plan unless material considerations indicate otherwise. For the purposes of this proposal, the relevant development plan comprises the Camden Local Plan (adopted in July 2017) and the London Plan (adopted in 2021). Key, relevant policies from these documents are set out below.

### Camden Local Plan (2017)

- 4.2 Policy G1: 'Delivery and location of growth' states that the Council will create the conditions for growth to deliver the homes to meet Camden's identified needs and harness the benefits for those who live and work in the borough.
- 4.3 The Council will deliver growth by securing high quality development and promoting the most efficient use of land and buildings in Camden by:
- a) supporting development that makes best use of its site, taking into account quality of design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site;
  - b) resisting development that makes inefficient use of Camden's limited land;
  - c) expecting the provision of a mix of uses where appropriate, in particular in the most accessible parts of the borough, including an element of self-contained housing where possible; and
  - d) supporting a mix of uses either on site or across multiple sites as part of an agreed coordinated development approach, where it can be demonstrated that this contributes towards achieving the strategic objectives and delivers the greatest benefit to the key priorities of the Plan.
- 4.4 The policy goes on to state that growth in Camden will be expected to help contribute towards achieving the strategic objectives of the Local Plan and help deliver the Council's priorities. This includes securing self-contained housing, including sufficient affordable housing to meet the needs of residents and to ensure that Camden remains a place accessible for all people to live in. This includes the provision of 16,800 additional homes by 2031.
- 4.5 The policy then goes on to refer to the location of growth. This states that the most significant growth is expected to be delivered through a concentration of development in the growth areas and development at other highly accessible locations. Development in these areas must be consistent with the priorities and principles of the Council. Kilburn High Road and appropriate edge of centre

locations, such as this site, are listed as a highly accessible areas where appropriate development will be promoted. Development in these locations must be of a size and character that is compatible with its surroundings.

- 4.6 Policy H1 'Maximising housing supply' also states that the Council will aim to secure a sufficient supply of homes to meet the needs of existing and future households by maximising the supply of housing and exceeding a target of 16,800 additional homes from 2016/17 - 2030/31, including 11,130 additional self-contained homes. The Council will also seek to exceed the target for additional homes where sites are underused or vacant by expecting the maximum reasonable provision of housing that is compatible with any other uses needed on the site.

- 4.7 Policy H4 'Maximising the supply of affordable housing' states that the Council will:

*'Expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more. The Council will seek to negotiate the maximum reasonable amount of affordable housing on the following basis:*

- a. the guideline mix of affordable housing types is 60% social-affordable rented housing and 40% intermediate housing;*
- b. targets are based on an assessment of development capacity whereby 100sqm (GIA) of housing floorspace is generally considered to create capacity for one home;*
- c. targets are applied to additional housing floorspace proposed, not to existing housing floorspace or replacement floorspace;*
- d. a sliding scale target applies to developments that provide one or more additional homes and have capacity for fewer than 25 additional homes, starting at 2% for one home and increasing by 2% of for each home added to capacity;*
- e. an affordable housing target of 50% applies to developments with capacity for 25 or more additional dwellings;*
- f. for developments with capacity for 25 or more additional homes, the Council may seek affordable housing for older people or vulnerable people as part or all of the affordable housing contribution;*
- g. where developments have capacity for fewer than 10 additional dwellings, the Council will accept a payment-in-lieu of affordable housing;*
- h. for developments with capacity for 10 or more additional dwellings, the affordable housing should be provided on site; and*
- i. where affordable housing cannot practically be provided on site, or offsite provision would create a better contribution (in terms quantity and/ or quality),*

*the Council may accept provision of affordable housing offsite in the same area, or exceptionally a payment-in-lieu.'*

4.8 The policy goes on to state:

*'In considering whether affordable housing provision should be sought, whether provision should be made on site, and the scale and nature of the provision that would be appropriate, the Council will also take into account:*

- j. the character of the development, the site and the area;*
- k. site size and any constraints on developing the site for a mix of housing including market and affordable housing, and the particular types of affordable provision sought;*
- l. access to public transport, workplaces, shops, services and community facilities;*
- m. the impact on creation of mixed, inclusive and sustainable communities;*
- n. the impact of the mix of housing types sought on the efficiency and overall quantum of development;*
- o. the economics and financial viability of the development including any particular costs associated with it, having regard to any distinctive viability characteristics of particular sectors such as build-to-let housing; and*
- p. whether an alternative approach could better meet the objectives of this policy and the Local Plan.*

*Where the development's contribution to affordable housing falls significantly short of the Council's targets due to financial viability, and there is a prospect of viability improving prior to completion, the Council will seek a deferred contingent contribution, based on the initial shortfall and an updated assessment of viability when costs and receipts are known as far as possible.'*

4.9 Policy H6: 'Housing choice and mix' states that the Council will aim to 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.

4.10 The policy states:

*'We will:*

- a. encourage design of all housing to provide functional, adaptable and accessible spaces;*
- b. expect all self-contained homes to meet the nationally described space standard;*
- c. require 90% of new-build self-contained homes in each development to be accessible and adaptable in accordance with Building Regulation M4(2); and*

*d. require 10% of new-build self-contained homes in each development to be suitable for occupation by a wheelchair user or easily adapted for occupation by a wheelchair user in accordance with Building Regulation M4(3).'*

4.11 *'When considering future site allocations and negotiating the types of housing included in each development, we will:*

*e. seek a diverse range of housing products in the market and affordable sectors to meet the needs across the spectrum of household incomes;*

*f. promote Starter Homes in accordance with government requirements;*

*g. support the development of private rented homes where this will assist the creation of mixed, inclusive and sustainable communities;*

*h. seek provision suitable for families with children, older people, people with disabilities, service families, people wishing to build their own homes and Camden's traveller community; and*

*i. require a range of dwelling sizes in accordance with Policy H7 Large and small homes.'*

4.12 Policy H7 'Large and small homes' seeks to ensure that all housing development contributes to meeting the priorities set out in the Dwelling Size Priorities Table and includes a mix of large and small homes. The Council will:

*'... take a flexible approach to assessing the mix of dwelling sizes proposed in each development having regard to:*

*c. the different dwelling size priorities for social-affordable rented, intermediate and market homes;*

*d. any evidence of local needs that differ from borough wide priorities;*

*e. the character of the development, the site and the area, including the impact of the mix on child density;*

*f. site size, and any constraints on developing the site for a mix of homes of different sizes;*

*g. the economics and financial viability of the development including any particular costs associated with it, having regard to any distinctive viability characteristics of particular sectors such as build-to-let housing; and*

*h. the extent to which flexibility around the mix of market homes could secure the delivery of additional affordable housing.'*

4.13 'Large' homes are defined in paragraph 3.185 as homes with 3 bedrooms or more and 'small' homes are defined as studio flats, 1-bedroom and 2-bedroom homes.

4.14 Policy C1: 'Health and wellbeing' states that the Council will improve and promote strong, vibrant and healthy communities. The Council will require:

*'a. development to positively contribute to creating high quality, active, safe and accessible places; and*

*b. proposals for major development schemes to include a Health Impact Assessment (HIA).'*

- 4.15 Policy C2: 'Community facilities' seeks to ensure that community facilities and services are developed to meet the changing needs of the community.

It states that the Council will... *'ensure existing community facilities are retained recognising their benefit to the community, including protected groups, unless one of the following tests is met:*

*i. a replacement facility of a similar nature is provided that meets the needs of the local population or its current, or intended, users;*

*ii. the existing premises are no longer required or viable in their existing use and there is no alternative community use capable of meeting the needs of the local area. Where it has been demonstrated to the Council's satisfaction there is no reasonable prospect of a community use, then our preferred alternative will be the maximum viable amount of affordable housing...'*

- 4.16 Paragraph 4.45 of the Local Plan then states:

*'Where an alternative community use cannot be found for the existing facility, the Council will seek the provision of affordable housing as its preferred alternative use. Community facilities generally have a relatively low capital value compared with housing sites. We will seek the maximum reasonable amount of affordable housing in accordance with Policy H4 Maximising the supply of affordable housing, having regard to financial viability. We will expect the proportion of affordable housing to reflect the value of the development site in its former community use.'*

- 4.17 Policy C6: 'Access for all' expects all buildings to meet the highest practicable standards of accessible and inclusive design so they can be used safely, easily and with dignity by all.

- 4.18 Policy A1: 'Managing the impact of development' states that the Council will grant permission unless this causes unacceptable harm to amenity. The Council will:

*'a. seek to ensure that the amenity of communities, occupiers and neighbours is protected;*

*b. seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities;*

*c. resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network; and*

*d. require mitigation measures where necessary. The factors we will consider include:*

*e. visual privacy, outlook;*

*f. sunlight, daylight and overshadowing;*

*g. artificial lighting levels;*

*h. transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;*

*i. impacts of the construction phase, including the use of Construction Management Plans;*

*j. noise and vibration levels;*

*k. odour, fumes and dust;*

*l. microclimate;*

*m. contaminated land; and*

*n. impact upon water and wastewater infrastructure.'*

4.19 Policy A3: 'Biodiversity' seeks to protect and enhance biodiversity. Developments will be assessed against their ability to realise benefits for biodiversity through the layout, design and materials used in the built structure and landscaping elements of the development.

4.20 Policy A4 'Noise and Vibration' seeks to ensure that noise and vibration is controlled and managed.

4.21 Policy D1: 'Design' seeks to secure high quality development. Amongst other things, the Council will require development that respects local context and character, is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation, comprises details and materials that are of high quality and that is accessible for all.

4.22 Policy CC1: 'Climate change mitigation' states that the Council will require all developments to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation.

4.23 Policy CC2: 'Adapting to climate change' states that:

4.24 *'The Council will require development to be resilient to climate change. All development should adopt appropriate climate change adaptation measures such as:*

*a. The protection of existing green spaces and promoting new appropriate green infrastructure;*

*b. not increasing, and wherever possible reducing, surface water runoff through increasing permeable surfaces and use of Sustainable Drainage Systems;*

*c. incorporating bio-diverse roofs, combination green and blue roofs and green walls where appropriate; and*

*d. measures to reduce the impact of urban and dwelling overheating, including the application of the cooling hierarchy.'*

4.25 Policy CC3: 'Water and Flooding' states that:

*'Council will seek to ensure that development does not increase flood risk and reduces the risk of flooding where possible.*

*We will require development to:*

*a. incorporate water efficiency measures;*

*b. avoid harm to the water environment and improve water quality;*

*c. consider the impact of development in areas at risk of flooding (including drainage);*



- d. incorporate flood resilient measures in areas prone to flooding;*
- e. utilise Sustainable Drainage Systems (SuDS) in line with the drainage hierarchy to achieve a greenfield run-off rate where feasible; and*
- f. not locate vulnerable development in flood-prone areas.*

*Where an assessment of flood risk is required, developments should consider surface water flooding in detail and groundwater flooding where applicable. The Council will protect the borough's existing drinking water and foul water infrastructure, including the reservoirs at Barrow Hill, Hampstead Heath, Highgate and Kidderpore.'*

4.26 Policy CC4: 'Air Quality' states:

*'The Council will ensure that the impact of development on air quality is mitigated and ensure that exposure to poor air quality is reduced in the borough.*

*The Council will take into account the impact of air quality when assessing development proposals, through the consideration of both the exposure of occupants to air pollution and the effect of the development on air quality. Consideration must be taken to the actions identified in the Council's Air Quality Action Plan...*

*Development that involves significant demolition, construction or earthworks will also be required to assess the risk of dust and emissions impacts in an AQA and include appropriate mitigation measures to be secured in a Construction Management Plan.'*

4.27 Policy CC5: 'Waste' states that (inter alia):

*'The Council will seek to make Camden a low waste borough. We will:*

*g. aim to reduce the amount of waste produced in the borough and increase recycling and the reuse of materials to meet the London Plan targets of 50% of household waste recycled/composted by 2020 and aspiring to achieve 60% by 2031;...*

*j. make sure that developments include facilities for the storage and collection of waste and recycling.'*

4.28 Regarding transport, Policy T1: 'Prioritising walking, cycling and public transport' states that the Council will promote sustainable transport. To promote cycling, accessible, secure cycle parking facilities exceeding minimum standards outlined within the London Plan and design requirements within the Camden Planning Guidance SPD on transport, will be provided.

4.29 Policy T2: 'Parking and car-free development' states that the Council will limit the availability of parking and require all new developments in the borough to be car-free.



## The London Plan (2021)

- 4.30 The London Plan is part of each of London's Local Planning Authorities' Development Plan and must be taken into account when planning decisions are taken. Key policies that are of particular relevance to this proposal are listed below.
- 4.31 Policy GG2: 'making the best use of land' states that those involved in planning must:
- A. *'enable the development of brownfield land, particularly in Opportunity Areas, on surplus public sector land, and sites within and on the edge of town centres, as well as utilising small sites.'*
  - B. *'prioritise sites which are well-connected by existing or planned public transport.'*
- 4.32 Policy GG4: 'Delivering the homes Londoners need' states that:
- 'To create a housing market that works better for all Londoners, those involved in planning and development must:*
- A. *ensure that more homes are delivered*
  - B. *support the delivery of the strategic target of 50 per cent of all new homes being genuinely affordable*
  - C. *create mixed and inclusive communities, with good quality homes that meet high standards of design and provide for identified needs, including for specialist housing*
  - D. *identify and allocate a range of sites to deliver housing locally, supporting skilled precision-manufacturing that can increase the rate of building, and planning for all necessary supporting infrastructure from the outset*
  - E. *establish ambitious and achievable build-out rates at the planning stage, incentivising build-out milestones to help ensure that homes are built quickly and to reduce the likelihood of permissions being sought to sell land on at a higher value.'*
- 4.33 The Plan sets a housing delivery target for Camden of 10,380 homes by 2028/29. Policy H1: 'Increasing housing supply' also states that to ensure these targets are met, boroughs should:
- 'optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions, especially the following sources of capacity:*
- a) *sites with existing or planned public transport access levels (PTALs) 3-6 or which are located within 800m distance of a station or town centre boundary*
  - e) *small sites...*
- 4.1.1 Policy GG6 'increasing efficiency and resilience' states that development must support the move towards a low carbon circular economy, ensuring buildings are designed to adapt to a changing climate.

- 4.34 Policy H2: 'Small sites' encourages well-designed new homes on small sites (below 0.25 hectares in size) to increase the contribution of small sites in meeting London's housing needs and to achieve the minimum targets for small sites set out in the plan. This is 3,280 homes for Camden on small sites by 2028/29, as a component of the overall housing delivery target of 10,380 homes by 2028/29.
- 4.35 Policy D6 'Housing quality and standards' states the following:
- 'A. Housing development should be of high-quality design and provide adequately-sized rooms (see Table 3.1) with comfortable and functional layouts which are fit for purpose and meet the needs of Londoners without differentiating between tenures.*
- B. Qualitative aspects of a development are key to ensuring successful sustainable housing. Table 3.2 sets out key qualitative aspects which should be addressed in the design of housing developments.*
- C. Housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings. A single aspect dwelling should only be provided where it is considered a more appropriate design solution to meet the requirements of Part B in Policy D3 Optimising site capacity through the design-led approach than a dual aspect dwelling, and it can be demonstrated that it will have adequate passive ventilation, daylight and privacy, and avoid overheating.*
- D. The design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space.*
- E. Housing should be designed with adequate and easily accessible storage space that supports the separate collection of dry recyclables (for at least card, paper, mixed plastics, metals, glass) and food waste as well as residual waste.*
- F. Housing developments are required to meet the minimum standards below which apply to all tenures and all residential accommodation that is self-contained.'*
- 4.36 Policy D7 'Accessible Housing' states that residential development must ensure that:
- '1) at least 10 per cent of dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(3) 'wheelchair user dwellings'*
- 2) all other dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.*
- 4.37 Policy D12 'Fire Safety' seeks to ensure that the highest standards of fire safety are achieved in proposed development. Suitable and convenient means of escape should be provided as well as fire safety measures.

- 4.38 Policy SI 4 'Managing heat risk' states that proposals should minimise adverse impacts on the urban heat island through design, layout, orientation, materials, and the incorporation of green infrastructure.
- 4.39 Policy SI 5 'Water Infrastructure' states (inter alia):
- 'A) In order to minimise the use of mains water, water supplies and resources should be protected and conserved in a sustainable manner.*
- C) Development proposals should: 1) through the use of Planning Conditions minimise the use of mains water in line with the Optional Requirement of the Building Regulations (residential development), achieving mains water consumption of 105 litres or less per head per day (excluding allowance of up to five litres for external water consumption) 2) achieve at least the BREEAM excellent standard for the 'Wat 01' water category 160 or equivalent (commercial development) 3) incorporate measures such as smart metering, water saving and recycling measures, including retrofitting, to help to achieve lower water consumption rates and to maximise future-proofing.*
- E) Development proposals should:*
- 1) seek to improve the water environment and ensure that adequate wastewater infrastructure capacity is provided*
- 2) take action to minimise the potential for misconnections between foul and surface water networks...'*
- 4.40 Policy SI 7 'Reducing waste and supporting the circular economy' seeks to promote a more circular economy, encourage waste minimisation through the reuse of materials, and design in adequate and easily accessible storage space and collection systems for the separate collection of dry recyclables.

## Other Material Considerations – National Planning Policy Framework (NPPF)

- 4.41 Chapter 11 of the NPPF refers to 'Making effective use of land.' Paragraph 119 states that planning decisions should promote an effective use of land in meeting the need for homes. Paragraph 120(c) also states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and support appropriate opportunities to remediate derelict land.
- 4.42 Paragraph 120(d) also states that planning decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
- 4.43 Paragraph 120(e) also supports opportunities to use the airspace above existing residential and commercial premises for new homes. Upward extensions should be allowed where the development

would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed, and can maintain safe access and egress for occupiers.

- 4.44 Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development. For decision making this means:

*'c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

- 4.45 For applications involving the provision of housing, out-of-date policies include those where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74).

- 4.46 Paragraph 74(c) states that a 20% buffer (moved forward from later in the plan period) should be applied to the supply of deliverable sites where there has been a significant under delivery of housing over the previous three years, to improve the prospect of achieving planned supply. Footnote 41 specifies that the delivery of under 85% of the housing requirement would require this 20% buffer.

- 4.47 Paragraph 153 of the NPPF states the importance of mitigating and adapting to climate change, taking into account the long-term implications for water supply, biodiversity, and the risk of overheating from rising temperatures.

### **Energy efficiency and adaptation guidance (January 2021)**

- 4.48 The guidance states that development should achieve a minimum of 20% carbon emission reduction (Table 2a Energy reduction targets) through Be Lean, Be Clean, and Be Green measures.

### **Delivery Test – Action Plan (August 2021)**

- 4.49 The Council published a 'Housing Delivery Test – Action Plan' in August 2021 which states that the Council delivered 79% of homes compared to their target between 2017/18 and 2019/20 (2568 delivered against a target of 3265 homes). The Council has not published an up-to-date Annual Monitoring Report, but the Council did confirm at a hearing held in April 2021 (appeal reference: APP/X5210/W/20/3261840 – Land adjacent Jack Straws Castle – see Appendix A) that they could not demonstrate a five-year housing land supply. At paragraph 52 of the appeal decision the Planning Inspector stated: 'The Council confirmed at the hearing that they could not demonstrate a 5-year supply of housing land. Paragraph 11d) of the Framework is therefore engaged...' Since

then, the Council have been required to add a 20% buffer to their 5-year housing land supply as their housing delivery fell below 85%. Whilst the Council have not yet published a revised housing land supply figure with the buffer, given that they could not demonstrate a 5-year housing land supply in April 2021 without the buffer, it is very likely that this is still the case.

## 5 SURVEY, ASSESSMENTS AND PLANS

### The Principle of Development

- 5.1 Whilst the development will be small-scale and proposed on a small-site (less than 0.25 hectares), the London Plan has set a target of 3,280 homes to be completed on small-sites by 2028/29 in the borough and planning policy encourages the re-use of vacant and derelict sites to meet housing need. As set out above, the Council could not demonstrate a 5-year supply of housing land in April 2021 and since August 2021 the Council have had to apply a 20% buffer to the calculation of the five-year housing land supply. Whilst the Council have not published an updated Annual Monitoring Report or Housing Land Supply Position Statement, it is unlikely that they will be able to demonstrate a five-year supply with this buffer if they could not previously. Therefore, we consider that paragraph 11(d) of the NPPF should be triggered meaning that there is a presumption in favour of sustainable development and planning permission should be granted unless (i) policies that protect areas or assets of particular importance provide a clear reason for refusing the development or (ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.
- 5.2 In terms of the first criterion, the site does not lie near to any important habitat sites, designated Sites of Special Scientific Interest, green belt land, Local Green Space, Area of Outstanding Natural Beauty (AONB), National Park, nor areas at risk of flooding or coastal change. The site does lie near two Conservation Areas and within an Archaeological Priority Area. However, for the reasons set out below, it is not considered that the proposed development would have a detrimental impact on these heritage assets. Criterion i) is therefore not relevant to this proposal.
- 5.3 In terms of criterion ii), we do not consider that the proposed development would have any adverse impact that would significantly outweigh the benefits of the development. There are significant economic and environmental benefits to the proposal that would outweigh any adverse impact. These are outlined below.

### Benefits of the Development

- 5.4 The Local Plan highlights the need for development on brownfield sites because there is very little greenfield land within the borough for housing development. In particular, Policy H1 of the London Plan states that boroughs should optimise housing delivery on all suitable and available brownfield sites, especially smaller sites that are within 800m of a station.
- 5.5 The proposed development lies around 80 metres from Kilburn High Road Tube station and falls within the 0.25-hectare threshold for small sites. It is also within walking distance of many key services and facilities, including a pharmacy within approximately 140 metres and a supermarket within circa 160 metres. The proposal would deliver urgently needed new homes on a brownfield site, bringing an existing, vacant site back into use, whilst being in a highly sustainable location. It would therefore meet paragraph 120 of the NPPF, and Policies GG2, H1 and H2 of the London Plan.

The delivery of housing on a brownfield site, in the absence of a five-year housing land supply, will also be a significant benefit of the development.

5.6 The proposed development is also a unique opportunity to improve the sustainability credentials of the existing building. A Sustainability Statement, Energy Report, Whole Life Carbon Assessment, Utility Report and Overheating Analysis have been prepared and are submitted with this application, which outline the measures that are proposed to improve the sustainability credentials of the site.

5.7 Set out below is a summary of the sustainability measures that are proposed. Further details can be found in the accompanying reports:

- the buildings have been designed to follow the BRE Home Quality Mark
- all possible passive design measures have been considered, including efficient building fabric, well-insulated walls and highly efficient glazing, efficient systems (ASHP), green roof, and renewable/low carbon energy sources like PV to maximise carbon savings for the site
- **Overheating** - lightwells and openable rooflight features are included within the design to enable warm air to rise from the bedrooms and escape naturally from the roof light. The submitted Overheating Report confirms that the proposal will comply with the current overheating standard set out in the London Plan (Policy SI 4) and the NPPF. The report sets out in more detail how this will be achieved.
- **Air quality** - this will be maintained through mechanical ventilation with heat recovery. Thermal modelling has been carried out to inform the building design to provide a comfortable thermal environment that considers current and projected climatic conditions. The building is setback from the main road and shielded by the neighbouring properties, which indicates the air quality for this site is expected to be better than the street. Green roofs will also improve air quality
- **Energy** - an all-electric air source heat pump per dwelling is proposed with underfloor heating system. Solar photovoltaic panels are proposed on the main roof level to reduce energy requirements. These are expected to produce 2,854kWh of green electricity annually, amounting to a total saving of 0.3 tonnes of CO<sub>2</sub> per annum due to the use of the panels
- **Energy efficiency** - all light fittings will be provided with low-energy light fittings and luminous efficiency greater than 35lm/W
- **Public transport** - a Public Transport Accessibility Level rating of 6a will be achieved, confirming that the site has good public transport with an Accessibility Index of 30.6
- **Water** – water consumption will be reduced to less than 110 litres per person per day in line with the recommended target set out in policy SI 5 of the London Plan. Each dwelling is fitted with pulsed output water meters to allow for the future installation of smart water meters



- **Materials** – materials will be sourced to reduce embodied carbon where possible. Sourcing of other materials will include products where the manufacturer employs an environmental management system such as ISO 14001 or BES 600
- **Waste** - at least 85% of waste that arises will be recycled using an external waste contractor. Regular waste and recycling bins will be provided for waste separation within the property. The Whole Life Carbon Assessment sets out a strategy for demolition waste which can be used by the Main Contractor
- **Noise** - the development will comply with Building Regulations Part E, providing good sound insulation. All windows are specified as high-efficiency double glazing to minimise noise transmission between the property and the surrounding area
- **Biodiversity** - a private garden is proposed per dwelling with mixed planting recommended on the green roof to improve biodiversity
- **Drainage** - the green roof will release any excess water over a long period, enabling the terrestrial drainage system to cope better
- **Carbon emissions** - over 50% energy-related carbon emission reduction is proposed, meeting the Camden Planning Guidance (energy efficiency and adaptation).
- **Be Lean** - efficient fabric design and passive measures to reduce energy demand
- **Be Clean** – onsite energy supply
- **Be Green** - use of highly-efficient energy source (all-electric air source heat pump) and proposed onsite renewable energy generation

5.8 In addition, a Whole Life Carbon Assessment has been prepared which measures the development as achieving a grade of A.

5.9 As such, the development would provide significant environmental benefits and be in accordance with Policy CC1 and D1 of the Local Plan. Green roofs would seek to enhance the biodiversity of the area in accordance with Policy A3 of the Local Plan, also providing further sustainability benefits. The economic and environmental benefits as set out above, should carry significant weight in the determination of the planning application. It is now necessary to consider whether there would be any adverse impacts which might outweigh these benefits.

### Loss of Community Facility

5.10 Whilst new housing on brownfield sites is encouraged within the borough, Policy C2 of the Local Plan also seeks to ensure that community facilities and services are retained, unless one of the following tests is met:

- i. a replacement facility of a similar nature is provided that meets the needs of the local population or its current, or intended users.



- ii. the existing premises are no longer required or viable in their existing use and there is no alternative community use capable of meeting the needs of the local area.

- 5.11 The existing building was used by the International Gospel Community Church who applied for planning permission to use the building as a non-residential institution in 2009 under permission reference 2009/2500/P. They vacated the site in October 2016. The church is now located at 102a Watling Avenue, Burnt Oak, Middlesex, which lies around 11km from the site. It is accessible via public transport from 264 Belsize Road and provides a space for religious worship. The new site therefore provides for the needs of the local population and its users and so meets criteria i of Policy C2.
- 5.12 However, should the Council consider otherwise, we set out below how criteria ii is met. The premises are no longer required in their existing use, because another site has been found to accommodate the church. Furthermore, there is no alternative community use capable of meeting the needs of the local area. This is confirmed in a letter from Dutch and Dutch (Estate Agents) – see **Appendix B**. They state that they carried out a rent review in 2014 with the then tenant, International Gospel Church, but that they then chose to vacate the premises, as the property was no longer viable for them. The letter also states that in the subsequent 24 months, Dutch and Dutch referred several property enquiries for community use to the site owner, but none of these leads resulted in the owner being able to let the space, which remains empty after 6 years. They also state that, in their view, the property is currently unlettable as a commercial property. Criterion ii is therefore met.
- 5.13 Because the criteria of policy C2 is met, it is not considered that the change of use from a community facility to housing would cause adverse harm that would outweigh the significant benefits outlined above. Therefore, planning permission should be granted without delay. We consider further below whether there are any adverse impacts that might outweigh the benefits, as well as other material considerations.

## Other Material Considerations

### Affordable Housing

- 5.14 In addition to the above, Policy H4 of the Local Plan seeks to maximise the supply of affordable housing. The policy states that where developments have capacity for fewer than 10 additional dwellings, such as this site, the LPA will accept payment in lieu of affordable housing. The applicant is happy to enter into discussions with the Council at the appropriate time to secure a suitable level of financial contribution in lieu of affordable housing being provided.

### Design, Character & Impact on Amenity

- 5.15 Existing and proposed drawings of the proposed development are included in the DAS. In terms of design, the relationship between the new accommodation and the existing buildings to the south and the west, that face on to Belsize Road and Kilburn High Road, have been a key consideration

in the proposed design. As mentioned above, these neighbouring buildings are largely in residential use. It is expected that there would be limited overlooking from no. 258 Belsize Road into the upper floors and courtyard space of a couple of the units. Therefore, the living space has deliberately been located on the upper floors to prevent views into the bedroom space. However, the living space is also set back from a series of courtyard areas, which would also limit views of this from no.258.

- 5.16 The new dwellings are set back from the upper floors of nos. 264, 266, 268 and 270 Belsize Road, and nos. 46-52 Kilburn High Road. Therefore, any views from these properties are expected to be limited. The privacy of existing residents and future residents would therefore be maintained.
- 5.17 In terms of visual impact, overall, the form of the proposed building would improve the outlook from the rear of the properties along Belsize Road by reducing the overall mass of the building on the south side of the site. The existing metal roof would be replaced with green roofs which would also improve the appearance of the existing building.
- 5.18 The building would be increased in height on one-side to facilitate more space within the units. However, because this would also reduce the overall mass of the building, it is considered that this is acceptable in terms of impact on the amenity of neighbouring residents.
- 5.19 In terms of character, the surrounding buildings are already in residential use on the upper floors. The proposed residential use would therefore reflect the existing character of the area.
- 5.20 There may be limited impact on neighbouring properties from noise, dust, and fumes during the construction phase of the development. A Noise Impact Assessment is being prepared and will be submitted separately along with any design amends to make the development acceptable in noise terms to meet the requirements of Policy A4. In addition, a Construction Management Plan could be secured via condition, if the Council consider this to be necessary.
- 5.21 In terms of living conditions, where possible the building has been carefully designed to allow as much natural light into the properties as possible. For example, the southern side of the building has been opened up at the first floor to create a series of individually landscaped courtyards. New lightwells at ground floor level are also proposed to provide natural light and ventilation to the existing ground floor. The existing high-level glazing along the southern boundary would also be replaced to provide natural light into the new corridors.
- 5.22 Regarding living space, five two-bedroom units are proposed. The proposed internal floor spaces of the units are as follows:
- Unit 1 (2 bedroom) – 118 sqm
  - Unit 2 (2 bedroom) – 108 sqm
  - Unit 3 (2 bedroom) – 108 sqm
  - Unit 4 (2 bedroom) – 108 sqm
  - Unit 5 (2 bedroom) – 114 sqm

- 5.23 These floor areas accord with, and exceed, the space standards set out in Policy D1 and Table 3.3 in the London Plan. The design also incorporates external spaces at ground floor and first floor level. The above also means that the proposal would accord with Policy A1 of the Local Plan. It is not considered that adverse harm to the amenity of neighbouring residents would be caused that would outweigh the significant benefits of the proposal.

## **Housing Mix**

- 5.24 Five two-bedroom properties are proposed. Policy H6 seeks to ensure that a mix of property sizes and types are included in any proposed development to meet the needs of the local population and Policy H7 seeks to ensure that a mix of small and large houses are provided in each development. The initial design included 4 2-bedroom apartments and 1 3-bedroom apartment. However, the 3-bedroom unit had to be amended to form a 2-bedroom dwelling because space was required for storing the air source heat pumps with access from Kilburn Place. This was the most logical place to store the heat pumps. As a result, the original mix of housing is not provided. Policy H7(f) does state that the Council will take into account logistical reasons and constraints as to why a mix of housing cannot be provided. As such, the proposed housing mix is considered to be acceptable. In addition, it is considered that the low-carbon form of heating provides significant benefits which outweighs the loss of one 3-bedroom unit from the overall housing mix and that the provision of 5 x 2 bedroom units meets a local need for small dwellings which could all still accommodate families.

## **Access and Parking**

- 5.25 The proposed development will be car-free in accordance with Local Plan Policy T2. This could be secured by S106 agreement. 10 bicycle spaces/storage racks will be proposed on the ground floor of the front unit to meet the requirements set out in the London Plan, in accordance with Policy T1 of the Local Plan (i.e., 1 space per Studio and 1 bedroom apartment & 2 spaces for all other apartments). Each 2-bed flat will be provided with 2 secure cycle parking spaces.
- 5.26 The dwellings would be accessed from Belsize Road. This access will be upgraded to improve accessibility for wheelchair users, including a lift into the existing staircase.
- 5.27 To ensure the safety of residents, the existing means of escape to the west, via 50-52 Kilburn High Road (discharging onto Kilburn High Road), is also maintained. The proposal would therefore meet Policy C6 of the Local Plan.

## **Drainage**

- 5.28 Policy CC2(b) of the Camden Local Plan seeks to reduce run-off rates through new development by increasing permeable surfaces. The proposed surface water strategy is to provide new surface water down pipes from roof and gutter areas with new connections to manholes as necessary. The proposed development has a similar footprint to the existing building and includes a green roof

system that will attenuate and reduce the water run-off rate. As such, the proposal seeks to reduce run-off rates and so complies with part b of Policy CC2.

## **Climate Change and Sustainability**

- 5.29 Policies CC1 and CC2 of the Camden Local Plan, Policy GG6 of the London Plan and paragraph 153 of the NPPF relate to climate change and seek to ensure that new developments mitigate against the effects of climate change to ensure that buildings are resilient to the future effects of climate change. The proposal includes a number of sustainability features which have been set out above, and which further details of are provided in the accompanying technical reports. Overall, the proposal has been carefully designed to reduce overheating, ensure water efficiency, waste reduction, greenhouse gas emission reductions, and to limit energy consumption. As such, it is considered that the proposal meets the requirements of the NPPF and Policies CC1 and CC2 of the Camden Local Plan.

## **Fire Safety**

- 5.31 Policy D12 of the London Plan seeks to ensure that fire safety is maintained through new development. The proposed development includes a new mains water supply which will connect to an automatic fire suppression system via a sprinkler system, as set out in the Utility Report. The access corridor continues to the west end of the building, then runs north, connecting into an existing staircase that runs down to the external means of escape below 50-52 Kilburn High Road. This alternative means of escape provides access onto Kilburn High Road via an existing exit door. Therefore, the proposal has sought to ensure that fire safety is maintained and so meets the requirements of the policy.

## 6 CONCLUSION

- 6.1 This Planning Statement is submitted to accompany a full planning application for *'alterations and extensions to existing redundant non-residential institution building to C3 permanent residential use, to form 5 no. two-bedroom duplexes,'* at 264 Belsize Road, Camden.
- 6.2 Based on recent appeal decisions the Council cannot currently demonstrate a five-year housing land supply. As such, the policies that are most important for determining the application are out-of-date and so Paragraph 11(d) of the NPPF applies. There are no policies in the NPPF that protect areas or assets of particular importance that provide a clear reason for refusing the proposed development. Furthermore, it is not considered that there would be any adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies taken as whole.
- 6.3 The development proposes much-needed housing on a brownfield site in a highly sustainable location whilst providing significant environmental benefits and sustainability improvements to the existing building. Therefore, in accordance with the requirements of Paragraph 11(d) of the NPPF, we consider that the development should be approved without delay.
- 6.4 Please do not hesitate to contact us should you have any queries or require any further information.

## **A.1 Appeal reference: APP/X5210/W/20/3261840 – Land adjacent Jack Straws Castle**

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## Appeal Decisions

Hearing Held 20-21 April 2021

Site visit made on 22 April 2021

**by H Butcher BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 May 2021**

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### **Appeal A: APP/X5210/W/20/3261840**

#### **Land adjacent to Jack Straws Castle, North End Way, London NW3 7ES**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Albany Homes UK against the decision of the Council of the London Borough of Camden.
  - The application Ref 2020/1828/P, dated 24 April 2020, was refused by notice dated 9 September 2020.
  - The development proposed is the erection of two x four bedroom residential dwellings of three storeys plus basement on west side of car park, and associated landscaping, refuse and cycle stores and reconfigured car parking on remainder of car park.
- 

### **Appeal B: APP/X5210/Y/20/3261841**

#### **Land adjacent to Jack Straws Castle, North End Way, London NW3 7ES**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Albany Homes UK against the decision of the Council of the London Borough of Camden.
  - The application Ref 2020/2577/L, dated 24 April 2020, was refused by notice dated 9 September 2020.
  - The works proposed are underpinning of adjacent existing basement.
- 

### **Decision**

1. Appeal A is allowed and planning permission is granted for the erection of two x four bedroom residential dwellings of three storeys plus basement on west side of car park and associated landscaping, refuse and cycle stores and reconfigured car parking on remainder of car park at Jack Straws Castle, North End Way, London NW3 7ES in accordance with the terms of the application, Ref 2020/1828/P, dated 24 April 2020, subject to the conditions in the attached schedule.
2. Appeal B is allowed and listed building consent is granted for underpinning of adjacent existing basement at Jack Straws Castle, North End Way, London NW3 7ES in accordance with the terms of the application Ref 2020/2577/L dated 24 April 2020 and the plans submitted with it subject to the conditions in the attached schedule.

### **Preliminary matters**

3. The reasons for refusal refer to harm to the setting of Old Court House (Grade II listed) but during the hearing the Council changed their position and said

that the proposal did not harm the setting of Old Court House, and suggested that perhaps the reason for refusal should have referred to the setting of Heath House (Grade II\* listed). However, the Council were not able to elaborate specifically on what harm to the setting of Heath House would arise from the development. Consequently, my main issues deal only with the effect of the development on the setting of Jack Straws Castle. In respect of the settings of other listed buildings in the vicinity of the appeal site I shall, nevertheless, have regard to my statutory duties and address these separately below.

4. Interested parties raised concerns about the living conditions of future occupiers of the proposed houses and the living conditions of existing residents of Jack Straws Castle, the latter having been converted to residential accommodation in 2002<sup>1</sup>. Although not included in the Council's reasons for refusal, from the evidence before me, and following an informal visit to the site before the hearing opened, I considered these matters to be significant. Consequently, they were raised in detail at the hearing and the main parties were given the opportunity to comment. No one would therefore be prejudiced by my taking these matters into consideration in the determination of this appeal.
5. S.7 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that listed building consent is only required for any works for the demolition of a listed building, or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest. The houses, as confirmed at the hearing, would directly abut, but take no support from, and would not be an extension of Jack Straws Castle. On that basis listed building consent is not required for the erection of the two houses.
6. The Council refused listed building consent on grounds of harm to the settings of Jack Straws Castle and Old Court House but these matters would not fall for consideration under a s.20 appeal. Listed building consent is required for the underpinning of the basement at Jack Straws Castle but the Council raised no objection to these works. With these points in mind there are no main issues for me to consider in respect of Appeal B. Nevertheless, to satisfy the requirements of s.16(2) of the Act I consider the effect of these works on the special architectural and historic interest of Jack Straws Castle in my other matters below.
7. In Appeal A the Council's decision notice sets out five reasons for refusal. Reasons 2-5 all relate to the absence of a legal agreement to secure various obligations. However, following discussions with the appellant these are no longer being pursued by the Council following the submission of a S106 agreement. I deal with this legal agreement later in my decision.

## **Main Issues**

8. The main issues in Appeal A are therefore:
  - The effect of the development on the setting of Jack Straws Castle (Grade II listed) and whether it would preserve or enhance the character or appearance of the Hampstead Conservation Area, and the effect of the development on the character and appearance of the surrounding area;

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<sup>1</sup> PWX0102/LWX0102191



- The effect of the development on the living conditions of existing and future residents, having particular regard to outlook, light, privacy and outdoor space.

## **Reasons**

*Setting of Jack Straws Castle, Hampstead Conservation Area, and the character and appearance of the surrounding area.*

9. Jack Straws Castle is a Grade II listed building dating from 1962-64. It was originally built as a public house and replaced an earlier 18<sup>th</sup> century public house of the same name, on the same site, which was bombed in World War II. The building was designed by Raymond Erith, a well-known traditional architect, and the design was inspired by early 18<sup>th</sup> century coaching inns. Its overall proportions, however, and in particular, its wide principle elevation with three roughly evenly sized stories gives it a distinctive twentieth century quality. Due to its imposing size and form, its siting at a road junction, at a high point in the landscape, and adjacent to Hampstead Heath, Jack Straws Castle forms a prominent landmark in the immediate surrounding area.
10. The appeal site is located within the car park of Jack Straws Castle. The north side of Jack Straws Castle, formerly a kitchen garden, was levelled to create a car park as part of its re-build to facilitate vehicular access to the public house cellars. This area therefore has a functional and historic relationship with the listed building. The north side of Jack Straws Castle is also a prominent and visible elevation which can be appreciated from the immediate surrounding area to the property. The appeal site therefore clearly falls within the setting of Jack Straws Castle.
11. The appeal site also falls within Hampstead Conservation Area, specifically Sub-Area Seven: Whitestone Pond. The Hampstead Conservation Area Appraisal identifies Jack Straws Castle along with the Grade II listed Old Court House to the south and Grade II \* listed Heath House to the north-east as a distinguished group of buildings around the war memorial, also Grade II listed. This group of buildings of historic interest therefore contribute to the character and appearance of the conservation area.
12. The proposal is for two new houses to abut Jack Straws Castle on the north side elevation. They would have a classical, Georgian inspired design and would be set well back from the road junction to the front and sit lower than Jack Straws Castle itself. They would also have brick elevations which would contrast with and set them apart from the listed building which is predominantly clad with cream painted weatherboarding. The result would be that they would not interfere with the design of the listed building but would appear as separate and stand-alone dwellings which would be subservient to and would not detract from the 'landmark' character of Jack Straws Castle.
13. On the opposite side of Jack Straws Castle, the south elevation, is Old Court House (Grade II listed) which dates from the early 18<sup>th</sup> Century and has the appearance of a short terrace of Georgian style houses of varying sizes and designs. These are also set back from the main front elevation of Jack Straws Castle. In this context, the overall design, scale and juxtaposition of the proposed dwellings in conjunction with Jack Straws Castle would be broadly in-keeping with that at Old Court House, and thus, appropriate in context.

14. The proposed dwellings would be set sufficiently back so as to leave the principal elevation unaffected and the main body of the building on the north side exposed and visible, thereby retaining the imposing drama of the building here. Instead, the dwellings would abut a lower, rear, brick storey which is visually distinct and separate to the main body of the building due to its pared down design and different elevational treatment<sup>2</sup>. This part of Jack Straws Castle has also more recently been extended with an additional storey and crenulations<sup>3</sup>. Overall, therefore, the proposed dwellings would not detract from Erith's implemented design for Jack Straws Castle.
15. It is important to note at this juncture that the scheme architect is Quinlan Terry, one of the country's leading classical architects. In addition to this, and most notably in respect of this scheme, Mr Terry was trained by Erith himself and was in the office at the time Erith had Jack Straws' Castle on the drawing board. This has value as it provides a link between the proposal and Jack Straws Castle in terms of architectural lineage. Furthermore, rather than simply stopping at Erith, this scheme would allow the narrative of the site to continue through its sympathetic redevelopment by Erith's student. This therefore has value in terms of preserving and responding to the cultural value of the buildings in this area.
16. Although slightly reduced in size the car park would be largely retained in keeping with its historic use in connection with the listed building. It would also be improved visually with new permeable block paving, planting, and bicycle and bin storage. In this respect, the proposal would constitute a modest improvement to the setting of Jack Straws Castle and the wider conservation area by softening what is currently a tarmac car park complete with parked cars and bins.
17. Taking these points together I find no harm to the setting of Jack Straws Castle, rather the improvements to the carpark alongside the proposal would lead to a modest enhancement. That enhancement to the setting of the listed building would also lead to an enhancement of Hampstead Conservation Area. Bearing in mind the workings of s66(1) and 72(1) of the Act I give these matters significant weight.
18. In terms of the impact of the development on the wider character and appearance of the surrounding area, for the most part the houses would be seen against or in conjunction with the larger form of Jack Straws Castle. Given their deep set back from the main road junction to the front they would not appear dominant in this street scene. The houses would sit directly side on to Heath Brow which provides access to a public car park, and pedestrian access to Hampstead Heath, but their relatively narrow depth would mean they would not appear overly dominant when viewed from here either.
19. From the rear, when viewed from Hampstead Heath car park, existing mature shrubs would provide screening, and would be enhanced by the submitted landscaping scheme. The Heath here is quite heavily wooded so whilst the development might be visible from the edges of this, which, for the reasons set out above, I find to be acceptable, both the development and Jack Straws Castle quickly disappear from view once you move into the wider heath area.

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<sup>2</sup> Figure 14 of Planning and Heritage Statement

<sup>3</sup> planning ref PWX0102190/LWXO102191

The development would not, therefore, detract from the heaths open and verdant character.

20. The Council raised concern over the iron railings to the front of the dwellings, but I find these to be entirely appropriate given railings appear in much of Hampstead Conservation Area generally. They would also help separate the dwellings from the remaining car park, which whilst not an ideal frontage, has a historic connection to Jack Straws Castle and as such should be, in part, retained.
21. The Council assert that the Georgian style of the proposed dwellings is historically inaccurate. However, Jack Straws Castle is not an historically accurate representation of an 18<sup>th</sup> Century coaching inn, but rather reimagined by Erith. I accept that the proposals are not a slavish copy of any existing Georgian property, but rather, they take cues from this era in their design and construction in order to respond to the context of the appeal site. I therefore find no harm in this respect.
22. I have had regard to the planning history of the site, in particular two previous appeals<sup>4</sup> from 2003 and 2004. These both dealt with what were effectively extensions to Jack Straws Castle and were designed as such, imitating the appearance of the listed building. In my view, this approach would have resulted in a more visually bulky development. Jack Straws Castle is already a large building in its own right and to further extend it would add to this exponentially. The proposals before me, however, have been designed to appear as entirely separate buildings to Jack Straws Castle and this, in conjunction with their being set further back than any of these previous schemes so as to better reveal the north side elevation, and the narrowing of the depth of the development as a result, has led to a materially different development which must be judged on its own merits.
23. It is also pertinent to this appeal that in the 2004 decision the Inspector specifically notes "*...it would be wrong of me to suggest that no further development should take place in the car park as I can never know what ideas an imaginative architect, perhaps one as skilled as Erith, might dream up*". In my view, that is the scenario before me now.
24. Taking all of the above points together I find no harm to the setting of Jack Straws Castle, in fact an enhancement, and I also find that the proposal would both preserve and enhance the character and appearance of the Hampstead Conservation Area, matters which I afford significant weight. I therefore find no conflict with policies D1 and D2 of the London Borough of Camden Local Plan 2017 (LP) and DH1 and DH2 of the Hampstead Neighbourhood Plan 2018 (NP). These policies seek high quality design which, amongst other things, preserves, and where possible, takes advantage of opportunities to enhance heritage assets, respects local context and character, and integrates well with surrounding streets and open spaces. Nor do I find conflict with Policies A2 of the LP and NE1 of the NP which seek to protect open spaces and their setting. The significance of these designated heritage assets would also be conserved as required by para 193 of the National Planning Policy Framework (the Framework).

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<sup>4</sup> Linked decisions APP/X5210/E/03/1124779, APP/X5210/A/3/1124778, APP/X5210/E/03/1124781, APP/X5210/A/03/1124780 and APP/X5210/E/04/1151287 and APP/X5210/A/04/1151286

25. In coming to the above findings, I have also considered the effect of the proposal on the settings of Old Court House, Heath House Wall (Grade II listed), Heath House (Grade II\* listed) and Hampstead War Memorial (Grade II listed). For the same reasons as set out above, I find no harm to the setting of any of these listed buildings.

*Living conditions - outlook*

26. Jack Straws Castle is a large and imposing building as touched upon above. It has a wide front elevation facing onto North End Way which is three storeys tall. The north side elevation is similarly deep as the front is wide. However, due to the lie of the land, which falls away to the rear of the building, on the north side elevation the brick plinth on which the three storey timber framed building is constructed on is exposed and clearly visible from the car park. On this elevation is also a tower which contains a lift, and this extends four storeys above the brick plinth. The north elevation has previously been described as '*a cliff like wall facing over the car park*<sup>5</sup>, and it is easy to see why when stood next to it given the depth of building in combination with its imposing height and features.
27. The proposal is to erect two houses immediately abutting the north side elevation of Jack Straws Castle. These would be set a considerable distance back from the front elevation in order to preserve views of the listed building. However, the consequence of this would be that the frontages of the houses would be visually dominated by this wide, tall and cliff like north elevation of Jack Straws Castle. Single aspect bedrooms facing out to the front of the houses and the balconies off of these would also be dominated by this view, as would any view which could be achieved from the basement kitchen/dining rooms.
28. As set out in Camden Planning Guidance (CPG) - Amenity, development should ensure that the proximity or size of any structures avoids having an overbearing and/or dominating effect that is detrimental to the enjoyment of occupiers of properties. This guidance is worded in a way that seems to refer specifically to new development and its effects on residents of existing properties only. Nevertheless, I consider it appropriate to also have regard to the outlook of future occupants of the houses in this appeal. Furthermore, Policy A1 of the LP requires that the amenity of both occupiers and neighbours is protected in respect of, amongst other things, outlook. For the reasons given, I therefore find harm to the amenity of future occupiers in respect of outlook.

*Daylight and sunlight*

29. Similarly, daylight and sunlight in the proposed dwellings would be affected by the location of Jack Straws Castle. In this case Jack Straws Castle would sit to the south of the new dwellings and would be taller, and significantly deeper, extending some 18.5m forward of the front elevations of the houses.
30. A daylight report was submitted by the appellant which shows that all rooms in the houses would meet the recommended Average Daylight Factor (ADF), with the exception of the kitchen of House 1. BRE Site Layout Planning for Daylight and Sunlight, A guide to good practice, (BRE guidance) recommends an ADF

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<sup>5</sup> APP/X5210/E/04/1151287

for kitchens of 2% but the kitchen/dining room at House 1 would achieve only 1.7%. Whilst the dining area might meet the recommended ADF in terms of daylight if it were to be classed as a living room (1.5%) this does not alter the situation in respect of the kitchen.

31. The submitted daylight report omitted any study of sunlight in respect of the proposed dwellings. Given the relationship between Jack Straws Castle and the general guidance in CPG - Amenity the impact of development schemes on both daylight and sunlight levels should be considered. Following the lack of sunlight assessment being raised in the hearing sunlight calculations were submitted for the main living rooms in the proposed dwellings. These are, however, dual aspect rooms so it is no surprise that these would meet BRE guidance target values for sunlight. However, there remains no sunlight analysis to the other rooms in the proposed dwellings, namely: the bedrooms; particularly those with windows facing east and therefore most overshadowed by Jack Straws Castle; or the kitchen/dining rooms at the proposed dwellings which also face east.
32. Whilst, as set out in BRE Guidance, the main requirement for sunlight is in living rooms, that is not to say it is of no importance to other rooms. BRE guidance points out that sunlight is preferred in the mornings in bedrooms so there is a desire for some sunlight to such rooms. Furthermore, the kitchen/dining rooms in the proposed dwellings should be counted as a living room as they were in the daylight report<sup>6</sup> as this is where the main requirement for sunlight is as set out above, but these rooms are omitted from the sunlight report. I therefore find that it has not been demonstrated that the proposed dwellings would receive adequate daylight and sunlight.

### *Privacy*

33. I turn now to matters of privacy. The windows in bedroom 3 of House 1 would be in very close proximity and at a similar level to two first floor bedroom windows at a residential property in Jack Straws Castle. The close proximity of these windows would mean intrusive overlooking would occur. It is reasonable to expect good privacy levels in bedrooms therefore I find the lack of privacy here to be harmful to both existing and future residents.

### *Outdoor space*

34. Policy D1 of the LP requires high quality design in development which, amongst other things, incorporates outdoor amenity space. To provide further guidance on this CPG - Housing sets out that new homes should meet the open space standard of 9m<sup>2</sup> per resident. It was agreed at the hearing that the proposed houses had scope for six residents each therefore 54m<sup>2</sup> of outdoor space should be provided per house. The appeal scheme provides modest balconies and a small outside space in a lightwell off of the basement kitchen/dining room. Together these spaces would not meet the required open space standard set out in CPG – Housing by quite a significant margin. Furthermore the quality of these outdoor spaces and the ability of future occupiers to enjoy them would be diminished by their position in relation to Jack Straws Castle.
35. I accept the close proximity of Hampstead Heath and the potential for this to be used for recreation by future residents. However, even access to public

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<sup>6</sup> Scheme Internal Daylight Report para 5.3



outdoor spaces can be heavily restricted in times of national lockdown such as we have experienced over the last 12 months or so. Consequently, I find the size and quality of private outdoor space provided for the two dwellings to be inadequate such that I find harm to the living conditions of future occupiers.

#### *Overall findings on living conditions*

36. Taking all of the above points together I find harm to the living conditions of future occupiers of the proposed development in terms of outlook, daylight and sunlight, privacy and outdoor space, and harm to existing residents in terms of privacy. It was put to me in the hearing that in areas such as Hampstead reduced outlook, privacy, light and outdoor space are to be expected. However, the policies I have referred to above in considering living conditions apply to this area therefore I find no reason to disregard them in this case.
37. Consequently I find conflict with Policies D1 and A1 of the LP which seek to protect the amenity of occupiers and neighbours in terms of visual privacy, outlook, sunlight, daylight, overshadowing, and outdoor amenity space. The proposal would also conflict with para 127f) of the Framework where it requires development to have a high standard of amenity for all existing and future users.
38. I have also had regard to all other living conditions matters raised but on the evidence before me I find no firm reason to conclude any of these would give rise to significant adverse effects.

#### **Legal agreement**

39. A signed and dated S106 agreement has been provided which seeks to secure various obligations. It is necessary for me to consider these in detail and reach a finding on them having regard to the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and the Framework at para 56.

#### *Car free development*

40. The proposal is to be for 'car-free housing'. This means no on-site car parking spaces are provided with the scheme and future occupiers are to be prevented from applying for permits to park nearby on-street. This is in line with Policy T2 of the LP which sets out that all new developments will be required to be car-free and to do that they will, as an authority, not issue on-street parking permits in connection with new developments and will use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits. The S106 before me secures this. I therefore find such an obligation necessary to make the development acceptable in planning terms.

#### *Affordable housing*

41. Policy H4 of the LP requires a contribution to affordable housing from all development that provides one or more additional homes and involves a total addition to residential floor space of 100m<sup>2</sup> Gross Internal Area or more. The appeal site meets these requirements. The maximum reasonable amount negotiated in this case based on various criteria set out in Policy H4 of the LP and having regard to CPG - Housing is £84,000. I am therefore satisfied the affordable housing contribution meets the relevant tests.

### *Construction Management Plan*

42. The S106 agreement requires the submission of a Construction Management Plan (CMP) and payment of a CMP Implementation Support Contribution of £3,136. This is necessary to enable the Council to manage the impacts of development as the site has a relatively tight access off of a busy junction. The amount sought corresponds with the indicative charging rates set by the Council. A CMP bond of £15,000 is also required in the event that the contractor fails to abide by the agreed CMP. I am satisfied, on the evidence before me, that these obligations meet the relevant tests.

### *Highway contribution*

43. A contribution of £20,799 for highway works is required to include carriageway resurfacing, footway resurfacing and new kerbs as a result of the development. The Council have provided a cost estimate for this. On this basis I am satisfied that the required highway contribution meets the relevant tests.

### *Other matters*

44. In Appeal B there were no main issues to consider. The Council raised no objection to the underpinning works and on my analysis, being structural in nature and underground, they would have no adverse impact on the special architectural and historic importance of Jack Straws Castle. From all that I have read, heard and seen I therefore find no reason to withhold listed building consent subject to appropriate conditions.
45. The proposal makes no provision for disabled parking and there is no suitable on-street parking in the immediate vicinity of the appeal site for blue badge holders. Policy T2 of the LP is clear that on-site parking for disabled people be provided where necessary. This can, however, be secured by condition.
46. The carpark as proposed would enable vehicles to turn on site. Heath Brow is not a fast or excessively busy road such that drivers of vehicles would not be able to navigate slowly and safely in and out of the car park. The car park is to be reduced in size, but that in itself should not preclude the development given Camden as an authority are seeking to limit parking within the borough to reduce car ownership and therefore lead to reductions in air pollution and congestion as well as encourage wider health benefits from walking and cycling.
47. The part of Hampstead in which the appeal site is located is also quite accessible insofar as there is an underground station within direct and relatively easy walking distance through Hampstead village as well as local bus services. Whilst the existing parking spaces might be subject to a condition on a previous planning permission this is not a matter for me to determine under this S78 appeal.
48. Bin storage in line with Camden guidance is to be provided and can be secured by way of a suitable condition. The Council also raised no concerns in this regard. It was clarified at the hearing that the appeal site immediately abuts but does not encroach onto Metropolitan Open Land.
49. Any future maintenance of the dwellings to the rear would likely be short lived and infrequent and would not warrant refusal of planning permission. I have had regard to submitted Tree and Ecology surveys and am satisfied no material

harm would arise from the development. The Council also raised no issue in this respect.

### **Planning balance**

50. In Appeal A I have found no harm to the setting of Jack Straws Castle, rather an enhancement, and that it would both preserve and enhance the character and appearance of the Hampstead Conservation Area. I have also found no harm to the settings of any other listed buildings nor any harm to the character and appearance of the surrounding area. I have, however, found harm to the living conditions of existing residents of Jack Straws Castle and future occupiers of the proposed houses. Therefore, whilst there is compliance with the development plan in some areas there are failings in others. Overall, therefore, I find conflict with the development plan when considered as a whole.
51. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions.
52. The Council confirmed at the hearing that they could not demonstrate a 5-year supply of housing land. Paragraph 11d) of the Framework is therefore engaged because, as per footnote 7, if the Council cannot demonstrate a five year supply of deliverable housing sites the policies most important for determining the application must be considered out-of-date. Given my findings in respect of heritage assets there are no policies in the Framework that protect areas or assets of particular importance and provide a clear reason for refusing the development proposed as set out in footnote 6 of para 11d)i. Consequently, it falls for me to determine if the adverse impacts of granting permission in this case would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole as per para 11d)ii).
53. There are a number of adverse impacts I have identified in terms of living conditions. However, these issues are countered somewhat by the fact that they are created largely due to the sensitive nature of the site and the need to preserve the special architectural and historic interest of Jack Straws Castle and I can see no way to overcome these harmful impacts on living conditions with an alternative design. With this in mind I therefore give these adverse impacts moderate weight.
54. In terms of benefits, the proposal provides two good sized four-bed family houses on brownfield land within Hampstead, an area with an undersupply of housing. Development of this nature would also bring with it short and long-term economic benefits. These are moderate benefits in the circumstances. In addition to this the proposal would bring about improvements to the setting of Jack Straws Castle and the conservation area due to the improvements to the car park; works which there is nothing to indicate would be carried out otherwise. I give these latter benefits significant weight.
55. I am also conscious of the rare circumstances of this case whereby the houses to be sited in the setting of Jack Straws Castle have been designed by an architect who was the student of the architect of this listed building. This



speaks to the high quality of the design of the development and offers further weight to the proposal which I have also taken into account.

56. In light of my findings the adverse impacts do not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development as set out in paragraph 11 of the Framework therefore indicates that permission should be granted in respect of Appeal A.
57. As previously stated, I have found no adverse impact to Jack Straws Castle in respect of Appeal B as the underpinning works would preserve the special architectural and historic interest of the building. Planning permission should therefore also be granted for Appeal B.

### **Conditions**

58. In addition to the standard time limit conditions, I have included a plans condition as this provides certainty. In Appeal B I have also included conditions to protect the historic fabric of Jack Straws Castle.
59. In Appeal A, to ensure a satisfactory form of development and protect the living conditions of future occupants it is necessary to include conditions relating to ground contamination and the construction of the approved basements and it is also necessary for these to be pre-commencement conditions for the same reasons. For similar reasons I have also included a condition concerning SUDS. Conditions requiring additional information in respect of specific construction details, material samples, and details in respect of photovoltaic cells are also necessary to ensure a satisfactory appearance, as is restricting external fixings to the buildings.
60. There is no need for the submission of hard and soft landscaping details as these have already been submitted. However, conditions securing these works and the protection of trees are necessary to ensure a satisfactory form of development. The removal of permitted development rights is justified in this case given the restricted nature of the site and its sensitive location.
61. To protect biodiversity conditions are necessary to ensure the development is carried out in accordance with the submitted Ecological Appraisal and for bird and bat boxes to be installed on site. Furthermore, to ensure waste and cycle storage is provided along with car parking and disabled car parking, conditions are included to this effect. I have also included a condition to ensure the houses are built to be accessible to all, and conditions to meet local requirements in relation to water and energy efficiency.
62. I do not consider it to be reasonable to restrict the installation of external lights on the dwellings and permitted development rights in respect of the installation of flues, vents and pipes have been removed under a separate condition. It is also not possible to reasonably enforce against the loading or unloading of goods on the adjacent carriageway.
63. I have, however, included a condition relating to hours of construction to protect the living conditions of adjoining occupiers.

## **Conclusion**

64. The appeals are allowed.

*Hayley Butcher*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Thomas Hill QC

Mr Quinlan Terry

Mr James Kon

Dr Chris Miele

Morgan Taylor

Mr Adam Hollis

Mrs Lucy Archer

Mr Kenneth Powell

Dr Alan Powers

Eric Cartwright

Daniel Drukarz

Eleanor Mazzon

Mr James Huish

### FOR THE COUNCIL:

Miss Antonia Powell

Kristina Smith

Mr William Bartlett

Deirdre Traynor

### INTERESTED PARTIES:

Mr Marc Hutchinson

Mr David Altaras

Mr John Beyer

Professor Jeff Waage

Mr David Castle

Janine Griffis

Lisa Lindsley

Miss Caroline Daly

Paul O'Neill

Laura Goddard

Bob Warnock

Adrian Brooker

Michael Da Costa

Pascal Dubois Pelerin

Harry Taylor

Sam Volpe

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Site location views – site photos
2. Conservation Area Statement – Hampstead
3. Listing description for Old Court House
4. Up to date Housing Land Supply position
5. Suggested wording for listed building consent conditions 3 and 4
6. Supporting information for S106 agreement
7. CPD – Housing 2021
8. Details of windows at Jack Straws Castle
9. Sunlight report
10. Scanned S106 agreement

## **Schedule of Conditions**

### **Appeal A:**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1370/3 O, 1370/4 A, 1370/5 B, 1370/6 A, 1370/10, 1370/11, 1370/2/2, 1370/2/7, 06-681-200-01 Revision R, 1370/13.
- 3) Prior to the commencement of development a written programme of ground investigation for the presence of soil and groundwater contamination, and landfill gas, shall be submitted to and approved in writing by the local planning authority. The site investigation shall be carried out in accordance with the approved programme and the results and a written scheme of remediation measures, if necessary, shall be submitted to and approved in writing by the local planning authority also prior to the commencement of development. If required the remediation measures shall be implemented strictly in accordance with the approved scheme and a written report detailing the remediation shall be submitted to and approved in writing by the local planning authority prior to occupation.
- 4) Prior to the commencement of development details of a suitably qualified chartered engineer with membership of an appropriate professional body shall be submitted to and approved in writing by the local planning authority. The approved person shall be appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works at the appeal site throughout their duration to ensure compliance with the design which shall have been checked and approved by a building control body. Any subsequent reappointment shall be confirmed at the earliest opportunity with the local planning authority.
- 5) Before the relevant part of the work is begun detailed drawings or samples of materials as appropriate in respect of the following shall be submitted to and approved in writing by the local planning authority:
  - a) Details including sections at 1:10 of all windows (including jambs, head and cill), external doors, balconies and railings;
  - b) Details of all facing materials and roof tiles with samples of those materials to be provided on site.
- 6) No meter boxes, telecommunications equipment, alarm boxes, television aerials, satellite dishes or rooftop 'mansafe' rails shall be fixed or installed on the external face of the buildings.
- 7) Before the brickwork is commenced a sample panel of the facing brickwork demonstrating the proposed colour, texture, face-bond and pointing shall be provided on site and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The approved panel shall be retained on site until the relevant works have been completed.
- 8) The approved hard and soft landscaping works as shown on Hard and Soft Landscape Proposals drawing number 06-681-200-01 revision R shall be carried out in accordance with the approved details prior to

occupation of the development. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

- 9) All parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved tree protection details (within Tree Survey Report dated Dec 2016 revised 13.3.18 by RGS) and guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction".
- 10) The development shall be carried out in accordance with the methodologies, recommendations and requirements of the ecological documents hereby approved (Preliminary Ecological Appraisal dated March 2017 by Greengage, letters from Greengage dated 30.8.17 and 22.3.18).
- 11) Prior to first occupation of the development details of bird and bat boxes shall be submitted to and approved in writing by the local planning authority. The boxes shall be installed as approved prior to the occupation of the development and thereafter permanently retained.
- 12) The waste and cycle storage facilities shown on the submitted Hard and Soft Landscape Proposals drawing number 06-681-200-01 revision R shall be provided prior to the first occupation of the development and thereafter permanently retained.
- 13) The basements hereby approved shall be implemented in accordance with the methodologies, recommendations and requirements of the Basement Impact Assessment documents hereby approved (Structural Methodology Report dated April 2020 by Richard Tant Associates, Ground Investigation and Basement Impact Assessment report dated March 2020 Issue 4 by GEA).
- 14) Prior to occupation of the development a revised parking layout to include disabled parking shall be submitted to and approved in writing by the local planning authority. The approved parking layout shall be implemented prior to first occupation and shall be retained thereafter and used for no purpose other than for the parking of vehicles.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development within Part 1 (Classes A-H) and Part 2 (Classes A-C) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.
- 16) Prior to occupation of the development all the measures contained in the Energy and Sustainability Statement dated April 2020 by XC02 shall have been implemented on site. Such measures shall be permanently retained and maintained thereafter.

- 17) Prior to occupation of the development detailed plans showing the location and extent of photovoltaic cells to be installed on the building shall have been submitted to and approved in writing by the local planning authority. The details shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. The cells shall be installed in full prior to occupation in accordance with the approved details and permanently retained and maintained thereafter.
- 18) Prior to occupation of the development all sustainable urban drainage system measures in the Surface Water Drainage and SUDS strategy dated April 2020 by Evens shall have been implemented on site. Such measures shall be permanently retained and maintained thereafter.
- 19) The development hereby approved shall achieve a maximum internal water use of 110 litres/person/day. The dwellings shall not be occupied until the Building Regulation optional requirement has been complied with.
- 20) The houses hereby approved shall be designed and constructed in accordance with Building Regulations Part M4(2). Evidence demonstrating compliance shall be submitted to and approved in writing by the local planning authority prior to occupation.
- 21) Construction works shall take place only between 07:00 and 18:00 Monday-Friday, and 08:00 – 12:00 Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

### **Appeal B**

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Prior to the commencement of works full details of the underpinning of the basement at Jack Straws Castle, including detailed drawings and a method statement, shall be submitted to and approved in writing by the local planning authority. The underpinning works shall be carried out as approved prior to any excavation works associated with the erection of the two dwelling houses granted planning permission under APP/X5210/W/20/3261840.
- 3) Upon completion of the works authorised by this consent any works of making good to Jack Straws Building shall be carried within 3 months and shall match the existing adjacent work as closely as possible in materials and detailed execution.

## **A.2 Marketing evidence – Letter from Dutch and Dutch**



Clare Anscombe  
Planner  
RPS Group,  
20 Western Avenue,  
Milton Park,  
Abingdon, Oxfordshire,  
OX14 4SH

Dear Clare,

**Re: 264 Belsize Road, Lodon, NW6 4BT**

Thanks for your email. I was in touch with Castle Trading in 2014 acting on their behalf in respect of a rent review with the then tenant, IGC. This review proved abortive as the Church chose to vacate the premises as the property was not viable for them.

In the subsequent 24 months I referred several property enquiries for community use and office accommodation directly to Castle Trading. Unfortunately, none of these leads resulted in Castle Trading being able to let the space which I understand remains empty.

The space lacks any natural light at ground floor level and very limited natural light at first floor. In my opinion it is unlettable in its current arrangement as a commercial property.

Yours sincerely,

**David Matthews**  
Managing Director