The Planning Inspectorate

Appeal Decision

Inquiry Held on 15-17, 22, 23, 25, 29, 30 November 2022, 1, 2, 6, 15 December 2022

Site visits made on 10 June 2022 and 31 January 2023

by Christina Downes BSc DipTP MRTPI

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

Decision date: 24 April 2023

Appeal Ref: APP/X5210/W/21/3284957
17-37 William Road, London NW1 3ER

- 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 Euston One Limited against the decision of the Council of the London Borough of Camden.
- The application Ref 2020/5473/P, dated 18 November 2020, was refused by notice dated 1 October 2021.
- The development proposed is the redevelopment of no. 35-37 to provide a 15 storey building with basement level for use as student accommodation with affordable workspace at ground floor level of no. 17-37 and improvements to ground floor façade of no. 17-33, together with public realm improvements, servicing, cycle storage and facilities, refuse storage and other ancillary and associated works.

DECISION

1. The appeal is allowed and planning permission is granted for the redevelopment of no. 35-37 to provide a 15 storey building with basement level for use as student accommodation with affordable workspace at ground floor level of no. 17-37 and improvements to ground floor façade of no. 17-33, together with public realm improvements, servicing, cycle storage and facilities, refuse storage and other ancillary and associated works at 17-37 William Road, London NW1 3ER, in accordance with the terms of the application, Ref 2020/5473/P, dated 18 November 2020, and the plans submitted with it. This is subject to the conditions in Annex Three to this decision.

PROCEDURAL MATTERS

2. The inquiry was postponed in June 2022 in order that amended plans could be provided to address issues of fire safety. Following receipt of those revisions, which were mainly internal to the building and included a second stair core, I ruled that the amendments could be accepted within the scope of the present appeal. I reached that conclusion having regard to the submissions of both the Council and the Appellant. The revisions to the scheme include a glazed external fire exit in place of a window, an additional stair core, provision of refuge areas and changes to some of the residential units. The number of bedspaces would be reduced by 33 to 206 in total and the proportion of one bedroom studio units would slightly increase.

3. The Planning Obligation was anticipated to be by means of a bilateral

Agreement, which was intended to meet 13 of the reasons for refusal. However, following the discussion at the inquiry there remained a number of outstanding matters to be addressed. I therefore allowed further time in order for an executed document to be submitted. However, the parties were not able to reach agreement on several clauses and so the Appellant decided to submit a Unilateral Undertaking (the UU). The Council submitted further comments on the draft of this document and there was a response from the Appellant. The completed document was eventually submitted on 30 January 2023. No further representations were permitted on the matter thereafter. I consider the UU later in my decision.

4. Although the draft planning conditions were fully discussed at the inquiry there were some outstanding points that were not resolved. Further time after the close of the inquiry was given for this information to be provided.

5. Following further information regarding the whole life carbon assessment and circular economy it was confirmed at the Case Management Conference in April 2022 that the Council would no longer be pursuing this reason for refusal at the inquiry.

REASONS

WHETHER THE PROPOSAL WOULD RESULT IN AN UNACCEPTABLE LOSS OF EMPLOYMENT OPPORTUNITIES AND FLOORSPACE

6. The appeal site comprises the ground floor of 17-33 William Road and 35-37 William Road, which is on the corner with Stanhope Street. Both buildings, which are linked at ground floor level are vacant. The former (Building B) was built in about 2001 and has five floors of apartments above. These are outwith the appeal site. The corner building (Building A) was built in the 1960's and comprises a basement, a 2 storey plinth and 4 storeys above the eastern half. Both buildings were previously used by Addison Lee as offices and a depot for its fleet of vehicles.

Planning policy context

7. The site is within the Euston Growth Area, Central London Area and Central Activities Zone (CAZ) designations in the *Camden Local Plan* (2017) (the Local Plan) and within the area covered by the *Euston Area Plan* (2015). There is reference to the Knowledge Quarter in policy E1 of the Local Plan but its boundaries, which include the appeal site, are left to the emerging *Site Allocations Review*, which is currently at pre-submission stage[1]. The appeal site is also included in an Article 4 direction that prevents the change of the current premises to residential use under permitted development rights.

8. In the Local Plan, policy E1 includes various criteria relating to supporting economic development and growth. It includes a provision to safeguard existing employment sites and premises that meet the needs of industry and other employers. Policy E2 seeks to protect employment premises and sites that are suitable for continued business use and support the functioning of the CAZ. Non-business uses are resisted unless the reuse or redevelopment of the site or building has been fully explored for an appropriate period of time. Higher intensity redevelopment of suitable business sites is subject to

[1] This is intended to replace the *Camden Site Allocations Plan* (2013).

provisions that include increasing or maintaining the level of employment floorspace and including space for small and medium-sized enterprises and start-ups along with other priority uses, such as housing.

9. In the *London Plan* (2021), policy E1 relates to offices. The existing lawful use of the appeal site is as offices and in the London Plan policy E1 is directly relevant. It includes a provision that the central London office market, including in the CAZ, should be developed and promoted. It supports the introduction of Article 4 Directions to ensure that local office clusters are not undermined by changes to housing under permitted development rights. The scope for the re-use of surplus large office space for smaller office units should be explored. There is support for the change of use of surplus office space to other uses such as housing. Policy E2 states that local plans should include policies that protect a range of Class B uses where appropriate. Proposals that involve a loss of existing space in areas identified in local plans as having a shortage of lower-cost space, should show that there is no reasonable prospect of the site being used for business purposes or re-provide an equivalence of affordable workspace where appropriate.

10. The Greater London Authority (the GLA) has considered the proposal against policy E1 of the London Plan, which relates only to offices. However, it seems to me that a wider view can be justified and that policy E2 relating to business use is also relevant, especially as in the Local Plan, policies E1 and E2 are framed by the more general scope of employment use and economic growth and employment. In any event, what is common to both the strategic and local policies is the protection of office and business uses unless they are surplus to requirements. The supporting text to policy E2 in the Local Plan indicates that there should be a sustained period of marketing for at least 2 years.

Marketing

11. The existing buildings contained 2,266 m^2 gross internal area (GIA) of offices and 1,427 m^2 (GIA) of ancillary storage. The proposal would include 1,255 m^2 of affordable workspace. In quantitative terms there would therefore be a loss of 2,438 m^2 office floorspace.

12. The premises have been vacant since 2018. The evidence indicates that James Andrew International (JAi) commenced marketing in June 2019 following the purchase of the site by the Appellant. The marketing continued until July 2021 and so covered a two-year period as required by the Local Plan. The Appellant's evidence indicated that the interior was quite basic and that there had probably been some subletting and squatters had accessed the property at some point. The conclusion was that refurbishment would have been required and possibly a complete strip out as well, before the building could be re-used, even by a low-cost small business. I have no evidence to indicate otherwise, especially as the Council's witness indicated that he had not been inside the building at this time.

13. The marketing brochure offered leases on a flexible, short-term basis at a rent of £32.50 ft^2 on all floors, including the basement. The evidence indicated that there were offices of various sizes and on various terms in the vicinity. Whilst some were cheaper, others were much more expensive. The rental price seems to have been fair and, in any event, it is clear that the figure was a guide. In terms of the lease being offered, the evidence to the inquiry was that "short term" could mean anything from one to five years, perhaps with break clauses.

I find no reason to doubt that the marketing was comprehensively and professionally carried out by a well-respected firm of agents. Although the marketing brochure referred to office users there does appear to have been other interest, for example from a dark kitchen. Overall, I am not convinced that marketing the premises in this way would necessarily have deterred other employment uses from coming forward or those wanting longer leases from expressing interest.

14. The outcome of the marketing was set out in two letters from JAi. The most recent indicates that there were 31 inspections but that only one culminated in a proposal. It would have been helpful to know the reason why the other 30 failed although 5 are specified as being initially interested but put off by either the building quality or location. The single proposal was made by One Avenue, which is a serviced office company. However, this never progressed because the company wanted the landlord to pay for the refurbishment and this was not considered to reflect the rent it was willing to pay. There is no detail about the length of lease being sought or what improvements had been requested. However, for serviced offices it seems likely that the building would have needed to be reconfigured to provide individual lockable units with a street entrance and reception area. As things stand the only entrance to Building A is through the rear parking area of Building B. Overall, I consider that an adequate marketing exercise was undertaken that was sufficient to establish minimal market interest in the premises.

Existing situation and market demand

15. Notwithstanding the situation at the time of marketing, Building A has now been completely stripped out of facilities and services. At my site visit I noted that the interior appeared to be in very poor condition with water ingress to parts of the interior.

16. The appeal site is in a very accessible location with many public transport options close at hand. It is also within the Euston Growth Area and the CAZ, albeit on the edge of the latter. However, from the information I was given it is clear that there is plenty of high-quality office floorspace available within this vicinity, including around Euston Road and the clusters of large floorplate premises in Regent's Place. Whilst not far away in terms of distance, William Road and its surroundings do not have the same vibe, activity or energy. Rather, the area is characterised by a more eclectic mix of smaller scale employment uses. It is also influenced by the large area of social housing at the Regent's Park Estate.

17. There was much mention at the inquiry of The Lantern, which is a recently refurbished mixed-use development. This does include good quality office space, although a fair proportion remains vacant. In any event, although this building is within the same urban block, its location is more akin to the busier office area of Regent's Place as it has frontages onto Drummond Street and Hampstead Road.

18. The GLA in its consultation response did not consider that the appeal site is in a particularly desirable location for offices. It also indicated that there is an abundance of office space of different quality and size in the immediate vicinity of the appeal site and the wider CAZ area. The premises are clearly in poor condition and their configuration is not fit for purpose for smaller scale offices or employment uses. The evidence to the inquiry suggested that there is a

good supply of smaller, lower rent offices, co-working floorspace and small business premises in the area. Both of the expert witnesses are experienced practitioners within their field of expertise. However, the work of the Appellant's witness is specifically in the field of development and property acquisition, and it seemed to me that he had a broader understanding of the local employment market. Bearing this in mind, I consider that his market-based evidence is to be preferred. The marketing exercise supports the conclusion that the premises are surplus to requirements.

Viability for office uses

19. Bearing in mind the outcome of the marketing exercise and the evidence about existing provision, the viability assessments are of limited use in considering whether the premises or site is surplus to requirements for office or employment use. I consider them nonetheless. The exercises that were undertaken were to replace the existing floorspace through refurbishment or redevelopment. It is appreciated that the site was purchased for a price that bears no relation to its value in terms of policy compliant uses. That should not therefore be a cost factor because any alternative policy compliant use would likely be unviable against a purchase price of over £2m. When this was removed as a cost in the work undertaken by both parties in October 2022, the Council came up with a positive residual land value of £3.8m for redevelopment and £3.9m for refurbishment.

20. However, the developer's profit of 15% on cost is in my opinion too low in a market that has been seriously affected by the risks associated with the Covid-19 pandemic, Brexit and most recently the war in Ukraine. Reference was made to the *London Plan Viability Study*, which advocated a developer's profit of 15-20% on cost for commercial development. However, that guidance was published in 2017 and does not reflect current market conditions. In terms of yields, the Council has not accounted for any change since the first quarter of 2022. Whilst it refers to a JLL Report indicating that yields remained stable in Q2 of that year the Appellant pointed to more recent market volatility and investment risk. Just adopting the Appellant's assessment on these two inputs would considerably reduce the residual land value. It seems to me that a willing landowner would be very unlikely to be incentivised to sell the site, notwithstanding its shortcomings in terms of location and quality.

21. Anyway, the scenarios that were viability tested bear little relevance to reality. In the case of refurbishment, as I commented above, the most likely occupiers would be small employment users looking for cheap space. However, these users would not generate the Grade A values that were tested in the assessments. Whilst they may accept lower specification refurbishment the building would still need to be improved, services reinstated, and all the relevant safety requirements put in place. Furthermore, if reconfiguration were required for multiple occupiers, this would involve further cost. The redevelopment scenario involved a building with a similar amount of floorspace, but in reality, this would seem to be a poor use of the site, and one that I cannot envisage would be built.

Alternative mix of uses

22. The Council was critical that other redevelopment possibilities had not been investigated. This would be likely to involve a taller building containing a mix of commercial and residential uses. The Design Review Panel mentioned 8 storeys

as a more suitable height, but there is no guarantee that the Council would accept such a proposition. Furthermore, the evidence of the Architect of the scheme was that a mix of employment use and student accommodation would require separate cores for services, stairs and lifts and separate entrances and reception facilities. She indicated that such a scheme had been considered at pre-application stage and discounted because of these difficulties, which were considered to lead to compromised floorspace. She opined that whilst anything is possible, it would result in an inefficient use of land and would never be built. Considering the relatively restricted area of land in question this does not seem to me an unreasonable conclusion to reach.

23. The site is within the draft Knowledge Quarter Innovation District where there are a cluster of institutions that specialise in the life sciences, data and technology and the creative industries. The Council referred to the Francis Crick building near St Pancras station. Whilst this may be in a backstreet location close to social housing it is a large modern building that has provided its own context and is very different to the situation at the appeal site. The Appellant's evidence, which seemed to me to be credible, was that the site would be too small for such uses and that the fit-out would be much more expensive than typical office space. It was explained that specialist requirements included greater floor to ceiling heights, stronger floor loadings and stronger roof constructions to accommodate ventilation systems.

Conclusions

24. The proposal would result in a net loss of 2,348 m^2 of office floorspace. However, for all of the reasons given above I do not consider that there is any reasonable prospect of a refurbishment or redevelopment for offices or employment uses. I have also considered lower value uses but again, from the evidence, there would be little likelihood of such a scenario happening. These conclusions are supported by the marketing exercise and the expert evidence of the local market. The viability assessments do not suggest otherwise. The proposal would be in accordance with policies E1 and E2 in the Local Plan and policies E1 and E2 in the London Plan.

25. It is also highly relevant to bear in mind that the proposal would include 1,255 m^2 high quality affordable workspace. Following negotiations with the Council this would be offered at 50% of market rent. The evidence suggests that taking account of the price, quality and flexibility offered by this workspace, it would be attractive to small local business users within the CAZ.

THE EFFECT ON THE CHARACTER AND APPEARANCE OF THE AREA

26. Building A has frontages to both William Road and Stanhope Street. It has nothing to commend it, but is not untypical of many office buildings constructed in the 1960's. The 2 storey flat-roofed plinth with its concrete clad walls presents poorly at street level and the reflective high-level ground floor windows provide no meaningful activity along the Stanhope Street frontage. The result is a particularly weak and poorly considered feature on this corner site. This and the 6 storey element have no discernible relationship but rather form two parts of a disparate composition. *The Historic Area Assessment* (2014) (the HAA), which formed part of the evidence base to the Euston Area Plan, considers that there is a negative building frontage at this point and that the building is a poor termination of the corner. I agree.

27. The building contributes nothing to its surroundings and its replacement with something more appropriate, well designed and interesting would be a considerable benefit. The Council has no objection to the demolition of the existing building, although I do not agree with its contention that this is a neutral feature in the streetscape for the reasons given above. Its objections to the proposal relate to height, mass, scale and footprint. I consider these matters further below.

Planning policy context on tall buildings

28. Policy D1 in the Local Plan indicates that all of Camden is considered sensitive to the development of tall buildings. These are defined in the supporting text as buildings that are substantially taller than their neighbours or which significantly change the skyline. Bearing in mind that the buildings within the immediate vicinity are no higher than 8 storeys, the appeal scheme at 15 storeys would fall within the definition of a tall building. Policy D1 includes a number of criteria applicable to the consideration of a tall building proposal. These include how it would relate to its surroundings in terms of the streetscape, the skyline and its relationship to views.

29. Policy D9 in the London Plan relates specifically to tall buildings and requires local plans to determine where such buildings may be appropriate. The policy also includes various impacts that would need to be addressed and I return to these below. The Local Plan does not identify such areas of suitability and so is not in conformity with the London Plan in this respect. However, there is no suggestion that the entire Borough is unsuitable for such development.

30. The Euston Area Plan was adopted prior to either the Local Plan or the current version of the London Plan. It includes a plan of indicative building heights and two indicative areas for taller buildings around the station itself. However, it cannot purport to relate to the policy D9 exercise most particularly because it only covers part of the Borough and preceded the Local Plan, which refers to the whole Borough being sensitive to tall buildings.

31. There is therefore no policy impediment to a tall building on the appeal site in principle. Until such time as a compliant policy is adopted, the acceptability or otherwise will depend on a site-specific assessment against the criteria in policy D9 and also those provisions listed in policy D1 of the Local Plan.

32. The site is located within the CAZ and Euston Opportunity Area and has the highest level of accessibility at PTAL 6. Policy D3 in the London Plan seeks to optimise site capacity through the design-led approach. This is to be based on an evaluation of the site's attributes, its surrounding context and its capacity for growth.

Existing character and appearance of the area

33. When considering whether the appeal proposal would relate successfully to its surroundings much will depend on how these are defined. The HAA provides a good starting point. This document provided part of the evidence base to the Euston Area Plan and was undertaken by Allies and Morrison who are agreed to be well respected urban practitioners. They identified a number of character areas, including Regent's Place and the area around Euston Road, the Regent's Park Estate and the two urban blocks on either side of William Road, which contain the appeal site. It is important however to bear in mind that the

townscape is experienced dynamically and that character areas are not static compartments and often have interactions with each other.

34. Regent's Place is to the south of the William Road character area. It is a modern, mainly commercial, area developed around the site of the Euston Centre, which was part of a 1960's scheme that included the 36 storey Euston Tower. This survives but the remainder was redeveloped, and there are now large-scale buildings standing within a well-landscaped public realm, including Triton Square. Many of the buildings have glazed walls. They vary in height and include the 26 storey Triton Building. Regent's Place is bound by Drummond Street and Longford Street to the north and Euston Road to the south.

35. The Regent's Park Estate, which lies to the north and west of the William Road character area, is a comprehensively planned post-war council housing estate built in the 1950's. It was built in 3 phases, each designed by different architects. The second phase is on the northern side of Robert Street and includes 11-storey slab blocks and some lower terraces. The third phase is to the west of Stanhope Street and the south of Robert Street. This comprises mainly terraces of 4-storey maisonettes around precincts and green spaces. It includes the vestiges of two of the former Regency market squares. This part of the estate also contains Bucklebury House and The Combe, two 19-storey residential towers, which from all accounts were constructed to raise the overall density of the estate.

36. The William Road character area comprises two urban blocks on either side of the street. The southern block, which contains the appeal site, was heavily bombed in the war and the replacement buildings include both commercial and residential uses. These include the aforementioned 7 storey development called The Lantern, which has recently been refurbished and occupies the eastern side of the block and turns the corner into Drummond Street. At the other end of the scale are the 19th century town houses along the western side of the block that comprise the vestiges of the terraces that once occupied much of this area. Two of these houses and the adjoining former public house are Grade II listed buildings. The block also includes two locally listed warehouse buildings 4 and 5 storey in height.

37. The northern block includes the Netley Building on its western side, built in 2015. This includes the Foundation unit, a primary pupil referral unit, a community learning centre and 80 flats, including the 8 storey Winchester Apartments opposite the appeal site. Netley School is a Victorian locally listed building on the northern side of Netley Street, a cul-de-sac that penetrates the block. On the other side is a terrace of modern 3 storey town houses. These back on to a small group of recently built industrial units that stand back from William Road behind a parking area. Adjoining them is the locally listed Hampstead House. The HAA indicates that there is no prevailing style, height or palette of materials and refers to this character area as a "backwater" between Hampstead Road and the Regent's Park Estate.

38. The two urban blocks do not have a sense of uniformity that would translate into an identifiable character in the same way as the Regent's Park Estate, for example. That is not to say that the buildings necessarily lack quality, because that is clearly not the case. However, even in terms of height there is variation, ranging from the 3 storey listed buildings to the 8 storey Winchester Apartments. The scale, which includes mass and footprint is also far from

uniform, as can be seen in a comparison of The Lantern and the listed buildings, for example.

39. When considering the appeal site and the building proposed to be built on it, it is appropriate to also have regard to its relationship with the tall buildings in Regent's Place and the blocks and towers on the southern part of the Regent's Park Estate as well as the more immediate environs of the urban block in which it stands. The nearby tall buildings do not set a precedent for what would be acceptable, but they do provide context and should not be ignored when considering the visual effect of the proposed development.

Design of the appeal scheme

40. The *National Planning Policy Framework* (the Framework) makes clear that planning and the development process should achieve high quality, beautiful and sustainable buildings and places. The new building would stand 15 stories tall with a shoulder height of 6 storeys. There would be 3 clear parts to the structure of the building, the base, the tower and the crown. The base would extend across each site frontage. On the Stanhope Street elevation, the recessed window bays and entrance would provide activity at ground level and an engaging connection with the pedestrian. It is noted that the HAA identifies the appeal site as the only poorly defined or neutral frontage in its urban block. In recognition of the adjacent 4 storey houses, there would be a set-back at this height and a further set back and chamfered corner 2 storeys above. This would align with the locally listed warehouse building on the corner with Drummond Street. The fenestration on the lower part of the building would have a horizontal emphasis with double bays and inset panels.

41. The upper part of the building, which is essentially the tower and crown, would have a vertical emphasis with changed proportions that would contribute to the verticality of this part of the structure. There would be a chamfered edge at the street corner and also at the 6 storey cut-back where the building would adjoin 17-33 William Road. A further cut-back at 8 storey level and chamfering would further help reduce the mass and mediate the height on this part of the building.

42. A taller tower supported by an urban block with a larger base footprint was referred to in the Appellant's evidence as an embedded tall building. There was much debate at the inquiry about whether this was a recognised typology. The Design Review Panel (DRP) in considering the proposal at pre-application stage, believed that it combined two confused typologies and resulted in an over-scaled development in terms of bulk and height. The DRP considered that it should either be a slenderer tower standing back from the corner in its own space or alternatively a warehouse/ mansion block that addressed the street and filled the site at around 8 storeys.

43. I appreciate that the DRP provides a valuable service by giving the Council an independent view on design matters and that the 5 Panel members are experienced local architects. However, there is no obligation or policy requirement to follow its advice. From the evidence to the inquiry, it was clear that the scheme Architect, who also has considerable design experience, had considered the DRP's assessment. However, she explained why she did not agree with its conclusions and therefore did not make the changes that the DRP recommended.

44. The Greater London Authority (the GLA) also has considerable expertise in the assessment of proposals for tall buildings. Whilst it is the strategic planning authority, it advises at a Borough level and its views are thus a consideration of importance. In this case the Mayor did not call-in the application for his own determination but nonetheless the GLA raised no objection to the form, scale or height of development proposed. Indeed, it considered that it would successfully mediate between the large-scale commercial buildings in Regent's Place, the nearby towers on the Regent's Park Estate and the finer grain shoulder buildings along Stanhope Street and William Road.

Effect of the proposed development on character and appearance

45. As I have already commented, the urban blocks intersected by William Road do not have an identifiable character or sense of uniformity. For the reasons given above when considering context, it is important to have regard to a wider horizon that includes the way the site is experienced dynamically within the townscape. A *Townscape, Visual and Built Heritage Assessment* was submitted with the planning application. This includes photomontages to demonstrate the visual effect of the proposed building from a number of viewpoints. In addition, further views with the development in place were submitted with the evidence, including some winter views. Furthermore, I undertook two extensive site visits around the surrounding area. I agree with the main parties that long views are not the issue in this case because the tall building would be seen within a panorama whose skyline is already punctuated by various tall structures. It is therefore local views that are of most relevance.

46. In that regard, my main observation is that the appeal scheme would be appreciated from relatively few places due to the density of the urban environment. Furthermore, where it would be discernible this would rarely be in isolation. In most approaches it would be experienced within the context of other tall development outside the urban block, most notably in Regent's Place and the Regent's Park Estate. There are various mature street trees, which provide dense foliage cover in the summer months. However, in my consideration I have discounted the trees because their screening effect is much reduced when devoid of leaf. In addition, their longevity cannot be guaranteed in perpetuity.

47. Within the context of the two urban blocks that make up the William Road character area the appeal scheme would be taller than its neighbours. The question to ask is whether this would be unduly harmful. For the reasons I have given I do not consider that the urban block or the William Road character area, is the correct context in which to assess the impact. Taking a wider perspective, I agree with the GLA that the new building would mediate between the cluster of taller buildings in Regent's Place and the lower scale of buildings further to the north. In any event, there is no reason for this building to be hidden away. To my mind its quality in terms of its architectural form and detailing should be something to be celebrated. It would undoubtedly lift this corner by replacing the drab and uninspiring building that currently occupies the site with a development that would successfully enhance the built environment in which it would stand.

48. There was debate at the inquiry about whether the appeal building was intended as a landmark on this corner site and, if so, whether this would be an appropriate location for such a structure. A landmark building is designed to be

different and stand out from its surroundings. The *National Design Guide* comments that if well designed, tall buildings play a positive urban design role in the built environment, acting as landmarks, emphasising important places and making a positive contribution to views and the skyline. For the reasons I have given I believe that the appeal proposal would contribute positively in these ways. However, I am not overly convinced that it could be classed as a landmark, mainly because there are a number of higher stand-out buildings in the immediate vicinity.

49. The new building would align with the back of the pavement. The objective would be to follow the historic building line that exists to the south, which has been lost further to the north and west. The Council considers that it should have been set back to mitigate its height and mass and contribute more positively to the public realm. However, there are examples nearby where this has clearly not been succesful, including Bucklebury House. Whilst the tower itself is set back it stands atop a ground level car park that presents a bleak wall along the back edge of the pavement. The brickwork elevations of Bucklebury House itself have little articulation and present a rather overbearing presence when viewed from the street. By contrast, the appeal building would provide visual interest at ground level and a human scale in the pedestrian view. Furthermore, improvements are proposed, including the potential planting of street trees close to the site. In this respect it would contribute to the public realm.

Conclusions

50. The appeal site would be an acceptable location for the proposed tall building. This would have a successful relationship with the towers in Regent's Place to the south and the generally lower scale that characterises the Regent's Park Estate. This is a highly accessible brownfield site within a central London location. The proposal, unlike what is there at present, would optimise its use with a building of strong architectural expression, high quality and attractive design. It would integrate successfully with its surroundings and provide a strong visual statement on this corner site. It would also entail the removal of an existing building, which makes no contribution to the character or quality of the street scene.

51. The proposed development would not adversely affect the character and appearance of the area. In this regard it would comply with policies D3 and D9 in the London Plan and policy D1 in the Local Plan.

THE EFFECT ON THE SETTING OF NEARBY HERITAGE ASSETS

52. There are a number of undesignated heritage assets in the form of locally listed buildings within this vicinity. However, I agree with the main parties that the proposed development would cause no harm to their significance. I further concur that the buildings in question are the Grade II listed buildings at 48, 50 and 52 Stanhope Street and that the appeal site falls within their setting. The main dispute relates to whether there would be harm to the significance of these designated heritage assets. The Council clarified at the inquiry that it considered that it considered the harm to be at the lower end of the spectrum of less than substantial harm. The Appellant did not consider that there would be any harm to significance at all.

53. The Framework defines the setting of a heritage asset as the surroundings in

which it is experienced. It indicates that it may change over time and may make a positive, neutral or negative contribution to the asset's significance. Whilst the way the asset can be appreciated visually is important, other factors can also be relevant. *The Setting of Heritage Assets* (2017) (GPA 3) by Historic England provides a staged approach to how development within the setting of a heritage asset should be considered.

Significance of the heritage assets and the contribution of setting

54. The significance of a heritage asset concerns its heritage value. The Framework indicates that its interest in this regard can derive from its archaeological, architectural, artistic or historic value. *Historic England's Conservation Principles, Policies and Guidance* (2008) provides advice on how heritage value may be considered and this falls into 4 broad categories: evidential, historic, aesthetic and communal. *Conservation Principles* provides an updated version of the 2008 document and one of the purposes is to try to aid decision-makers by being more consistent in terms of language with other documents such as the Framework. It has not been published, but there is no suggestion that the values and interests in the 2008 document have changed.

55. Nos 50 and 52 are modest sized town houses constructed at the beginning of the 19th century. Their significance is mainly due to their historical value as a vestige of the 19th century urban environment that has now largely disappeared. Many of these terraces, including in the vicinity of the appeal site, were subject to bomb damage and regeneration There are also two other remaining houses in the terrace that adjoin the southern side of the appeal site. However, these have been much altered and have no heritage designation. Between them and the listed houses is a 4 storey residential infill development with a gated access.

56. These are termed "fourth rate" houses and connect to the history of the working classes who lived on the secondary streets within this part of London. They were smaller houses mainly occupied by tradespeople and contrasted to the much grander "first rate" Regency terraces that front onto Regent's Park. The listing level reflects the rating, but it does not mean that "fourth rate" houses are insignificant in terms of their value. In fact, their lower status resulted in many disappearing as a result of clearance and regeneration and so there is importance in terms of their relative rarity. They are one of the few components of a largely vanished historic townscape. Nevertheless, the houses do have design value from their simple exterior detailing, modest proportions and ordered fenestration. These are the main attributes that determine the significance of the listed buildings.

57. The significance of No 48 relates to its historic and architectural value. Although not now used as a public house the site has a longstanding history of such use that is contemporary with the adjoining residential properties. It was built as a public house at the end of the 19th century having replaced an earlier building that was part of the domestic terrace with the ground floor likely to have been used for storing and consuming alcohol. The rebuilt public house has similar proportions to the town houses due to the constraints of the plot, although it extends a storey higher.

58. No 48 has importance as a place that served those working people in its locality. It was part of the pub building movement that followed a change in the licensing laws in the late 18th century. It was designed to stand out and be

seen through its ornate and flamboyant architecture. It has an elaborate decorated exterior, including an arched first floor window with a keystone and panelling below. The exuberant design is reflective of the architecture of the Victorian Gin Palaces during the high point of pub building as noted in Historic England's *Commerce and Exchange Buildings: Listing Selection Guide*. No 48 contrasts with the simpler and more austere features of the adjoining town houses. The three listed buildings have additional value as a group.

59. The listed buildings are experienced in a setting that in this case is mainly defined by the places from where they can be seen. This is because there is relatively little of the pre-existing townscape remaining within this vicinity and therefore the wider functional, historic or aesthetic relationships are no longer apparent. The once domestic scaled urban environment now includes a townscape of a completely different grain and scale.

60. The two urban blocks that form the William Road character area have been extensively redeveloped with buildings that bear little relationship to the historic past. The map regression shows that the southern block contained terraced housing and other uses along the road frontages and within its interior. Whilst the redevelopments may be confined in height to 4-8 storeys, I do not consider that buildings such as The Lantern or Schafer House are domestic in scale.

61. The tall buildings of Regent's Place rise above and behind the terrace. Although the full 19 storey height of Bucklebury House is set back from the road it is nonetheless a very dominant feature within the setting of these buildings. Indeed, the only piece of historic townscape remaining in the vicinity, other than the market squares on the Regent's Park Estate and the listed buildings, is occupied by the two unlisted houses adjoining the appeal site. The modern infill has attempted to retain historic rooflines, plot widths and window pattern to a degree. The locally listed warehouse building was built in the early 20th century and provides a prominent element at the southern end of the terrace and turning the corner with Drummond Street. The HAA refers to this frontage as having group value. This immediate setting is therefore important.

62. To my mind the wider setting makes little if any contribution to significance. There is nothing about the existing building on the appeal site that reflects or is complementary to the historical or architectural value of the listed buildings. Just because it does not obstruct views of the listed buildings does not mean that it is either a positive feature within the setting or that it contributes to significance. As I have already commented, the HAA refers to this as a negative building frontage.

Effect of the proposed development on significance

63. The significance of the listed buildings is mainly due to their inherent architectural and historic value, which would not change. The setting contributes relatively little, for the reasons I have given. As I have explained, the proposed new building would be a positive and attractive element in the streetscape that through its design and architectural detailing draws from its urban surroundings and integrates successfully with the host environment. Indeed, the removal of the existing negative building and its replacement with a high quality new building would, in my judgement, enhance the setting.

64. Historic England's Advice Note 4: *Tall Buildings* (2022) provides advice on

planning for tall buildings within the historic environment. Whilst it tends to focus its resources on higher grade assets, the Appellant sought its views at pre-application stage. In its response Historic England made clear that its main concern was with the effect on the Grade I Regency terraces and the protected view to the Palace of Westminster. Nevertheless, it did comment on the effect on the Grade II heritage assets and indicated that it had "no significant concerns". Whilst it did not say in terms that it did not object, any reasonable reading of its words would conclude that was the case. As the Government's statutory adviser on heritage matters, I give its comments which reflect its guidance significant weight.

65. The GLA is the strategic planning authority but has considerable experience of advising on tall building proposals, including in terms of their effect on heritage assets. It is not unreasonable to surmise that the GLA is familiar with this area due to its involvement with the ongoing regeneration projects, including around Euston Station. Its conclusion was that the proposed development would cause no harm to the setting or significance of the listed buildings.

The protected views

66. The site is within 2 London View Management Framework (LVMF) Protected Vistas. LMVF 5A.2 is from Greenwich Park looking towards St Paul's Cathedral. LMVF 2A.2 is from Parliament Hill looking towards the Palace of Westminster. The proposed building would rise above the threshold plane of the latter, and thus would not comply with the LVMF guidance. However, it would be viewed within the context of the taller building at 10 Brock Street, which was constructed before the view was designated. Historic England is satisfied that in these circumstances the outstanding universal value of the World Heritage Site would be preserved and the GLA has not raised objections on this ground.

Conclusions

67. For all of the above reasons, it is concluded that there would be no harm to the significance of the designated heritage assets and that the value of the protected views would be preserved. In this respect, the appeal development would comply with policy D2 in the Local Plan and policy HC1 in the London Plan. Policy HC4 in the London Plan concerns the LVMF. As the development would exceed the threshold height of the Landmark Viewing Corridor to the Palace of Westminster it would conflict with criterion F1 and therefore would not be in accordance with that policy. I consider the implications of this later in my decision.

THE EFFECT ON THE LIVING CONDITIONS OF NEARBY RESIDENTIAL PROPERTIES

Winchester Apartments

Daylight and sunlight

68. This 8-storey high building is on the northern side of William Road, opposite the appeal site. There are 14 single aspect flats that face towards the appeal site, each with a balcony. These are the most likely to be affected in terms of daylight and sunlight. The *Rainbow* and *Guerry* High Court judgements make clear that the correct approach is in two stages. First it is necessary to consider whether there would be a material deterioration in day and sunlight and then to consider whether any losses would be acceptable. The numerical target

values are from the British Research Establishment guidance: *Site Layout planning for sunlight and daylight* (2022) (the BRE Guidance). Vertical Sky Component (VSC) measures the amount of daylight reaching the window and No Sky-Line (NSL) measures the distribution of light within the room. It is to be noted that both target values are advisory.

69. The BRE Guidance indicates that if VSC is below 27% or 20% of its former value, the loss of daylight would be noticeable. At present the VSC is below 27% for all windows other that on the top floor. However, if an allowance is made for the balconies, the VSC is just below the target value of 27% for the first and most second floor windows, but above 27% for all other windows. This demonstrates that it is the balconies that are mainly responsible for reduced levels of daylight. With the development in place, all windows would lose at least 20% of the former level of daylight, even making an allowance for the balconies.

70. The default VSC target of 27% is derived from a 25° development angle between buildings of 2-3 storeys in height. However, in many urban situations, especially in Central London, such street typologies are not necessarily the norm. Brownfield sites need to be used efficiently and it seems very unlikely that the current height configuration of Building A would endure in any redevelopment of the appeal site. During the discussion at the inquiry, both of the expert witnesses agreed that a lower VSC could be justifiable in this case. The Council suggested 17.5% and the Appellant favoured 15%. This is the so-called "mid-teens" approach, which is often adopted in densely developed urban areas. In the existing situation and with an adjustment for the balconies, all windows reach a VSC level of at least 17.5%. In the comparative situation with the development in place, only the first-floor windows would not reach 17.5% VSC but all would reach 15% VSC.

71. Turning to NSL, the living rooms are 7-8m in depth and the bedrooms are in excess of 5m in depth. This has a considerable bearing on the resulting values especially considering the configuration of the appeal building with its lower 2 storey element. The BRE Guidance indicates that there would be a noticeable effect if the NSL is 20% of its former value. The reduction in NSL for all but two rooms would exceed 20% with the development in place and it would exceed 40% for most windows up to fourth floor level. The effect of the balconies would make little difference.

72. However, there is no target for NSL and so possible alternative values cannot be considered. Furthermore, it is important to bear in mind that there may be only a sliver of sky, but this will not necessarily equate to a good light level. Further back in the room, notwithstanding a seemingly reasonable NSL value, it can be quite gloomy. In the present case the 2 storey section of the appeal building will allow some sky to be seen. Any new building that increases that 2 storey height would cause relatively large changes of NSL even though changes in light levels may be relatively small, especially further back in the room. For these reasons the NSL measure is less useful in this case.

73. The rooms in question face south and so it is appropriate to consider whether there would be undue impacts in terms of overshadowing. The BRE Guidance recommends that the Annual Probable Sunlight Hours (APSH) received by a window should be at least 25% of the annual total available. This includes 5% in winter. Where the absolute loss is greater than 4% then the proportional

reduction should not be greater than 20%. All but 3 rooms meet the recommended guidelines for APSH. Two are living/ kitchen/ dining rooms and would retain 3% and 4% in winter although general levels would be much higher than the 25% target. The third is a bedroom that would receive adequate winter sunlight but a total of 23%, which would be marginally below the target value.

74. In conclusion, the assessment shows that there would be a noticeable change in the daylight levels within the rooms in question, which are either bedrooms or kitchen/ living/ dining rooms. There would also be a noticeable change in the daylight distribution within the rooms themselves. Although the balconies would account for some of the loss of light, the main effect would be from the proposed building. However, in this case, having regard to the context, it is reasonable and appropriate to adopt the "mid-teens" approach in respect of VSC. Most windows would reach VSC levels of 17.5% and all windows would reach VSC levels of 15%. In terms of daylight distribution, even taking account of the balconies, most rooms in the relevant apartments would be subject to a noticeable difference. However, that is in large part due to the depth of the rooms.

75. With regards to sunlight the majority of the rooms in question would meet the recommended values both generally and also in winter. The BRE Guidance indicates that bedrooms and kitchens are of less importance than living rooms. Overall, it seems to me that the sunlight levels would be acceptable in this case. For the above reasons, I consider that the appeal scheme would not unacceptably harm the living conditions of the residents living in the Winchester Apartments by reason of diminution of sunlight and daylight.

Overbearing impact

76. There is no doubt that the apartments facing towards the appeal site would experience a change in outlook. Due to the height of the proposed building across the width of the plot the view from the windows and balconies would significantly change. However, Winchester Apartments stands relatively well back from the road frontage along William Road. In a central London urban environment where sites are required to make best use of the land resource a balanced consideration is required. In my opinion the new and existing building facades would be sufficiently well spaced to ensure that there would be no unacceptable overbearing or oppressive impact that would detract from the outlook or amenity of residents living in the Winchester Apartments.

17-33 William Street Apartments

Sunlight and daylight

77. These dwellings are above the proposed affordable workspace in Building B. Following development, Building A and Building B would be contiguous at ground floor level. Above that, Building A would adjoin its neighbour at the front but then step back away from the boundary. The proposed eastern elevation of Building A would be about 2m further away from the boundary than the existing office building. There are a series of steps so that the upper levels at the rear of the existing residential part of Building B are progressively further way from the boundary.

78. Relatively few of the windows at the back of the residential part of Building B

achieve VSC values of 27% at the moment. Following development, 8 west facing windows would have a reduction of greater than 20%. Five of these have recessed balconies and the amount of daylight they receive is very low. The change as a result of the development would be relatively small but proportionately large, which would result in the aforementioned effect. If the recessed balconies are discounted the VSC level would be well within the VSC target, which indicates that it is the balconies that would be responsible rather than the proposed building. Two of the windows have a roof overhang. Again, if this is discounted the VSC levels would be well within target values. The other window serves a living/ dining room, but existing levels are very low and with the development in place there would be a small further reduction. Absolute levels would therefore remain low, but the proportionate reduction would be 24.3% which slightly exceeds the 20% recommended target.

79. The proportionate changes to NSL would be well within the recommended levels in the BRE Guidance. There would only be one window where the change in sunlight levels would be below 20%. In that case it is the roof overhang that would be responsible rather than the proposed building.

Privacy

80. Within the western elevation of the residential part of Building B, there are angled balconies at two of the stepped corners that face south-west and windows facing south. There are also windows in the western elevation of an extension to Shafer House although from my observations these are some distance to the south and unlikely to be affected[2]. The eastern side of Building A would be about 8.3m away from the nearest corner balcony and in excess of 11m from the nearest window. Although Building A has been vacant for some years, when it was in use there were office windows in closer proximity than those now proposed.

81. I appreciate that the existing amenity areas are valued by those occupying the apartments and that there would be more windows facing towards them. I also acknowledge that the proposed windows would serve habitable accommodation. However, in an urban situation such as this where densities are relatively high, compromised levels of privacy are often to be expected. The distances between the existing and proposed developments are not unreasonable but it seems to me that the relationship with the nearest balconies would unduly diminish the enjoyment of these amenity spaces. This could be addressed by a planning condition requiring the relevant windows to be fitted with screening measures to mitigate the harm.

Conclusions

82. It is appreciated that there are other residential properties nearby, including The Combe, which is one of the two residential towers on the Regent's Park Estate. I acknowledge that due to the height of the proposed development there would be many more windows facing west towards the Combe, which also has balconies on this side. However, there would be a considerable distance between the existing and new development, which would be sufficient

[2] On the plan in Document 49 the windows in question are within the western elevation of the shaded building to the south of the appeal site and not as shown, which is actually the existing rooflight above the rear part of the ground floor space within Nos 17-33. This is clearly evident from the photograph where the windows are marked with red crosses.

to ensure that an unreasonable level of overlooking or loss of light would not occur. My attention was also drawn to the community centre on the western side of Stanhope Street, which has a playground at the back. Whilst new windows would face in this direction, this amenity space is already overlooked at closer quarters by a number of residential buildings, including Bucklebury House. In the circumstances I do not consider that there would be an adverse impact on privacy as a result of the appeal scheme.

83. For all of the above reasons I consider that there would be some reduction in daylight and sunlight to those living in Winchester Apartments, I am satisfied that this would not be unacceptably harmful bearing in mind the urban context and the configuration of the appeal site. I have also carefully considered the effect with regards to light and privacy on the adjoining William Road apartments but again I find that the impacts would be acceptable and in the case of the most proximate balconies, could be mitigated. I therefore conclude that the living conditions of nearby residents would not be unduly compromised. In this respect the proposed development would not conflict with Policy A1 in the Local Plan.

WHETHER THE PROPOSED DEVELOPMENT OFFERS AN ACCEPTABLE STANDARD OF ACCOMMODATION FOR THE STUDENT OCCUPIERS

84. At the request of the Appellant, I carried out an accompanied site visit to the recent student development at Chapter Old Street, 18 Paul Street. Whilst this is not a tall building, it accommodates a much larger number of students in studios and twodios. I was therefore able to see a similar type of accommodation to that being proposed and also the facilities that have been provided to support it, which again would be relatively similar.

Planning policy and guidance

85. Policy H15 in the London Plan seeks to ensure that local and strategic need for purpose-built student accommodation is addressed, subject to a number of provisions including adequate functional living space and layout. Policy H9 in the Local Plan seeks a supply of student housing that is available at costs that meet the needs of students. It includes a provision that there should be a range of layouts, including flats with shared facilities wherever practical and appropriate. The supporting text indicates that the range should include clustered study bedrooms with some shared facilities wherever this is practical and appropriate to ensure the student housing is available at competitive rates. The policy aims to deliver 160 additional places a year. The *Student Housing* CPG was adopted in 2019 to support policy H9.

Size of units

86. Many of the concerns of the Council relating to the quality and standard of the proposed accommodation seem to be derived from a misapprehension that policy D6 in the London Plan is applicable. In fact, as the supporting text makes clear, the standards in that policy refer to new self-contained dwellings. The proposed studios and twodios would not meet that description. The London Plan does not include space standards for student bedrooms. Policy H9 in the Local Plan indicates that there should be compliance with any relevant standards applicable to houses in multiple occupation. The *Student Housing* CPG sets out these standards and also a benchmark, which is higher and includes space for a desk, kitchen area and bathroom. The proposed student

units would exceed the overall benchmark, and many would be significantly larger.

Daylight

87. Some of the student units would face north and most would have a single aspect. However, the important consideration is whether they would receive sufficient daylight to be pleasant and welcoming spaces for the student to inhabit. The BRE Guidance now uses a new and more sophisticated methodology for assessing daylight provision in proposed dwellings, including student accommodation. Climate Based Daylight Modelling (CBDM) uses climatic data that is specific to the area in which the site is located. In this case, I consider that the appropriate target would be 150 lux for all study bedrooms. The BRE Guidance says that where a room has a shared use the highest target should apply. In this case the rooms would be used for studying as well as sleeping and the target value for living rooms rather than bedrooms should therefore be adopted.

88. The kitchens in both the studios and twodios would be poorly lit due to their position at the back of the units and they would rely on artificial lighting. The Council considered that in the case of the studios this floorspace should be included in the calculation and a 200 lux target value applied. I do not agree. The hobs would be in an area partly separated by the bathroom wall and the wall adjacent to the hob. Although there would be no dividing door the separation space would be little wider than the front door. To my mind this layout is not addressed in the BRE Guidance and is therefore a matter for judgement. I do not consider it reasonable to apply a 200 lux target to the whole unit solely on the basis of this small kitchenette area at the back.

89. The CBDM calculation shows that 85% of the rooms would comply with the BRE Guidance and it therefore follows that 15% would not. The Appellant made the point that the CBDM targets have no regard to context and in a densely developed urban environment a lower rate of compliance is not unusual. It is the units on the lower floors that would have lower levels of daylight and I note that in nearly all cases the desk areas would be close to the window and within a well-lit part of the room. Furthermore, the proposal would include a large amenity area on the 14th floor, which would have excellent daylight levels reaching 200 lux or above. Taking all of these factors into account, it seems to me that the student accommodation overall would enjoy very good levels of daylight and the lower level achieved in a relatively small proportion of the units would be acceptable in these circumstances.

Cluster flats

90. The purpose of providing cluster flats in terms of local policy and guidance appears to relate primarily to affordability. The Council's evidence was that they are also favoured because they engender sociability and reduce student isolation. Nevertheless, the *Student Housing* CPD makes clear that the concern with higher-end student accommodation is that students from less wealthy backgrounds cannot afford it. The promotion of cluster flats is therefore not to do with quality and any concern that such accommodation is of higher quality than the studios and twodios that are being proposed is not substantiated.

91. It seems to me that different types of accommodation have different advantages and that there is not a "one size fits all". It is relevant to note that

the appeal scheme would provide the policy level of affordable housing, which would mean that 35% of the student units would be available at a lower cost. There would also be good opportunities for social interaction. The proposal includes a large amenity space on the 14th floor, including two external terraces, an amenity area on the ground floor, a small outside terrace and a gym and cinema room in the basement. The amenity provision per bedspace would be well in excess of the standard in the *Student Housing* CPG.

92. The Council's reason for refusal is on the basis that it considers the accommodation to be substandard. It is not on account of the absence of cluster flats, which as I have commented is not an accommodation type that is defined in terms of its quality. The Appellant has indicated that its preference for studios and twodios, of which there are a variety of types and sizes, has been informed through consultation with a leading student housing operator and its current assessment of market demand. I do not consider this unreasonable in the circumstances and nor do I believe it to be contrary to policy H9 in the Local Plan.

Laundry facilities

93. The proposal includes 4 washer/ dryer units on the 14th floor. The drawings show that this room would be wheelchair accessible. The Council objects to such facilities here on account of likely leakages and fire risk. I address the latter point below. As to leakages, the Appellant's architect indicated that the space could be treated as a wet room. Furthermore, I would expect these machines to be properly maintained and this could be controlled by a planning condition.

94. The position of the laundry next to the amenity area seems to me to be logical in that students would be able to socialise away from the laundry area whilst their clothes are washing or drying. The *Student Housing* CPG indicates that for 206 bedspaces there would be a requirement for 2.75 washer/ dryer units. The provision in this scheme exceeds this. The Council also raised the issue of noise and vibration from the units disturbing students in the rooms below. There is no evidence to support this assertion in terms of the noise or vibration that a modern washer/ dryer would actually make. Furthermore, the layout shows that the laundry room would be directly above a corridor and part of the bathroom and kitchen associated with a twodio unit. In any event, the internal noise environment of the individual units of accommodation would be controlled through a planning condition.

95. Whilst it is demonstrated that a wheelchair user could use the laundry room, there would be very limited space to do so. The machines would be stacked so it seems unlikely that the wheelchair user would be able to reach the top two machines. For this reason, I consider that a rethink is necessary. The Appellant would be willing to provide laundry facilities in the basement either in place of or in addition to the facilities on the 14th floor. This could be controlled by a planning condition, and I consider this later in my decision.

Conclusion

96. The GLA commented in its Stage 1 referral that the proposed accommodation would be to a very high standard and that the interior of the units would be well designed. I agree for the reasons I have given above and my visit to the Chapter Old Street student housing reinforced this conclusion. The proposed

development would be in accordance with policy H15 in the London Plan and policy H9 in the Local Plan. Insofar as the *Student Housing* CPG requires the inclusion of cluster flats, the proposal would not comply.

WHETHER THE OCCUPIERS OF THE PROPOSED DEVELOPMENT WOULD BE SUITABLY PROTECTED IN THE EVENT OF FIRE

97. Fire safety was not a reason for refusal. However, before the inquiry was due to open in February 2022, an objection was received from the London Fire Brigade (the LFB) on the grounds that the single stair approach was considered unsatisfactory and that the facilities would be insufficient to support the safe egress of disabled occupants. In May 2022 the Health and Safety Executive (the HSE), although not a statutory consultee for this application, also expressed concerns about the means of escape and fire service access. The Appellant subsequently sought to meet the concerns of these consultees through mainly internal amendments, most notably the insertion of a second stair core.

98. Expert written evidence on fire safety was submitted by both main parties. However, at the inquiry the Council decided not to call its expert to give oral evidence but rather to rely on its planning witness in this regard. I raised this with the Council and gave it the chance to reconsider its position. It declined to do so with the consequence that its expert evidence was unable to be properly scrutinised. This was not particularly helpful because the Council's planning witness had no technical expertise in terms of fire safety.

The Gateway Process

99. The issue of fire safety must be taken very seriously, especially in a tall building such as this. The disastrous fire that ravaged the 24 storey Grenfell Tower in 2017 resulted in a terrible loss of life, including many occupiers with disabilities. The Government introduced the Gateway system following the Grenfell Tower tragedy in order to ensure that fire safety issues are considered at critical stages of the development process. Gateway One applies at planning application stage to all planning applications submitted from 1 August 2021 for buildings of 18m and above. The requirement includes a Fire Statement specific to the proposal and provides information on fire safety matters as they relate to land-use planning. The HSE also became a statutory consultee at this time. It is to be noted that the appeal application was submitted before the relevant date. Nevertheless, a Fire Statement was submitted and the HSE was consulted on a discretionary basis. The latter is now content that all Gateway One concerns have been addressed.

100. Gateways Two and Three are further steps in the process. This new regulatory regime is controlled through the Building Safety Act 2022, and I was told that Gateways Two and Three are expected to come into operation later this year.

Relevant policy and guidance

101. The London Plan introduces a step-change to the way that fire safety is to be considered and involves a higher standard of fire safety than Gateway One. Policy D12 in the London Plan includes various provisions that seek to achieve the highest standards of fire safety for all building users. The policy also requires major development proposals to submit a Fire Statement produced by a suitably qualified assessor. Policy D5 requires development proposals to

achieve the highest standards of accessible and inclusive design. Amongst other things, it requires that development should be able to be entered, used and exited safely, easily and with dignity by everyone.

102. The Mayor has produced draft *Guidance on Fire Safety* (February 2022) that supports the aforementioned policies. The draft document expands on the various criteria that are set out in order to achieve the highest standards of fire safety and accessibility. Whilst this document has received many representations and is unlikely to be adopted for a while, there was no dispute that the *London Plan* policy goes beyond the current Building Regulations, which are currently under review.

Qualitative Design Review (QDR)

103. BS 9991:2015 *Fire safety in the design, management and use of residential buildings – Code of practice* contains recommendations and procedures for fire safety in buildings. However, the document indicates that in buildings exceeding 50m in height there may be different demands in terms of fire safety provisions. In such circumstances specific evaluation through a QDR is required to see whether the code of practice in BS 9991 is appropriate or whether a full fire engineered solution specific to the building is necessary. For buildings of a lower height it is a matter for consideration as to whether a QDR would the necessary.

104. The appeal building would be 41m high. The LFB in its February 2022 consultation commented that no QDR had been undertaken to see whether a single stair approach would be an appropriate design approach, particularly as the same stair would also link the upper floors to the basement. Whilst the LFB refer to other concerns in its letter of October 2022, which responds to the amended two stair design, there is no further mention of a need for a QDR. The HSE also does not raise the issue of a QDR being necessary either.

105. The Council's expert referred to the need for a QDR in his written response to the amended two stairway scheme. He said this was not a common building situation, but rather involved densely occupied, tall, purpose-built student accommodation with the main amenity space on the top floor. Conversely the Appellant's expert did not consider that the proposal was unduly complex or unusual in terms of fire safety. He gave a clear explanation as to why he considered a QDR would not be necessary in this case. This evidence was subject to oral scrutiny, whereas the Council's expert written evidence was not. In the circumstances, I consider that the Appellant's evidence it is to be preferred.

Inclusive design statement

106. The Council considered that the Appellant should have consulted with disabled groups. Whilst I agree that consultation is always a good thing in respect of any development proposal, it was not undertaken by the Appellant in this case. In view of its importance as an issue, I would have expected the Council to consult with disabled groups if it considered this would aid its consideration of the proposal. In this case there was that opportunity when I agreed to accept the amended plans showing a second stairway and required re-consultation to be unbdertaken. As far as I am aware no responses were received from disabled groups.

107. Policy D5 in the London Plan includes a provision that the Design and Access Statement should include an inclusive design statement. However, no revision was made to the Design and Access Statement to address the two-stair proposal. I would agree that there is some infringement of policy D5 in the London Plan, although the GLA has not commented that the lack of such a statement would be a reason to refuse planning permission. The issue of accessibility for those with disabilities was thoroughly discussed at the inquiry, and I consider it further below.

Whether the highest standards of fire safety for all users would be achieved

108. As part of the evidence to the inquiry, an Outline Fire Strategy (the OFS) was provided. Whilst the document does not specifically confirm compliance with policy D12 in the London Plan, the Appellant's technical expert indicated that in his view its provisions would do so. The lack of detail about the systems to be utilised and the management and maintenance procedures to be adopted was criticised by the Council.

109. The use of sprinklers for example is referred to in section 2 of the OFS. The Appellant's technical expert explained that this is a specialist area that requires detailed modelling and performance criteria and takes a long time to complete. I can therefore understand why detailed design of the sprinkler system would not be addressed until after planning permission had been granted. There is no evidence that a suitable system could not be achieved.

110. Similar reasoning is applicable to the full evacuation strategy, management procedures and maintenance provisions. Clearly these are important aspects to a successful fire strategy, but the Appellant's fire expert explained that such matters were normally provided after the grant of planning permission and secured by a planning condition. This is particularly the case here as it is not known at this stage who the building operator would be. There is no requirement in the London Plan that these matters cannot be properly controlled through planning conditions. Indeed, the Mayor's draft *Guidance on Fire Safety* indicates that further details can be elicited in this way.

111. Students may be living away from home for the first time and may be less aware of the risks that ensue from certain behaviours in terms of fire safety. This was a point made by the LFB in its letter of October 2022 when it was commenting on the OFS. However, as far as I am aware there is no policy or guidance that prevents students from occupying a tall building and this did not seem to be the Council's case. There may be instances where fire doors are propped open or the corridors used for storage, for example. However, this could happen in any high-rise building and is not unique to student occupation. The OFS indicates that a management structure would be provided and the evidence to the inquiry was that this would be on a 24-hour basis. The detailed on-site management strategy could be controlled through a planning condition.

112. It therefore seems to me that the important question is whether, in the event of fire, there would be a safe and satisfactory outcome for the occupiers and the firefighters. I can see no procedural reasons why this cannot be achieved, and I now consider some of the detailed issues discussed at the inquiry.

Smoke control

113. There would be a smoke protected wheelchair refuge on each residential floor to ensure that those waiting for an evacuation lift could make a dignified escape. All refuges would be reached by either a smoke vented corridor or lobby. The LFB had concerns about whether the refuge in the lift lobby would be kept clear of smoke ingress. The Appellant's expert was satisfied that the smoke control systems would be effective. However, his evidence indicated that there were other available options if it proved to be an issue following detailed assessment.

114. On the 14th floor where the main amenity space would be situated, there would be three refuges in either the stair enclosure or the lift lobby. The Council rightly pointed out that the refuge in the stair enclosure would have no direct route to the evacuation lift. Two alternative solutions were suggested by the Appellant's fire expert, which would entail some small alterations to the internal layout. In this respect I agree with the Council that there are some shortcomings in the OFS but I have no reason to conclude that a satisfactory solution could not be achieved. This could be controlled through a planning condition.

Lifts and the evacuation strategy

115. The OFS indicates that the proposed building would have a high level of compartmentation and that a stay-put strategy would operate on the residential floors. This means that only those within the affected student flat would be evacuated in the first instance. This would not though stop others from evacuating if they wished to do so. This could be more likely in a student building where a higher use of social media and electronic communication would be anticipated. The OFS indicates that the strategy could be switched to a simultaneous evacuation if necessary. I was told that this would be the likely strategy to be put in place in respect of the 14th floor amenity area.

116. The proposed building would contain two stairways and two lifts. The evacuation lift would be for those who require a level access and exit or assistance during an emergency. I understand that the firefighters would expect to take control of one of the lifts and stairways on their arrival at the scene. The question arose as to whether one evacuation lift would be of sufficient capacity to safely evacuate those that needed it in the event of a simultaneous evacuation. Carrying down those unable to use the stairs is not a desirable arrangement because it neither engenders equality nor dignity.

117. There has been no specific capacity assessment because I was told that this is difficult to do with any accuracy at this stage. The proposed development would have 3 rooms for wheelchair users and a further 9 rooms that could be adapted for those with disabilities. There are also likely to be disabled visitors. It is proposed that Personal Emergency Evacuation Plans would be put in place for those that wish to have them and, as BS9991 makes clear, not all of those with disabilities would necessarily need to use a lift.

118. The Appellant's fire expert indicated that he worked on the basis that there would be 13 mobility impaired people who would need to use the lift, and this does not seem unreasonable. He commented that both lifts could be used for evacuation before the firefighters arrived and took over one as a firefighting

lift. In addition, there is no reason to assume that all who need to use the lift and refuges would do so at the same time. The Appellant's fire expert calculated that it would take about 86 seconds for the lift to travel from the 14th floor to ground level. The management strategy would set out how an ordered evacuation, whether simultaneous or stay put, would be organised. The Appellant's fire expert concluded that the lift capacity would be more than sufficient. This was from his experience and knowledge and represented the best available tested evidence.

Right angled windows

119. On each of the residential floors at levels one to seven there are windows serving study bedrooms that are at right angles to the windows serving the escape corridors. The HSE was concerned that the proximity and angle could allow the spread of a fire from within the flat into the escape route.

120. The Appellant's fire expert explained that the purpose of the sprinkler system was to supress the fire so that the heat would be insufficient to spread. As a further measure the windows would not be openable and would be fitted with fire resistant glass. It was also explained that the openable side vents could also be fixed shut as they would not be required for ventilation purposes, but it was considered unlikely that such a measure would be necessary. The HSE was satisfied that its concerns had been addressed. In any event, this would be addressed in the full Fire Strategy required by a planning condition.

Laundry facilities

121. There was a great deal of time spent at the inquiry discussing the proposed laundry facilities on the 14th floor. This was not an issue raised by the HSE and it was not an issue raised by the LFB. It is the case that washing machines and tumble driers can catch fire, but this is often due to insufficient maintenance. In any event, the laundry room would be fitted with sprinklers and any fire would trigger the alarm, which would alert building management. These matters would be addressed in the full Fire Strategy required by a planning condition.

Room hobs

122. The hobs would be located adjacent to the door into the studio units and therefore would be on the escape route. The scenario of concern to the Council was if a fire started as a result of an unattended pan, for example. The OFS indicates that as well as a sprinkler system within the studio, there would be a fire suppression system above the hob itself. The induction hobs would disconnect from power once the alarm within the studio was activated. The OFS also includes calculations that indicate there would be sufficient space and time for the student to safely pass the pan fire into the safe space of the corridor.

123. The Council referred to the draft update to BS:1991, which advocated a larger space between a hob and the escape route. However, this draft was only current until October 2021. Furthermore, I was told that there had been a high level of representation and that this was one of the issues on which there was most controversy. Having regard to the Appellant's expert evidence, I am satisfied that there would not be a fire safety issue in this respect.

Conclusions

124. There is local concern about the potential for fire appliances to block the entrance to the western section of William Road at the junction with Stanhope Street. I was told that this is the only access to this part of the Regent's Park Estate and serves about 200 dwellings, including The Combe. Obstruction at the junction could impede ambulances or other services getting into the estate in the event of an emergency. Whilst I understand the issue, this is an existing problem and could happen regardless of whether a redevelopment of the appeal site takes place or not. For example, it could arise if there was a fire at the Netley site or the Winchester Apartments. I was not told that a problem of this nature had occurred before, but in any event it is not a matter that the Appellant could reasonably be expected to resolve within the scope of this appeal.

125. For all of the above reasons, it is concluded that the occupiers of the proposed development would be suitably protected in the event of fire. The scheme would achieve the highest standards of fire safety for all building users and be in accordance with policy D12 in the London Plan. It would also allow those with disabilities to exit the building safely and with dignity and, in this respect, it would comply with policy D5 in the London Plan, although as I commented earlier there is some conflict with another provision of this policy.

PLANNING OBLIGATION BY UNILATERAL UNDERTAKING (the UU)

126. The Deed was considered in detail at the inquiry albeit that at that point it was to be a bilateral agreement as explained in paragraph 2 above. My consideration of what has now become the UU has taken the further representations by the main parties into account as well as the points made on the draft bilateral agreement at the inquiry.

127. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Regulations (the CIL Regulations) and the policy tests in paragraph 57 of the Framework. It should be noted that the Deed contains a "blue pencil" clause in the event that I do not consider a particular obligation would be justified in these terms. In addition, there are clauses that allow me to amend relevant triggers or financial contributions if I consider that the latter do not comply with Regulation 122.

128. Policy DM1 in the Local Plan relates to delivery and monitoring. It includes a provision that planning contributions will be used where appropriate to support sustainable development, secure the infrastructure, facilities and services to meet the needs generated by development and mitigate its impact.

129. The triggers are defined as follows. Implementation is the carrying out of a material operation as defined in section 56 of the 1990 Act. This includes demolition. Commencement does not include preparatory work and demolition. Occupation relates to when any part of the development is first occupied.

The student accommodation

130. Before the development is occupied, the Affordable Student Accommodation

Plan is to be submitted to and approved by the Council. This Plan requires no less than 35% of the student bedrooms to be affordable at a rent set in accordance with the Mayor's *Housing* Supplementary Planning Guidance. The affordable accommodation is to be let in accordance with a Nominations Agreement with one or more of the Recognised Higher Education Establishments. These bodies are specified in the Fourth Schedule to the Deed and relate mainly to educational establishments within the Borough or proximate to it.

131. These various provisions are necessary to ensure the provision of a proportion of units that are affordable to less well-off students and to ensure that the accommodation is secured for students attending higher educational establishments in the locality. It accords with the provisions of policy H15 in the London Plan, which is the most up-to-date policy relating to purpose-built student accommodation.

132. There was considerable debate at the inquiry about whether students other than those in full time education should be allowed to occupy the premises. Clearly there will be some students who will be in occupation for the whole year, such as those pursuing postgraduate studies. However, many undergraduates will not wish to occupy their accommodation or pay for it during the long summer holiday. In such cases rather than leave the accommodation empty it seems reasonable to allow students undertaking short courses to occupy it during this time. In the Deed these are termed Other Students. Their course must entail 14 weeks or less in any year during June-September and be at one of the Recognised Higher Educational Establishments listed in the Fourth Schedule unless the Council agrees otherwise.

133. There does not seem to me to be any policy conflict with this provision. Policy H15 in the London Plan requires that the accommodation is secured for students following a course in higher education. The supporting text indicates that a legal agreement could be used to ensure that temporary uses, including short-term educational courses, will not disrupt the use by full-time students during the academic year. This is just what the current obligation achieves. Policy H9 in the Local Plan also does not appear to seek to prevent such occupation. In fact, the *Student Housing* CPG specifically raises the possibility of non-student occupation outside term time. That is not intended here.

134. The Deed contains covenants relating to how the student accommodation is to be occupied. This may be in the form of an individual tenancy, or a higher educational institution may make provision through a lease. A clause indicates that an individual room may not be disposed of as a separate self-contained unit of accommodation without the Council's prior agreement. Notwithstanding the Council's concerns about this covenant, it does not change the basic nature of the occupation as student housing.

The affordable workspace

135. Before the development is commenced the Affordable Workspace Plan and the Affordable Workspace Marketing Strategy is to be approved by the Council. The Plan will set out a package of measures for the provision and management of this workspace. The Strategy includes the measures for marketing to small and medium sized local enterprises on flexible terms. Following approval, the marketing is to be undertaken and the workspace

provided before the development is occupied. It is not however reasonable to prevent occupation of the student accommodation, as the Council proposes, until the affordable workspace has been fully occupied. The take-up by local business users is outside the control of the owner and a clause such as this could leave the student accommodation empty for a whole academic year.

136. This would not only be a poor use of the student accommodation resource, but I was told that it would make the whole project unlikely to be investible. The Council would have control of the marketing strategy through the approval mechanism and there are sufficient safeguards to ensure that the affordable workspace will be provided. There is a covenant that the affordable workspace will be available in perpetuity at a rent that is to be agreed with the Council but will always be 50% lower than market value.

137. The evidence indicates that there is a need for good quality affordable workspace for small and medium sized business uses. Within the Knowledge Quarter Innovation District, the draft *Site Allocations Local Plan* mentions the need for flexible and affordable workspace at discounted rents. The *Employment Sites and Business Premises* CPG indicates that where workspace has been specified as affordable it should be at 50% of comparable market values. The whole of the workspace is proposed to be affordable and the obligations are necessary to achieve this objective.

The construction works

138. The construction phase is defined as the whole period between implementation and the issue of a certificate of practical completion.

Construction Management Plan

139. Before the development is implemented the Construction Management Plan is to be submitted to and approved by the Council. The Plan will set out how construction will be undertaken safely and minimise impact on the surrounding environment and road network.

140. A construction project of this nature within an inner urban area will inevitably cause disruption, inconvenience and safety issues to the surrounding area, especially within an urban vicinity where there are residents living in close proximity. It is appreciated that one of the most frequent causes of complaint to the Council derives from construction activity. In such circumstances the Construction Management Plan is necessary in order to mitigate the harmful impacts as far as possible. The Plan will follow the Council's Pro Forma and Considerate Constructor Manual and is designed to reflect the specific needs of the Borough.

141. The Construction Management Plan Implementation Support Contribution of £28,520 is for the review and approval of the Plan and to verify its proper operation. The payment is to be made prior to implementation and the indicative charging rates are set out in the Council's Advice Note and based on the size of the development.

142. The Council objects to the omission from the Deed of a Construction Management Plan Bond of £30,000. This is intended to cover the Council's costs if there is a breach of the Construction Management Plan, and the Council has to take steps to remedy it. The *Developer Contributions* CPD indicates that such payments may be required if the development raises

particularly complex construction or management issues where the Council will have to allocate resources to monitor and support the delivery of obligations. I note that there is a substantial Monitoring Fee included in the Deed, which is considered below.

143. I appreciate that the Bond would be refunded at the completion of construction if it is not needed. However, in this case there is an obligation that specifically makes provision for remedy in the event of non-compliance with the Plan. The Appellant is not willing to pay the Bond and whilst it may be a more convenient remedy for the Council, I cannot conclude that it is necessary in this case to make the development acceptable.

Basement

144. Before the development is implemented the Basement Approval in Principle Application and the Basement in Principle Contribution is to be approved by and paid to the Council. The Application requires demonstration that there are sufficient basement loadings at all times during the construction period to ensure that the highway is not compromised. The Contribution of £1,800 is to be paid to cover the cost of assessment by the Highways Structural Team. These obligations are reasonable and necessary requirements in line with the provisions of policy T3 in the Local Plan and the *Transport* CPG, which seek to protect highway infrastructure. The contribution is based on the Chartered Engineer's time to review, understand, make comments and ultimately sign off the Application. I consider that it is a proportionate sum that would reflect officer time for a development of this scale.

Highways works

145. The Council objects to the failure to include a Highways Contribution of £63,675 to be paid prior to occupation. This would cover damage during construction such as repaving the carriageway, footway provision and any other works deemed necessary following development. The Council explained that the exact sum could not be finalised until the extent of the damage had been assessed post-construction. The Appellant wishes to secure these works through a Grampian style condition. Generally, the *Planning Practice Guidance* indicates that conditions should not require an applicant to enter into a Section 106 Agreement or an agreement under other powers, because it is unlikely to be enforceable.

146. However, in this case the condition has been suggested by the Appellant and the agreement would be with the Highway Authority who has, as far as I am aware, not raised any objections. In the circumstances, I do not believe that there would be issues with enforceability. The *Planning Practice Guidance* indicates that where it is possible to overcome objections through a planning condition this is preferable to a planning obligation. In the circumstances here I consider that the Highways Contribution is neither reasonable nor necessary and the requisite works can just as well be dealt with by condition.

147. There is a covenant that requires Level Plans to be submitted to the Council. This is reasonable in order to demonstrate that the levels at the interface of the development and the highway are satisfactory. I note that in the draft bilateral Agreement the Level Plans were intended to be included in the covenant relating to the Highways Contribution and included a trigger relating to commencement. I agree that this is a reasonable and necessary provision,

but in the UU the Level Plans are to be submitted prior to occupation and there is no provision that they should be approved by the Council or adhered to. Whilst I am permitted to change triggers under clause 7.8 of the Deed, there would also need to be a dispute resolution clause, as I explain below. In the circumstances, I do not consider that I have the power to make the necessary changes. However, I am satisfied that the matter could be dealt with satisfactorily by a planning condition and I deal with this below.

Sustainability

148. Before the development is occupied the Carbon Offset Contribution of £221,945 is to be paid. This is necessary to comply with policy S1 2 in the London Plan which requires major development to be net zero-carbon. The financial contribution would contribute towards the Council's Carbon Offset Fund, which is used to deliver carbon reduction measures within the Borough. This is worked out based on the scheme's shortfall and a carbon price based on the GLA recommended price of £95 per tonne.

149. The trigger for payment is prior to occupation, which is reasonable as the zero-carbon target relates to operational emissions. Whilst it is possible that a project may remain part built and thus not be liable to pay, this seems to me a very unlikely scenario with a major development such as this. The contribution is worked out by applying the GLA's current recommended price for carbon over a 30 year period.

150. Before the development is commenced the Energy Efficiency and Renewable Energy Plan is to be submitted to and approved by the Council. This sets out a package of measures to reduce carbon energy emissions as set out in the Energy and Sustainability Statement submitted with the application. It will achieve a 61.9% reduction in carbon emissions beyond Building Regulations Approved Document Part L. Measures are required to achieve at least 46.2% reduction in carbon emissions through low and zero carbon technologies. Before the development is occupied a post-completion review is to be submitted to the Council to confirm that the measures in the approved Plan have been incorporated. Thereafter occupation is subject to the development being managed in accordance with the provisions of the Plan.

151. Before the development is commenced the Sustainability Plan is to be submitted to and approved by the Council. This shows the sustainability measures to be carried out in the building fabric and through subsequent management and occupation. It refers to meeting the target set out in the Energy and Sustainability Statement submitted with the application, a BREEAM review and a post construction review, amongst other things. All of these measures are necessary in order to achieve a sustainable development and comply with strategic planning policy.

Employment and training

152. Before the development is implemented the Employment and Training Plan is to be submitted to and approved by the Council. This will include a package of measures that will maximise the opportunities for employment within the development during both its construction and operative phases.

153. Before the development is occupied the Employment and Training Contribution of £48,171.90 is to be paid to the Council. This has been

calculated in accordance with the formula in the *Employment Sites and Business Premises* CPG. The trigger for payment is occupation and this seems reasonable as the purpose is to promote employment and training opportunities for local people and may include provision of affordable employment space in the Borough. The Plan and Contribution will help mitigate the loss of employment space.

154. The owner is required to work in partnership with the King's Cross Construction Centre to foster local employment opportunities during the construction and operative phases of the development. This includes providing 12 apprentices and 7 work placements during the construction phase. Prior to implementation the Construction Apprentice Support Contribution of £1,700 per apprentice is to the paid to the Council for support and training. If apprentices cannot be provided the Construction Apprentice Default Contribution of £20,000 per apprentice is payable to the Council prior to occupation of the scheme. After occupation at least one end-use apprentice shall be employed for at least a year and the terms for that are set out.

155. Before the development is implemented the Local Procurement Programme is to be submitted to the Council for approval. This will indicate how opportunities for local businesses to provide goods and services throughout the construction period will be provided.

156. Policies E1 and E2 in the Local Plan seeks to foster a strong and diverse local economy, which includes local training and job opportunities to address the skills gap in the Borough resulting in difficulty for local people to benefit from available job opportunities. This is supported by the measures outlined in the *Employment Sites and Business Premises* CPG. They provide the justification for the obligations and the basis for the financial contributions, which are necessary for this reason.

Management of the development

157. Before the development is commenced a Service Management Plan is to be submitted and this is to be approved by the Council before the development is occupied. The Plan sets out a package of measures for the delivery and servicing of the development, which are necessary to minimise conflict with pedestrians and highway users and damage to local amenity as set out in planning policy and the *Transport* CPG.

158. Before the development is commenced a Student Management Plan is to be submitted and this is to be approved by the Council before the development is occupied. The Plan sets out a package of measures that reflect the *Student Housing* CPG. It includes how behavioural issues are to be addressed, how students will be encouraged to recycle and the way in which the uptake of wheelchair accessible units will be encouraged. These provisions are needed to ensure that the scheme integrates successfully with its surroundings and provides a diverse and inclusive environment for all students.

Accessibility

159. The student accommodation and the affordable workspace is to be car free. Each occupier will be informed that they are not entitled to a residents' parking permit or a contracted space in a Council car park. This does not

apply to holders of a disabled person's badge. The Council is to be notified of the residential and commercial units to which the restrictions apply.

160. The Pedestrian Cycling and Environmental Contribution of £239,000 is to be paid to the Council prior to occupation. It is to be used for various local pedestrian, cycle and public realm improvements that are being undertaken in the vicinity of the site. The contribution will be used to help fund four schemes that were identified in the Council's evidence. These are necessary to encourage walking and cycling within this highly accessible location in line with planning policy at all levels and the provisions of the *Transport* CPG. The need for the improvements will not arise until the building is occupied and for that reason it is not necessary or reasonable to require payment prior to implementation which could be significantly earlier in a project of this scale.

161. Before the development is occupied Travel Plans for both the student accommodation and the affordable workspace are to be submitted to and approved by the Council. The provisions for both are similar and the elements are set out in the Third Schedule to the Deed. It includes mechanisms for monitoring and review up to year 5 and the appointment of a Travel Plan Co-ordinator.

162. The Travel Plan Monitoring and Measures Contribution of £4,925 is to be paid to the Council for each use prior to occupation. These sums cover advice on the draft Travel Plans, and sustainable travel measures. The Council has produced an advice note on how the contributions are worked out based on a standard hourly rate for officer time over the review period. This seems reasonable and proportionate.

Architect retention

163. The Architect retention clause requires that all further drawings and project management is undertaken by the Architect. The definition includes the Architect appointed by the owner unless the Council agrees otherwise. Prior to occupation, the Architect is required to certify in writing that the development has been carried out in accordance with the planning permission and its conditions. The objective, with which I agree, is to ensure that the quality of the proposal is maintained and that what is built lives up to this expectation. Policy D4 in the London Plan seeks to deliver good design. In order to maintain this throughout the build project it advocates consideration of the ongoing involvement of the original architectural design team through to completion.

Public Open Space

164. Whilst the proposal includes on-site amenity space it does not provide any public open space. The Public Open Space Contribution of £310,350 is for this purpose either to improve maintenance and upkeep of existing public spaces or else to contribute towards providing more such space in the vicinity. The Council has indicated that the contribution will be used towards the creation of pocket parks and rain gardens on either William Road or Drummond Street and enhancement of the Everton Mews linear green space. This seems to me to be appropriate and necessary.

165. The contribution is to be paid prior to occupation, which is when the impact would occur. Policy A2 in the Local Plan includes a provision that the impact of

development on public open space can be mitigated through planning obligations. The *Public Open Space* CPG sets out the formula for calculation, which is adjusted for student occupation and includes the overall floorspace of the residential accommodation. I am satisfied that the contribution is reasonable and necessary in order to mitigate the effect of the new occupiers on existing open spaces.

Monitoring

166. A contribution towards the Council's monitoring costs of £9,724 is to be paid to the Council within 28 days of the grant of planning permission. The *Developer Contributions* CPG sets out the justification for such charges and how they are worked out. In this case there are 17 obligations to be monitored, and the Deed is relatively complex. I am satisfied that the monitoring fee is reasonable and necessary to cover the matters set out in the CPG.

Other matters

Triggers

167. Generally, the Council wishes to see payment of the financial contributions before the development is implemented. However, in the case of a major development such as this, the construction period is likely to be relatively extensive. The CIL Regulations require that the Regulation 122 tests should be considered in respect of each obligation. A trigger that is reasonable and necessary in some cases will not be in others. There is no policy support for the Council's unnuanced approach. Although the *Developer Contributions* CPG indicates such a default position it also says that an alternative arrangement may be specified in the legal agreement if it is justified by the particular characteristics of the development or obligation. This is the case here for the reasons I have given.

168. The Council has indicated that there are few sites that do not come forward because contributions are required to be paid on implementation. That may be so but does not necessarily mean that such triggers are always reasonable. The payment of the contribution before development is implemented does not mean that the project is any more likely to be completed. All it means is that the Council would have a sum of money in its possession to mitigate impacts that may not yet have occurred. To my mind this is unnecessary.

Deemed approval provisions

169. The Council objects to these provisions, which essentially provide a period of time for the Council to request amendments to the various obligations to which the deeming clauses apply. The period itself is 20 working days in the first instance and then 15 working days each time that amendments are submitted until approval is given. The Council indicates that it has a strong record of dealing promptly with such matters and in such circumstances, it is difficult to understand why it is complaining about the timescales. They seem to me to be reasonable and in any event the Council has suggested no alternative.

170. I have no doubt that the Council, as a publicly accountable authority, would act in a reasonable and responsible manner. However, in a unilateral Deed an open-ended period for decision-making is inappropriate. That is because in

such a situation the Council is not bound by the provisions of the Deed and therefore cannot be obliged to do anything. If it chooses that option, which seems to me most unlikely, it is necessary to include a default provision otherwise there would be an impasse. I heard nothing that satisfied me that this approach is other than legally sound and necessary, and the Council has provided no satisfactory evidence to the contrary.

Dispute resolution

171. The Council objects to these provisions. However, it is wrong to say that it would be bound by their terms. As indicated above, the Council cannot be made to agree to any obligation within a unilateral Deed. In the alternative it can choose to do nothing, and the deemed approval provisions will then apply. However, it has the option to agree to dispute resolution in accordance with the provisions in Clause 6 of the Deed. As a responsible public authority, I find it difficult to envisage that it would not do so within the 15 day time period, which seems reasonable in the absence of the Council suggesting any alternative. In such circumstances the owner also covenants to be bound by the terms of the dispute resolution. I note that the same dispute procedure was included in the draft bilateral Agreement, and the Council did not appear to have a problem with it.

Boilerplate clauses

172. The Council's point here seems to be that certain clauses have been removed which it would like to see included. There is no suggestion that their omission makes the Deed defective or unenforceable. Two of the disputed clauses have been re-inserted but I consider that there is little substance in the points the Council has made regarding the others. The reasoning provided by the Appellant about why they would not be necessary to make the development acceptable is to be preferred.

Overall conclusions

173. There are a number of reasons for refusal that specifically relate to the absence of a legal agreement. I am satisfied, for the reasons that I have given, that the UU satisfactorily addresses most of these objections. There are two matters where this is not the case. The first relates to the requirement for a Construction Management Plan Bond. However, for the reasons I have given I consider that this is unnecessary in this case. The second is the requirement for a highway contribution and Level Plans, which can be dealt with through planning conditions.

174. The Council has levelled a great deal of criticism at the UU, which I have sought to address above. I am satisfied that the obligations meet Regulation 122 of the CIL Regulations and can be taken into account in my decision.

PLANNING CONDITIONS

175. A list of planning conditions was drawn up by the main parties and these were discussed at the inquiry. My consideration has taken account of paragraph 56 of the Framework and advice in the *Planning Practice Guidance*. I have had regard to the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. The detailed wording has been changed in some cases so that the conditions are precise, focused and enforceable.

Implementation

176. The statutory implementation period has been imposed and the approved plans specified for the avoidance of doubt and in the interests of proper planning. (Conditions 1 and 2).

Affordable workspace

177. For the reasons I have given, the provision of good quality affordable workspace on the ground floor of 17-33 William Road is a benefit of the scheme. There is therefore justification for preventing its loss to other uses through the scope of permitted development. (Condition 3).

Effect on existing residential occupiers

178. There are several conditions that are necessary in order to protect the amenities of existing residents, especially those living in the flats at 17-33 William Road. Restrictions on servicing, are required in order to prevent undue inconvenience or disturbance during unsocial hours. Privacy measures are necessary in order to protect the enjoyment and amenity of the nearest balconies to the proposed development. This allows some flexibility in order to choose suitable screening that also maintains a reasonable outlook for new occupiers. I have re-worded the condition to make it focused to the area of concern (Conditions 4 and 10).

179. In order to prevent unreasonable levels of noise and vibration from plant and machinery associated with the new development, relevant controls are required to be put in place. Student units on the first to fifth floors would adjoin the front part of the aforementioned flats in 17-33 William Road. In order to ensure that the existing habitable space is adequately protected from noise, enhanced sound insulation is required. In order to ensure that those living nearby are not unduly impacted by the waste generated by the proposed development, it is necessary to ensure that satisfactory arrangements are in place for its storage and removal. (Conditions 11, 12, 15 and 18).

180. There was concern by those living in the flats at 17-33 William Road about the proposed relocation of their waste storage area. This is presently within a secured area at the side of the building. The proposal shows it relocated to a new store at the front of the building immediately below residential windows. Residents were concerned about smell and vermin emanating from this area and impacting on the enjoyment of their habitable space. They were also concerned about the possibility of vandalism and arson due to the on-street access. I have sympathy with these concerns, which to my mind could be easily overcome as was evident from further information provided by the Appellant to the inquiry. A condition is therefore justified for the matter to be re-considered and a revised scheme to be submitted. (Condition 36).

The basement

181. The proposal would include a basement. An impact assessment has been submitted and this indicates that the existing walls would be retained, and that the basement would be no deeper than the existing. A condition is required to ensure the provisions of this assessment are implemented. A condition is also necessary to require that these specialised works are supervised by a suitable qualified engineer. The site is not within a Radon

Affected Area and whilst I note that the Council's Environmental Health Officer has some concerns about potential exposure there is no evidence given to support this. In such circumstances I cannot conclude that the condition relating to this matter is necessary or reasonable. (Conditions 5, 6).

Design and appearance

182. One of the justifications for permitting a tall building in this locality relates to the quality of the design. A great deal will depend on the attention to detailing and for this reason there are several conditions that require further specification, including the erection of sample panels on-site as well as details of windows, ground floor facades, balconies and the like. Paraphernalia such as meter boxes, aerials and satellite dishes can result in unattractive clutter and is not appropriate on the external facades. I have removed reference to lights as this matter is dealt with through the lighting strategy. Good quality hard and soft landscaping will enhance the development and appropriate planting schemes can have a beneficial effect on the wellbeing of the occupiers. Details of these measures and provisions for their maintenance during the first 5 years are necessary to the success of the scheme. (Conditions 7-9, 29 and 30).

Noise

183. The Environmental Noise Assessment indicates that traffic noise was the dominant source, which is hardly surprising bearing in mind the central London location of the appeal site. In order to ensure the quality of the student accommodation it is necessary to ensure that the noise environment within the student units is such that the accommodation is conducive to sleeping and quiet study. The noise levels are to be in accordance with BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings* and the WHO *Guidelines for community noise*. (Conditions 13 and 14).

Accessibility and Highway safety

184. Policy T1 in the Local Plan seeks to promote a safe and accessible environment for cyclists, amongst other things. The cycle parking to be provided in the basement of Building A would meet this objective and also comply with the cycle parking standards set out in the London Plan (Condition 16).

185. In order to ensure the safety of pedestrians using the footway adjoining the new development, it is necessary that external doors, apart from fire doors, do not open outwards. (Condition 17).

Energy and sustainability

186. There are several conditions relating to energy and sustainability. These address policy S1 2 in the London Plan, which requires major development to comply with the net zero-carbon target by following the energy hierarchy and maximising on-site carbon reductions. The Mayor's *Energy Assessment Guidance* includes how to comply with the "Be Seen" requirement in the policy, which requires post-construction monitoring, verification and reporting of the development's energy performance. The wording of the condition reflects the steps required to comply with this part of the policy. Policy S1 2 also requires proposals to calculate whole life-cycle carbon emissions and show how life-cycle carbon emissions will be reduced. Again, the *Energy*

Assessment Guidance shows how this should be done and this is reflected in the wording of the conditions. (Conditions 19-22).

187. Policy CC3 in the Local Plan seeks to ensure that proposals do not increase flood risk and reduce it where possible. It includes a provision that development should incorporate water efficiency measures. The supporting text indicates that the daily water consumption in residential developments should not exceed 110 litres per person. This is a necessary restriction because it is only an optional requirement in the Building Regulations. Policies CC2 and CC3 include provisions relating to sustainable drainage and reducing surface water runoff. Details of the sustainable drainage system and also provision for water recycling are required in order to satisfy the policy objectives and achieve a sustainable outcome. Whilst I expressed some concern about the wording of the sustainable drainage condition, I am satisfied that the detailed content is reasonable in the interests of clarity. (Conditions 23-25).

188. The desktop study in the Energy and Sustainability Statement indicates that there is the potential to use photovoltaic panels. However, I do not consider that a condition is necessary because the package of carbon reduction measures will be addressed through the Energy Efficiency and Renewable Energy Plan in the UU. The Council has control over this because the Deed include provisions for it to approve the Plan. Whether or not photovoltaic panels require a separate planning permission is not a relevant matter in determining whether the condition is necessary or not.

189. Policy S1 1 in the London Plan seeks to improve air quality. It includes a provision that development proposals should be at least neutral in terms of air quality. Further guidance is provided in the Mayor of London's *Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance.* Policy CC4 in the Local Plan also seeks to ensure that the effect of development on air quality is mitigated. It is therefore necessary to require monitoring before and during construction. An assessment of air quality is thereafter required prior to occupation and mitigation measures put in place as necessary. Non-road mobile machinery, used in connection with the construction of the development are to meet the minimum emission requirements set out in the Mayor's guidance. The UU includes a Construction Management Plan, but I do not consider that its provisions duplicate the requirements of these conditions (Conditions 26-28).

Security and lighting

190. In order to ensure the security of the new occupiers and in the interests of crime prevention a CCTV system is necessary. Lighting is also important to keep people safe, but it needs to be controlled to ensure that light spill does not cause unwanted effects on nearby residential properties and that it does not detract from the quality of the building design itself. Consideration needs also to be given to ecological effects, especially as bird and bat boxes are proposed in order to boost the biodiversity credentials of the site and in accordance with policy G6 in the London Plan and policy A3 in the Local Plan. (Conditions 31-33).

Adaptability and wheelchair use

191. Policy H6 in the Local Plan addresses housing choice and mix. It requires 10%

of new self-contained homes to be suitable for wheelchair users or adaptable for such use. However, the supporting text indicates that this optional Building Regulations requirement does not apply to student housing. This is reiterated in the *Student Housing* CPG, which indicates that there is no policy target either in the London Plan or the Local Plan. It indicates that the Building Regulations include a requirement for at least 5% of hotel bedrooms to be wheelchair accessible and it indicates that purpose-built student accommodation should be treated in the same way.

192. This seems to have been adopted by the CPG, which indicates that a higher proportion would be encouraged if the student housing were to be let out to non-student visitors outside term-time. As this is not the intention it is difficult to justify a higher proportion that the 5% proposed in the condition. (Condition 34).

Laundry

193. A great deal of time was spent at the inquiry discussing the laundry provision. A condition was suggested that the issue be subject to a planning condition requiring at least 8 machines, that they should be sited in a part of the building that would not cause a risk to fire safety and that it should be demonstrated that the facilities would be wheelchair accessible. For the reasons I have already given, I am satisfied in terms of the provision and the issue of fire safety. However, I have concerns about the accessibility of the machines to wheelchair users and their proper future maintenance. In the circumstances I have adjusted the wording of the condition to focus solely on these points. (Condition 35).

Fire safety

194. For the reasons that I have already given, a detailed Fire Strategy is required. There was no dispute that it will be critical to ensure that all elements of the strategy to manage fire risk will be properly maintained and kept in good working order at all times. It is also of the utmost importance that an appropriate management structure is put in place that ensures the safety of the student occupiers at all times. These provisions are necessary to ensure a safe and successful development. (Condition 37).

Construction

195. For the reasons given in paragraph 146 above, the necessary works to the public highway can be dealt with through a planning condition. I have added a provision regarding the planting of street trees, which are included within the proposal as a measure to improve the public realm. However, these are subject to there being satisfactory growing conditions and no issues regarding the safety of pedestrians or road users, which will only become clear following investigation. The provision is therefore worded accordingly. For the reasons given in paragraph 147 above, it is necessary to require Level Plans to be submitted and approved, subject to appropriate triggers (Conditions 38 and 39).

Viability

196. The Council's reasoning is that the various benefits such as the 35% affordable housing, the affordable workspace, the public realm improvements and the two stair cores will fall away because the scheme is inherently

unviable. No viability assessment has been submitted to show that this is the case. Even if it were, that does not mean that the scheme as permitted would not go ahead. Much will depend on the developer's approach to risk and the period of time over which a return on investment is anticipated. It is noted that the *Planning Practice Guidance* advises that where policy-compliant contributions are provided, decision makers should assume the scheme to be viable. Furthermore, the provision of a policy compliant level of affordable housing allows the application to follow a fast-track approach under policy H5 in the London Plan. In such circumstances a viability assessment is not required.

197. In any event, all of the matters that the Council is concerned about are either secured by covenants in the UU or planning conditions. I have carefully considered them and found them to be necessary for the development to go ahead. Any request to change or remove them would be fully within the Council's control, bearing in mind the relevant tests. The proposed viability condition includes provisions that duplicate matters that are already the subject of covenants or planning conditions. That leaves the pre-commencement condition requiring a financial viability appraisal to demonstrate that the scheme and its associated public benefits will be delivered. In the circumstances pertaining to the appeal proposal there is no such requirement in either national, strategic or local planning policy that would justify such a provisiion. I therefore conclude that the condition would be unreasonable and unnecessary.

CONCLUSIONS AND PLANNING BALANCE

198. It was agreed that the only heritage assets potentially affected by the proposed development would be the Grade II listed 48, 50 and 52 Stanhope Street. Following careful consideration, I have concluded that the appeal proposal would have no effect on their significance, notwithstanding that it would be within their setting. In addition, neither of the protected views towards St Paul's Cathedral or the Palace of Westminster would be adversely affected.

199. It was agreed that the Council has a 4.7 year supply of deliverable housing sites, which does not accord with the requirement in paragraph 74 of the Framework. In such circumstances policies affecting housing delivery in the Local Plan are out-of-date and the presumption in favour of sustainable development is engaged. In this case paragraph 11d) ii) of the Framework applies in view of my conclusion on heritage assets. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against Framework policies taken as a whole.

Planning Benefits

200. The London Plan indicates that student housing will contribute towards overall housing supply at a ratio of 2.5 bedspaces to one dwelling. The development would therefore contribute 82 dwellings[3] towards the Council's housing land supply. The Council has pointed out that policy H1 in the Local Plan establishes a priority housing need for self-contained housing and that this

[3] This is on the basis of the 206 student units now proposed (206÷2.5=82.4).

has come about because of the considerable amount of student housing built in the Borough.

201. However, there is no evidence that the appeal site is either included within the existing supply of housing sites or that it is proposed to be allocated for self-contained housing. At present the draft *Local Plan Review* and the draft *Site Allocations Review* are at an early stage and can be given little weight. Furthermore, there is no evidence that there is an imbalance between self-contained housing and student accommodation or that the shortfall in self-contained housing is any more pressing than the need for student housing. Bearing these points in mind, the contribution towards reducing the Borough's housing deficit is a matter of substantial weight.

202. The Council's annual student accommodation target in policy H9 is a minimum of 160 units. However, this needs to be seen in the context of the more recent London-wide annual target of 3,500 student bedspaces, which has been established through the London Plan. It seems clear that some Boroughs will be better placed to contribute towards the strategic level of supply than others, and this includes Camden due to the location of many of the Higher Education establishments. The area around the appeal site is particularly well placed for student housing due to its proximity to such institutions as University College London, the London School of Economics and SOAS University of London.

203. The report prepared by Knight Frank, which specifically relates to the demand for purpose-built student accommodation, indicates that there is a considerable supply and demand imbalance within a 2.5 mile radius of the site and that this is forecast to get worse. The appeal scheme would provide high-quality student housing for the reasons I have given. In addition, it would include 35% affordable units for less well-off students. These are matters of very significant weight.

204. The existing building includes employment floorspace that is no longer fit for purpose. For the reasons I have given there is no reasonable prospect that the building would be refurbished for employment uses or redeveloped to provide employment floorspace. The proposal would include 1,255 m^2 good quality affordable workspace. This would be offered at 50% discount on comparable rents in the local market. The floorspace could be used flexibly and divided into small units if required. The evidence indicates that it would be a popular facility for small and medium sized business users locally. This is a benefit of significant weight.

205. The existing building is an unattractive feature in the streetscape with bland inactive frontages to the street and a poor relationship to its surroundings. By contrast, the proposed high-quality design would result in an attractive development that would enhance its local context, including the setting of the listed buildings. The building would also provide active façades to the adjoining street frontages. These are matters of significant weight.

206. The existing development makes an inefficient use of this central London site, which is within a location that enjoys the highest level of accessibility at PTAL 6. The proposed redevelopment would use the land to its optimal potential in accordance with national, strategic and local planning policy. This is a matter of significant weight.

207. There would be employment and training opportunities during the course of construction and some additional employment within the student accommodation. Those working and living in the building during its operative period would increase spending locally, which would contribute to the local economy. These are matters of limited weight.

Adverse impacts and tilted balance

208. I have found that the development would result in a noticeable loss of daylight in a number of the flats in Winchester Apartments. Three rooms would also experience small reductions in sunlight, below the recommended levels in the BRE Guidance. Whilst I have identified mitigating circumstances this would nonetheless result in some reduction in the residential amenity of these occupiers that should be taken into account.

209. A relatively small number of the student bedrooms would not comply with the BRE Guidance in terms of daylight levels. I have explained why I believe this would be acceptable in this case and concluded that the quality of the student housing would be high. Nevertheless, there would be a small adverse effect that should be taken into account.

210. The aforementioned adverse impacts are matters to which I give moderate weight. However, they would not significantly and demonstrably outweigh the very significant package of benefits when assessed against the policies in the Framework taken as a whole.

The development plan

211. There would be conflict with policy D5 in the London Plan in relation to Fire Safety because the requirement for an inclusive design statement in the Design and Access Statement is not provided. There would also be conflict with policy HCV4 in the London Plan because the proposed development would exceed the threshold height in the Landmark Viewing Corridor between Parliament Hill and the Palace of Westminster. Insofar as policy H9 in the Local Plan requires cluster flats or gives priority to self-contained housing, there would also be conflict.

212. However, the proposed development would be in accordance with a large number of policies in the London Plan and the Local Plan as I have identified when considering each of the main issues. In the circumstances I consider that it would comply with the development plan when taken as a whole. However, in the event that I am wrong, there are material considerations of sufficient weight and importance in this case to indicate that the decision should be made otherwise than in accordance with the development plan. Most important of these is the Framework and the exercise of the tilted balance, which has concluded that the adverse impacts would not significantly and demonstrably outweigh the benefits.

213. In my consideration of the development proposal, I have had due regard to the Public Sector Equality Duty set out under s149 of the *Equality Act* 2010. This is addressed in my reasoning, which takes account of the aims that seek to eliminate discrimination, advance opportunity and foster good relations. I am satisfied that my decision, and the conditions and obligations that form a part of it, would proactively promote equality for those with disabilities.

214. I have taken account of all other matters raised in the representations and at the inquiry, but I have found nothing to change my conclusion that the development would be acceptable and that the appeal should be allowed.

Christina Downes

INSPECTOR

ANNEX ONE: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Sasha Blackmore	Counsel
Mr Joseph Thomas	Counsel, both instructed by the Solicitor of the Council of the London Borough of Camden

They called:

Mr A Jones MIRCS	Director of BPS Chartered Surveyors
Ms C Hatton BA(Hons) PG Cert	Conservation Officer with the Council of the London Borough of Camden
Ms L Scaletti MA BA(Hons)	Senior Design Officer with the Council of the London Borough of Camden
Mr C Harris BSc(Hons)	Partner of Delva Patman Redler LLP, Chartered Surveyors
Mr N Young BSc(Hons) MSc Licentiate member of the RTPI	Senior Planning Officer with the Council of the London Borough of Camden
*Mr J McClue BPlan(Hons)	Deputy Team Leader with the Council of the London Borough of Camden
**Ms E Shelton-Agar	Lawyer with Planning Legal Services, Council of the London Borough of Camden

FOR THE APPELLANT:

Mr Russell Harris	King's Counsel
Mr Andrew Byass	Counsel, both instructed by DP9 Limited

They called:

Ms M MacLaren BSc DipArch ARB RIBA	Design Director of Morris+Company
Ms L Newman BA(Hons) DipArch ARB	Equity Director of the Tavernor Consultancy Limited
Mr J Stephenson FRICS MCIARB	Senior Director of Grant Mills Wood
Mr N Harvey BEng CEng MIFireE	Managing Director of Jensen Hughes
Mr P Fletcher BSc(Hons) MSc	Director of Point 2 Surveyors Ltd and Waterslade Ltd

Mr C Goddard BA(Hons) BPL MRTPI MRICS	Board Director of DP9 Ltd
*Mr O Sheppard BA(Hons) DipTP MRTPI	Board Director of DP9 Ltd
**Mr T Ivory	Head of Planning, DLA Piper

*Participated in the planning conditions round table session
**Participated in the Planning Obligation round table session

INTERESTED PERSONS:

Mr S Spence	Local resident
Ms M Hayoukane	Local resident
Mr R Cansick	Local resident

ANNEX TWO: DOCUMENTS

1	Draft Supplementary Statement of Common Ground on Heritage (11.2.22), submitted by Ms Blackmore
2	Laundry Room Note produced by Mr Young
3	Mr Timpson's supplementary proof of evidence and Appendix A
4	Written representation by Mr T Meadows
5	Photographs produced by Mr Spence
6	London Plan Guidance on Fire Safety Policy D12(A), pre-consultation draft (March 2021), submitted by Ms Blackmore
7A	London Plan Guidance Sheet, Policy D12(B): Fire Statements
7B	London Plan Guidance Sheet, Policy D5(B5): Evacuation Lifts
8	Further CBDM calculations by Mr Fletcher
9	Written representation from G Ustun
10	Room schedule produced by Ms MacLaren
11	Response by Jensen Hughes to fire issues raised by HSE (6 July 2022), submitted by Ms Blackmore
12	Email relating to the Council's attendance at the meeting with the HSE in July 2022
13	Updated schedule of drawings
14	Mr Fletcher's response to Inspector's questions on CBDM calculations
15	Proposed student room types and schedule produced by Ms MacLaren
16	Potential laundry room provision at basement level, submitted by Mr Harris
17	Conservation Principles, Policies and Guidance – Historic England, submitted by Ms Blackmore
18	Tall Buildings Historic England Advice Note 4 (March 2022), submitted by Ms Blackmore
19	Pre- Application presentation on the scheme by the Appellant (May 2020)
20	Drawings of the Lantern House development, submitted by Mr Harris
21	EG article on the London Office Market (21/11/22), submitted by Mr Harris
22	Mr Stephenson's viability appraisals comparison table
23	The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021, submitted by Ms Blackmore
24	Webpage of the consultation on the London Plan Guidance on Fire Safety (February-June 2022), submitted by Mr Harris
25	Draft London Plan Guidance on Fire Safety (February 2022), submitted by Mr Harris
26	Council's email regarding re-consultation of the appeal proposal (28 September 2022)
27	E-mail exchange between the Council and London Fire Brigade regarding the revisions to the appeal proposal, submitted by Ms Blackmore
28	Council's CIL compliance note, submitted by Ms Blackmore
29	Victoria House, Bloomsbury Square development strategy including requirements for lab enabled areas, submitted by Ms Blackmore

30 Ground floor drawings and elevation showing possible relocation of the bin store, produced by Ms MacLaren
31 Photographs and aerial view of the Francis Crick Centre, submitted by Ms Blackmore
32 BS 9991: 2015 draft update, relating particularly to cooking facilities, submitted by Ms Blackmore
33 Council's update note on the Annual Monitoring Report and Housing Trajectory
34 Committee report on 314-320 Acorn House, submitted by Mr Harris
35 Council's letter to the Appellant regarding outstanding documents for the inquiry (14 September 2022)
36 Photographs submitted by Ms M Hayoukane relating to the existing bin store
37 Correspondence and photographs from Ms M Hayoukane and Mr D Loke
38 Additional documentation on the Lantern development, submitted by Ms Blackmore
39A Ms Hatton's response to HE Tall Buildings Guidance
39B Ms Newman's response to HE Tall Buildings Guidance
40 Draft planning conditions with comments from the 2 main parties
41 Draft additional planning conditions with the comments from the 2 main parties
42 Council's advice note on Construction Impact Bonds
43 Council's advice note on monitoring fees for Travel Plans
44 Council's advice note on Implementation Support Contribution
45 Drawings showing potential arrangements for a 14th floor fire corridor and alternative locations for the bin stores serving 17-33 William Road levels, produced by Ms MacLaren
46 Email correspondence between the Council and the GLA regarding its draft fire safety guidance, submitted by Ms Blackmore
47 List of outstanding information, submitted by Ms Blackmore

Documents submitted after the close of the inquiry:

48 Authorities bundle submitted by the Council to accompany its closing submissions
49 Mr Young's drawing and photographs showing distances between existing and proposed development
50 Further correspondence from the Council and Appellant about conditions
51 Further information from the Council on the costings for the highway contribution and the implementation trigger
52 Public Open Space CPG
53 Site visit itinerary
54 Site location plan with land ownership titles
55 Council's comments on the draft Unilateral Undertaking
56 Appellant's response to the Council's comments on the draft Unilateral Undertaking
57 Unilateral Undertaking dated 30 January 2023

ANNEX THREE: SCHEDULE OF PLANNING CONDITIONS

1. The development hereby permitted shall be begun not later than three years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: (these are not the correct plan numbers)

   Site Location Plan - A295-MCO-XX-R0-DR-A-00001
   Proposed Site Plan - A295-MCO-XX-R0-DR-A-00010_R02
   Existing Basement Plan - A295-MCO-XX-B0-DR-A-00098
   Existing Ground Floor Plan – Plot B - A295-MCO-XX-G0-DR-A-00099
   Existing Ground Floor Plan – Plot A - A295-MCO-XX-G0-DR-A-00100
   Existing First Floor Plan - A295-MCO-XX-01-DR-A-00101
   Existing Level 02-05 Floor Plan - A295-MCO-XX-01-DR-A-00102
   Existing North Elevation - A295-MCO-XX-ZZ-DR-A-00210
   Existing West Elevation - A295-MCO-XX-ZZ-DR-A-00211
   Existing South Elevation - A295-MCO-XX-ZZ-DR-A-00212
   Existing East Elevation - A295-MCO-XX-ZZ-DR-A-00213
   Proposed Basement Plan - A295-MCO-BA-B0-DR-A-01091_R02
   Proposed Ground Floor Plan – Plot B - A295-MCO-BB-G0-DR-A-01099_R02
   Proposed Ground Floor Plan – Plot A - A295-MCO-BA-G0-DR-A-01100_R02
   Proposed Level 01-03 Floor Plan - A295-MCO-BA-01-DR-A-01101_R02
   Proposed Level 04-05 Floor Plan - A295-MCO-BA-04-DR-A-01104_R02
   Proposed Level 06-07 Floor Plan - A295-MCO-BA-06-DR-A-01106_R02
   Proposed Level 08-13 Floor Plan - A295-MCO-BA-08-DR-A-01107_R02
   Proposed Level 14 Floor Plan - A295-MCO-BA-14-DR-A-01114_R02
   Proposed Roof Level Plan - A295-MCO-BA-15-DR-A-01115_R02
   Proposed North Elevation - A295-MCO-XX-ZZ-DR-A-01210_R02
   Proposed West Elevation - A295-MCO-XX-ZZ-DR-A-01211
   Proposed South Elevation - A295-MCO-XX-ZZ-DR-A-01212
   Proposed East Elevation - A295-MCO-XX-ZZ-DR-A-01213
   Proposed Section AA - A295-MCO-XX-ZZ-DR-A-01301
   Proposed Section BB - A295-MCO-XX-ZZ-DR-A-01302
   Lower Levels Bay Elevations and Sections - A295-MCO-BA-ZZ-DR- A-21101
   Upper Levels Bay Elevations and Sections - A295-MCO-BA-ZZ-DR-A-21102

3. Notwithstanding the provisions of the *Town and Country Planning (Use Classes) Order* 2020 or the *Town and Country Planning (General Permitted Development) Order* 2015 (or any orders revoking and re-enacting those orders with or without modification), the ground floor of Nos. 17-33 William Road shall only be used as affordable workspace space, under Class E (g(i-iii)), and for no other purposes.

4. All servicing shall take place in accordance with the approved Delivery and Servicing Management Plan dated November 2020 and shall not take place outside of the following times: 08:00-20:00 Monday-Saturday, and 09:00-20:00 Sunday and Bank and Public Holidays.

5. The development shall be carried out in accordance with the methodologies, flood mitigation measures and recommendations of the Basement Impact Assessment Ref: CG/38530 dated November 2020.

6. The basement works, including excavation, shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor both the permanent and temporary basement construction works throughout their duration to ensure compliance with the design.

7. Prior to commencement of above ground works on the building, the following details shall be submitted to and approved in writing by the local planning authority:

   a) Sections at 1:10 of all windows (including jambs, head and cill), ventilation grills and external doors and gates

   b) Plans, elevations and sections of all ground floor facades at a scale of 1:10

   c) Plans, elevations and sections of balustrading to terraces and balconies

   d) Manufacturer's specification details and samples of all facing materials

   e) Details of all plant equipment

   f) Sections of typical walls at a scale of 1:20

   The development shall be carried out in accordance with the approved details

8. Prior to the commencement of above ground works on the building, the following shall be erected on site (as appropriate), retained for the duration of the construction period, and approved in writing by the local planning authority:

   a) Sample panels of facing materials, a minimum size of one metre square

   b) Sample panels of a typical elevation, a minimum of two metres square, to include a glazed opening showing reveal and header detail and an elevation brickwork showing the colour, texture, face-bond and pointing

   The development shall be carried out in accordance with the approved sample panels.

9. No meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials or satellite dishes shall be fixed or installed on the external face of the building.

10. Details of screening measures to the first, second, third and fourth floor east facing side windows to the 4 twodio units in closest proximity to the corner balconies on 17-33 William Road shall be submitted to and approved in writing by the local planning authority. The approved screening measures shall be carried out in accordance with the approved details prior to the occupation of those units and retained in place thereafter.

11. The external noise level emitted from plant, machinery or equipment at the development hereby permitted shall be lower than the typical background noise level by at least 10dBA and by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

12. Prior to use, machinery, plant or equipment and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced. The measures shall be retained and maintained in accordance with the manufacturer's instructions.

13. The internal noise levels in the student flats hereby permitted shall not exceed an indoor ambient noise level of 35dB(A) LAeq,16hour (07:00-23:00 hours) and 30dB(A) LAeq, 8hour (23:00-07:00 hours) and individual noise events shall not exceed 45dB LAmax during the night (23:00-07:00 hours).

14. Prior to the residential occupation of the development, noise testing and an associated report to demonstrate compliance with the noise levels required by condition 13 shall be submitted to and approved in writing by the local planning authority.

15. Prior to commencement of the above ground works, details shall be submitted to and approved in writing by the local planning authority of an enhanced sound insulation value DnT,w and L'nT,w of at least 5dB above the *Building Regulations* value, for the floor/ceiling/wall structures separating the development hereby permitted and the existing residential units above nos.17-33 William Road. The approved details shall be carried out prior to occupation of the development and thereafter permanently retained.

16. Prior to commencement of development (excluding demolition and site preparation works), full details of the 200 long-stay and 11 short-stay cycle parking facilities (which includes the re-provision of 12 cycle spaces for existing residents of 17-33 William Road) shall be submitted to and approved in writing by the local planning authority. The approved cycle parking facilities shall thereafter be provided in their entirety prior to the occupation of any part of the development and shall thereafter be retained.

17. All external doorways, except for fire doors or for access to utilities, shall not open outwards towards the public highway or footway. The proposed doors shall either open inwards or have a sliding door.

18. Prior to the commencement of development (excluding demolition and site preparation works), details of waste storage and removal for the student accommodation and affordable workspace shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the waste storage facilities shall thereafter be retained.

19. In order to demonstrate compliance with the 'Be Seen' post-construction monitoring requirement of Policy SI 2 of the London Plan, the legal owner

shall at all times and in all respects comply with the energy monitoring requirements set out in points a, b and c below. In the case of non-compliance, the legal owner shall, upon written notice from the local planning authority, immediately take all steps reasonably required to remedy non-compliance.

a) Within four weeks of planning permission being issued by the local planning authority, the legal owner shall submit to the Greater London Authority (GLA) accurate and verified estimates of the 'Be Seen' energy performance indicators, as outlined in Chapter 3 'Planning stage' of the GLA 'Be Seen' energy monitoring guidance document, for the permitted development. This shall be submitted to the GLA's monitoring portal in accordance with the 'Be Seen' energy monitoring guidance.

b) Once the as-built design has been completed (upon commencement of RIBA Stage 6) and prior to the building(s) being occupied (or handed over to a new legal owner, if applicable), the legal owner is required to provide updated accurate and verified estimates of the 'Be Seen' energy performance indicators for each reportable unit of the development, as per the methodology outlined in Chapter 4 'As-built stage' of the GLA 'Be Seen' energy monitoring guidance. All data and supporting evidence shall be uploaded to the GLA's monitoring portal. The owner shall also confirm that suitable monitoring devices have been installed and maintained for the monitoring of the in-use energy performance indicators, as outlined in Chapter 5 'In-use stage' of the GLA 'Be Seen' energy monitoring guidance document.

c) Upon completion of the first year of occupation following the end of the defects liability period and for the following four years, the legal owner shall provide accurate and verified annual in-use energy performance data for all relevant indicators under each reportable unit of the development as per the methodology outlined in Chapter 5 'In-use stage' of the GLA 'Be Seen' energy monitoring guidance document. All data and supporting evidence shall be uploaded to the GLA's monitoring portal. This condition will be satisfied after the legal owner has reported on all relevant indicators included in Chapter 5 'In-use stage' of the GLA 'Be Seen' energy monitoring guidance document for at least five years.

20. Prior to the commencement of development, an updated Whole Life-Cycle Carbon (WLC) Assessment and GLA WLC Assessment template shall be submitted to and approved in writing by the local planning authority. The assessment shall include:

a) All B1 emissions related to refrigerants

b) Results for assessment 2 (decarbonisation of the grid) for modules B2-B5 and D

c) Results for B6-7 shall be consistent with the Energy and Sustainability Statement prepared by Vitec and dated November 2020

The results shall meet or exceed the Aspirational WLC Benchmark in the GLA WLC Assessments Guidance.

21. Once the as-built design has been completed (upon commencement of RIBA Stage 6) and prior to the building(s) being occupied (or handed over to a new owner, if applicable), the legal owner(s) of the development shall submit the post-construction WLC Assessment to the GLA at: ZeroCarbonPlanning@london.gov.uk. The owner shall use the post construction tab of the GLA's WLC Assessment template and this shall be completed accurately and in its entirety in line with the criteria set out in the GLA's WLC Assessment Guidance.

    The post-construction assessment shall provide an update of the information submitted in the WLC Assessment by XCO2 (6 January 2022), at planning submission stage (RIBA Stage 2/3), including the WLC carbon emission figures for all life-cycle modules based on the actual materials, products and systems used. The assessment shall be submitted along with any supporting evidence as per the guidance and shall be received three months post as-built design completion, unless otherwise agreed.

22. The development shall be carried out in accordance with the Circular Economy Statement by XCO2 (6 January 2022) to achieve at least 95% reuse/recycling/recovery of construction and demolition waste and 95% beneficial use of excavation waste.

23. The development hereby permitted shall achieve a maximum internal water use of 110 litres per person per day. Evidence demonstrating that this has been achieved shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development.

24. Prior to the commencement of development other than site clearance & preparation, a feasibility assessment for rainwater/greywater recycling shall be submitted to and approved in writing by the local planning authority. If the approved assessment demonstrates that such recycling would be feasible details shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details.

25. The sustainable drainage system and its future management and maintenance shall be carried out in accordance with the details in the Flood Risk Assessment, Drainage Strategy and SuDS Assessment by Iesis Group (Nov 2020) and the Flood Risk Addendum No.1 by Iesis Group (19th May 2021). Measures shall be installed as part of the development to accommodate all storms up to and including a 1:100 year storm with a 40% provision for climate change, such that flooding does not occur in any part of a building or in any utility plant susceptible to water and to achieve greenfield run off rates. The system shall include rainwater harvesting ($3m^3$), $74m^2$ of green roofs and $351m^2$ of blue roofs (providing $38m^3$ attenuation) plus $19m^3$ of attenuation tanks, as stated in the above documents and shall thereafter be retained and maintained in accordance with the approved maintenance plan.

26. Prior to the commencement of development at least 4 air quality monitors, the details of which have first been submitted to and approved in writing by

the local planning authority, have been installed. The details shall include the location, number and specification of the monitors, including evidence of the fact that they will be installed in line with guidance outlined in the GLA's Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance.

The monitors shall be in place for at least 3 months prior to the implementation date. Evidence to demonstrate that this has been done shall be submitted prior to the commencement of development.

The monitors shall remain on site and be maintained in accordance with the manufacturer's instructions for the duration of the development in accordance with the details thus approved.

27. Prior to the occupation of development, an Air Quality Assessment shall be submitted to and approved in writing by the local planning authority. This shall include the current baseline situation in the vicinity of the proposed development. If required, a scheme for air pollution design solutions or mitigation measures and a timetable for their implementation based on the findings of the Air Quality Assessment shall be submitted to and approved in writing by the local planning authority before the development is first occupied. The approved design solutions or mitigation measures shall be carried out in accordance with the approved details and timetable and kept in place thereafter.

28. All non-road mobile machinery (NRMM) (any mobile machine, item of transportable industrial equipment, or vehicle - with or without bodywork) of net power between 37kW and 560kW used on the site for the entirety of the demolition and construction phase of the development shall be required to meet Stage IIIA of EU Directive 97/68/EC. The site shall be registered on the NRMM register for the demolition and construction phase of the development.

29. Prior to the commencement of above ground works, details of hard and soft landscaping and means of enclosure of all un-built, open areas and a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. The details shall include any proposed earthworks including grading, mounding and other changes in ground levels. The development shall be carried out in accordance with the approved details and timetable.

30. 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 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.

31. Details of the installation of CCTV shall be submitted to and approved in writing by the local planning authority. The approved details shall be carried out prior to the first occupation of the development. They shall be retained thereafter and maintained in accordance with the manufacturer's instructions.

32. Details of a lighting strategy, to include information about potential light spill on to buildings and trees, shall be submitted to and approved in writing by the local planning authority. The approved lighting strategy shall be carried out prior to the first occupation of the development. It shall be retained thereafter and maintained in accordance with the manufacturer's instructions.

33. Prior to first occupation of the development a plan showing details of bird and bat box locations and types and indication of species to be accommodated shall be submitted to and approved in writing by the local planning authority. The boxes shall be installed in accordance with the approved plan prior to the first occupation of the development and shall thereafter be retained.

34. No above ground works shall commence until details demonstrating that at least 5% of the residential units hereby permitted could be constructed to comply with Part M4(3) of the *Building Regulations*. Any communal areas and accesses serving the M4(3) compliant Wheelchair User Dwellings should also comply with Part M4(3). Evidence that all other residential units, communal areas and accesses hereby permitted could be constructed to comply with Part M4(2) of the Building Regulations shall also be submitted. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be fully implemented before the premises are first occupied and retained as such thereafter.

35. Notwithstanding the details shown on the approved plans and prior to the commencement of development (excluding demolition and ground preparation works), details of the laundry room and its facilities, shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate that the laundry room and its facilities will be accessible to wheelchair users and that the machines will be properly maintained in perpetuity. The approved details shall be carried out before the student accommodation is first occupied.

36. Notwithstanding the approved plans, details of a revised scheme for the refuse store for the existing occupiers of 17-33 William Road shall be submitted to and approved in writing by the local planning authority prior to the commencement of development (excluding demolition and ground preparation works). The refuse store shall be at least 16m^2 gross internal area and shall be provided before the development is first occupied and retained thereafter.

37. Prior to the commencement of development (excluding demolition and ground preparation works), fire safety details shall be submitted to and approved in writing by the local planning authority. The fire safety details shall include:

    a) A full Fire Strategy

    b) A full Management and Maintenance Plan

    The fire safety details shall include the employment of PEEPS; measures for smoke control; details of the firefighting and evacuation lifts; details of refuge areas, corridors, doors, right angled windows and stair cores.

38. Prior to the commencement of development there shall be an agreement with the Local Highway Authority to secure the following works:

    a) The repaving of the carriageway adjacent to the site

    b) The provision of new footways along the eastern and western frontages of the building

    c) The planting of street trees as shown in the Design and Access Statement, subject to suitable growing conditions and acceptable conditions relating to the safety of pedestrians and road users

    d) Any other works that the Local Highway Authority acting reasonably considers necessary as a direct result of the development construction.

39. Prior to the commencement of development Level Plans shall be submitted to and approved in writing by the local planning authority to show the relationship of the existing and proposed levels of the site and the adjoining public highway. The development shall be carried out in accordance with the approved Level Plans.

End of 39 conditions