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# Appeal Decision

Hearing held on 19 October 2022

Site visit made on 20 October 2022

**by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI**

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

**Decision date: 1 December 2022**

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## **Appeal Ref: APP/X5210/W/22/3300894**

### **44 Cleveland Street, London W1T 4JT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by University College London Hospitals Charity against the decision of London Borough of Camden.
- The application Ref 2021/3087/P, dated 23 June 2021, was refused by notice dated 17 December 2021.
- The application sought planning permission for the refurbishment of and alterations to the existing former Workhouse Building (Grade II listed) and North and South Houses (fronting onto Cleveland Street) to provide residential units (Class C3); demolition of part of South House and buildings at rear of Workhouse Building and redevelopment to provide a new building comprising commercial floor space (flexible use of Class B1 / D1 healthcare) and residential units (Class C3); and associated works including opening up of Bedford Passage, creation of public open space, landscaping works, and partial demolition of front boundary wall), namely to allow an increase in the overall number of dwellings and a change in housing tenure (reduction in the number of affordable dwellings), changes to 2nd floor window on former workhouse building, changes to internal and external design of new building, including additional basement level without complying with conditions attached to planning permission Ref 2017/0414/P, dated 15/01/2018 (as amended by planning permission Ref 2018/1584/P, dated 30/09/2019 and planning permission Ref 2021/3088/P, dated 12/07/2021).
- The conditions in dispute relate to No's 2, 3, 4 and 5 to Council decision 2017/0414/P which state:

Condition No.2: The development hereby permitted shall be carried out in accordance with the following approved plans: SP\_01; P-XTG-LB1; P-XTG-L00; P-XTG-L01; P-XTG-L02; P-XTG-L03; P-XTG-LR; S-XTG-AA-BB; S-XTG-CC-DD; E-XTG-01-02; E-XTG 03-04; P\_SITEDEM\_LB1; P\_SITEDEM\_L00; P\_SITEDEM\_L01; P\_SITEDEM\_L02; P\_SITEDEM\_L03; P\_GA\_B1 RevC; P\_GA\_00 RevB; P\_GA\_01 RevA; P\_GA\_03 RevA; P\_GA\_03 RevA; P\_GA\_04 RevA; P\_GA\_05 RevA; P\_GA\_06 RevA; P\_GA\_07 RevA; P\_GA\_08 RevA; P\_GA\_LR RevA; E\_00\_01-02 revB; E\_01\_03-04 RevB, S\_01\_AA-BB RevB; S\_02\_CC-DD RevA; S\_03\_EE-FF RevA; S\_04\_GG-HH RevA; S\_05\_JJ-LL RevB; DET F\_01-02 RevA; LFT\_01 Rev A; LFT\_02 Rev A; LFT\_02A Rev A; LFT\_02B Rev A; LFT\_03 Rev A; LFT\_04 Rev A; LFT\_05 Rev A; LFT\_06 Rev A; LFT\_06A Rev A; LFT\_07 Rev A; LFT\_08 Rev A; LFT\_09 Rev A; LFT\_10 Rev A; LFT\_11 Rev A; LFT\_12 Rev A; LFT\_13 Rev A; LFT\_14 Rev A; LFT\_15 Rev A; LFT\_16 Rev A; LFT\_17 Rev A; LFT\_18 Rev A; LFT\_19 Rev A; LFT\_20 Rev A; LFT\_21 Rev A; LFT\_22 Rev A; LFT\_23 Rev A; LFT\_24 Rev A; LFT\_25 Rev A; LFT\_26 Rev A; LFT\_27 Rev A; LFT\_28 Rev A; LFT\_29 Rev A; LFT\_30 Rev B; LFT\_31 Rev A; MAS L(09)001 RevA; MAS L(09)002 RevA; MAS L(09)003 RevA; P-XTG\_LB\_B1; P-XTG\_LB\_00; P-XTG\_LB\_01; P-XTG\_LB\_02; P-XTG\_LB\_03; P-XTG\_LB\_04; P-XTG\_LB\_LR; E-XTG\_LB\_01; E-XTG\_LB\_02; E-XTG\_LB\_03-04;S-

XTG\_LB01; S-XTG\_LB02; P\_DEM-LB\_B1; P\_DEM-LB\_00; P\_DEM-LB\_01; P\_DEM-LB\_02; P\_DEM-LB\_03; P\_DEM-LB\_04; P\_DEM-LB\_LR; E\_DEM\_LB\_01; E\_DEM\_LB\_02; E\_DEM\_LB\_03-04; P-GA\_LB\_B1 RevB; P-GA\_LB\_00 RevA; P-GA\_LB\_01 RevA; P-GA\_LB\_02 RevA; P-GA\_LB\_03 RevA; P-GA\_LB\_04 RevA; P-GA\_LB\_LR RevA; E\_LB\_01 RevA; E\_LB\_02 RevA; E\_LB\_03-04 RevB; S\_LB\_01 RevA; S\_LB\_02 RevA

Condition 3: The demolition hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been made and full planning permission has been granted for the redevelopment for which the contract provides.

Condition 4: Units AL01, AL03, AL05, AL07, AL08, AL09, AL10, AL11, AL12, AL14, AL15, AL16, AL17, AL18, AL19, AL20, AL21, AL22, AL23, AL24, AL25, AL26, AL27, AL28, AL29, AL30, AISR01, AISR02, AISR03, AISR04, AISR05, AISR06, AI03, AI04 as indicated on the plans hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2), evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.

Condition No.5: Units AL02, AL04, AL06 and AL12 as indicated on the plans hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (3)(2a). Evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.

- The reasons given for the conditions are, in respect of Conditions No's 2 & 3: for the avoidance of doubt and in the interest of proper planning; Condition No.4: to ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time in accordance with the requirements of Policy H6 of the Camden Local Plan; and, Condition No.5: to ensure that the wheelchair units would be capable of providing adequate amenity in accordance with Policy H6 of the Camden Local Plan.

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## Decision

1. The appeal is allowed and planning permission is granted for the variation of conditions 2 and 3 (approved plans), 4 (accessible units), 5 (wheelchair user dwellings) and 37 (residential mix) of planning permission 2017/0414/P, dated 15/01/2018 (as amended by 2018/1584/P, dated 30/09/2019 and 2021/3088/P, dated 12/07/2021) for the refurbishment of and alterations to the existing former Workhouse Building (Grade II listed) and North and South Houses (fronting onto Cleveland Street) to provide residential units (Class C3); demolition of part of South House and buildings at rear of Workhouse Building and redevelopment to provide a new building comprising commercial floor space (flexible use of Class B1 / D1 healthcare) and residential units (Class C3); and associated works including opening up of Bedford Passage, creation of public open space, landscaping works, and partial demolition of front boundary wall), namely to allow an increase in the overall number of dwellings and a change in housing tenure (reduction in the number of affordable dwellings), changes to 2nd floor window on former workhouse building, changes to internal and external design of new building, including additional basement level at No.44 Cleveland Street, London W1T 4JT in accordance with the terms of the application, Ref 2021/3087/P, dated 23 June 2021, subject to the conditions attached to the Schedule to this decision.

## Preliminary matters

2. The appellant draws attention to an anomaly in the appeal description, claiming that the description was changed from the original application without its consent. Although the appellant accepted this unilateral change and proceeded to appeal on the basis of the Council's preferred wording, it is necessary to clarify the basis upon which I have determined the appeal. Specifically, the proposals of this appeal seek permission for amendments to the 2018 Permission<sup>1</sup>, namely, to provide a new building comprising flexible commercial floorspace (formerly Use Class B1 commercial /D1 healthcare, now Use Class E), increase the overall number of residential units from 53 to 57 and a change in housing tenure reducing the number of affordable housing units from 40 to 17 and an increase in the number of market housing units from 13 to 40. Other changes are identified in section 4 of the agreed Statement of Common Ground (SoCG). It is on this basis that I have determined the appeal.
3. The appeal form includes reference to Condition 37 to be modified. This follows the description of the development in the Council's decision notice for this appeal. However, there is no such condition included in the Council's 2018 decision notice. I have therefore considered this appeal on the basis of Conditions 2, 3, 4 and 5 only. The issue of housing mix however forms part of my reasoning below.
4. Development at the site has commenced under the terms of the revised 2019 planning permission and at the time of my site visit, I observed that the two wings to the former workhouse/hospital had been demolished and the site excavated to a substantial depth in order to create a large basement area to facilitate the installation of holding tanks. Construction was taking place apace; archaeological investigations and the additional costs associated with the need to provide deep basements meant that there had been significant delays in progressing the development.
5. A series of minor changes to the application scheme were submitted prior to the hearing and after the Council's decision with the aim of overcoming some of the Council's concerns to matters of detail as well as clarifying and ultimately removing elements of the Council's reasons for refusal. I agree with the parties that these changes do not fundamentally alter the appeal scheme and would not in my view offend Wheatcroft principles<sup>2</sup>. The effect of those changes and the further clarification of certain detailed matters, mean that Reasons No's. 3, 4, 6 and 7 are no longer to be pursued by the Council as confirmed in the SoCG. With respect to Reason No.1, that part of the reason relating to the lack of market wheelchair housing units has also been clarified and is no longer being contested by the Council. In relation to Reason No.5, that part of the reason concerning the reduction of solar thermal panels has also been clarified and is no longer contested by the Council. I have no reason to disagree with this later agreed position in respect of the above.
6. At the outset of the hearing, the parties were invited to make representations in relation to the complex planning history of the site and the relevance to this appeal of earlier planning consents and associated section 106 Obligations. These were designed to deliver 30 affordable housing units at this site (commonly referred to as 'the legacy units') and, in the event of the legacy

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<sup>1</sup> Council reference 2017/0414/P

<sup>2</sup> Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

units not being provided, the appeal site could then be transferred to the Council for a nominal £1 so that the scheme, including the legacy units, could be delivered by the Council or in partnership with the private and public sectors. The appellant was awaiting the outcome of a High Court ruling as to the validity of the covenant. I will draw upon the submissions later in the decision.

7. A Deed of Variation to the original section 106 Agreement dated 15 January 2018 as amended by a Deed of Variation dated 30 September 2019 was submitted in draft form to the hearing. The principal parties requested a short extension of 2 weeks at the hearing<sup>3</sup> so that a deed could be finalised. The final version of the Deed of Variation was submitted post-hearing and within the agreed timescale thereby negating the Council's Reason for Refusal No.7. The Deed of Variation is addressed later in the decision.
8. With the lack of a five-year housing land supply accepted by both parties and given footnote 8 paragraph 11 d) ii) of the Framework is engaged. I will return to this in my planning balance towards the end of this decision.

### **Main Issues**

9. Accordingly, the main issues in this appeal are whether the proposed development would firstly, provide a suitable housing mix, including affordable housing having regard to national and local planning policies; secondly, have a harmful impact on the significance of heritage assets or their setting; and thirdly, provide an energy efficient development thereby responding positively to climate change.

### **Reasons**

#### *Affordable housing and Housing Mix*

##### Policy Context

10. The National Planning Policy Framework (the Framework) seeks to deliver a sufficient supply of homes, noting that the size, type and tenure of housing needed for different groups should be reflected in planning policy, including affordable housing. Paragraph 62 of the Framework requires that planning policies should specify the type of affordable housing required to meet affordable housing needs and expect it to be met on-site unless off-site provision can be justified and the agreed approach contributes to the objective of creating mixed and balanced communities. Affordable housing comprises housing for sale or rent for those whose needs are not met by the market. Four types of affordable housing are defined in Annexe 2, including b) discounted market sales housing which is sold at a discount of at least 20% below market value, with eligibility having regard to local income and local house prices and it should remain at a discount for future eligible households.
11. Intermediate homes comprise of a specific type of affordable housing which are for sale or rent, at a cost above social rent but below private market level. These can include shared equity or other low-cost homes for sale and intermediate rent, but not affordable or socially rented housing. Intermediate

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<sup>3</sup> A final draft agreement was available for discussion at the hearing but had not been signed and sealed by all parties. I gave the Appellant until the 4 November to submit a finalised Agreement if I were to take it into account in the determination of this appeal.

homes for sale would classify as discounted market sales under the Framework.

12. These definitions are reflected within the London Plan 2021 (LP) and in the Camden Local Plan (2017) (CLP). These place a strong development plan emphasis on boosting the supply of housing within the Borough and maximising both the supply of self-contained homes from mixed use schemes as well as the provision of affordable homes. My attention was also drawn to the Fitzrovia Area Action Plan (FAAP), which identifies the appeal site as a site where self-contained housing is expected to be delivered.
13. Taken together, CLP Policies H4, H6, H7 and C6 in seeking to meet the Council's strategic affordable housing target of 50% sets out to maximise its delivery while at the same time recognising that viability is a relevant factor in determining the maximum reasonable amount of affordable housing provided within any scheme. These also require affordable housing to have a tenure of 60% social and affordable rented and 40% for intermediate rent or sale through shared ownership. Although the Council's policy adopts a flexible approach in negotiating suitable housing mix within developments, the emphasis within its Dwelling Size Priorities Table is to include a mix of large (3-bedrooms or more) and small homes (studios, 1-bed and 2-bed units) as part of achieving mixed and balanced communities.
14. The Council's Housing Delivery Test Action Plan (2022) (HDTAP) explains that in the last 4 years, the number of new homes has fallen below the number of new homes needed to meet the Council's housing target. This is echoed in the Government's Housing Delivery Test 2021 measurement for the Borough, which reflects an ongoing under-delivery of housing.

#### Affordability

15. The main thrust of the Council's continued opposition to the appeal development relates to the failure by successive owners of the land to deliver on its commitments set out in the 2004 section 106 Agreement and subsequent iterations. Very lengthy and genuine negotiations have taken place during the intervening period in an attempt to deliver the legacy units with the Council staving off enforcing the covenant that enabled the site to be acquired for a nominal sum in the event of the affordable units not being delivered. I was invited to consider whether this matter should have a bearing on the outcome of this appeal scheme and, in this respect, it was put to me that the extant section 106 is capable of being material to this appeal.
16. However, what is now before me is essentially a new proposal that needs to be considered on its own merits. I am also conscious that the Council has had many years to enforce the section 106 covenant but has chosen not to do so; this separate matter will be considered by the High Court shortly. Moreover, no evidence has been presented to me that the Council would be capable of delivering the scheme based on an agreed position that the viability of any of the development iterations is fragile at best. But at the end of the day, this appeal is not an appeal against a planning obligation but rather, one against conditions relating to approved drawings. I now turn to the appeal scheme's viability.
17. The parties agreed that the Council cannot currently demonstrate a 5-year supply of deliverable housing. Although the situation does not appear to be

- either chronic or long term, nevertheless the figures in the HDTAP suggests a downward trend and this would indicate a not insignificant under delivery.
18. In terms of affordable housing, Policy H4 of the CLP in line with Policy H5 of the London Plan sets out to maximise the supply of affordable housing against a strategic target of 50% although acknowledging that the Council will take account of, amongst other things, the economics and financial viability of development schemes, including any particular costs associated with such schemes. Further, where affordable housing falls significantly short of the Council's target, the Council will seek a 'contingency' arrangement based on a later updated assessment of viability. This would normally take the place of a viability review clause within a planning obligation that would secure an appropriate uplift in contribution at a later stage if circumstances changed over time.
  19. During the application, the appellant submitted a Financial Viability Assessment, which was independently reviewed by consultants for the Council. Both viability assessments concluded that it was not possible to viably deliver policy compliant affordable housing; indeed, the parties agreed that the scheme would be unable to deliver any affordable housing given the unforeseen costs incurred to date. The appellant concluded that there would be a negative residual land value (RLV) of almost -£35.55m for the previously consented scheme and just under -£32.47m for the appeal scheme. A further sensitivity testing of figures assuming 10% reduction in costs and an increase in sales values of plus 10% would still result in the appeal scheme having a negative RLV. Of relevance is that even were the appeal scheme changed to 100% market housing, the parties acknowledged that the scheme would deliver a RLV lower than the benchmark land value, which would mean that no affordable housing could be supported on viability grounds.
  20. Whilst I recognise that the Council's expectations that the Legacy Units would be delivered has been consistent throughout, including references within the FAAP, there was recognition that the appellant had faced substantial and unforeseen costs following commencement of the 2019 permission with officers concluding in the Committee report to the appeal application that "the site cannot viably provide 100% private housing let alone the 40 units of affordable housing." The FAAP also acknowledges that any affordable housing to be delivered in the area should take account of viability.
  21. Although viability assessments from each of the parties concluded that the appeal scheme would be unable to fund any affordable housing, the appellant nevertheless has offered to provide 17 affordable housing units on the basis that it is willing to accept a lower return in order to meet its charity objectives. Should viability alter in the developer's favour, a viability review clause within the planning obligation would secure an appropriate uplift in contribution. I return to this latter point later in my decision.

#### Dwelling Mix

22. There is recognition that Camden's existing housing stock is made up largely of relatively small dwellings with 70% of households, according to the 2011 Census, occupying homes with two bedrooms or fewer with evidence of overcrowding. The hearing was told that the Council's waiting list for social rented/affordable rented properties show higher waiting times for 3-4 bed properties. The Council's Strategic Housing Market Assessment 2016 also

points to the need for larger 3-bed properties to alleviate overcrowding of existing smaller homes. Although the appeal scheme would deliver more than half of the units as 2-bed units, some 40% would be delivered as one-bed units.

23. The appellant responded by saying that LP Policy H7 adopts a flexible approach to assessing the mix of dwelling sizes having regard to a number of factors, including the character of development under consideration, the site and the area. It also recognises that rigid application of dwelling sizes can undermine a scheme's financial viability. I acknowledge that the London Plan Policy H10 also incorporates provision for a flexible approach, particularly on sites that are close to town centres where there is higher public transport access and connectivity, which is the case here. Although the Council inferred that a flexible approach is normally confined to residential conversions, this is not borne out in the wording of the policy nor in the text accompanying the policy.
24. However, despite the in-built flexibility offered by relevant policies, the Council's priorities set out in the Dwelling Size Priorities Tables together with the Council's housing waiting list provide compelling arguments for a housing mix that provides larger family houses. In addition, the hearing was told that the area presently experiences large numbers of one-bedroom units that suffer from overcrowding due primarily to its Central London location, which anecdotally, is also attractive as 'Airbnb' accommodation. The Council explained that the local area benefits from two nurseries and a well-regarded primary school together with a community centre. The presence of family-biased community facilities adds to the call for larger family dwellings.
25. Taking all the above factors into account, I am satisfied that, having regard to the largely agreed position following financial viability negotiations, the level of affordable housing would be in line with CLP Policy H4. But, despite the in-built flexibility contained with the Council's policy approach, the proposed housing mix does not meet the provisions of Policy H7, which requires that a balanced provision of large and small homes in order to achieve social cohesion and reduce the mismatch between housing needs and housing supply should take place in this particular instance. It would therefore be contrary to the Development Plan in this regard.

#### *Heritage Impacts*

26. The appeal site comprises the 4-storey, U-shaped 18<sup>th</sup> century former Strand Union Workhouse, a Grade II listed building located within the Charlotte Street Conservation Area (CSCA) and fronting Cleveland street. Behind the former workhouse building, two 19<sup>th</sup> century wings of similar height extended eastwards to form a courtyard. Identified as non-designated heritage assets (NDHA), these wings were demolished as part of the earlier planning permission and, in part, to allow extensive archaeological investigations of an extensive former historic burial site to take place. Two 3-storey buildings, referred to as the North and South houses respectively sit either end at the site boundaries.
27. According to the appellant, the workhouse building is one of only three of its kind that has survived in London and associated with important social reformers of the mid-1880s, including Dr Joseph Rogers whose involvement in this form of housing provision helped raise standards in such institutions more widely. I find that the special interest of the listed building, insofar as it relates

to this appeal, to be primarily associated with the historic legibility of the form and the function of the building with special regard to its communal and historic value as a former workhouse and subsequent use as a hospital. In addition, the historic fabric of the building, despite later alterations to its internal layout also contributes to its historic significance. The principal building and its neighbouring North and South houses together with the boundary wall and railings onto Cleveland Street comprise important townscape features when viewed from Cleveland Street and in views from the west along the top end of Foley Street.

28. It is noted that the Council previously determined that the development proposed at that time due to its size and design would have a harmful impact on the setting of the listed building but of a scale that would be less than substantial when assessed against the then paragraph 134 of the National Planning Policy Framework ('the Framework') and which would be considerably outweighed by the public benefits that would be delivered by the scheme. Further, it was considered that the loss of the pavilion wings although amounting to a total loss of NDHAs, was also deemed to facilitate the development which would in turn cause less than substantial harm to the setting of the listed building.
29. In terms of the NDHA, it is noted that there is general agreement that the two pavilion wings were unremarkable and had been substantially modified over time. According to the appellant, their removal 'enhanced the evidential value' of the appeal site by facilitating the archaeological investigation and recovery of the many historic interments beneath the site. This view is supported by Historic England who emphasised the social value of this investigation and the resulting public benefit created because of it, which "will have long-lasting impacts for the local community and for future residents and users of the development". However, the Council asserts that the loss of the 30 legacy units from the appeal scheme has tipped the balance against the overall benefits of the scheme.
30. Very clearly a building of the height proposed, and its sheer bulk and massing would have some harmful impact on the setting of the listed building, particularly by comparison with the subservient arrangement of the former pavilion wings. However, views of where the proposed building would be seen against the former workhouse is limited to short sections of Cleveland Street and would be framed by yet taller buildings beyond. Notwithstanding, I conclude that the proposed development would result in harm to the setting of the listed workhouse. However, this harm would be less than substantial and at the lowest level of that spectrum.
31. The appeal site falls within the CSCA, forming part of a later extension in 1999; it is also within the setting of the Charlotte Street West Conservation Area within the City of Westminster. Dating from the 1750s onwards, the conservation area is characterised by a densely developed network of narrow streets flanked by tall, terraced properties. Although there is a range of building types, uses and ages of development across the conservation area, there remains a strong grid pattern of streets fronted by terraced buildings with some mews development and service streets to the rear within the larger blocks of streets. There are both traditional buildings and modern forms, including large scale residential and commercial developments, including the modern Sainsbury's Welcome Centre building to the north of the appeal site



and a tall student's hall of residence to the east. More traditional buildings lie opposite including a Victorian neo-Gothic public house and Georgian buildings some of which are now much altered but presenting a sense of the original street pattern and development.

32. Having carefully inspected the surrounding area, it is evident that the pavilion wings would not have made any significant contribution to the character or the CSCA when viewed from the public domain. From short sections of Cleveland Street and from the corner of Foley Street and Cleveland Street, there would be glimpsed views of the proposed development looming above the rear roofline of the listed workhouse building although set against the backdrop of taller buildings. Having found that the height, scale and massing of the proposed development would harm the setting of the listed building, it is inevitable that from these short sections, the proposed development would also fail to preserve the appearance of the CSCA.
33. I therefore find that the proposal would harm the setting of the listed building and fail to preserve the appearance of the CSCA. Consequently, I give this harm considerable weight and importance in the planning balance of the appeal.
34. Paragraph 199 of the National Planning Policy Framework 2021 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. For the reasons set out above, I find the harm to be less than substantial and at the very lowest scale of that harm but nevertheless of considerable importance and weight.
35. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings.
36. The public benefits of the appeal scheme to my mind would be very substantial and, as explained later in the planning balance to this decision, include much needed market and affordable housing; it would support the FAAP Masterplan, including the reinstatement of Bedford Passage and would promote high quality urban regeneration; it would lead to the provision of flexible commercial space; it would provide economic benefits through job creation and spending by future local residents; and would also lead to social benefits through the provision of medical facilities.
37. I consider that the public benefits of the appeal scheme would clearly outweigh the heritage harms identified above and would thereby be in compliance with paragraph 202 of the Framework. This being so, heritage harms do not provide a clear reason for refusal for the purposes of paragraph 11d(i) of the Framework.
38. The complete loss of the non-designated heritage assets also needs to be weighed in the balance. However, I am mindful that the pavilion wings were not prominent features in the street scene or within the CSCA; further, they were not remarkable buildings having been much altered over time, following bomb damage in WWII, which undermined their architectural and historical

significance. I would agree with the appellant's heritage specialist who opined that the removal of the wings has actually enhanced the setting of the listed building, and better revealed the physical and historic association with the adjoining North and South Buildings. Moreover, their removal has facilitated extensive and meaningful archaeological investigations to occur. There is very little or no prospect of the lost pavilion wings being reinstated.

39. I am satisfied that the benefits derived from the development outweighs the harm caused through loss of the NDHAs in this case. Further, I also accept that the less than substantial harm to designated heritage assets comprising the CSCA and Grade II listed building are very clearly outweighed by the substantial public benefits that would arise. The reduction in affordable housing from the previous scheme justified by viability exercises undertaken does not diminish the substantial public benefits despite the Council's claim to the contrary.
40. Accordingly, there is no conflict with either CLP Policy D2 (Heritage) or Policy D1 (Design) of the CLP, which amongst other matters, seek to ensure that new developments are well designed and preserves or enhances the historic environment and heritage assets whilst preventing harm unless substantial public benefits can be demonstrated. Moreover, the heritage harms identified are also outweighed by the benefit of bringing the site back into use.

#### *Energy efficient development*

41. From the SoCG and what was presented to the hearing, the Council has narrowed its focus with regards to reason for refusal No.5 to opposing the proposed use of active cooling, claiming that the use of air conditioning in the proposed market houses would be contrary to CLP Policy CC2. This policy, suggests the introduction of design measures, including the application of the London Plan's cooling hierarchy to ensure that new developments are resilient to climate change. The Council argued that the proposed apartments have been designed so that they are capable of being comfortable without air conditioning; this was not contested by the appellant in its Energy Statement (ES).
42. The appellant argued that the appeal scheme is acknowledged to be financially unviable and further negativity arising from a reduced standard of provision within the higher market housing when similar properties elsewhere are able to offer air conditioning as standard would further undermine the viability of the scheme. However, to compensate, the appellant confirmed that it would agree to the Council's request to increase the carbon offset contribution despite the appeal scheme leading to a 4.3% reduction due to additional passive measures being incorporated within the scheme design according to the ES.
43. I would however agree with the Council that viability (which appeared to be the only reason offered by the appellant) should not normally trump policies that have been in place since 2016 and that insufficient justification has been put forward for departing from policy requirements. Accordingly, I find that the proposed development would be contrary to CLP Policy CC2. This policy seeks to ensure that new developments are designed to adapt to climate change by introducing appropriate climate change adaptation measures, including through applying the London Plan's cooling hierarchy. This policy supports other health and wellbeing policies of the Council, including CLP Policy C1 and CC2 Climate Change Mitigation. The Council points to CLP Policy CC4; however, I find that

the scheme provides sufficient mitigation and provision within its design that would reduce excessive exposure to poor air quality.

### **Other Matters**

44. At the hearing I was presented with a draft Deed of Variation under section 106A of the 1990 Town & Country Planning Act that would vary the section 106 Agreement dated 15 January 2018 and which had already been varied by a Deed of Variation dated 30 September 2018. I was invited to provide additional time for this to be completed and sealed by the Council. The final version dated 2 November 2022 was received by the Planning Inspectorate following the close of the hearing. The effect of the 2022 Deed in essence was to secure the planning obligations contained in the 2018 section 106 Agreement so that they would also apply to the appeal scheme. There were important additional provisions, including obligations that would take account of the reduction in the number of affordable housing units to 17; to incorporate a late-stage viability review; and an uplift in the carbon setting offset payment, all of which I consider to be material planning considerations in the determination of this appeal.
45. Dealing with the three “new” items: firstly, affordable housing, there is no dispute that the provision of affordable housing is necessary, is directly related to the development and is fairly and reasonably related to it. The viability exercise undertaken by both parties acknowledge the precarious position with regards to the overall viability of the appeal scheme and given this, I find the provision of 17 affordable housing units to be acceptable. This covenant complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations).
46. Secondly, the Deed of Variation contains an obligation that would require the developer to undertake a post-development viability review and should there be surplus residual land value following such review to make a financial contribution equivalent to 60% of any surplus to be applied by the Council towards the provision of affordable housing within the Camden area. There is no dispute that, in the event of surplus revenue becoming available following this event, this should be used for the purposes of additional affordable housing provision. Thus, the provision of additional affordable housing is necessary, is directly related to the development and is fairly and reasonably related to it. This covenant complies with Regulation 122 of the CIL Regulations.
47. Thirdly, an additional sum of £179,460 would be paid by the developer to the Council to be applied by the Council towards off-site carbon reduction measures in the vicinity of the appeal site and in accordance with CLP Policies CC1 and CC2 with respect of minimising the effects of climate change. There is no dispute that payment towards carbon offsetting measures locally is necessary, is directly related to the development and is fairly and reasonably related to it. This covenant complies with Regulation 122 of the CIL Regulations.

### **Planning Balance and Conclusion**

48. There was agreement that the Council cannot demonstrate a five-year housing land supply. The policies which are most important for determining the application the subject of this appeal are therefore out-of-date having regard to footnote 7 to paragraph 11d) of the Framework. However, I have found that

the identified heritage harms do not constitute a clear reason for refusal for the purposes of Paragraph 11d)i) of the Framework. Consequently, I am required to determine if the adverse impacts of granting permission for the appeal scheme would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I therefore turn to apply the 'tilted balance' as per paragraph 11d)ii) of the Framework.

49. Some adverse impacts have been identified, which include the emphasis towards smaller housing units in the housing mix and, in terms of energy efficiency and the development's ability to adapt to climate change. These negative aspects are tempered to an extent by the flexibility that is in-built in the Council's policy towards achieving an appropriate housing mix and the fact that the design of the development providing an alternative method of cooling of the market dwellings with the use of air conditioning therefore optional to occupiers of those particular units. I am also conscious that the Council did not contradict the appellant's arguments that the viability of the scheme would be further eroded if such cooling methods were not utilised for the market houses. Having regard to these matters, I give the identified adverse impacts moderate weight.
50. Turning to the scheme's benefits, the uplift in housing provision on a previously neglected brownfield site that has laid empty for fifteen years and at a point in time when the Council is failing on its housing targets despite housing being identified as one of its highest priorities, carries with it significant weight in the balance. The same is true of the affordable housing which appears to be committed despite acknowledged viability concerns. Further, the development will bring about economic benefits both in the short term as development proceeds and longer term when residents will contribute towards this growing vibrant community through spending. It will also lead to the re-opening and enhancement of Bedford's Passage following a period of a 100 years where the local community have been denied a useful pedestrian link. I attach significant weight to these social and economic benefits.
51. The design quality of the appeal scheme, which includes the renovation of a listed building and its removal from the Buildings at Risk Register, as well as the renovation of associated NDHAs, will result in the reinstatement of the traditional street scene in a particularly sensitive part of the CSCA. Whilst it is only to be expected that owners of listed buildings should maintain the built fabric of their properties to reasonable standards, the overall quality of the scheme in townscape terms and the positive contribution towards enlivening the visual amenity of the local area carries with it significant weight. A similar weighting is also given to the archaeological work that has been undertaken over a period of three years and which has been acknowledged by Historic England who also suggest that I take account of the public value added to the scheme by the investigation of archaeological heritage, which has improved the scheme's public face and celebrated the site's local character and distinctiveness.
52. Although the Council pointed out that the continued delivery of medical facilities at the site should not be perceived as a planning balance as such NHS provision should normally be made as a matter of course, I consider that the provision of facilities at this location would be beneficial to Camden residents. It therefore carries with it moderate weight.

53. In the light of the above findings, I find that the adverse impacts do not significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole. Despite the conflict with the Development Plan in certain regards, material considerations indicate that permission should be granted with the requested condition modified and a new permission issued.

### **Conditions**

54. An agreed list of conditions was submitted as part of the Final Statement of Common Ground with a further amendment to condition 1 (plans condition) suggested by the Council, which I have included as being an accurate reflection of what is proposed. The list of conditions was discussed at the hearing. I have reached the conclusion that conditions are reasonable and necessary in order to ensure a satisfactory development in respect of : providing accessible and wheelchair units; that archaeology present on the site is assessed and recorded; that the recording of heritage assets are properly recorded; that details of memorial plaque are agreed to ensure that those buried on site are commemorated; that green roof details are agreed in order to secure biodiversity; that noise levels within rooms and from plant are controlled to protect the amenity of occupiers from external noise; that details of privacy screens are agreed and provided to protect occupiers from overlooking; that approved cycle facilities are provided to enable alternative forms of transport; that water usage is controlled and rainwater harvesting is undertaken to minimise the need for additional infrastructure in an area of water stress; that details of solar PV details are agreed and implemented thereafter to ensure that on-site renewable energy facilities are provided in accordance with Council policy; that bat and bird boxes are provided to enhance wildlife habitat opportunities; that any further piling necessary are agreed so that below ground utility infrastructure and controlled waters are protected; that SuDS drainage is provided to limit surface water run-off; that details of mechanical ventilation and non-road mobile machinery are agreed and air quality monitored to safeguard the amenity of adjoining occupiers; that development uncovered during building operations are properly managed to protect amenity; that a chartered engineer is appointed and is available for regular inspections of adjoining buildings to ensure that the structural stability of neighbouring buildings are protected; that details of external materials are agreed to protect the character and appearance of the area; that any existing trees are protected, landscaping is carried out, including the reinstatement of Bedford Passage in accordance with agreed details and within agreed timescales; that sound insulation between uses are provided and audible music at the community facility is controlled to protect the amenity of adjacent occupiers; that adequate filtration of mechanical ventilation intake takes place to protect the amenity of adjoining occupiers.

### **Conclusion**

55. Having regard to the above reasons and all other matters raised, I conclude that this appeal be allowed.

*Gareth W Thomas*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1.** The development hereby permitted shall be carried out in accordance with the following approved plans:  
SP\_01; BPD-LDW-NB-B2-DR-A-000000 Rev P01; BPD-LDW-NB-B1-DR-A-000001 Rev P02; BPD-LDW-NB-00-DR-A-000002 Rev P02; BPD-LDW-NB-01-DR-A-000003 Rev P02; BPD-LDW-NB-02-DR-A-000004 Rev P02; BPD-LDW-NB-03-DR-A-000005 Rev P02; BPD-LDW-NB-04-DR-A-000006 Rev P01; BPD-LDW-NB-05-DR-A-000007 Rev P01; BPD-LDW-NB-06-DR-A-000008 Rev P02; BPD-LDW-NB-07-DR-A-000009 Rev P02; BPD-LDW-NB-08-DR-A-000010 Rev P01; BPD-LDW-NB-ZZ-DR-A-002004 Rev P01; BPD-LDW-NB-ZZ-DR-A-002006 Rev P02; BPD-HLM-00-ZZ-DR-L-00005 Rev P02; BPD-HLM-00-ZZ-DR-L-00006 Rev P01; BPD-LDW-NB-ZZ-DR-A-006001 Rev P02; BPD-LDW-NB-ZZ-DR-A-006002 Rev P01; BPD-LDW-NB-ZZ-DR-A-007002 Rev P02; BPD-LDW-NB-ZZ-DR-A-007007 Rev P01; BPD-LDW-NB-ZZ-DR-A-007009 Rev P02; BPD-LDW-NB-ZZ-DR-A-007011 Rev P01; BPD-LDW-WH-ZZ-DR-A-253012; E\_LB\_03-04 Rev G; P\_GA\_NH\_B1 Rev C; P\_GA\_NH\_00 rev C; P\_GA\_NH\_01 rev D; E\_GA\_NH\_01 rev D; E\_GA\_NH\_02 rev D; E\_GA\_NH\_03 rev D; S\_GA\_NH\_01 rev D; S\_GA\_NH\_02 rev D; S\_GA\_NH\_03 rev D; S\_GA\_NH\_04 rev D; P\_GA\_SH\_B1-00 rev C; P\_GA\_SH\_01-02-03 rev D; E\_SH\_01 rev C; E\_SH\_02-03 rev D; S\_SH\_01 rev C; S\_SH\_02-03 rev C; P\_GA\_LB\_B1 rev E; P\_GA\_LB\_00 rev D; P\_GA\_LB\_01 rev D; P\_GA\_LB\_02 rev D; P\_GA\_LB\_03 rev E; P\_GA\_LB\_04 rev E; P\_GA\_LB\_LR rev D; E\_LB\_01 rev D; E\_LB\_02 rev E; S\_LB\_01 rev E; S\_LB\_02 rev D; Cover letter, dated 24/06/2021 (Temple); Planning Statement, dated June 2021 (Temple); Design & Access Statement, dated 18/06/2021 (Llewelyn Davies); Energy Statement Update Rev 0, dated 21 June 2021 (Arup); Bedford Passage Development Financial Viability Assessment Report Final Draft v1.5 FINAL, dated 22 June 2021 (SQW).
- 2.** Units AL01, AL05, AL07, AL08, AL09, AL10, AL11, AL12, AL13, MH01, MH02, MH03, MH04, MH05, MH06, MH07, MH08, MH09, MH10, MH11, MH12, MH13, MH14, MH15, MH16, MH17, MH18, MH19, MH20, MH21, MH22, MH23, MH24, MH25, AI01, AI02, AI03, AI04 as indicated on the plans hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (2), evidence demonstrating compliance should be submitted to and approved by the local planning authority prior to occupation.
- 3.** Units AL01, AL02, AL04, AL10 as indicated on the plans hereby approved shall be designed and constructed in accordance with Building Regulations Part M4 (3)(2a). Evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.
- 4.** No development consisting of works below ground level shall take place other than in accordance with the stage 1 written scheme of investigation (WSI) as approved under application reference 2018/1789/P, dated 22/05/2018, and the stage 2 WSI as approved under application references 2019/4470/P, dated 07/04/2020, and 2020/2941/P, dated 17/08/2021, or other such WSI which has been submitted to and approved by the local planning authority in writing.

For land that is included within the WSI, no works shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

This condition shall not be discharged in full until the programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material has been fulfilled in accordance with the programme set out in the stage 2 WSI.

**5.** No development shall take place other than in accordance with the programme of building recording and reporting as set out in the Written Scheme of Investigation (WSI) as approved under application reference 2018/0196/P, dated 14/02/2018, or other WSI which has been submitted to and approved by the local authority in writing.

**6.** Details of a memorial plaque to honour the ancient dead buried on site shall be submitted to and approved in writing by the local planning, prior to the occupation of the buildings. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved and the plaque shall be permanently retained and maintained thereafter.

**7.** Full details in respect of the green roof in the areas indicated on the approved plans, including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for an initial scheme of maintenance shall be submitted to and approved by the local planning authority prior to the installation of the green roof. The buildings shall not be occupied until the approved details have been implemented and these works shall be permanently retained and maintained thereafter.

**8.** The noise level in rooms at the development hereby approved shall meet the noise standard specified in BS8233:2014 for internal rooms and external amenity areas. Approved details and specifications from submitted acoustics report dated 19th January 2017 shall be implemented prior to occupation of the development and thereafter be permanently retained.

**9.** The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the lowest existing background noise level by at least 5dBA, by 10dBA 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.

**10.** Prior to the first occupation of units AL05, MH03, MH13, details of privacy screens to prevent unacceptable overlooking into the private amenity spaces relating to these units, shall be submitted to and agreed in writing with the Local Planning Authority and the development shall then accord with the approved details. The screens shall be retained in perpetuity.

**11.** The approved cycle storage facilities shall be provided in their entirety prior to the first occupation of any of the new residential units / commencement of the commercial use (as appropriate), and permanently retained thereafter.

**12.** The new build residential units within the development hereby approved shall achieve a maximum internal water use of 105 litres/person/day, allowing 5 litres/person/day for external water use. Prior to occupation, evidence

demonstrating that this has been achieved shall be submitted to and approved in writing by the Local Planning Authority.

**13.** Prior to the installation of the photovoltaic cells and solar thermal array, detailed plans showing the location and extent of photovoltaic cells and solar thermal array to be installed on the building shall be submitted to and approved in writing by the Local Planning Authority. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. The cells shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.

**14.** Prior to the installation of rainwater recycling features, details of the feasibility of rainwater recycling proposals should be submitted to the local planning authority and approved in writing. The development shall thereafter be constructed in accordance with the approved details.

**15.** Prior to occupation of the buildings, 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 plans prior to the occupation of the development and thereafter retained.

**16.** Any piling shall be carried out in accordance with the details approved under application reference 2020/2732/P, dated 29/09/2021, or other such details which have been submitted to and approved in writing by the local planning authority, in consultation with Thames Water

**17.** The surface water drainage shall accord with the details approved under application reference 2019/4470/P, dated 06/08/2021, or other such details which have been submitted to and approved in writing by the local planning authority.

**18.** Prior to any construction above ground level, full details of the mechanical ventilation system including air inlet locations shall be submitted to and approved in writing by the local planning authority. Air inlet locations should be located away from busy roads and the boiler stack and as close to roof level as possible, to protect internal air quality. The development shall thereafter be constructed and maintained in accordance with the approved details.

**19.** No development shall take place other than in accordance with the details of the air quality monitoring which were approved under application reference 2018/0196/P, dated 14/02/2018, or other such details which have been submitted to and approved in writing by the local planning authority and which shall include the location, number and specification of the monitors, including evidence of the fact that they have been installed in line with guidance outlined in the GLA's Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance and have been in place for 3 months prior to the proposed implementation date. The monitors shall be retained and maintained on site for the duration of the development in accordance with the details thus approved.

**20.** All non-Road mobile Machinery (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 hereby approved 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.

**21.** The development shall be implemented in accordance with:

(a) the written programme of ground investigation for the presence of soil and groundwater contamination and landfill gas as approved under application reference 2018/2181/P, dated 06/07/2018, or other such written programme which has been submitted to and approved in writing by the local planning authority; and

(b) following the approval detailed in paragraph (a), an investigation shall be carried out in accordance with the approved programme and the results and a written scheme of remediation measures [if necessary] shall be submitted to and approved by the local planning authority.

The remediation measures shall be implemented strictly in accordance with the approved scheme and a written report detailing the remediation shall be submitted to and approved by the local planning authority prior to occupation.

**22.** The development hereby approved shall not be implemented other than following the appointment of the chartered engineer as approved under application reference 2018/1789/P, dated 26/05/2018, or other suitably qualified engineer with membership of the appropriate professional body who has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body and the details of whom have been submitted to and approved in writing by the local planning authority. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

**23.** Detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority prior to the commencement of any above-ground works:

a) The re-building of the front boundary wall shall be carried out in accordance with the details approved under application reference 2019/4418/P, dated 20/09/2019, or other such details which have been submitted to and approved in writing by the local planning authority.

b) The reconstruction of the street-facing gable and chimney stack to the North House shall be carried out in accordance with the details approved under application reference 2018/5916/P, dated 10/01/2019, or other such details which have been submitted to and approved in writing by the local planning authority.

c) Details, including manufacturers specification and elevation and section drawings at 1:20, of all new windows, doors proposed within the North and South Houses.

d) Plan, elevation and section drawings, including jambs, head and cill, of all external windows and doors and to include the treatment of the junction between the soffit of the ground floor and overhanging upper floors at a scale of 1:20.

e) Manufacturer's specification details of all facing materials including windows and door frames, solid panels, glazing, railings to lightwells, balustrades and brickwork (to be submitted to the Local Planning Authority).

f) A sample panel of the plant screen to the rooftop of the new building shall be submitted to the Council before the relevant parts of the work are commenced.

g) Full scale sample panels of brickwork and glazing elements of no less than 1m by 1m including junction with window opening demonstrating the proposed colour, texture, face-bond and pointing should be erected on-site and approved by the Council before the relevant parts of the work are commenced.

h) Details, including elevation and section drawings at 1:20, of all railings and glazed rooflights within the courtyard of the North Houses.

I) Manufacturers specifications and material samples of the MRI quench pipes and details including drawings of the support structure.

The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

**24.** The development shall not be implemented other than in accordance with the details of tree protection approved under application reference 2018/2181/P, dated 06/07/2018, or other such details which have been submitted to and approved in writing by the local planning authority, and which demonstrate how off site trees to be retained shall be protected during construction work and shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction" and should include details of appropriate working processes in the vicinity of trees, and details of an auditable system of site monitoring.

All trees growing from the adjoining highway, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.

**25.** Prior to the commencement of above-ground works, details of a lighting strategy for the site shall be submitted to and approved in writing by the local planning authority. Such details shall include lighting to serve Bedford Passage and the courtyard area of public open space, and the entrances to the buildings.

The approved scheme shall be implemented as part of the development and thereafter retained and maintained.

**26.** Prior to the construction and implementation of all hard and soft landscaping, means of enclosure and open areas not to be built on, full details of such areas shall have been submitted to and approved by the Council. Such details shall include:

- a) scaled plans showing all existing and proposed vegetation and landscape features;
- b) a schedule detailing species, sizes, and planting densities;
- c) location, type and materials to be used for hard landscaping and boundary treatments (including the glass pavers adjacent to the new building);
- d) specifications for replacement trees (and tree pits where applicable), taking into account the standards set out in BS8545:2014;

- e) details of any proposed earthworks including grading, mounding and other changes in ground levels;
- f) details of children play spaces (formal and/or informal) accessible to residents (market housing and affordable housing);
- g) a management plan including an initial scheme of maintenance.

The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

**27.** All hard and soft landscaping works shall be carried out in accordance with the approved landscape details prior to first occupation of the residential units, or in the case of soft landscaping by not later than the end of the planting season following completion of the development. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

**28.** Details of Bedford Passage and the boundary interface with the adjacent site (Astor College) shall be submitted to the Local Planning Authority and approved in writing before the relevant part of the works commence.

Such details shall include:

- a) hard and soft landscaping;
- b) security and crime prevention measures.

Such details to be prepared in consultation with the owners of the neighbouring Astor College site and 14-19 Tottenham Mews.

The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

**29.** Prior to commencement of works to the South House details of the sound insulation separating the ground floor community use from the adjacent residential uses shall be submitted to and approved in writing by the local planning authority. Such details shall demonstrate that the sound insulation value  $D_{nT,w}$  and  $L'_{nT,w}$  is enhanced by at least 10dB above the Building Regulations value and include such mitigation measures as necessary in order to achieve the 'Good' criteria of BS8233:2014 within the relevant dwellings.

The details as approved shall be implemented prior to first occupation of the South House and thereafter be permanently retained.

**30.** No music shall be played in the community facility in such a way as to be audible within any adjoining premises.

The use of the community facility shall not be carried out outside the following times 0730-2200 Mondays to Saturdays and 0900-2100 on Sundays and Bank Holidays.

**31.** Prior to occupation, evidence that an appropriate NO<sub>2</sub> filtration system on the mechanical ventilation intake has been installed at all air inlet locations where NO<sub>2</sub> is over 38µg/m<sup>3</sup> in table 6.2 of the Air Quality Assessment for s73 planning application 2021/3087/P V1 by Temple, and a detailed mechanism to secure maintenance of this system should be submitted to the local planning authority and approved in writing.

IN ATTENDANCE:

For the Council:

Ms Morag Ellis KC

Ms Kate Henry Principal Planning Officer

Dr David McKinstry Conservation Officer

Mr Andrew Jones BPS

Mr William Bartlett Legal Officer

Ms Bethany Cullen Head of Development Management

Mr Neil McDonald Area Manager (Development Management – South)

For the Appellant:

Ms Rebecca Clutton of Counsel instructed by Mr Jamie Lockerbie Pinsnett Masons Solicitors

Mr Andy Smith Director Land SQW

Mr Mark Furlonger Senior Director Planning & Design, Temple

Mr Stephen Bee Principal Urban Council

Mr Darren Barlow Associate Director ARUP

Mr Peter Burroughs Director

Other Parties:

Mr Nicholas Bayley, local resident

Mr Chris Tilley

Mr Paul Barnes

Mr Philip Brading

Ms Rebecca Wilson

Ms Emma Hargreaves

Press:

Mr Harry Taylor Camden New Journal