

# Notes by the Appellant including a detailed and evidenced history of the site and its context and with comments on the Reasons for Refusal

## Planning Application Reference 23/2401/FUL

Date planning application received: 30<sup>th</sup> August 2023

Date of LBRuT Decision Notice: 20<sup>th</sup> March 2024

Address: Land at Junction of Roseleigh Close and Cambridge Park, Cambridge Park, East Twickenham, TW1 2JT

Proposal: Proposed development of 3no. two-storey maisonettes with accommodation into the roof and a partial basement level on land at the junction of Roseleigh Close and Cambridge Park.

Appellant: Mr Jacobus Lombard, 63 Rivermeads Avenue, Twickenham, Middlesex, TW2 5JF

Agent: Mr Brian Waters, Gorshott, 181 Petersham Road, London, TW11 7AW

## Summary of Reasons for Refusal

U0177414	Design/Loss of Openness
U0177415	Trees & Ecology
U0177416	Affordable Housing

(For details refer to the Decision Notice dated 20<sup>th</sup> March 2024 and the Planning Report dated 13<sup>th</sup> March 2024).

## Summary

### Principles

- The site is not located in a conservation area, nor designated as a Local Green Space or a statutory nature conservancy. It is denied that the site can be classified as 'linear open space' as claimed.
- The site was in the curtilage of Cumberland House up to the time of its demolition in the mid-1950s to enable the building of the Cambridge Park Estate.
- The claim that this site was intended or used for recreational purposes by the general public or local residents is refuted and supporting information is provided.
- The claim that the site was provided or laid out originally as a landscaped area for use by local residents is refuted and supporting information is provided.
- Further evidence is provided that the area of the site was specifically set aside for the protection of two large cedar trees that would have prevented development of the site, and for no other reason.

## Response to Specific Reasons for Refusal

### U0177414 Design / Loss of Openness

- The design and setting of the proposed maisonette building retain the existing separating distances between adjacent maisonette buildings and the openness of the surrounding Estate, including the generous setbacks from the street thus refuting the claim of loss of openness.
- The extent of openness is closely related to the relative density of buildings in a locality. The proposed building and surrounding site maintain the level of density and well-established openness and spatial characteristics that are integral to the character of the Estate.
- It is disputed as claimed that the proposal is larger scale in footprint character than existing buildings on the Estate. The proposed building would be smaller in footprint area than that of the typical 6-unit maisonette block, examples of which are located immediately to the north, east and west of the site.
- It is disputed that the proposed building would be an unsympathetic and obtrusive form of development, deleterious to the spatial characteristics of the area. This claim contradicts further statements such as that the proposed development seeks to reflect the existing height, style and pattern of development, and generally fits with the proportions of others.
- The corner treatment of the proposed building is a singular expression of its prominent site location which nevertheless relates to its street facades and building typologies in the vicinity of the site without

resorting to pastiche. There is a clear relationship between the elements comprising the design of the corner. The criticism that this is 'awkward' is not justified.

- It is refuted that the plans of the proposed building achieve a degree of symmetry whereas the elevations do not. The plans of the proposed building are not symmetrically arranged (as opposed to the plans of the existing maisonette blocks). The optimal location of the windows and bays on the elevations of the existing and proposed buildings are determined by their plans.
- The design of the new bays is informed by the existing bays, being proportionate in size to one another and referencing colours and treatment without being direct copies (in the same way that the proposed building is not a direct copy of existing maisonette buildings). It is thus refuted that seeking to pick up on the bays of the existing properties is not successful.
- We dispute the claim that there is largely an absence of front garden parking with only very limited exceptions. There are extensive areas of concrete drive and forecourts to the 13 groups of garages scattered throughout the Estate with cars regularly parked in what could have been front garden areas.
- It is refuted that the proposal remains contrary to Policy LP1 given that overall design criteria have been met to create a design solution that is of high architectural and urban design quality which positively contributes to and enhance the local environment and character.
- In terms of Policy LP 39(A) and the Small and Medium Housing Sites SPD, the proposal demonstrates a thorough understanding of the site and how it relates to its existing context, of a sympathetic scale, height, proportions and massing that harmonises with its surroundings, maintaining the open nature and density of the estate and enhancing the street frontages.

#### **U0177415      Trees and Ecology**

- It is refuted that there would be direct or indirect impacts on the horse chestnuts along the south side of the site as the building would be located outside the crown and root protection areas of these trees and suitable protection would be afforded during the construction period in accordance with detailed guidance provided in the Tree Survey and Arboricultural Impact Assessment.
- It is refuted that with respect to these trees the proposal would be deleterious to the ecological value of the site. On the contrary, as a cohesive group the horse chestnuts are a primary feature of the site, identified as its most valuable ecological asset, carry TPOs, and would accordingly be protected as such.
- Furthermore, two further shade trees are proposed on the site that would increase tree cover and enhance the ecological value provided by these trees.
- It is refuted that shading by the horse chestnuts along the south side of the site will necessarily be perceived as being problematic; shading of the south façade and amenity space would be welcomed, with reduced shading during winter months due to loss of leaves. LP16 also encourages the planting of shade trees in response to climate change.
- It is thus furthermore refuted that there would be pressure to significantly prune or remove these trees for the above reasons. All south facing rooms with the exception of one bedroom have a dual aspect. In any event, any proposed tree works would require the consent of a number of stakeholders, including the Council with respect to the TPOs.
- It is questionable whether large windows would emphasise negative perceptions of the trees by occupants. Large windows are proposed to enable occupants to engage more closely with their natural surroundings which together with more natural light has been shown to improve psychological health and physical well-being.
- Potential light spillage onto the trees would be controlled through the installation of advanced glazing and automated night blinds to control the level of night time light emissions from inside to outside. No fixed external lighting is proposed that would impact on the trees. These measures would enable a balanced and comfortable co-existence to be established between the occupants of the maisonettes and nocturnal wildlife.
- It is disputed that the aerial imagery indicates that the canopies (of the horse chestnuts) extend between two and three metres beyond the building line as defined. Aerial imagery is an unreliable basis for estimating the extent of a tree canopy as shadows can be misleading when the sun is not directly overhead (as in this case). Furthermore, Google aerial views can be digitally manipulated so that the viewpoint appears to be directly above the view that is shown, but this may not be the case.

- The northern fringe of the existing tree canopies is approximately in line with the south façade of the existing maisonettes at 34 Cambridge Park as shown in the views from Roseleigh Close looking eastwards along this line, as well as when looking westwards along the face of 34 Cambridge Park.
- Provision would be made for the relocation of foxes if required (the only mammals found on the site) together with the translocation of yellow meadow ant colonies and dead wood under the guidance of a qualified ecologist. These measures would aid the re-colonisation of invertebrates.
- Existing wildlife (mammals, insects and birds) found on the site would be provided for, whilst many species not currently present would be attracted by the new pond, wildflower meadow, native trees, planting and pollinators. A 100% native landscape planting scheme of recognised value to wildlife, including pollinating insects and birds that currently do not visit the site, would be provided in varied locations such as the planted beds, extensive and intensive green roofs, living wall, wildflower meadow and wildlife pond. It is thus disputed that that the proposal would not adequately retain or re-provide much of the features important to wildlife.
- It is disputed that the proposed wildflower meadow would be heavily shaded under the horse chestnut trees and would be unlikely to successfully function as a valuable habitat. Native wildflower meadows providing valuable habitats exist in shaded woodland areas throughout the UK. Furthermore, the proposed location of the wildflower meadow at the western end of the horse chestnuts is not 'heavily shaded'. Having an open aspect to the west which is partly outside the area of tree cover means that it would be exposed to lengthy periods of afternoon sunlight.
- No evidence was found on the site of acid grassland as alleged. Following further soil tests carried out by a qualified ecologist on the site in December 2023, the test results showed that the grassland is pH neutral.
- The Urban Greening Factor (calculated by the Appellant) for the proposed development is 0.57 which exceeds the London Plan 2021 Residential Target Factor of 0.4.
- The questions of 'retaining' what is on the site, or 're-providing' what was on the site should be examined. There is an expectation that the site should be returned to the condition existing prior to 2006, which (together with the horse chestnuts) was largely mown improved grassland matching the adjacent lawned perimeter areas. That would be more detrimental to the biodiversity of the site than proposed in the planning application.

## **U0177416 Affordable Housing**

- A response to this item is covered in the accompanying Planning Appeal Statement.

## **Principles**

### **1.0 Site Designations**

*The site is not covered by any protective designations:*

- It is not located in a conservation area;
- It is not designated or recognised as a Local Green Space or alternative;
- It is not designated as a statutory nature conservation site.

No impacts are envisaged on statutory or non-statutory designated sites due to the small scale of the proposal. As noted in the Planning Report LBRuT has a high quantum of open space designations, and there is not a deficiency of publicly accessible green spaces in the area.

Although acknowledged in the Planning Report that this site is not formally designated, the claim is made that it does have the characteristics of a 'linear open space' (*Planning Report Issue i – Principle, paragraph 2*). In the *London Plan 2021 (Chapter 8, Green Infrastructure)* Linear Open Spaces are defined as 'open spaces and tow paths alongside the Thames, canals and other waterways, paths, disused railways, nature conservation areas and other routes that provide opportunities for informal recreation.'

The site is not linear in shape. It does not constitute a route, part of a route or a previous route of any description. It is a small self-contained discrete plot of land with no connections to any other open spaces that together could comprise a form of route. It should thus not be categorised as a 'linear open space' as defined in the London Plan.

The Appellant has made every effort to optimise the ecological features and biodiversity levels of the site, achieving a London Plan 2021 Urban Greening Factor score of 0.57 (against a recommended target score of 0.40) and a LBRuT Sustainable Construction Checklist rating of A+ (80). This indicates that the development would make a major contribution towards achieving sustainable development in the Borough and make efficient use of land in accordance with the objectives of Policy LP22.

## 2.0 Site History

The site formed part of the front garden area of Cumberland House which was demolished in the mid-1950s to make way for the building of the Cambridge Park Estate.

1. When the 'red' outline of the current site is superimposed on the OS map from 1936 (Figure 1), it is evident that the site with carriage drive occupied a large part of the front garden attached to Cumberland House, which lay just to the north of the current site. We thus dispute the claim in the Planning Report that the use of the site 'in connection with a historic house further to the north' is unproven (Planning Report Issue i – Principle, below image Aerial 1966 Richmond).
2. Cumberland House, Riverside and Beaulieu were demolished in the mid-1950s to make way for the building of the Cambridge Park Estate. We thus dispute the statement in the Planning Report that the site may have been in the curtilage of a building over 40 years before the present estate was built (Planning Report Issue i – Principle, paragraph 3 below image Aerial 1966 Richmond).
3. The site was in the curtilage of Cumberland House up to the time of its demolition in the mid-1950s to enable the building of maisonettes, specifically the 6-unit maisonette block 23-28 Roseleigh Close, as can be seen on the overlay plans (Figures 2 and 3).
4. The front garden of Cumberland House included a distinctive horseshoe shaped carriage drive connecting the front entrance of the house to the street (Cambridge Park) at two locations. A greater portion of the western leg of the driveway was located on the current site, with its entrance/exit located at the south-west corner (Figures 2 and 3). A large cut stone block lies adjacent to where this driveway entrance/exit to the street would have been, in all likelihood the remains of a gateway structure. (Figure 3).
5. Two large cedars in the front garden of Cumberland House were symmetrically located on either side of the driveway and framed the front entrance to the house, thus having a visual connection with the house. These are discussed in Section 4.0

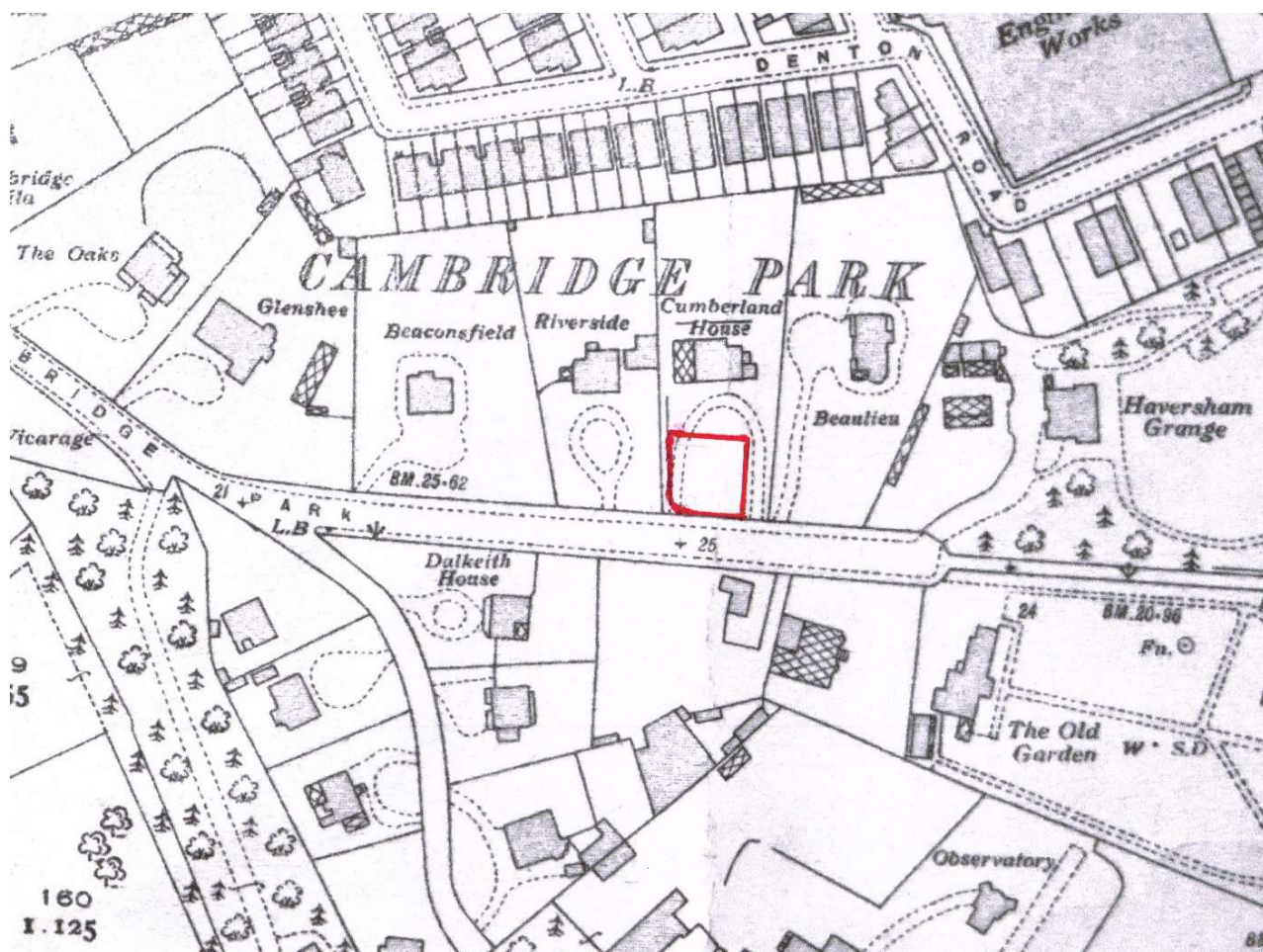


Figure 1: Ordnance Survey map 1936. The current site outlined in red comprised a portion of the front garden and driveway of Cumberland House (formerly known as Roseneath).

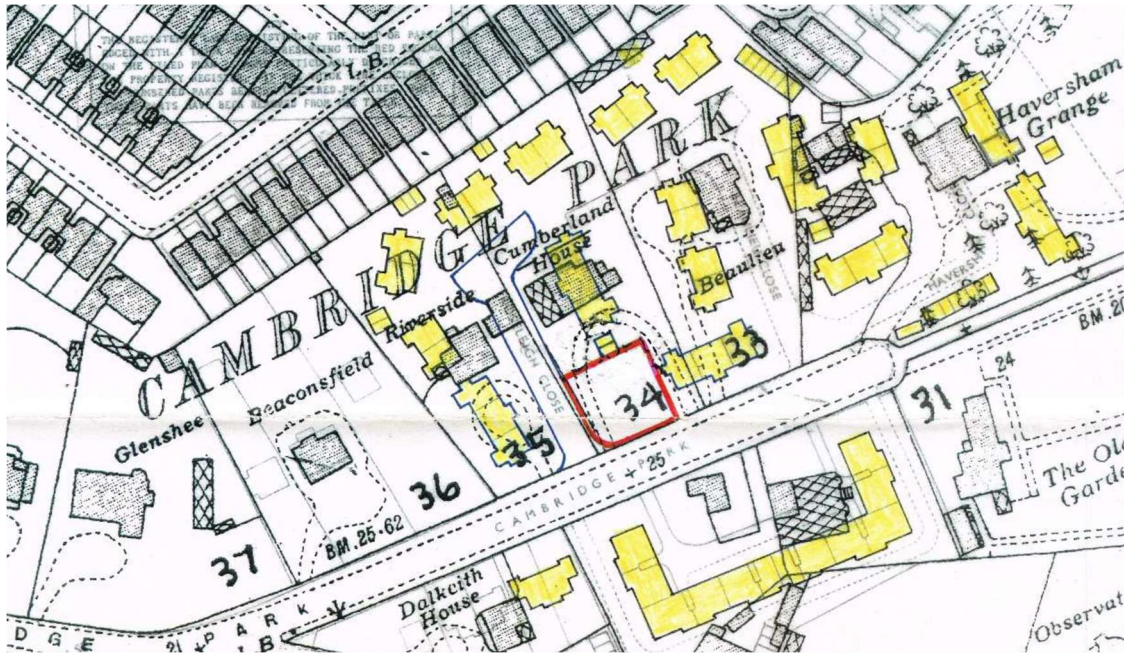


Figure 2: Ordnance Survey Map 1936 showing Cumberland House and the adjacent houses, Riverside and Beaulieu, overlaid on Land Registry plan 1991 showing the site outlined in 'red' and later maisonnettes coloured in 'yellow'.

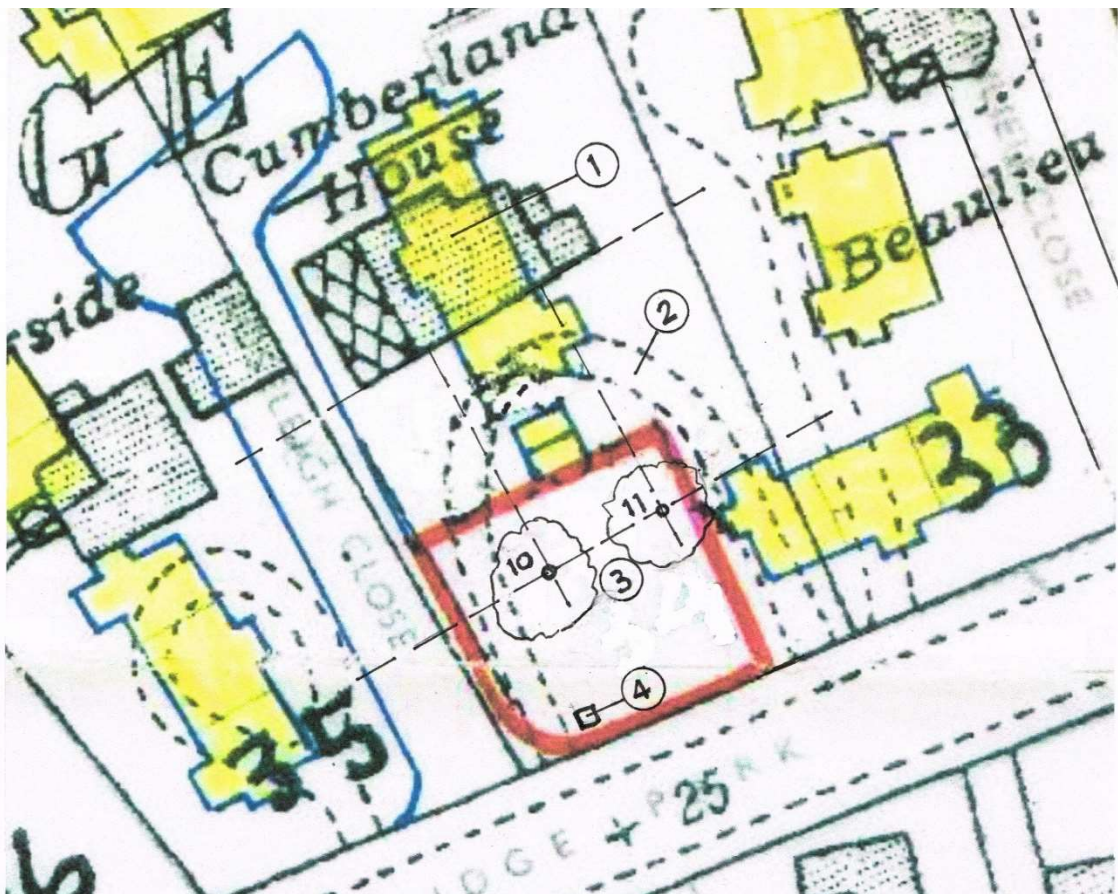


Figure 3: The two cedar trees located on the site outlined in 'red' and superimposed on the Ordnance Survey Map 1936 showing Cumberland House and adjacent houses overlaid on the Land Registry plan 1991 showing the existing maisonnettes coloured in 'yellow'.

Key to the Notes numbered on Figure 3 above:

1. Cumberland House demolished in the 1950s.
2. Horseshoe shaped driveway removed with the demolition.
3. Location of the two protected large cedar trees arranged symmetrically to and in parallel to the façade of Cumberland House (the cedars had died by the 1990s).
4. Existing cut stone block, in all likelihood the remains of a gateway structure.

### **3.0 Refuting the Claim by Local Residents that the Site was intended for Recreational Use**

*It is refuted as claimed that this site was intended or used for recreational purposes by the general public or local residents, other than by invitation of the owner of the land.*

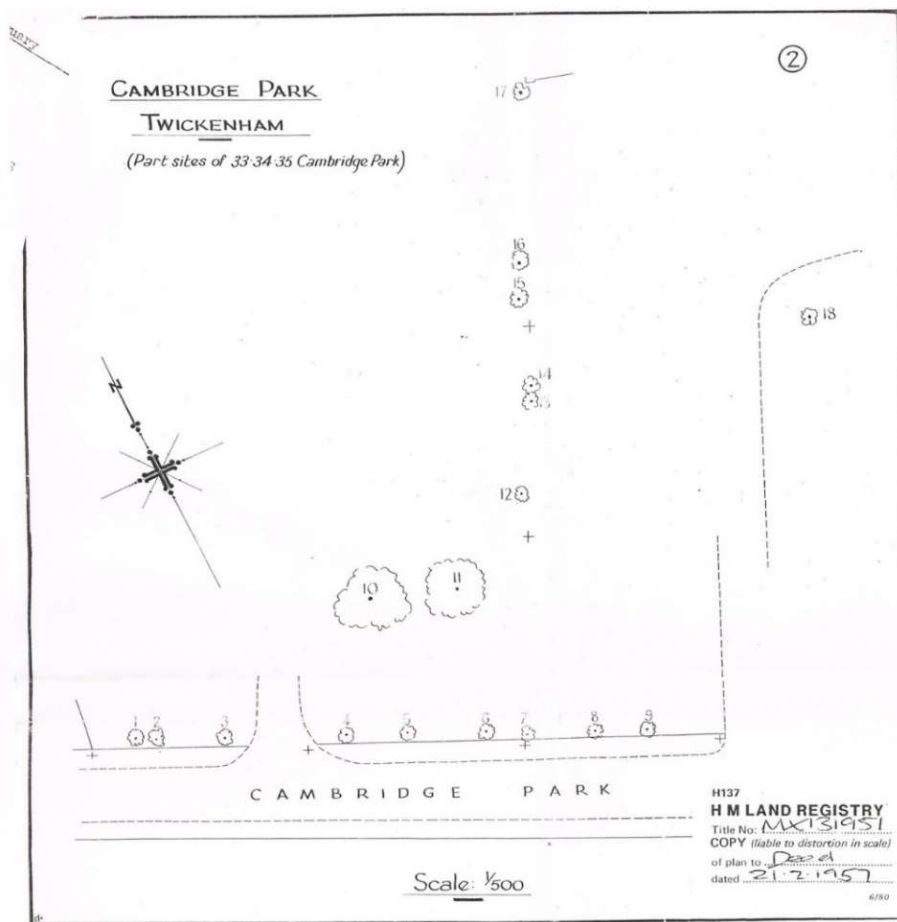
1. The claim at the Planning Appeal Hearing in 2004 that the land was a communal amenity space actively used for recreational purposes was a fabrication by a small group of local residents who opposed the planning application (04/0538/FUL). The claim made by a number of the same residents in opposing the current application repeats this fabrication.
2. In 2004 the primary activity claimed in a letter by the leaders of this group was that communal barbecues were held on the site, and photographs were presented. When challenged by the Applicant, the writers of the letter withdrew this claim and the photographs, and apologised for their misrepresentation in writing. Copies of both letters can be provided.
3. There were at least two barbecues held on the site prior to 2004 – but these were by open invitation of the Appellant (the owner of the site who was then a resident of the Estate) as a gesture of goodwill to local residents. A fellow resident assisted in organising the barbecues, and corroborated this claim by the Applicant in writing. A copy of his letter can be provided.
4. Further claims of football playing, dog walking, child rearing and sunbathing by the residents' group were a fallacy. No proof of any these activities having taken place on this site over more than a forty-year period has ever been produced. The land is clearly too small to accommodate sporting activities such as football, as well as being dangerous in such a restricted area having had open boundaries alongside a main access road.
5. Much better facilities for such activities exist nearby. Dog walking is available along the Thames Path (less than a 5-minute walk away), informal ball games, cricket and tennis can be played at Cambridge Gardens (a 10 minute walk away) or Marble Hill Park (a 15 minute walk away), and excellent children's playground facilities are located in both Cambridge Gardens and Marble Hill Park.
6. Furthermore, lawned communal spaces are provided in the Estate (referred to as such in the 2016 East Twickenham Village Plan SPD), including the extensive lawned communal areas in front of the maisonette blocks, with areas to the rear for more discrete leisure activities which many residents and their families enjoy, particularly during the warmer months of the year.
7. The Appellant and his family lived in a maisonette on the Cambridge Park Estate from 1991 to 2005. They passed the site regularly going to and from work, bus stops, local schools and amenities. The whole site is easily observable from Cambridge Park, the main road in and out of the estate. On no occasion over this 14-year period were any communal activities observed on this site by the Appellant and members of his family (other than the barbecues previously mentioned). This observation was also corroborated by another resident in a letter supporting the current application.
8. There is a further inaccuracy in the latest statement by the residents' group. The site was sold to a private individual in the late 1970s (much earlier than claimed) and purchased from this individual by the Appellant and owner in 2001 as private land in freehold ownership.
9. The site was fenced in 2007 as the Appellant (the landowner) was concerned by the risks of accidents or injuries sustained on the land by trespassers that he could be held accountable for, particularly as attention had been drawn to the land by the residents' group.
10. As the landowner, the Appellant is responsible for keeping the area secure and discouraging antisocial behaviour, fly tipping etc. There are no rights of way, or any other rights by local residents or others over this land. The site has been in private freehold ownership for over 40 years and fenced for the last 17 of those years.

### **4.0 Refuting the Claim that the Site was Originally Laid out for Use by Local Residents**

*It is refuted that the site was originally provided as a landscaped area for use by local residents.*

1. In 1956 planning permission was granted by the Twickenham Planning Authority to Powis Properties Ltd for a development of maisonettes. Prior to the construction start date on 2<sup>nd</sup> September 1957 (letter from A. Kenworthy, the designer of the Estate, to Twickenham Council), tree protection orders were placed on 18 large mature trees scattered over the area designated for the Estate.
2. The Estate layout of three cul-de-sac and maisonette blocks were obliged to accommodate these trees. These included two large cedar trees, numbered T10 and T11 as shown on the Deed Registry Plan (*Refer to the extracts from the Land Registry documents dated 21<sup>st</sup> February 1957, Figure 4 below,*) and again on the Site Layout plan (*Refer to Figure 5*).
3. The two large cedar trees were located within the area now comprising the site designated for the proposed development.

4. Although both the cedars had died by the 1990s, their locations on the site were determined by the Appellant in 2000 as the cut down remains of T10 and the skeletal remains of T11 were both still evident (The remains of T11 were removed by the Appellant following his purchase of the site in 2001). Photographic evidence can be provided.
5. When the locations of the two cedars are superimposed on the 1936 OS map with the site outlined in 'red', it is apparent that the two cedars were planted in a symmetrical arrangement alongside each leg of the driveway serving Cumberland House, parallel to and symmetrically framing the front entrance façade of the house (Refer to the superimposed plan designated as Figure 3).
6. Their location on the site in close proximity to one another, the larger of the two trees being nearer the centre of this corner site would have precluded its development. Had these trees not been there, there is no evident reason why the site would not have been developed in the form of a maisonette block as were all the corner sites in the Estate (and as can be seen on the opposite corner of Roseleigh Close).
7. Furthermore, there is no evidence in the planning consent or indeed elsewhere that this corner site was designated for any particular purpose other than for the protection of two of the largest trees in the area. Tree protection orders that included the two large cedar trees were introduced prior to the layout of the Estate having been approved.
8. The detailed Site Layout plan submitted as part of the planning application (with amendments on 13<sup>th</sup> December 1957 and 15<sup>th</sup> January 1958, and approved by the Local Authority on 12<sup>th</sup> February 1958) shows no indication that this land was to be set aside for use by local residents (Refer to Figure 5).
9. It is also unlikely that there would have been any requirement to specifically set aside an additional area for use as a communal space, given the extensive areas given over for communal spaces elsewhere in the Estate and the abundant recreational facilities in the local area as described in Section 3.0 above.



Tree No.	Description of Tree	Tree No.	Description of Tree
1	Scots Pine	10	Deodar Cedar
2	Scots Pine	11	Deodar Cedar
3	Scots Pine	12	Horse Chestnut

Figure 4: Extract from the 1957 Land Registry showing some of the protected trees on the Estate, including the two large Cedar trees located on the site, and numbered 10 and 11 on the Schedule.

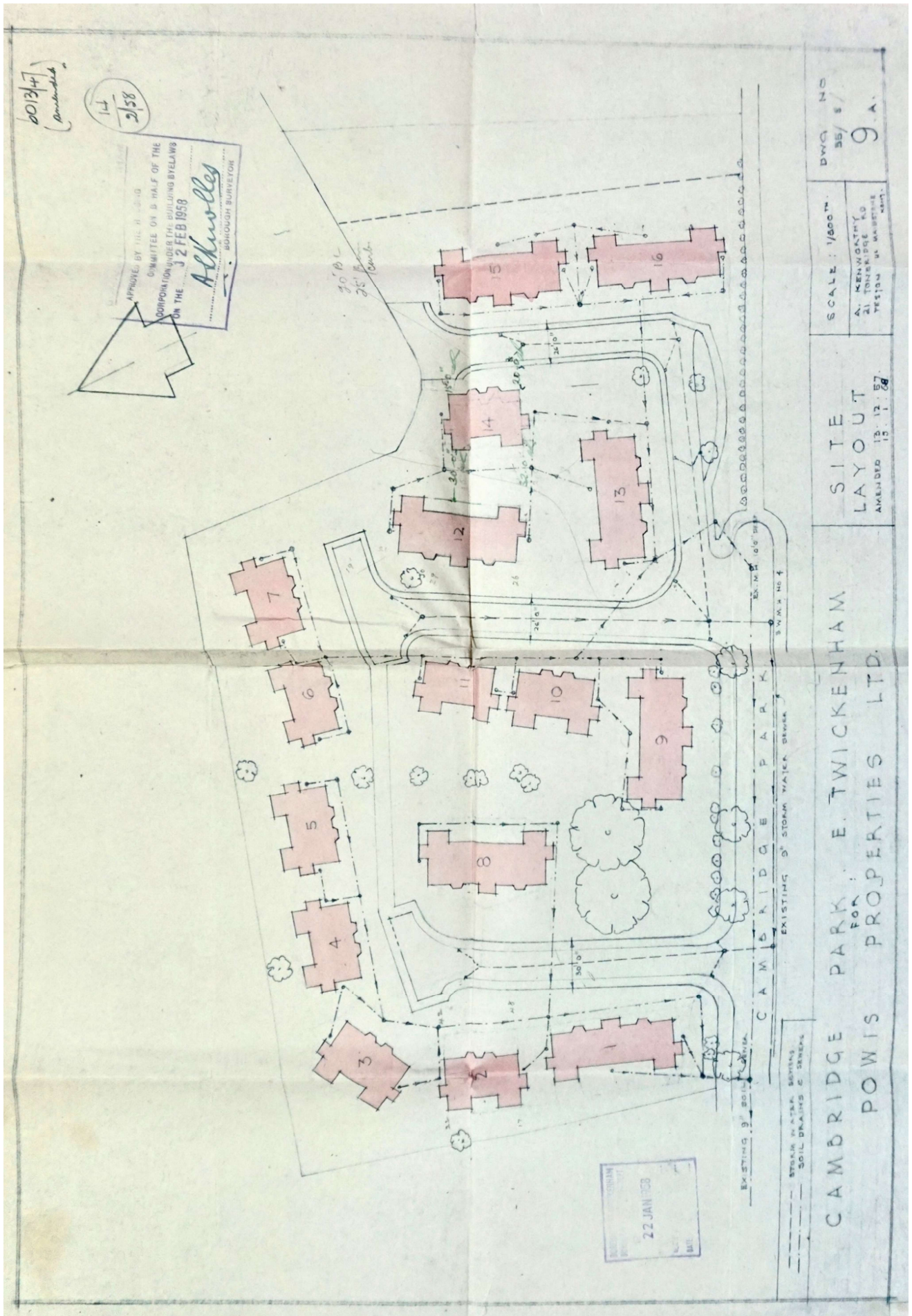


Figure 5: Reduced size copy of the Site Layout plan for Cambridge Park Estate submitted as part of the planning application by Powis Properties, with final approval granted on 12<sup>th</sup> February 1958.



## Response to Specific Reasons for Refusal

### 5.0 U0177414 Design / Loss of Openness

*The reasons given for a refusal of this planning application in respect of the design/loss of openness are discussed as follows.*

1. It is irrefutable that any building occupies space, and in that sense any new building on previously open land would reduce the openness of that space. The skill of the designer lies in how the space around that building is utilised, and whether that space is utilised in a manner that reflects the existing spatial arrangement and characteristics of its surroundings, thus retaining that sense of openness prevailing in that locality.
2. The setting and design of the proposed maisonette building on the site together retain the open nature of the surrounding Estate (discrete maisonette blocks separated from one another in the landscape), and thus reflect the good manners of the existing spatial arrangement on the Estate with no intrusions on its neighbours.
3. These factors are acknowledged in the Planning Report as follows: with respect to its neighbouring block to the east (34 Cambridge Park) it is stated that ‘. . . the proposal is not considered to harmfully impact upon this neighbouring residential block through loss of light or visual intrusion having regard to the orientation, siting, scale and separation distances’. (*Issue iii – Impact on Neighbour Amenity, paragraph 4*).
4. With respect to its neighbouring block to the north (23-28 Roseleigh Close): ‘It is acknowledged that having regard to its siting, orientation and depth the proposed development would not result in a loss of light to these neighbouring properties, nor would it be likely to appear so over dominant given the proposed pitched roof form, proposed eaves and overall height reflects the established built form and separation distances.’ (*Issue iii – Impact on Neighbour Amenity, paragraph 5*).
5. Furthermore, ‘. . . the proposed block would essentially mirror the existing layout of the estate and the established relationship between existing blocks . . . with adequate separation distances retained from the boundaries with the neighbouring gardens’ (*Planning Report Issue iii – Impact on Neighbour Amenity, paragraph 8*).
6. As described and acknowledged above, and as can be seen from the *Site Block Plan and Figure 9 in the DAS*, the spacing between the proposed building and its neighbours is also respected in accordance with LP39(A), matching typical separating distances between existing maisonette blocks, and thus the sense of openness in the Estate.
7. The openness of the estate is also characterised by the generous setbacks of the maisonette buildings from back of pavement lines, ranging from 7 to 9 metres, with no fencing along the street frontages. The siting of the proposed building echoes the pattern of these setbacks along both street frontages (Cambridge Park and Roseleigh Close), being more generous along Cambridge Park with respect to the line of horse chestnuts as can be seen from the *Site Block Plan and Figure 9 in the DAS*.
8. The perception of openness is also closely related to the density of buildings in a specific locality – the greater the density, the less the openness. Care was taken in the design and layout of the proposed building and surrounding site to maintain the level of built density across the Estate. Evidence is provided by way of *Figure 8 in the DAS* that shows that the majority of the surrounding maisonette blocks occupy about 30% of their site areas, which is also reflected in the proposal.
9. It is thus disputed as stated in the Planning Report, that ‘the proposal is larger scale in footprint character than existing buildings on the estate.’ (*Issue ii – Design and impact on heritage assets, paragraph 11*). The proposed building has a footprint area of some 170 sq.m. as compared to an existing 6-unit maisonette block which has a footprint area of some 220 sq.m. Such maisonette blocks are located immediately to the east and north of the site, as well as opposite the site on Roseleigh Close.
10. It is also disputed that the proposed building would be an unsympathetic and obtrusive form of development, deleterious to the spatial characteristics of the area (*Paragraph in Decision Notice Detailed Reasons U0177414 Design/Loss of Openness*). This statement contradicts the comments with respect to neighbouring buildings, spacing, setbacks and ‘scale in footprint character’ as described above.

It also contradicts the statement in the Planning Report ‘. . . it is acknowledged that the proposed development does generally seek to reflect the existing height, style and pattern of development . . . (and) generally fits with the proportions of others.’ (*Issue ii – Design and impact on heritage assets, paragraph 9*).

11. Furthermore, although the site is not in a conservation area, it adjoins one and is within the setting of a locally listed building (Building of Townscape Merit). Specialist heritage advice was sought which confirmed that the proposed development would cause no heritage harm. The local planning authority said in its report that its Design and Conservation Officer had no heritage concerns.
12. The building form is L-shaped in response to its prominent corner site location expressed in the design of the external corner of the building, whilst nevertheless relating to the street facades to either side and the typical building typologies in the vicinity of the site. The building achieves these objectives as described below.
13. The corner window relates to the bay windows on either side in terms of size, height and treatment whilst also expressing the corner as a distinct feature of the building in this prominent location. Similarly, the terrace above expresses the corner by inverting it to create an open setback, revealing glazing along its flanks in shadow and light, with glass balustrading along the two front edges (echoing the corner window below).
14. The overall corner expression – corner window, balustrade and terrace - is thus one of a connected openness and transparency through the use of glass and void, making use of light, shadow and reflection of the nearby trees and surrounding landscape in emphasising this prominent location near the entrance to the Estate. There is thus a clear relationship between the elements comprising this design.
15. For the above reasons it is refuted as stated in the Planning Report that the corner window appears 'awkward with the roof terrace above' and that the corner roof terrace is 'uncharacteristic of the typology of the surrounding buildings' (*Issue ii – Design and impact on heritage assets, paragraph 11*).
16. Although there is no precedent of 'corner' type buildings on the Estate, the design responds to this particular corner location whilst respecting neighbouring buildings in terms of architectural treatment, without resorting to pastiche.
17. As noted in the *DAS (Section 3.0 Site Context, Character and Design)*, each of the street frontages on Roseleigh Close and Cambridge Park is proportionate in size, length, scale, and overall shape to that of an existing 4-unit maisonette block in the Estate. Overall building height, hipped roofs and pitches, overhangs, ridge and eaves lines are maintained, as are matching external wall brickwork and roofing materials, taking account the local character of the area.
18. The Small and Medium Housing Sites SPD sets out that the character of the housing layout will be informed by the proportions, layouts, grouping and the building lines of adjacent properties and the local area. All infill development should be of scale which harmonises with its surroundings and the height and mass of new houses should be sympathetic. Materials and detailing should sympathise and complement the adjacent buildings. It is clear that these criteria have been met.
19. It is refuted as stated in the Planning Report that with respect to the proposed building 'Whilst the plans achieve a degree of symmetry the elevations deviate from this, and the position of the bays should be reconsidered.' (*Issue ii – Design and impact on heritage assets, paragraph 11*). The plans of the proposed building are not symmetrically arranged (as opposed to the plans of the existing maisonette blocks which are). The location of the windows and bays on the elevations are determined by the plans.
20. The design of the new bays is nevertheless informed by the existing bays. The window bays to both the existing and proposed maisonette buildings are proportionate in size to one another and optimally located according to their internal layouts (*Figures 7 and 10 in the DAS*). Both green and red tile hanging to the existing bays will be reflected in the new bays, but without being direct copies, in the same way that the proposed building although not a direct copy is clearly influenced by the existing buildings.
21. As with the overall design, there is thus a relationship between the existing and the proposed bays whilst acknowledging their differences. It is thus refuted as stated in the Planning Report that 'the elevational design (of) . . . the proposed building seeking to pick up on the bays of the existing properties . . . is not successful.' (*Issue ii – Design and impact on heritage assets, paragraph 11*).
22. There are 41 garages in the estate arranged in 13 groups comprised of two, three, four, seven or eight garages per group which are scattered throughout the Estate. Each group of garages is accessed directly from the three cul-de-sac, either directly on to forecourts serving the garages, or by concrete driveways leading to forecourts in front of a group (as is the case immediately north of the site). In some cases the smaller groups of garages are located to the rear of the maisonette blocks, but in the case of the larger groups the forecourts are connected directly to the street.
23. There are thus extensive areas of concrete drive and forecourt located in what could otherwise be front garden areas. Cars are regularly parked on the driveways and forecourts leading to the garages - in front of, adjacent to or to the rear of the maisonette blocks (*Refer DAS item 4.0 paragraph 5 and Fig.*

12). For the above reasons, we dispute the claim in the Planning Report that there is ‘largely an absence of front garden parking with only very limited exceptions.’ (*Issue ii – Design and impact on heritage assets, paragraph 7*).

24. Furthermore, the proposed parking bays will not be paved in impermeable areas of concrete, but with selected SuDs paving blocks (*Refer DAS Appendix H*), including pedestrian access to front doors, carefully integrated with the building, cycle storage, refuse, planting and landscape design; thus meeting car parking needs and providing level access and service requirements in a sensitive manner.
25. It is refuted that the proposal remains contrary to Policy LP1 as stated in the Planning Report (*Issue ii – Design and impact on heritage assets, paragraph 13*), given that overall design criteria have been met as described above, to create a design solution that is of high architectural and urban design quality which positively contribute to and enhance the local environment and character.
26. In terms of Policy LP 39(A), (the requirements of an infill development) and the Small and Medium Housing Sites SPD, the proposal demonstrates a thorough understanding of the site and how it relates to its existing context; it is of a sympathetic scale, height, proportions and massing that harmonises with its surroundings, taking account local character and appearance, maintaining the open nature and density of the estate and enhancing the street frontages.

## 6.0 U0177415 Trees and Ecology

1. With reference to the row of 5 horse chestnut trees along the south side of the site, the statement in the *Planning Report (Issue viii – Trees/Ecology paragraph 7)* that ‘From an arboricultural perspective it is noted that the TPO trees could be impacted by construction activities and/or may act as a constraint upon the proposal’ – is disputed for the following reasons.
  - Previous appeal decisions acknowledged that the site could be developed without harming these trees;
  - Tree Preservation Order TT011 provides statutory protection to these trees;
  - As stated in *Paragraph 5.5.4 of the Tree Survey and Arboricultural Impact Assessment*, ‘The proposed site plan with tree constraints shows that the proposal will not have a direct impact on the tree crowns or root protection area of the retained trees.’

This statement is developed further in *Section 6*, followed by detailed guidance as to how a direct impact on these trees can be avoided in *Appendices 1 (A.2) and 3*.

2. The statement in the Planning Report (*Issue viii – Trees/Ecology paragraph 10*) with respect to the row of horse chestnuts that “. . . there is no further discussion of the indirect impacts in the report” (following a statement in the *Tree Survey and Arboricultural Impact Assessment ref. item 5.5.4* that ‘The potential indirect impact from construction space is anticipated from experience.’) is disputed as further details were provided as follows.

‘With suitable tree protection and work planning this proposal can be completed without causing any harm to retained trees and protect the ground for future landscaping.’ (Paragraph 6.7 of the *Tree Survey and Arboricultural Impact Assessment*). In support of this statement a detailed Method Statement for Tree Protection, Tree Protection Plan and pro-forma Monitoring Record during the construction period are provided in *Appendices 4, 5 and 6 of the Tree Survey and Arboricultural Impact Assessment*.

3. A further clarification with respect to direct and indirect impacts was received from the Arboriculturist (Peter Holloway CEnv. BSc.(Hons) FArborA of Rootcause Arboriculture) in an email to the Appellant dated 25<sup>th</sup> October 2023:

‘Direct impacts are the impacts of the building footprint and any other infrastructure. Indirect impacts are the impacts of construction logistics. The latter can only be anticipated in advance of a construction management plan (once submitted further protection details will be provided) and, in this case, can be completely controlled by tree protective fencing and a small area of ground protection for working space. This is answered in Paragraph 6.7 as the indirect impacts are controlled with tree protection. In summary, there are no direct impacts, and the anticipated indirect impacts are completely controlled with tree protection as stated.’

4. The horse chestnuts carry TPOs. With council permission, tree works have been carried out on these trees over the years both to ensure the health of the trees and the safety of those in their vicinity. For example, canopies have been raised over pavements and roadways, and limbs have been reduced where diseased or considered dangerous due to the risk of increased loading of new growth at their ends. There is no reason tree maintenance works should not continue as before in accordance with permissions granted by LBRuT to maintain the health of the trees and to ensure public safety.

5. There is no intention to disrupt the line of mature horse chestnuts, nor to impact their presence as a cohesive group. The proposal does not represent an existential threat to these trees as the building would be located outside the root protection areas and crowns. In any event, it is highly unlikely given their protective status that LBRuT would permit tree work to be carried out that would harm these trees or the amenity they provide.
6. It is thus refuted that the proposal 'would be deleterious to the ecological value of the site' (*Paragraph in Decision Notice Detailed Reasons U0177415 Trees and Ecology*) with respect to these trees as there would be minimal if any impact on them. On the contrary, the trees are a primary feature of the site, identified as its 'most valuable ecological asset' (*DAS section 8.0 and Planning Report, ref. 'Issue viii – Trees/Ecology paragraph 10'*) and as such would be cared for accordingly.
7. Furthermore, it is proposed to plant a further two native shade trees along the western street frontage on Roseleigh Close (*DAS section 8.0*), thus enhancing the ecological value of the site further and increasing the area of tree cover (recalling earlier trees in this boundary location which were removed when the Estate was developed in the 1950s). This would have a further ecological impact by improving opportunities for roosting, nesting and a flyway (commuting route) for birds and bats entering and leaving the area. (*Ecological, Biodiversity and Landscaping Assessment, Table 9.*)
8. The statement in the *Planning Report Issue viii – Trees/Ecology paragraph 13*, that '... the shading (of the horse chestnuts along the southern boundary) will be perceived by residents as problematic' is questionable. Being deciduous trees, the horse chestnuts would provide welcome shading to the south façade of the building and amenity space during the summer months, and with loss of leaves reduced shading during the winter months. This is not a problem, but an asset.
9. It is thus furthermore disputed that the reduction in natural light and shading as addressed in item 8. above 'is likely to lead to future pressure to significantly prune or remove the trees contrary to LP16.' (*Planning Report Issue viii – Trees/Ecology paragraph 14*). A core strategy of LP16 is to encourage the planting of shade trees in response to climate change. It should also be noted that with the exception of a single bedroom (shading not being an issue with rooms used at night), all the south facing rooms also have windows with aspects to the north, east or west.
10. Furthermore, no occupant of any one of the proposed maisonettes could unreasonably damage or remove the trees as they would be located on shared land requiring the permission of a number of stakeholders. Any tree works would require the consent of the owners/leaseholders of each of the three maisonettes, the freeholder and the Council as regards the TPOs. This process has been successfully employed over the past 60 years for all tree work on the surrounding Estate and on this site, and would continue to be followed.
11. 'The design includes a lot of glass on the southern frontage which is only likely to further emphasise negative perceptions of the trees by occupants.' *Planning Report (ref. 'Issue viii – Trees/Ecology paragraph 14')*. It could equally be argued that the design includes a lot of glass on the southern frontage which is only likely to further emphasise the positive perceptions of the trees by occupants.  
A function of the large windows and rooflights is not only to optimise natural light into the building, particularly when shaded during the summer months, but also to allow unobstructed views enabling occupants to engage more closely with their natural surroundings, including these magnificent trees. Together with plenty of natural light, such visual engagement has been shown to improve psychological health and physical well-being.
12. The Appellant has done extensive research into the question of light spillage from the windows and rooflights onto the trees. Within reason the proximity of a light source, whether 2 metres or 10 metres from the tree canopy, would make little difference with regard to the impact of such lighting. The solution lies in how the potential light spillage is controlled. With advances in lighting controls, window night blinds would be installed which would automatically be activated when external light levels drop to a predetermined level (*DAS sections 6.2 and 8.0*).
13. Furthermore, advances in glazing technology have enabled the development of glazing that assists in controlling the level of night time light emissions from inside to outside. Neither of these measures as described in detail in the *DAS sections 6.2 and 8.0*, and included in the design proposals was mentioned in the Planning Report. These measures would enable a balance to be struck between the wellbeing of the occupants of the maisonettes and of the nocturnal wildlife to enable comfortable co-existence.
14. The horse chestnuts along Cambridge Park have moderate potential for roosting bats (no bat roosts were detected), but should not be affected by the proposal unless fixed external lighting is used (*Ecological, Biodiversity and Landscaping, Assessment, items 3.7-3.12*).

No fixed external lighting is proposed that would impact on the trees as explained in the *DAS section 8.0*. This requirement could be included as a Planning Condition.

15. It is disputed that the aerial imagery indicates that the canopies (of the horse chestnuts) extend between two and three metres beyond the building line as set along the front of the existing maisonettes at 34 Cambridge Park (*Planning Report Issue viii – Trees/Ecology paragraph 11*). Aerial imagery is an unreliable basis for estimating the extent of a tree canopy, particularly when the sun is not directly overhead and dark shadows extend beyond the edge of the canopy as is the case in the images referred to in the Planning Report.
16. This is clearly the case with the site aerial view, *Figure 2 in the DAS*, which formed the basis for the site aerial view of the proposal shown in drawing 19.001\_P6 (*Figure 11 in the DAS*). Extensive areas of shadow are shown beyond the northern fringe of the trees, so that clear demarcation between the edge of the canopy foliage, the vegetation below the canopy and the area of shadow cannot be discerned.
17. A further factor in aerial imagery that is misleading is that the viewpoint is not necessarily located directly above the view that is shown. Google aerial imagery is a combination of many data sets of different views that can be digitally manipulated so that the viewpoint appears to be directly above the view that is shown, but this may not be the case. It is thus a further unreliable form of measurement.
18. The northern fringe of the existing tree canopies is approximately in line with the south façade of the existing maisonettes at 34 Cambridge Park as shown on the *Ecological and Landscape Plan ref 19.001\_P2EL and at Appendices 3 and 5 of the Tree Survey and Arboricultural Impact Assessment*. This is also evident when viewed from Roseleigh Close looking eastwards along this line, as well as looking westwards along the face of 34 Cambridge Park, as can be seen in the photographs shown below *Figures 6 (Figure 1 in the DAS) and 7*. Extensive shadowing to the north-west of the tree canopy is also evident in this photograph which can be misleading in an aerial view.



*Figure 6: The site as viewed across Roseleigh Close from the west in line with the front façade of 34 Cambridge Park*

19. The only resident mammals detected on the site were foxes. Provision would be made for their relocation in the event of the development of the site (*Ecological, Biodiversity and Landscaping, Assessment, items 4.26-4.28 and 5.5*). Provision for the translocation of resident yellow meadow ant mound colonies and dead wood (attracting insects such as stag beetles) would be made under the guidance of a qualified Ecologist, and 'will aid the natural re-colonisation of invertebrates and seeds of local provenance into this area.' (*Ecological, Biodiversity and Landscaping, Assessment, items 4.10-4.11, 4.29-4.30 and Table 9*).
20. Existing wildlife (mammals, insects and birds) found on the site would be provided for as far as possible, whilst many species not currently present would be attracted by the new pond, wildflower meadow, native trees, planting and pollinators. A 100% native landscape planting scheme of recognised value to wildlife, including pollinating insects and birds that currently do not visit the site would be provided in varied locations such as the areas of planted beds, extensive and intensive green roofs, living wall, wildflower meadow and wildlife pond (*DAS section 8.0 and Appendices B, C, E.F and G*).

It is thus disputed that 'it is not considered that the proposal (would) adequately retain or re-provide much of the features important to wildlife . . .' (*Planning Report 'Ecology' paragraph 10*).

21. The proposed wildlife pond would attract a range of insects such as dragonflies, birds and mammals including hedgehogs and badgers which are seen in the area. They would be able to access the site more easily as boundary fences along the street frontages would be removed, and accessible fencing provided along the eastern and northern boundaries (*described in the DAS section 8.0*). The pond is designed to allow safe access and egress for wildlife, in particular hedgehogs.



*Figure 7: The edge of the tree canopy viewed along the front facade of 34 Cambridge Park from the east. March 2024*

22. It is disputed that the ' . . . wildflower meadow proposed in the ecological and landscape plan will be heavily shaded under the horse chestnut trees and (is) unlikely to successfully function as a valuable habitat.' (*Planning Report 'Ecology', paragraph 12*). Native wildflower meadows providing valuable habitats exist in shaded woodland areas throughout the UK. Furthermore, the proposed location of the wildflower meadow at the western end of the Horse Chestnut trees is not 'heavily shaded'. An open aspect to the west means that it would be exposed to lengthy periods of afternoon sunlight (*DAS Appendix C*).
23. It should be noted that no evidence was found on the site of acid grassland (*as surmised in the Planning Report 'Ecology' paragraph 11*) following further soil tests carried out by the Ecologist (Alison Fure BSc MSc C.ENV MCIEEM of Furesfen) who produced the report for the planning application. The results of these tests showing that the grassland is pH neutral were submitted to the LPA in December 2023 for consideration.
24. The Urban Greening Factor (calculated by the Appellant) for the proposed development is 0.57 which exceeds the London Plan 2021 Residential Target Factor of 0.4. Although the site is currently entirely 'green', as noted in the Planning Report (*'Ecology' paragraph below 'Urban Greening Factor'*), it does not necessarily mean that it would be of a high biodiversity value. The Urban Greening Factor

calculations apply to developed sites only, and in this case show that the extensive ecological measures taken in the design proposal exceed the residential target factor by almost a third.

25. The questions of 'retaining' what is on the site, or 're-providing' what was on the site should be examined. Up until 2006 the site was largely covered in improved grassland mowed on a regular basis, thus matching the adjacent lawned perimeter areas. Together with the five horse chestnuts alongside the Cambridge Park pavement, only a small area of scrub and three small trees was present in the north-east corner of the site. After 2006 the grassland was left unmown and the scrub allowed to spread over a greater area.
26. There is an expectation that the site should be returned to the condition existing prior to 2006. That would be more detrimental to the biodiversity of the site than was proposed in the planning application. The questions also remain as to who would manage the site either in its condition prior to 2006, or in its current condition. The Appellant recently received an email (dated 12<sup>th</sup> March 2024) from the administrative manager of the freeholder of the surrounding Estate requesting that the site be cleared.

#### **U0177416      Affordable housing**

A response to this reason for refusal is covered in the Planning Appeal Statement submitted by Mr Brian Waters on behalf of the Appellant.