

**MOUNT CLARE CAMPUS, MINSTEAD GARDENS, ROEHAMPTON GATE, SW15
4EE**

**PINS APPEAL REF NO.
APP/H5960/W/25/3371729**

APPELLANT'S RESPONSE TO LPA SUBMISSIONS

INTRODUCTION

1. These submissions are in response to the Council's submissions received just before 5pm on 5 December 2025 on (1) the description of development and (2) the issue of the lawful use of the site.
2. At the outset, it is disappointing that the Council's approach on both of these issues has been to avoid engagement with the Appellant in an attempt to seek to clarify the issues between the parties, and address them in an updated Statement of Common Ground, rather than immediately presenting submissions to the Inspector. Furthermore, it means that the Appellant has not had the chance to discuss procedurally with the Council how the difference in position between the parties might now best be accommodated within the existing timetable and present an agreed suggestion to the Inspector as to how these matters might be dealt with efficiently in view of the impending inquiry next month.
3. In particular, on the issue of lawful use, the Inspector stated that it would be "*beneficial for agreement on this issue*" and to present the respective parties' position in an addendum to the Statement of Common Ground (see e-mail of 1 December 2025). Regrettably, the Council did not engage and has immediately presented submissions to the Inspector, not merely on the question of lawful use but now – worse still - raising a wholly new issue for the first time regarding the fallback position. This is despite the Appellant asking the Council to clarify certain parts of its case in relation to the lawful use. This has necessitated this response by the Appellant on this issue. This is part of a pattern of wholly unreasonable

conduct on behalf of the Council . The Appellant would be grateful if the Inspector could remind the Council of the ongoing need to engage with the Appellant in an effort to narrow the issues down.

DESCRIPTION OF DEVELOPMENT

4. The Appellant's position is that:

- a. The Lodge can be retained and its existing structure is intact, as demonstrated in its Structural Survey, the only structural report before the inspector, and therefore it wholly disagrees that the description of development proposed by the Council is either necessary or appropriate (i.e the inclusion of the words "*replacement of the former Lodge building*"). It does not request any change to the description of development to include this wording. In short the building is not proposed to be demolished nor replaced.
- b. Any works necessary to facilitate the change of use to hostel accommodation and bring the Lodge into such use do not constitute operational development as they would be works of repair which fall within the exemption set out at paragraph 55(2) TCPA 1990, i.e they are works of maintenance, improvement, alteration which do not materially affect the external appearance of the building. The works of repair required to be carried out consist of a replacement flat roof behind a parapet wall, a new suspended timber floors, new windows and repairs. These are not operational development as they are simply repair work to reinstate and coincide with the original 1960s plans for the Lodge and do not affect the external appearance of the original building. The fact some of those works will need building regulations is clear and a feature of the Rapleys report, however this is not a matter for this Inquiry. As such no change to the description of development is required. However, in the event that the Inspector disagrees, then it would not object to the inclusion of the following words in the description of development "*and minor associated operational development in the form of repairs to the Lodge Building*" and consultation taking place on that basis.

5. The Council's position appears to be two-fold:

- a. "*The Appellant has not demonstrated that the structure on site can be retained whilst meeting building regulations*" (para. 17). The latter is on the basis of the Rapleys Report. On

this basis the Council seeks to amend the description to include reference to “*replacement of the former Lodge Building*”.

- b. In any event, the works necessary to bring the Lodge back not use go “*far beyond maintenance*” (paragraph 5) and would require planning permission since they constitute operational development.
6. As to the former contention, the Council’s position is wholly unreasonable. The Council in its submissions refers to this report as a structural report, it is not. This report is a building survey and comments on matters such as building regulation and does not form an opinion on if the building can be repaired, the surveyor has not been in the building. The Appellant has not had the opportunity to commission its own structural expert to review or comment on the Rapleys Report, which is not a structural report, which it only received on Friday evening, and therefore would be materially prejudiced should it be taken into account now or should some determination be reached without the Appellant being given a chance to comment on it. The Appellant wholly disagrees that the Lodge requires demolition and replacement (and it is in any event not clear if the Council’s case is that the building needs to be demolished). Either way, whether or not the Lodge can be put back into use (with or without minor operational development) or whether it requires wholesale replacement is a matter that regrettably it appears is likely to be an issue to be addressed at the inquiry if the LPA want to take issue with the Appellant’s structural report and argue this point. This will add at least ½ day to the programme (the Appellant suggests that this can be done via a round table session).
7. If the inspector considers that these works are operational development the Appellant is content for reconsultation to take place but the Appellant wishes to emphasise that it not seeking permission for operational development in the form of demolition and rebuilding.

LAWFUL USE

8. In light of the Council’s change of position, set out at paragraph 23 of its Submissions, the Appellant agrees that it will now be necessary for the parties to address the lawful use position in evidence at the inquiry. The Inspector asked for this issue to be addressed in evidence, it is regrettable that the Council saw this as an opportunity to raise a wholly new point (the fallback position) .

9. The Appellant's position is that the lawful use of the site, including Mount Clare House is as a mixed use, comprising student accommodation, office and storage uses as described in the letter from the University of Roehampton at Appendix 9 of its Statement of Case. This is the strongest, most reliable and most accurate evidence before either party. It will adduce factual evidence in support of this position. Doing so is entirely consistent with its position at the CMC, in which the Appellant made it clear it did not wish to revisit the previous Inspector's findings i.e that the proposed hostel use was not lawful. The Council has repeatedly and purposely mischaracterised what the Appellant's position was at the CMC (see for example para. 22): the Appellant is not resiling in any way from what it indicated at the CMC.
10. However, the Council's position remains entirely unclear and that is of real concern to the Appellant as it prepares its planning evidence. It is respectfully requested that the Council should be directed to clarify its case in the following respects, because otherwise the Appellant will be materially prejudiced in its ability to prepare for the inquiry:
11. First, the Council has repeatedly asserted that the Appellant "has not demonstrated that the Site benefits from any lawful use" (see eg Appendix C of its Statement of Case). It appears to rely heavily on what the previous Inspector observed at paragraph 42. But the Inspector did not make any conclusive finding about whether or not any of the "disconnected uses" he referred to became lawful in its own right. Nor did the Inspector make any finding that there was a nil use. The Council has:
 - a. Failed to explain how or why, even if there was a change of use and that has not become lawful in their own right, that results in a nil use. No issue of abandonment or otherwise for instance has been raised in Appendix C or otherwise. It was also not a point that was entertained by the Inspector at the last inquiry and nowhere forms part of his conclusions.
 - b. The Council's position that there is nil use also appears wholly contradictory to its previous position that the proposal would result in a loss of student accommodation, and all the Council's reports, previous statements and witnesses adduced at the last inquiry .

12. In short, the Appellant therefore considers the Council's new position on nil use to be wholly unreasonable and will be submitting a further costs application on the issue of Lawful Use should it be pursued by the Council.
13. The Council should be asked to explain why it asserts the Site has a nil use immediately and in particular why it takes this position in spite of the evidence from the University of Roehampton, the occupier (not the owner as the Council has stated) of the site for the last 25 years (adduced at Appendix 9 of the Appellant's Statement of Case)
14. Second, the Council has wholly failed in its Statement of Case to set out what difference to the planning merits or provide any analysis as to what the planning implications are of a nil use. Its Statement of Case is wholly silent on this (as it was predicated in substance on the use being for student accommodation). The Appellant's recent request for it to clarify its position in e-mail correspondence has been wholly ignored. As things stand, the Appellant is being presented with a material change of case by the Council but without any clarification by the Council as to what its position will be in terms of the planning merits. It should not be left to rebuttal evidence, particularly given that at least a week will be lost due to the Christmas break. The Council should therefore be asked to set out its position well in advance before the exchange of proofs of evidence on 23rd December so that this can be addressed in the planning evidence of Mr Sahota, the Appellant's planning witness. Should it fail to do so, the Appellant reserves its rights when it comes to seeking the costs of any further planning evidence to address it and/or the need for an adjournment.
15. In light of the Council's change of position that the question of lawful use is now material to the planning merits of the appeal proposal, and that it will call the Council's officer who gave evidence at the previous inquiry, and hence the enlarged scope of the inquiry the Appellant therefore asks for a further 2 days to be allocated to the timetable to accommodate this. It also respectfully requests an extension of time of at least a fortnight to adduce further factual evidence relevant to the issue of the lawful use of the Site and the fallback position, should the LPA not drop this stance.

JAMES NEILL

Landmark Chambers

8 December 2025