

Delegated Report		Analysis sheet		Expiry Date:		17/07/2023			
		N/A / attached		Consultation Expiry Date:		N/A			
Officer				Application Number(s)					
Sam FitzPatrick				2023/2187/P					
Application Address				Drawing Numbers					
112a Great Russell Street London WC1B 3NP				Please refer to decision notice					
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature			
Proposal(s)									
<p>Details required by condition 9 (report of validation test of plant noise levels) of planning permission 2022/5446/P dated 19/04/2023 to vary planning permission ref: 2015/3605/P granted on appeal (ref: APP/X5210/W/16/3147078 dated 04/10/2016) for change of use of part ground floor and basement levels -4 and -5, including alterations to openings, walls and fascia on ground floor elevations on Great Russell Street and Adeline Place, from Car Park (sui generis) to an underground hotel (Class C1).</p>									
Recommendation(s):		Refused and warning of enforcement action to be taken							
Application Type:		Approval of Details							
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice							
Informatives:									
Consultations									
Adjoining Occupiers:		No. of responses		01		No. of objections		01	
Summary of consultation:		<p>As the submitted application is for the approval of details reserved by condition, in line with the Town and Country Planning (Development Management Procedure) Order 2015, no official public consultation process was required. Notwithstanding this, any comments received in relation to the approval of details application have been duly considered when determining this application.</p> <p>The Bloomsbury Association has objected to a number of applications to discharge conditions relating to the parent application (2022/5446/P), though has not lodged a separate objection to this specific application. However, in its objection to 2023/1499/P, the Association makes clear that it objects on the grounds that the noise validation test is inadequate and does not demonstrate compliance with the condition relating to plant noise. Additionally, their objection states that plant noise is audible from nearby homes and therefore the plant is not compliant with the submitted report.</p>							

Site Description

The application site is a large detached 20th century brutalist building bound by the Great Russell Street to the south, Adeline Place to the east, Bedford Avenue to the north, and Tottenham Court Road to the west. The surrounding area is characterised by a mix of uses including commercial, residential, cultural, and leisure uses. The application relates to basements levels -4 and -5, as the floors of the building above are occupied by the existing St Giles Hotel and the YMCA.

The building is not listed and the site is not located within a conservation area. However, the Bloomsbury Conservation Area borders the site to the north, east, and south along Bedford Avenue, Adeline Place, and Great Russell Street, respectively. The site is located within the Central Activities Zone (CAZ) and the Tottenham Court Road Growth Area is located immediately to the south of the site.

Relevant History

Parent application:

2022/5446/P – Variation of conditions 2 (approved plans), 3 (air quality), 6 (cycle storage), 9 (noise), 10 (drainage) and 14 (hotel bedroom number) together with submission of details in discharge of condition 12 (electrical plant in basement), of planning permission ref: 2015/3605/P allowed at appeal ref: APP/X5210/W/16/3147078 dated 04/10/2016, as amended by 2020/1438/P dated 01/06/2020, for 'Change of use of part ground floor and basement levels -4 and -5 from Car Park (sui generis) to hotel (Class C1), including alterations to openings, walls and fascia on ground floor elevations on Great Russell Street and Adeline Place', namely to: increase the number of hotel bedrooms from 166 to 187 with associated internal and external alterations on ground floor elevations on Great Russell Street and Adeline Place. **Granted subject to a Section 106 legal agreement 19/04/2023.**

Other planning history for site:

2020/3107/P – Variation of conditions 2 (approved plans), 3 (air quality), 6 (cycle storage), 9 (noise), 10 (drainage) and 14 (hotel bedroom number) of planning permission ref: 2015/3605/P allowed at appeal ref: APP/X5210/W/16/3147078 dated 04/10/2016, as amended by 2020/1438/P dated 01/06/2020, for 'Change of use of part ground floor and basement levels -4 and -5 from Car Park (sui generis) to hotel (Class C1), including alterations to openings, walls and fascia on ground floor elevations on Great Russell Street and Adeline Place', namely to: increase the number of hotel bedrooms from 166 to 208 with associated internal and external alterations on ground floor elevations on Great Russell Street and Adeline Place. **Refused 07/04/2022 and appeal withdrawn 21/04/2023.**

Reasons for refusal:

- 1) The proposed increase in bedrooms and reduction in communal and back of house space, including the reduced number of lifts, would result in poor quality accommodation failing to meet acceptable standard of accessible and inclusive design;*
- 2) The proposed increase in bedrooms and reduction in back of house space would increase levels of activity from servicing, some of which may have to take place on-street and would result in an increased number of customers and additional plant equipment which would result in noise, disturbance, and obstruction, impacting amenity;*
- 3) The proposed development in the absence of a Section 106 deed of variation to link this application to the parent permission's would fail to take into account increased demands and impacts on the local and wider area.*

2020/1438/P – Non-material amendment to planning permission ref: 2015/3605/P dated 04/11/2016 for: 'Change of use of part ground floor and basement levels -4 and -5 from Car Park (sui generis) to 166 bedroom hotel (Class C1), including alterations to openings, walls and fascia on ground floor elevations on Great Russell Street and Adeline Place'; namely to: alter the development description to omit the number of hotel rooms and to insert a planning condition to secure 166 rooms. **Granted**

01/06/2020.

2019/1118/P – Details of drainage strategy (Condition 10) of planning permission 2015/3605/P allowed at appeal ref: APP/X5210/W/16/3147078 dated 04/10/2016 for 'Change of use of part ground floor and basement levels -4 and -5 from Car Park (sui generis) to 166 bedroom hotel (Class C1), including alterations to openings, walls and fascia on ground floor elevations on Great Russell Street and Adeline Place'. **Granted 26/06/2019.**

2019/0226/P – Details of cycle storage (Condition 6) & piling (Condition 7) of planning permission 2015/3605/P allowed at appeal ref: APP/X5210/W/16/3147078 dated 04/10/2016 for 'Change of use of part ground floor and basement levels -4 and -5 from Car Park (sui generis) to 166 bedroom hotel (Class C1), including alterations to openings, walls and fascia on ground floor elevations on Great Russell Street and Adeline Place'. **Granted 27/06/2019.**

2015/3605/P – Change of use of part ground floor and basement levels -4 and -5 from Car Park (sui generis) to 166 bedroom hotel (Class C1), including alterations to openings, walls and fascia on ground floor elevations on Great Russell Street and Adeline Place. **Refused 04/02/2016 and allowed at appeal 04/11/2016.**

Reasons for refusal:

- 1) *Failure to demonstrate that the internal design, layout, and standard of air quality of the proposed development would provide acceptable standard of accommodation and amenity;*
- 2) *Increased activity associated with the hotel operation and the environment resulting from the vents on Adeline Place would have unacceptable impact on local residential and pedestrian amenity;*
- 3) *Absence of legal agreement to: secure development as car-free; secure construction management plan; secure Hotel Guest and Servicing Management Plan; contribution for new or improved public open space; secure necessary contributions towards highway works; secure travel plan and associated monitoring and administrative costs for a period of 5 years; secure contribution towards pedestrian, cycling, and environmental improvements; secure sustainability plan, and; secure energy efficiency and renewable energy plan.*

2013/5075/P – Change of use of part ground floor and basement levels -4 and -5 from public car park (sui generis) to 166 bedroom hotel (Class C1), including alterations to openings, walls and fascia on ground floor elevations along Great Russell Street and Adeline Place. **Refused 26/09/2014.**

Reasons for refusal:

- 1) *Failure to demonstrate that ventilation equipment necessary to ensure acceptable amenity can be wholly contained within the building;*
- 2) *Failure to demonstrate that the proposals have been designed in accordance with the energy hierarchy and would achieve the required BREEAM level and carbon reduction savings.*
- 3) *Absence of legal agreement to: secure sustainability measures; secure hotel management plan; secure development as car-free; secure submission and implementation of Construction Management Plan; secure improvement to the forecourt and adjacent public highway; secure contribution to pedestrian and environmental improvements; secure apprenticeships, employment training strategy, and local employment measures, and; secure public open space contributions.*

Relevant planning enforcement history:

EN23/0500 – Complaint received relating to rubbish bins being left outside bay on Adeline Place constantly, often overflowing and on the pavement, in conflict with agreed service plans for hotel.

EN23/0435 – Complaint received relating to noise nuisance from plant and non-compliance with

condition 9 attached to 2022/5446/P.

EN23/0428 – Complaint received relating to non-compliance with servicing management plan with regards to refuse, food, and beverages

Relevant policies

National Planning Policy Framework (2021)

The London Plan (2021)

Camden Local Plan (2017)

- **G1** Delivery and location of growth
- **A1** Managing the impact of development
- **A4** Noise and vibration
- **D1** Design

Camden Planning Guidance

- CPG Amenity (Jan 2021)
- CPG Design (Jan 2021)

Assessment

1. The Proposal

1.1. The submitted application is in relation to the submission of details (report of validation test) required to fully discharge condition 9 of the original planning permission (2022/5446/P). This condition requires that a validation test is carried out prior to the use of the approved plant to ensure that it is installed and constructed in accordance with the approved scheme. This includes ensuring that the noise level is 15dB(A) or more below the lowest relevant measured at the nearest noise sensitive premises. The report of the test is required to be submitted to and approved in writing by the Council.

1.2. This application was submitted after the hotel use became operational. Accordingly, an enforcement investigation was also opened. This is discussed later in the report.

1.3. It should be noted that the full impact and extent of the proposed development other than the remaining condition has been previously assessed. The requirements of this condition therefore relate purely to the demonstration that the report is compliant with Camden's Local Plan policies and show that the plant produces an adequate level of noise to ensure that the amenities of nearby residents are not negatively impacted by the development.

2. Assessment

2.1. The wording of the original condition is as follows:

The plant and equipment as detailed in the Noise Assessment dated 15 December 2022 by Hawkins Environmental shall be installed and constructed in accordance with the approved scheme and shall be permanently maintained as such thereafter. The noise level from any plant and equipment, together with any associated ducting or vents, shall be 15 dB(A) or more below the lowest relevant measured LA90 (15min) at the nearest noise sensitive premises. Prior to the plant being used a validation test shall be carried out following completion of the development. The use hereby permitted shall not commence until a report of the validation test has been submitted to and approved in writing by the local planning authority.

Reason: To safeguard the amenity of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden

- 2.2. In order to address the outstanding elements of condition 9, an acoustic impact assessment was prepared by Hawkins Environmental (dated 19/05/2023) and has been submitted to the Council alongside a covering letter. These details have been reviewed by the Council's Environmental Health Officer.
- 2.3. The submitted report has been reviewed by the Council's Environmental Health Officer and a number of discrepancies identified. The assessment indicates the time of day of data collection and notes that "*the location of the site is often busy*". However, this is a microrotation, as the statement does not include the late night environment. The report does not provide the full data of the assessment, as it is not shown that the tonality of the system has been taken into account at these times, so the findings cannot be validated.
- 2.4. A number of recent environmental health (noise) as well as planning enforcement complaints were received from residents and local groups in relation to issues of noise and disturbances caused by the operation of plant equipment combined with the inappropriate operation of servicing. As these complaints were at odds with the findings provided in the acoustic impact assessment submitted by the applicant, the Council's Environmental Health Officer undertook a night-time visit to monitor the noise from the plant. This found that whilst the plant was in operation, it was clearly audible from the façade of the properties opposite on Adeline Place. Furthermore, the same Officer was able to access occupied properties at this location, where the mechanical plant is clearly audible with the windows open, indicating discrepancies in the survey submission. This would suggest that the plant is not meeting the requirements of the condition to operate 15db below the background noise level at the nearest noise sensitive premises, and as a result is causing nuisance to neighbouring residential occupiers. Given that the full data cannot be verified and the noise levels appear unacceptable, the validation test must be inaccurate and/or incorrect. One reason for this could be that when the test was undertaken the units were not operating at full capacity and therefore resulted in a lower noise level. A revised submission should include assessing noise 1m from a residential window on at least the first floor level.
- 2.5. In light of the above, the submitted reporting is not considered to have adequately demonstrated that the plant equipment installed onsite has been installed and constructed in accordance with the approved scheme, and the development is in breach of condition 9 of the original planning permission (2022/5446/P). Furthermore, the validation test that claims that the noise levels are adequate and the plant equipment consistent with condition 9 noise requirements is subsequently considered to be incorrect, as the equipment is producing levels of noise higher than those required to be met by this condition. As the submitted details are not sufficient to confirm compliance with the relevant condition, the details may not be approved in their current form. Furthermore, the condition specifically states that the use of the premises must not commence until this report has been submitted to and approved by the local planning authority, so the use is currently unlawful. As such, the application is recommended for refusal with subsequent enforcement action in relation to the installed equipment and the use of the premises as a hotel to be taken.

3. Recommendation

Recommendation 1: Refuse approval of details and warning of enforcement action to be taken.

Recommendation 2: That the Borough Solicitor be instructed to issue a Beach of Condition Notice under Section 187A of the Town and Country Planning Act 1990 (as amended) with regards to condition 9 of planning permission 2022/5446/P granted on 19/04/2023 and officers be authorised in the event of non-compliance to prosecute under that section.

The notice shall allege the following breach of planning control:

Failure to comply with condition 9 of 2022/5446/P, which reads as follows:

The plant and equipment as detailed in the Noise Assessment dated 15 December 2022 by Hawkins Environmental shall be installed and constructed in accordance with the approved scheme and shall be permanently maintained as such thereafter. The noise level from any plant and equipment, together with any associated ducting or vents, shall be 15 dB(A) or more below the lowest relevant measured LA90 (15min) at the nearest noise sensitive premises. Prior to the plant being used a validation test shall be carried out following completion of the development. The use hereby permitted shall not commence until a report of the validation test has been submitted to and approved in writing by the local planning authority.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

WHAT YOU ARE REQUIRED TO DO:

Cease the operation of the air conditioning units and use as a hotel until an updated noise validation test is submitted to and approved in writing by the local planning authority and the noise level from any plant and equipment, together with any associated ducting or vents, shall be 15 dB(A) or more below the lowest relevant measured LA90 (15min) at the nearest noise sensitive premises. The method of assessment is to be in accordance with BS4142:2014.

PERIOD OF COMPLIANCE:

28 days

REASONS WHY THE COUNCIL CONSIDER IT EXPEDIENT TO ISSUE THE NOTICE:

The failure to comply with the approved noise level from plant and equipment is causing nuisance through elevated noise levels to neighbouring residential occupiers and fails to protect the living conditions of nearby residents to the detriment of residential amenity, and is thereby contrary to policy A1 (Managing the impact of development) and A4 (Noise and vibration) of Camden's Local Plan 2017.