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Your Ref:

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Date: 17 July 2023

Dear Sirs,

OBJECTION

Planning application ref: 2023/0294/P (“Application”)
13 Cosmo Place, London, WC1N 3AP (“Property”)

We are instructed by the owner of 2 Queen Square to strongly object to the Application recently submitted to the London Borough of Camden (“Council”) in respect of the Property for:

“Retrospective planning permission for installation of two air conditioning units on rear first floor roof.” (“Development”).

The objection is based on the grounds that the Application contravenes the Council’s Local Plan and would have a significant adverse impact on the amenity of our client’s property.

1. Site Context

- 1.1 The Property is located in the Bloomsbury Conservation Area and is situated on the ground floor and basement of a mixed use terrace block.
- 1.2 Our client’s property is immediately adjacent to the Property and the air conditioning units, which are the subject of the Application, are installed immediately adjacent to its rear window. Our client’s property and its attached railings are Grade II listed and also form part of the Bloomsbury Conservation Area.

2. Noise Impact Assessment

- 2.1 The applicant has submitted an acoustic assessment in support of the Application, dated 7 July 2023 (“Applicant Assessment”). We would however note that the late submission of the acoustic assessment submitted in support of the Application is indicative of the disregard the Application has for the amenity of both our client’s home and the residents of other neighbouring properties.



- 2.2 The Applicant Assessment indicates that *'the new equipment was inaudible at the residential receptor.'* Whilst it is not indicated in the Applicant Assessment which residential receptors are being referred to, it is assumed due to the immediate proximity of our client's home to the Property that this is the receptor identified. This conclusion is fundamentally contradictory to our client's lived experience at home, which is supported by its own noise assessment detailed further at paragraph 2.3 below.
- 2.3 Our client has instructed an independent noise impact assessment ("**Assessment**") to be carried out at 2 Queen Square, relating to the external building services plant forming part of the Property. A copy of the Assessment is attached to this Objection at **Appendix 1**.
- 2.4 The Assessment sets out that, where the air conditioning units remain on the flat roof to the rear of 2 Queen Square, it is unlikely that feasible acoustic mitigation measures will provide sufficient noise levels to meet the Council's plant noise emissions criteria (10dB below typical LA90 background sound level) in this location.
- 2.5 Further, the Assessment specifies that these high noise levels are likely to indicate a significant adverse impact (according to BS4142:2014 *Method for rating and assessing industrial and commercial sound*).
- 2.6 The Assessment reports that the kitchen extract fan is likely to be the main noise source and that it is likely that the current noise levels would not comply with the Council's requirements. The conclusion is that the current impact is unacceptable in the context of the existing background sound levels, relevant standards and guidance documents, and the Local Plan.
- 2.7 In light of the findings of the Assessment, the Development would cause an unacceptable detriment to our client's ability to comfortably enjoy their home which cannot be adequately addressed by mitigation measures. On this basis and in conjunction with the further points of objection as raised below, the Application should be refused.
3. **The Development Plan**
- 3.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with policies of the statutory Development Plan, unless material considerations indicate otherwise.
- 3.2 The development plan against which the Application is to be assessed is the Camden Local Plan (2017) ("**Local Plan**").
- 3.3 The Local Plan is supported by the Camden Planning Guidance: Amenity (January 2021) ("**Guidance**"). We refer to provisions of the Guidance below where applicable to the Application and the consequential detrimental impact to our client's home.
4. **Development Plan Policy**
- The following refer to policies within the Local Plan:
- 4.1 **Policy A1: Managing the impact of development**
- (a) A key aspect of the Local Plan is the protection of the quality of life of the neighbours and occupiers of any development. Contained in this policy are the factors of noise and vibration, odour, fumes and dust. As our client's property immediately neighbours



the Property and the Development, this policy is relevant to the consideration of the Application.

- (b) This policy stresses the risks associated with high noise and vibration levels, acknowledging that:

“noise and vibration can have a major effect on amenity. The World Health Organisation (WHO) for example states that excessive noise can seriously harm human health, disturb sleep and have cardiovascular and behavioural effects. Camden’s high density and mixed-use nature means that disturbance from noise and vibration is a particularly important issue in the borough.”¹

The Development is already negatively impacting our client’s ability to sleep and, as the Assessment makes clear, the noise levels are not policy compliant. As a result and in line with the provisions of Policy A1, the Application should be refused.

4.2 Policy A4: Noise and Vibration

- (a) The Council will not grant planning permission for “development likely to generate unacceptable noise and vibration impacts”.² Accordingly, the Council will “only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity”. The Assessment clearly demonstrates that the plant and machinery forming part of the Application cannot be operated without causing harm to amenity, in conjunction with the similar objections of other neighbouring residents. The Application does not explain why no other measures aside from air conditioning have been explored.

- (b) In light of the above, paragraph 6.91 must be considered:

“noise generating uses and fixed machinery will likely have a greater impact on amenity or when the background noise level is lower or in areas where noise sensitive uses such as residential developments co-exist with other uses”.

Our client’s property has a noise sensitive use, as it is a family home. The negative impact on amenity is therefore greater, and this must be taken into account.

- (c) Policy A4 addresses the requirement to manage noise and vibration levels, acknowledging that:

“noise and vibration can have a major effect on amenity and quality of life. Camden’s high density and mixed use nature means that disturbance from noise and vibration is a particularly important issue for health and wellbeing in the borough.”³

- (d) Paragraph 6.87 notes the harmful impact of air conditioning units in Camden’s centre and paragraph 6.99 specifies that permission will only be granted for air conditioning where other measures have already been considered. The Council therefore acknowledges at a policy level the potential effects that air conditioning units can have on residential amenity.

¹ Paragraph 6.19

² Paragraph 6.85, Policy A4, (a)

³ Paragraph 6.85



- (e) Our client has experienced a long history of negative impact due to noise and vibration from the Property, which have caused a high level of discomfort particularly throughout the first floor of our client's home. Our client has notified the Council of these problems via previous correspondence with Council officers.
- (f) The level of noise has resulted in our client being unable to sleep, enjoy their roof terrace or open the windows at either side of their home. The Guidance sets out a hierarchy which is based on the consequences of noise disturbance. In this hierarchy, our client's experiences would be classed as Significant Observed Adverse Effect Level. The Council recommends that noise causing this level of impact is avoided or mitigated.⁴ The Assessment indicates that it is not possible to adequately mitigate the impact of the Development and as a result the Application should be refused accordingly.

4.3 Policy TC4: Town Centre Uses

- (a) In relation to the odours at the Property, the Local Plan states that the Council will consider the following:

"the impact of the development on nearby residential uses and amenity"

"fumes likely to be generated and the potential for effective and unobtrusive ventilation".⁵

- (b) The fan at the rear of the Property causes smell throughout the day and into the evening, which negatively impacts our client's use of their home. As a result of the smell and noise generated by the Development, our client does not open the windows of their property which causes their home to become unacceptably hot in the summer months. Consequently, the development negatively impacts our client's amenity to an unacceptable extent.

4.4 Policy D2: Heritage

- (a) Policy D2 aims to protect conservation areas and listed buildings in Camden, stating that the Council will:

"require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area."⁶

The installation of the air conditioning units cannot be argued to preserve or enhance the character or appearance of the Bloomsbury Conservation Area.

- (b) In relation to listed buildings, this policy provides that the Council will *"resist development that would cause harm to significance of a listed building through an effect on its setting"*.⁷ The Local Plan notes that the value of a listed building can be greatly diminished by developments in its immediate setting. Our client's property is a Grade II listed building, along with 9 Cosmo Place and 1 Queen Square – all of which immediately neighbour the Property.

⁴ Guidance, Appendix 1: Effect level hierarchy

⁵ Policy TC4, (g) and (j)

⁶ Policy D2, (e)

⁷ Policy D2, (k)



- (c) The installation of unattractive air conditioning units, which create a high level of noise, is not in keeping with protecting listed buildings and could likely diminish its historical and architectural value.
- (d) The Application should therefore be refused, due to its impact on the conservation area and the neighbouring listed buildings.

4.5 Policy CC2: Adapting to Climate Change

- (a) It is central to Policy CC2 that sustainable development principles should be incorporated into developments and that appropriate measures to reduce the impact of urban and dwelling overheating should be implemented.
- (b) This policy provides that *“the Council will discourage the use of air conditioning and excessive mechanical plant.”*⁸ This extends to specifying that *“active cooling (air conditioning) will only be permitted where dynamic thermal modelling demonstrates there is a clear need for it after all of the preferred measures are incorporated in line with the cooling hierarchy.”*⁹
- (c) To date, the Council has not taken enforcement action in relation to use of air conditioning units at the Property, despite the assertion that air conditioning will only be permitted where other measures have been attempted. As such, the air conditioning plant which is the subject of the Application contravenes the Local Plan.

5. Defective Application

- 5.1 Our client is not satisfied that the plans submitted in support of the Application are accurate. Drawing references CP101, CP102, CP103 appear to indicate an altered boundary line at the Property, giving the appearance of increased area available to accommodate the Development. This is of concern to our client as the Council may be determining the Application based on inaccurate distances. In light of the noise and vibration concerns of my client, distance is fundamentally relevant.
- 5.2 Our client has annotated the above plans to indicate what they understand to be the correct boundary lines. Copies of these plans are attached at **Appendix 2** for the Council’s reference.
- 5.3 We are likewise instructed that public notice of the Application was not displayed in the vicinity of the Property, in breach of Article 15 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015.

6. Conclusion

- 6.1 For the reasons detailed above, the Application fails to comply with the development plan for the area and should be refused. Consequentially, we consider the Council should issue enforcement notice in respect of the unlawful Development.
- 6.2 We also reserve the right to make additional representations should there be any additional information provided by the applicant.

⁸ Paragraph 8.39

⁹ Paragraph 8.42



Yours faithfully,



Forsters LLP

