



The Planning Inspectorate

Pre-Hearing Note

APP/X5210/W/23/3320798 & APP/X5210/Y/23/3320800

Site address: 36 Lancaster Grove, London NW3 4PB

Appellant: Vulcan Properties Limited

Local Planning Authority: London Borough of Camden

Background

1. A hearing in connection with the above appeals is currently programmed to open on Tuesday 12 September 2023 at 1000. It will be conducted by Graham Chamberlain BA (Hons) MSc MRTPI, who is the Inspector appointed by the Secretary of State to determine the appeals.
2. At this stage, the intention is for the hearing to be an in person physical event hosted by the Council (please confirm the venue ASAP). However, unforeseen circumstances may make it necessary to revert to a virtual event at the discretion of the Inspector. The Council should plan to host the hearing by either means, including a virtual event at short notice.
3. The purpose of this pre-hearing note is to explain the format of the hearing and outline several actions that are required prior to its opening. This follows an early initial review by the Inspector.
4. This document should be added to the Council's website in the interests of openness. The parties should note that failure to undertake the actions outlined in this document, or follow the timetable set out, could constitute unreasonable behaviour.

Format

5. The Inspector will open the event in the usual way by addressing several preliminary matters. The hearing will then be conducted as a structured discussion with the Inspector asking a series of questions in respect of the main issues and agenda items. All parties who so wish, will be given an opportunity to speak so long as the contribution would not be repetitive.
6. A draft agenda is appended at the end of this note (Annex 1), but it could well change. The Inspector welcomes any initial views you have on this and will issue a final version at the hearing or shortly before it opens.

Notification Letters

7. Please could the Council send the Inspector (via the Case Officer) a copy of the relevant letter notifying interested parties of the of the date, time and venue of the hearing by noon on **Friday 1 September 2023**.

SOCG, Drawings and Late Evidence

8. A completed Statement of Common Ground (SOCG) should be submitted no later than noon on **Friday 1 September 2023**. This should include the following.
 - A list of the drawings and documents that the Council based its decision upon.
 - A list of suggested planning conditions (agreed and not agreed).
 - The reasons for any pre commencement conditions.
 - A planning policy update outlining any changes since the Council issued its decision.
 - A list of key matters that are agreed and not agree.
 - A table listing the benefits of the scheme and the Council's and appellants' positions regarding the weight to be afforded to them.
9. It is not anticipated that there will be any need for additional documents to be handed up during the hearing. You should review your cases promptly to ensure that is the case. Only in exceptional circumstances¹ should late evidence be tabled at or before the hearing.

Planning Obligations and Conditions

10. If the appellant intends to submit a planning obligation, then this should be done at least 10 working days before the hearing is due to open (**Tuesday 29 August 2023**). This will allow the Inspector and Council time to review the document before the hearing opens. Failure to do so may hamper the ability of the parties to prepare and require an adjournment.
11. The Council should review any planning obligation before the hearing opens. The Inspector will wish to know at or before the hearing whether, in the Council's view:
 - The document is legally sound (including a review of the evidence of title); and
 - Whether the obligations would address the relevant concerns of the Council.
12. The Inspector will need to assess any obligations/requests for obligations against the relevant tests² and as such will be asking questions about the justification for these during the hearing.
- 13. The Inspector should be provided with a final signed and dated copy of any planning obligation before the hearing closes.**
14. A list of suggested planning conditions to be imposed in the event the appeal is allowed, and the reasons for them, should be prepared. The Council should take the lead on this. The suggested conditions should be listed in the SOCG alongside any conditions recommended by the Council but not

¹ See E.9 of the Procedural Guide: Planning appeals – England for further guidance on exceptional circumstances

² See Paragraph 57 of the National Planning Policy Framework

agreed by the appellant. The appellant can provide alternative wording if they so wish. The list of conditions (agreed and not agreed) in the SOCG will form the basis of the 'conditions discussion' at the hearing.

15. Both parties should reflect on whether the suggested conditions would meet the relevant tests³ as the Inspector will explore this at the hearing.
16. Any pre commencement conditions will require justification and the written agreement of the appellant, which can be provided through the SOCG.

Site Visit

17. The Inspector will need to visit the appeal site. This will be done once the hearing has closed and is likely to be on the same day.

Other Matters

18. The Council's reasons for refusal do not refer to any London Plan policies. The Council should provide clarification as to whether any London Plan policies are relevant by **Tuesday 29 August 2023**.
19. The Council's third reason for refusal relates to an absence of a legal agreement to secure car free housing. The Inspector will wish to discuss several points in respect of this at the hearing including:
 - The nature of the Controlled Parking Zone – does the Traffic Regulation Order/Traffic Management Order only allow the occupants of certain specified properties to apply for a parking permit (therefore future occupants of the appeal scheme would not be able to apply for a permit, rendering a planning obligation unnecessary)?
 - Can the Traffic Regulation Order/Traffic Management Order be amended to specifically prevent the occupants of the appeal property from being eligible for applying for a permit? Can a planning condition be used to prevent development or occupation until this is done?
 - If the above is not the case, then is it possible to limit the ability of a resident to apply for a parking permit under s106 of the Act, as such an obligation would be seeking to control a person's actions rather than the use of land⁴?
 - Moreover, would restricting the use of the public highway amount to a restriction on the 'land' (the appeal site) for the purposes of s106 of the Act⁵?
 - Should any obligation only refer to s16 of the Greater London Council (General Powers) Act 1974, as its requirements are less stringent than s106 of the Act?

³ See Paragraphs 55 and 56 of the National Planning Policy Framework

⁴ See Westminster City Council v SSCLG & Mrs Marilyn Acons [2013] EWHC 690 (Admin),

⁵ See R (oao Khodari) v Royal Borough of Kensington and Chelsea & Cedarpark Holdings Inc [2017] EWCA Civ 333

Annex 1 - Provisional Agenda

1. Introduction, opening formalities and points of clarification.
2. Main Issue – The effect of the proposed development and works on the significance of the Belsize Fire Station, which is Grade II* listed (3320798 and 3320800).
 - What is the building’s significance with reference to its heritage interest/value?
 - What effect would the proposal have on significance?
 - Would the proposal preserve the building?
 - Development plan policies (in respect of 3320798)
3. Main Issue – Whether the proposed development would provide adequate living conditions for future occupants (3320798).
 - The quality of internal amenity
 - Development plan policies and design guidance
4. Main Issue – Whether the proposed development would be car free (3320798).
5. Main Issue – Whether the proposed development would make adequate provision for affordable housing (3320798).
6. Other Matters

Any matters raised by Interested Parties not covered above

The effect of the proposal on the significance of the Belsize Conservation Area

The relevance of appeal decisions

- a. APP/X5210/W/21/3279988 and 3279990
 - b. APP/X5210/W/20/3246051 and 3246053
 - c. APP/X5210/W/19/3222123 and 3222128
 - d. APP/A5840/W/17/3174783
7. Planning conditions and obligations (without prejudice).
 8. Applications for costs (if any).
 9. Arrangements for the site visit and closing.