

Our Ref: 21474/KM/am
Your Ref: APP/X5210/W/23/3322027
Email: kmatthews@firstplan.co.uk
Date: 01 November 2023

Planning Inspectorate
Room 3N
Temple Quay House
2 The Square
Bristol, BS1 6PN

FAO: Kate Moody

Dear Inspector,

**APPEAL REFERENCE APP/X5210/W/23/3322027
2A GATE STREET, LONDON WC2A 3HP**

We write on behalf of Peak Group London Ltd (the Appellant) in relation to the above planning appeal. It is submitted following receipt of the Statement of Case from the London Borough of Camden (the LPA).

The Appellant's grounds for appeal have been clearly and fully set out within the Firstplan Appeal Statement. This letter is not intended to repeat the information set out within this Statement which is already before the Planning Inspector. However, it is considered appropriate to comment on the points raised within the received LPA Statement of Case.

For clarity, this Rebuttal Letter was first issued on 24th October 2023. It has since been updated to address the Third Party Representations which were received by the Appellant after this date.

Comments on the Local Planning Authority's Statement of Case

The Appellant's full response is provided below and addresses in turn each of the Reasons for Refusal, and points put forward by the LPA in their Statement of Case. It is noted at Paragraph 5.38 of the LPA statement that the Council withdraw reason 2, therefore provided the legal agreement is resolved, only Reason for Refusal 1 remains contested.

Reason for Refusal 1: 'Height, bulk and detailed design'

The LPA confirms at Paragraph 5.22 that "*the primary harm in dispute is the deleterious effect of the addition of height*". In this regard, the concern appears to relate to the proportions of the Gate Street façade and the additional storey above the string course, rather than the height of the extension in terms of its massing or bulk. Indeed, the LPA makes no further reference to 'bulk' within its Statement of Case.

The Appellant maintains that the provision of an additional floor does not harm the appearance of the building, the character of the Conservation Area, or the rear setting of the listed building. The string course occurs only on the Gate Street frontage and has a simple design, with the retained hierarchy of windows reflecting the historic proportions.

In terms of the streetscene, the proposed upward extension is considered to be in keeping with the surrounding varied building heights, and will retain and enhance the narrow, enclosed character of Gate Street. The proposals would preserve the current “bookend” effect to the narrow entrance Whetstone Park, with no change to the host building’s footprint or alignment with the street. The relationship between the appeal site and listed building here will remain largely unchanged, preserving this aspect of the townscape setting, the rear setting of the listed building, and views to and within this part of the of the Bloomsbury Conservation Area.

The LPA argues at Paragraph 5.22 that the detailed design “*can hardly be assessed in vitro*” (i.e., as a stand-alone item). However, no clarification is provided as to which element(s) of the detailed design they consider to be unacceptable, or the wider harm they consider this to cause. The LPA instead vaguely concludes that “*the proposal fails on design grounds in the sense that it causes harm to the design of the existing building.*”

The Appellant maintains that the detailed design of the scheme embraces the prevailing materials, details and existing design language of this part of the Bloomsbury Conservation Area, therefore enhancing the surrounding area in terms of form, character and appearance. Notwithstanding this, the Appellant would propose that any such aspect of the detailed design could be finalised via an appropriately worded condition (as the LPA has recognised by the inclusion of their proposed Condition 4).

In summary, the LPA offers no concrete justification as to their refusal on grounds of bulk or detailed design. The primary issue is considered to be the height, namely the additional storey above the string course, and the effect on proportions of the Gate Street frontage. The Appellant maintains that the appeal proposals are in accordance with the NPPF, Policies D1 (Design) and D2 (Heritage), in that they will preserve and enhance the application building, its contribution to the Conservation Area and the setting of the rear of the listed building.

Reason for Refusal 2: ‘Carbon Reduction Targets’

The LPA has acknowledged that the required energy carbon reduction measures can be provided in line with Building Regulations and as such has proposed to withdraw Reason for Refusal 2 (Paragraph 5.25).

However, it is noted the LPA then contradicts this at Paragraph 5.29:

“Overall the appellant’s statement of case is not considered to have addressed the concerns raised by officers in relation to reason for refusal two and the proposal is still considered to remain contrary to policies CC1 and CC2 and the supporting text of the Local Plan (2017).”

Notwithstanding this inconsistency, the Appellant has proposed an Air Source Heat Pump (ASHP) and Green Roof, demonstrating a clear commitment to incorporating appropriate climate change adaptation measures into the scheme and ensuring its long term resilience. These measures are proposed in addition to meeting the necessary Buildings Regulations standards, and despite these measures not being requested during the course of the original application (as acknowledged by the LPA at Paragraph 5.25).

In terms of the Green Roof, the LPA states at Paragraph 5.28 that they consider this to be an appropriate climate change adaption measure to support a sustainable approach to drainage, meeting the requirements of Policy CC2.

The LPA’s comments relating to the ASHP (as raised at Paragraph 5.26) are addressed at Table 1 below:

LPA Comment	Appellant's Response
<i>"updated floor plans, elevations and section plans have been submitted to reflect this internal change; however, the proposed elevations and section drawings do not include the dimensions or finishes of the flue"</i>	<p>Example flue details were provided at Appendix 6 of the Appellant's Statement of Case. This example product has maximum dimensions of 500mm x 500mm with a height of 135mm above roof level.</p> <p>This detail can be secured by an appropriately worded condition (as further discussed below) and therefore should not be a reason for dismissal of the scheme.</p>
<i>"It is not clear from the information submitted if the proposed ASHP system would be an air to water system or an air to air system and ASHP's needs electricity to function."</i>	<p>This is a small scale scheme, relating to an existing building creating only one new dwelling with a small roof terrace.</p> <p>Example ASHP details were provided at Appendix 6 of the Appellant's Statement of Case. This example product is an air to water system that requires electricity to function.</p> <p>Again, the precise product specification could be secured by an appropriately worded condition (as further discussed below) and therefore should not be a reason for dismissal of the scheme.</p>
<i>"If the ASHP also provides active cooling Active cooling would not be supported without having supplied a dynamically-modelled over heating study or sufficient evidence of the non-feasibility of alternative cooling techniques, to support the need. This is contrary to policy CC2 which explicitly states active cooling without an adequate demonstration of its necessity to prevent overheating is not considered acceptable by the Council."</i>	<p>The Appellant is happy to accept a condition restricting the use of the ASHP for Active Cooling (as further discussed below) and therefore should not be a reason for dismissal of the scheme.</p>

Table 1: Response to LPA's Comments

The Appellant is happy to accept appropriately worded and proportionate conditions regarding the necessary details of the ASHP and the Green Roof (as outlined further below) in order to allow the LPA the opportunity to fully assess the acceptability of the proposals.

The Appellant further welcomes the LPA's acknowledgement at Paragraph 5.25 that a Sustainability Statement *"to demonstrate that carbon reduction measures had been considered as part of the development"* was not required as part of the application, due to the scale of the scheme.

Reason for Refusal 3: 'Car-free Development' and Reason for Refusal 4: 'Cycle Parking Contribution'

To minimise duplication, Reasons for Refusal 3 and 4 have been considered together below.

The LPA has acknowledged at Paragraph 5.2 that Reasons for Refusal 3 and 4 could both be resolved through implementation of a Section 106 Legal Agreement. This would secure:

- Reason 3: that any future occupiers would not be issued with on-street parking permits in accordance with Policy T2.
- Reason 4: a dedicated on-street cycle parking space for the future occupiers to use within close proximity to the site in accordance with Policy T1. This would take the form of a financial contribution would be required for the provision of 1 on-street bike hangar space at a pro-rata cost of £720.

In line with NPPF Paragraph 57, the LPA further reiterates the suitability of a Section 106 Legal Agreement to address these matters, concluding at Paragraph 5.37:

“In summary, the Council considers that securing car free development and cycle parking provision securing through a financial contribution are directly related, and fairly and reasonably related in scale and kind to the development and can only be dealt by way of planning obligation.”

The Appellant agrees that a Section 106 Legal Agreement would be an appropriate mechanism to resolve Reasons for Refusal 3 and 4.

In this regard, the LPA has drawn up a draft legal agreement, which the Appellant’s legal team have reviewed and are happy to accept. It is flagged that the LPA themselves have drafted and shared these, and therefore it can be inferred that the LPA considers the terms of the draft agreement to be wholly acceptable.

In light of the above, it is clear the implementation of a Section 106 Legal Agreement would secure car free development and cycle parking provision in line with Policies T1 and T2, and as such would overcome and address the Council’s concerns in light of Reasons for Refusal 3 and 4.

Assessment of the LPA’s Proposed Conditions

Under Appendix 3 the Council outline the suggested conditions that they would seek should the inspector be minded to allow the appeal. The Appellant has reviewed these and is satisfied with the intention of the proposed conditions. However, they make the following suggestions for revising the wording of these to ensure they are correct and meet the Six Tests as set out at Paragraph 56 of the NPPF (2023).

Condition 4

Condition 4 requires submission of details and/or samples of the proposed external materials. The Appellant agrees with the spirit of the condition, however, proposes a small amendment to the condition wording in relation to parts b) and c), in order to streamline the Discharge of Condition process. The revisions include:

- Part b) – suggested submission of details of external materials with physical samples made available on site, rather than requiring each physical sample to be submitted to the LPA;
- Part c) – suggested removal to avoid duplication with proposed Condition 7 wording (see below).

It is therefore proposed to update the Condition 4 wording to read (*amendments in red, additions underlined*):

“Before the relevant part of the work is begun, detailed drawings and/or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

a) Plan, elevation and section drawings of all new windows at a scale of 1:10 with typical glazing bar details at 1:1.

b) ~~Samples~~ Full details of new facing materials, with samples to be provided on site, including bricks, mortar mix, bond, roof coverings, window materials, and any other facing material used in respect of the new external work;

~~c) Plans, elevations and section drawings of new roof vent at a scale of 1:50~~

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017."

Condition 5

This condition seeks to approve details of the proposed green roof. However, it makes reference to an outbuilding which is not part of the proposals. It is therefore proposed to update the Condition 5 wording to read (*amendments in red, additions underlined*):

Prior to ~~the use of the outbuilding green roof~~ installation, full details in respect of the living roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority. The details shall include:

i. a detailed scheme of maintenance

ii. sections at a scale of 1:20 with manufacturers details demonstrating the construction and materials used

iii. full details of planting species and density

The living roofs shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme."

Condition 7

This condition seeks details of the proposed Air Source Heat Pump. The LPA's proposed condition requires:

"Prior to the relevant part of the works, details, drawings and data sheets showing the location, Seasonal Performance Factor of at least 2.5 (or COP of 4 or more or SCOP of 3.4 or more) and Be Green stage carbon saving of the air source heat pumps and associated equipment to be installed on the building, shall have been submitted to and approved by the Local Planning Authority in writing. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. A site-specific lifetime maintenance schedule, including safe access arrangements, shall be provided. The equipment shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter."

The reason given is the provision of adequate on-site renewable energy facilities in accordance with Policy CC1.

The Appellant recognises that the LPA would need the opportunity to fully assess the acceptability of the Air Source Heat Pump and associated vent and is happy to accept a condition requiring the necessary details. However, as currently worded, the proposed condition is considered to go above and beyond what is reasonable and necessary to make the development acceptable (as set out at Paragraph 56 of the NPPF (2023) and the National Planning Practice Guidance on 'Use of Planning Conditions').

In particular, it is noted that Policy CC1 and its supporting text set out that the 'Be Green' Energy Hierarchy criteria applies to developments of five or more dwellings and/or more than 500 sqm of any gross internal floorspace; and requirements relating to installation of monitoring equipment relate to major developments only. The appeal scheme does not fall into either of these categories (as recognised by the LPA at Paragraph 5.25).

The Appellant therefore puts forward the following revised condition wording, to better reflect the minor scale and nature of the proposals, which relates to ASHP equipment serving a single residential unit and one associated external vent to the roof:

"Prior to the relevant part of the works, full details in respect of the Air Source Heat Pump shall be submitted to and approved by the local planning authority. The details shall include:

- i. Plans, Elevations and section drawings showing the location of the proposed Air Source Heat Pump equipment and details of the new vent at a scale of 1:50;***
- ii. Details demonstrating the finish and materials used; and***
- iii. Full details and product specifications of all equipment proposed.***

The Air Source Heat Pump shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme."

With the proposed reason being:

"To support and encourage sensitive energy efficiency improvements in accordance with the requirements of Policy CC1 of the London Borough of Camden Local Plan 2017; and to safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017."

For completeness and to avoid unnecessary duplication, the proposed wording also incorporates the vent design elements which the LPA currently proposes to be required under Condition 4 Part c) (as outlined above).

Finally, to address the delivery of energy efficiency in line with Policy CC2, the Appellant would also accept a compliance condition to ensure the disabling of the active cooling function of the Air Source Heat Pump, to ensure the equipment would be used for the purposes of heating only.

Comments on the Third-Party Representations

It is noted that two further Third-Party Representations have been received. One is provided by the same neighbour who objected to the original application and sustains comments relating to design and amenity. These matters have already been considered by the LPA within their Officer's Delegated Report and within the Appellant's original Appeal Statement. In relation to their additional comments regarding the Party Wall Agreement, this would be dealt with through the necessary channels should Planning Permission be granted.

The additional Representation provides a supporting comment from the neighbours at 71 Lincoln's Inn Fields (directly opposite the site). This endorses the Appellant's case that the scheme protects the character of the

area and will have no harm on listed buildings. It further notes that the additional housing unit will help to address London's housing crisis while respecting the traditional architectural heritage.

It is noted further that the Historic England Comments dated 17 August 2023 referenced within the LPA's questionnaire offered no specific or additional Conservation or Design feedback.

Conclusion

In conclusion, it is considered that the LPA's Statement of Case does not adequately assess the merits of the application.

The points within the LPA's Statement of Case have been clearly addressed within the submitted Firstplan Appeal Statement, dated May 2023.

In terms of Reason for Refusal 1, the primary issue is considered to be the additional storey above the string course, in terms of the proportions of the Gate Street frontage. In this regard, the Appellant maintains that the appeal proposals are in accordance with Policies D1 (Design) and D2 (Heritage), in that they will preserve and enhance the application building, its contribution to the Conservation Area and the setting of the rear of the listed building.

This response further demonstrates that Reasons 2, 3 and 4 have been fully addressed by the Appellant and should therefore be withdrawn. As the LPA has also acknowledged, these Reasons can be suitably addressed through the implementation of appropriately worded conditions and a Section 106 Legal Agreement.

In the light of the above, we hope that the Inspector has sufficient information to find in favour of these proposals. Please let us know if you have any queries.

Yours sincerely,



KATE MATTHEWS
Director