



TOWN AND COUNTRY PLANNING ACT 1990

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APPEAL UNDER SECTION 174

WRITTEN REPRESENTATIONS

APPEAL BY: WELBY LONDON LTD

REBUTTAL TO LPA APPEAL STATEMENT

SITE: Flats 13a and 13b, 19 Lancaster Grove, London, NW3 4EX

15/11/2023

LPA REFERENCE: EN23/0007

PINS REF- APP/X5210/C/23/3329544



The Appellant responds as detailed below on the numbered paragraphs in the LPA's Appeal Statement.

Ground (a)

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Para 3.5 – The Appellant has at no point asserted that the Lawful use, for planning purposes, is a HMO.

It is common ground between the parties that the current actual use of the building is as 21 self-contained residential units, whereas the Lawful use is as 20 self-contained residential units.

Para 3.9 – The Council has not addressed the Appellant's submissions regarding the "Use Swap" Section 106 Planning Obligation.

The Use Swap would result in there being 20 self-contained residential units, as was the case before a sub-division created Flats 13a and 13b.

Please see at Appendix 1 of this Rebuttal the recent exchanges between the Council and the Appellant about the proposed Unilateral Undertaking (under Sections 106 and Section 16). The Council has failed to address its mind to the merit of the Use Swap proposal.

At Appendix 2 of this Rebuttal is the engrossment of that Deed (which has now been circulated for execution).

Para 3.13 – The Council simply asserts that the Use Swap is not an "appropriate solution". The Council fails to grapple with the factual position – that the Use Swap would achieve the same outcome, in practical terms, as the Council had wished to secure through service of the Enforcement Notice.

The Council confirms that other elements of the S.106/S.16 Deed would be "welcome".

Ground (c)

Paras 3.17 and 3.18 – The Council fails to grapple with the Appellant's submissions under Ground (c).

The officer seems not to understand the Appellant's point – that none of the internal works (which the Enforcement Notice cites as being the "breach") even require planning permission and so cannot constitute a breach of planning control.

Ground (f)

Para 3.23 – The Council fails to grapple with the Appellant's submissions under Ground (f).

S.106

Para 4.2 – Please see at Appendix 1 of this Rebuttal the recent exchanges between the Council and the Appellant about the proposed Unilateral Undertaking (under Sections 106 and Section 16).

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At Appendix 2 of this Rebuttal is the engrossment of that Unilateral Undertaking (which has now been circulated for execution).

Amalgamating flats 15 and 15a

Para 4.4 – Again, the Council fails to grapple with the factual position – that the Use Swap would achieve the same outcome, in practical terms, as the Council had wished to secure through service of the Enforcement Notice.

The Council asserts that amalgamating flats 15 and 15 “would require planning permission”, That is not accepted by the Appellant. Furthermore, there are many instances where LB of Camden has itself confirmed that such an amalgamation does not require planning permission.

An illustration of LB of Camden’s approach to such matters is the CLEUDs granted for 5 and 7 Adamson Road last year -

2021/5301/P Amalgamation of two flats into one at lower ground floor level.

[Lawful Development Certificate for 7 Adamson Road]

LDC Granted on 07/01/2022

2021/5276/P Amalgamation of two flats into one at lower ground floor level.

[Lawful Development Certificate for 5 Adamson Road]

LDC Granted on 07/01/2022

The Decision Notices and Planning Statements for those two Certificates of Lawfulness are at Appendix 3 to this Rebuttal. (The Delegated Reports were not uploaded by the Council.) The cases are analogous to the amalgamation proposed by the Section 106 Use Swap which is part of the current Appeal.

The Use Swap would be successfully secured by Clause 4.1 of the Section 106 Planning Obligation (at Appendix 2 to this Rebuttal). The Council has not taken issue with the drafting of that document.

Cycle parking provision

Para 4.6 – A financial contribution towards cycle storage is secured by the Section 106 Planning Obligation - see clause 4.3 (on page 6) of the engrossment at Appendix 2 to this Statement.

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In line with the Council's comments at para 4.6 of its Statement, the amount of the Cycle Storage contribution will be manuscript-amended to £1,440 prior to completion of the Section 106 Planning Obligation.

Car Free Development

Paras 4.8 to 4.10 – The Unilateral Undertaking (at Appendix 2 to this Rebuttal) is pursuant to Section 16 of the Greater London Council (General Powers) Act 1974 (as well as Section 106 T&CPA 1990).

Clause 4.2 of the Unilateral Undertaking (on pages 5 and 6 of the engrossments at Appendix 2) contains the restrictions and obligations in relation to Residents Parking Permits. The provisions there mirror the standard clauses routinely used by LB of Camden in its legal agreements.

Clause 4.2 (and related definitions) of the Unilateral Undertaking address all of the Council's points as are contained in paras 4.8 to 4.10 of its Statement.

The Council has not pointed to any inadequacy in clause 4.2, nor in any other part of the Unilateral Undertaking.

Appendices

Appendix 1 – Recent exchanges between the Council and the Appellant about the proposed Unilateral Undertaking (under Sections 106 and Section 16).

Appendix 2 – Engrossment of Unilateral Undertaking (under Sections 106 T&CPA 1990 and Section 16 of the 1974 Act).

Appendix 3 - Decision Notices and Delegated Reports for CLEUDS 2021/5301/P and 2021/5276/P, 5 and 7 Adamson Road.