

Date: **26/02/2024**
Your ref: **APP/X5210/W/23/3332912**
Our ref: **2022/0524/P**
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Planning Solutions Team
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London Borough of Camden

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WC1H 8EQ

The Planning Inspectorate
3/B Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Hazel Stanmore-Richards,

Appeal by Mr Maltin
Site: 23a Great Queen St, London, WC2B 5BB

Appeal against refusal of planning permission dated 26th May 2023 for:

Proposal: Change of use from office (Class E) to single family dwelling house (Class C3) and erection of an additional storey, installation of rooflights and creation of terrace

Permission was refused on the following grounds:

1. The change of use, in the absence of sufficient justification demonstrating that the premise is no longer suitable for continued business use, would fail to support economic activity in Camden and result in the loss of employment opportunities within the Borough contrary to policies E1 (economic development) and E2 (employment premises and sites) of the London Borough of Camden Local Plan 2017
2. The proposed development, in the absence of a legal agreement securing an affordable housing contribution, would fail to maximise the supply of affordable housing to meet the needs of households unable to access market housing, contrary to policy H4 (Maximising the supply of affordable housing) of the Camden Local Plan 2017
3. The proposed development, in the absence of a legal agreement securing car-free housing, would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017

1.0 Summary

Site and designations

1.1 The application site a four-storey mid-terrace property constructed with brick with brick and timber windows. It is currently in use as Class E. It is located to the rear of 23 Great Queen Street within a small courtyard area. It is accessed through an entrance door at ground floor on the front elevation at 23 Great Queen Street.

1.2 The building is not listed but is located within the Seven Dials Conservation Area.

1.3 Planning Permission was refused on 26th May 2023 for the reasons below:

1) The change of use, in the absence of sufficient justification demonstrating that the premise is no longer suitable for continued business use, would fail to support economic activity in Camden and result in the loss of employment opportunities within the Borough contrary to policies E1 (economic development) and E2 (employment premises and sites) of the London Borough of Camden Local Plan 2017

2) The proposed development, in the absence of a legal agreement securing an affordable housing contribution, would fail to maximise the supply of affordable housing to meet the needs of households unable to access market housing, contrary to policy H4 (Maximising the supply of affordable housing) of the Camden Local Plan 2017

3) The proposed development, in the absence of a legal agreement securing car-free housing, would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017

1.5 The Council's case is set out in detail in the attached Officer's Delegated Report, and it will be relied on as the principal Statement of Case. The report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire. In addition to the information sent with the questionnaire, I would be pleased if the Inspector could also take into account the following information and comments before deciding the appeal.

2.0 Status of Policies and Guidance

2.1 The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on the 3 July 2017 as the basis for planning decisions and future development in the borough. The relevant Local Plan policies as they relate to the reason for refusal are:

D1 – Design

D2 – Heritage

A1 – Managing the Impact of Development

E1 – Economic Development

E2 – Employment premises and sites

H1 – Maximizing Housing supply

H4 - Maximizing the supply of affordable housing

T1 – Prioritizing walking, cycling and public transport

T2 – Parking and Car-free development

DM1 – Delivery and Monitoring

2.2 The Council also refers to supporting guidance documents. The Camden Planning Guidance (CPG) was adopted following the adoption of the Camden Local Plan in 2017. There have been no changes to the relevant policies since the application was refused. It should however be noted that a new version of the National Planning Policy Framework was published in September 2023. It is however considered that these changes to the NPPF do not impact on the assessment of this application.

2.3 It should also be noted that the Council has since published a draft New Local Plan, which is currently out for consultation. Although at this stage little weight can be afforded to the new plan as it is at draft stage, it should be noted that there is a proposed policy, namely Policy IE2 (offices) which is considered relevant to this proposal. This policy seeks at least 12 months of comprehensive marketing evidence to be submitted compared to the 2 month required under current policy.

3. Comments on grounds of appeal

3.1 The appellant's statement is set out in 1 main point in response to the one substantive reason for refusal and this is addressed below. It should be noted that the appellant has agreed to signing a Section 106 legal agreement to address the other two reasons for refusal, namely affordable housing payment in lieu and car free development. Indeed, a draft S106 has been submitted as part of the appeal.

1. Loss of office space: The appellant states that the because the appeal site is situated in a set back location away from the street, and is effectively 'landlocked', it is not easily adaptable for continued business use. In addition, the office was purchased just before the COVID-19 pandemic although following the easing of lockdown rules, these new occupiers found premises elsewhere and the owner wishes to use the building as residential property.

The appellant believes that the loss of office space is another material consideration which should outweigh Local Plan policies, in line with the NPPF para 47 which states that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The appellant also accepts that Camden Planning Guidance states that marketing evidence over a two-year period is required for applications involving the loss of office space, although this has not been done because of the appellant's need to retain the building for their own use to support their business.

The appellant makes reference to a number of other vacant business premises in the area, including at 23 Great Queen Street, and marketing evidence of this building has been submitted as an appendix to the statement of case. The appellant also states that residential use is a use which is supported by the Council.

The appellant goes on to suggest that the Council's Local Plan is out of date with regards to economic policies given broad changes to working patterns following the COVID-19 pandemic. In addition, reference is made to two appeal decisions in the vicinity for similar proposals from 2021 and 2015.

Response to point 1: It is noted that the appeal site is set back from the street, however, this reason is not accepted to justify the loss of the office. Given the building was purchased in 2019 with a view to refurbishing it for the owners' business, it is evident that at this time the building was an attractive office space, and its set back

location was clearly not a deterrent to the owner purchasing the building. There has been no change in terms of access in this time, and so its siting is not considered to be an acceptable reason to justify the loss of office space.

Although it is noted that following the COVID-19 lockdown there have been changes to general working patterns, the UK has been operating for some two years now without COVID restrictions, which has seen people gradually return to offices if only on a more flexible basis. The Council has received numerous applications during this time for either additional office space, or for refurbishment of existing office stock to attract workers back into offices especially within the CAZ indicating that there is demand for office space in the borough even considering post-pandemic working patterns.

The appellant makes reference to the NPPF which states that planning applications shall be decided in line with local plan policies unless material considerations indicate otherwise. The material consideration in this case is the loss of office space which is covered by policies E1 and E2 of the Camden Local Plan, and supported by CPG Employment Sites and Business Premises. These policies and supporting guidance states that two-year marketing evidence is required and para 44 of the CPG clearly outlines what should be submitted as part of this evidence. Fundamentally, the appellant has failed to provide this marketing evidence for this property. The appellant is expecting the Council to disregard its own policies and supporting guidance in the absence of a suitable marketing report which they have failed to supply. The Council considers the appellant to have an incorrect interpretation of the NPPF wording, as the material consideration is clearly covered by planning policy and guidance which the appellant has not addressed. The appellant states that 'other material considerations prevail', however, it is not '(an)other' material consideration.

Although the appellant states that there are other vacant business premises in the area, there could be a number of reasons as to why these are vacant, including poor quality of office space, unattractive rents, poor layouts etc. The marketing evidence that the Council expects to be submitted is more site specific, to show why the site in question is no longer viable for office use. Simply citing other vacant properties does not justify why this specific property can't be used viably for office use. Although there may be an overall market trend in this area, trends often have anomalies and this space, if marketed correctly with attractive rents, could still be viable for office use unless it is otherwise demonstrated. This is why the Council requires site-specific marketing evidence and does not rely on market trends to justify the loss of office space. Given that no site-specific marketing evidence has been submitted, the Council cannot be satisfied that this site is no longer fit for office use.

It should be noted that the CPG for Employment Sites and Business Premises was adopted in January 2021, almost 9 months after the start of the COVID pandemic. In addition, the draft New Local Plan policy IE2 states:

The loss of offices in the borough will only be considered acceptable where:

A comprehensive marketing campaign has been undertaken of at least 12 months which uses a variety of agents and is based on a realistic rent. The marketing evidence should demonstrate that suitable economic uses have been fully explored and evidenced to the Council's satisfaction, with consideration given to the following: a. Refurbishment and modernisation of the premises to enhance its attractiveness to potential occupiers; b. Discounted rents, incentives (e.g. rent-free periods) and flexible leasing arrangements; c. The feasibility of reconfiguring the premises to meet the demands of smaller businesses, including studios, start-ups and micro businesses. ii. Where the condition of the premises is cited as a reason for insufficient interest in the

property, the Council may request viability evidence to demonstrate it is not possible for refurbishment works to be undertaken.

Although little weight can be afforded to this policy at this stage, it clearly demonstrates the Council's long term strategic aim to retain office space despite broad work pattern changes following the pandemic. The claim that the Council's policies are out of date is therefore incorrect.

It is accepted that the Council's priority land use is self-contained housing, however, this does not mean that it is the only acceptable land use. The addition of one residential unit would not make a significant contribution to the Council's housing supply, and the provision of the affordable housing payment in lieu would also not make a significant contribution to the supply of affordable housing in the borough. The Council aims to protect business sites and premises to ensure economic development in the borough. Therefore, the provision of one unit and a small PIL would not outweigh the loss of the office space.

It is unclear as to why no marketing evidence for the site has been undertaken. It is suggested that no marketing has been done because of the appellant's need to retain the building for their own use to support their business, however it is unclear what precisely this means and there has been no explanation as to how the property is required for the appellant's needs for their nearby business. It could be concluded that no marketing has been undertaken because this could demonstrate that there actually is interest or demand for this site (noting that there was previous pre-pandemic interest in the site). Without such an exercise being done, the Council cannot be satisfied that there is no demand for this site.

4. Conclusion

4.1 Based on the information set out above and having taken account of all the additional evidence and arguments made, it is considered that the proposal remains unacceptable for reasons set out within the original decision notice. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns.

4.2 The Council's position on the loss the office space is very clearly outlined in policy and CPG which requires clear justification supported by evidence. The appellant has failed to provide any site-specific evidence to justify the loss of the office space which the Council's aims to protect. The Council therefore cannot be satisfied that the building is no longer suitable for its existing use.

5. Suggested conditions and S106 should the appeal be allowed.

5.1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan 255-23a GQS - SLP - 01, 255-GQS-S02, 255-GQS-S01, 255-GQS-S05, 255-GQS-S03, 255-GQS-S04a, 255-GQS-P01e, 255-GQS-P02L, 255-GQS-P05o, 255-GQS-P07, 255-GQS-P04q, 255-GQS-P03g, Design and Access Statement, Planning Statement, Internal Daylight Assessment (dated April 2023)

Reason: For the avoidance of doubt and in the interest of proper planning.

S106 matters

There are two S106 matters. The council is liaising with the appellants regarding the s106 and the Inspector will be updated at final comments stage. Justification for the S106 is set out below.

Affordable housing

£14,100 of affordable housing payment in lieu in accordance with Policy H4 of the Camden Local Plan which seeks an affordable housing contribution for residential development resulting in more than 100sqm of new residential floorspace.

Car free

The residential development would be car free, meaning that no parking permits would be available for the occupiers in accordance with Policy T2 of the Camden Local Plan. This is to ensure that there is no added stress to parking and to encourage more sustainable modes of transport.

A draft s106 has been submitted as part of the appeal.

If any further clarification of the appeal submissions is required please do not hesitate to contact Edward Hodgson on the above direct dial number or email address.

Yours sincerely,

Edward Hodgson
Senior Planning Officer