

21 February 2024

Regeneration and Planning,
Culture and Environment Directorate,
London Brough of Camden,
5 Pancras Square,
2nd Floor,
London,
N1C 4NG

Your ref: 2023/4798/P S.73

FAO: Obote Hope

Dear Mr. Hope,

164 SHAFTESBURY AVENUE, WC2H 8HL

Application for a minor material amendment pertaining to planning permission granted under ref. 2023/4798/P at 164 Shaftesbury Avenue.

We write on behalf of Daejan Investments Ltd, 'the Applicant', submit an application under Section 73 of the Town & Country Planning Act 1990 to apply for a minor material planning amendment pertaining to the full planning permission (Ref.2023/4798/P) granted on 5th September 2024 for development at 164 Shaftesbury Avenue, WC2H 8HL.

The description of the approved development is as follows:

"Erection of part infill extension at ground and first floor, external alterations including new entrance, replacement gates on Mercer Street and replacement of three terraces fronting Mercer Street with one at fifth floor level; erection of new roof terrace at sixth floor level; replacement glazing at ground to fifth floor levels; overhaul of building services including a new lift overrun and replacement and installation of roof top plant."

(Ref. 2023/4798/P)

Enclosed documentation:

We enclose the following documentation to support this planning application:

- Application Form (PP-13742660);
- Cover Letter, to be read as a Planning Statement;
- Letter sent to the residents of Earlham House dated 5th July 2024;
- Block and Site Location Plan (PL0001) prepared by Child Graddon Lewis,
- Drawing SK_037, prepared by Child Graddon Lewis; and,
- Decision notice of the original application (ref.2023/4798/P)
- Community Infrastructure Levy – Form 1: CIL Additional Information

The application fee of £363.00 (inclusive of VAT and service charge) has been paid by online electronic payment via the Planning Portal website (Ref. PP-13742660).

Planning Statement

The following sections outline and provides justification for this minor material amendment application.

The Proposed Amendment

Following discussions with the Council, our client wishes to seek an amendment to the opening hours of the sixth-floor roof terrace which is related to Condition 4 of the planning permission (2023/4798/P). We consider that these changes, in the context of the development scheme, are of a minor nature.

The proposed sixth-floor terrace is part of a wider scheme of improvements to the property, including improved environmental performance and the full replacement of the rooftop plant machinery with quieter and more efficient plant. Additionally, the scheme will create an office entrance to Mercer Street, and an upgrade to the bicycle (previously car) entrance to the building.

The related Condition 4 states:

'The proposed 6th floor roof terrace hereby approved shall only be accessed between the hours of 08:00 and 19:00 Monday to Friday and not at all on weekends and bank holidays.'

(Ref. 2023/4798/P)

This application seeks to amend Condition 4 to state:

'The proposed 6th floor roof terrace hereby approved shall only be accessed between the hours of 08:00 and 20:00 Monday to Friday and not at all on weekends and bank holidays.'

Condition 4 was made in relation to the amenity of residents of neighbouring Earlham House. As detailed in this cover letter, the amendment to allow an increase of one hour in the evenings from 19:00 to 20:00 can be reasonably achieved without detriment to nearby amenity given the existing conditions prohibiting music to be played, the expected usage of the terrace, the reduction in background plant noise, and the very limited overlooking of the terrace to neighbouring flats at Earlham House (as demonstrated in Drawing SK_037).

Consultation

Well in advance of this application being made, we specifically sought to consult neighbours. On 5th July 2024, a letter (please see appendix A) was sent to residents of Earlham House (Flats 1 to 19 inclusive), 35 Mercer Street, WC2 9QS, which outlined the proposed change to

the terrace hours, the likely use of the terrace, the impact on noise and amenity. The letter also addressed concerns regarding potential overlooking and included an extract of Drawing SK_037 to illustrate the limited extent of any potential overlooking from the sixth-floor terrace into the windows of the flats at Earlham House.

At the time of this application, one resident responded to the letter by means of a telephone call. We did exchange answerphone messages with one resident but we were unable to speak directly with them. Nevertheless, he did mention that some windows along the elevation to the rear of the application site are for bedrooms, rather than only kitchens or bathrooms. The amended terrace hours would not pose further implications to residential amenity in the evening hours with the limitation of 8pm which is likely to be used only during the period of the year when there is additional daylight.

Residential Amenity

With regard to amenity and overlooking from the terrace into windows of Earlham House, Drawing SK_037 shows that at the closest point, a person standing on the corner edge of the terrace (position B) would struggle to see into the windows on the top floor and none of the lower windows. When viewed from the south-west, the distance between the two buildings is approximately 15 metres. For the avoidance of doubt, position A shows a figure located on the emergency fire escape which does not form part of the terrace area. It is JLL's understanding that this side of Earlham House primarily comprises kitchens and bathrooms for the flats, and possibly some bedrooms but no living or reception rooms. Overall, given the difference in height and distance between the two buildings, the risk of overlooking is very limited.

In relation to the amended terrace hours and amenity concerning noise, Condition 5 of the permission states:

'No music shall be played on the premises in such a way as to be audible within any adjoining premises or on the adjoining highway.'

(ref. 2023/4798/P).

In the context of the amended terrace hours, it is considered that this condition sufficiently safeguards the amenity of surrounding properties from the impact of noise. Given the proposal's full replacement of existing mechanical plant with quieter and better performing plant, there will be an overall reduction in noise from the property would mitigate the potential impact arising from the amended terrace hours.

Justification

The terrace would only be used during set hours and as an emergency fire escape. Given the arrangement of the property, the terrace is expected to be used by tenants for informal gatherings such as eating lunch or holding meetings, with the occasional post-work gathering.

Along with wider improvements to the property, the six-floor terrace represents a concerted effort to bring higher quality, better performing, refurbished office stock within the Central Activities Zone and the Borough of Camden. At present, the use of the terrace is limited to 19:00, which is only sixty minutes later than standard work hours, and does not, in our opinion, balance protecting residents' amenity with making the best use of this precious resource for office workers in central London.

In preparing this application, it is noted that there are several examples within Camden where terrace hours to 20:00 have been granted to protect the amenity of nearby properties. Nearby examples are detailed in the table below.

Permission	Description of Development	Condition and Reason
Flitcroft House, 114-116 Charing Cross Road, London, WC2H 0JR		
2022/3335/P Approved 11 th October 2023	Erection of a two storey roof extension for additional office accommodation (Class E) with roof terraces and roof plant above, plus alterations to the ground floor façade and internal reconfiguration of all floors.	Condition 8: <i>The use of the roof as a terrace shall be limited to the area shown edged red on the Terrace Area Plan (0317-rev01) and the use of the terrace area shall not be used outside the hours of 8:00 am to 9:00 pm on Mondays to Fridays.</i> <i>Reason: To protect the amenity of the occupiers of neighbouring properties in accordance with policy A1 of the Camden Local Plan 2017.</i>
1-5 Flitcroft Street, London, WC2H 8DH		
2022/3338/P Approved 13 th March 2023	Repair and refurbishment of existing building to provide flexible office space (Class E), with associated ancillary accommodation, plant and an external terrace to the rear of the building and roof. External alterations to include repairs, new doors and doorways, replacement of gallery glazing. Internal alterations to include basement waterproofing, existing staircase to be replaced/extended and enclosed, new spiral staircase and platform lift.	Condition 4: <i>The approved roof terraces, as shown on the 2nd floor (FLITC-CA-00-02-DRA-2002 Rev P02) and roof plan (FLITC-CA-00-RF-DR-A-2002 Rev P02), shall not be used outside the hours of 08:00 and 20:00 Monday-Friday.</i> <i>Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policy A1 of the Camden Local Plan 2017.</i>
55 - 57 High Holborn, London, WC1V 6DX		
2023/2461/P Approved 7 th August 2023	Creation of three roof terraces (1x at first-floor and 2x at eighth-floor), in addition to associated exterior alterations.	Condition 4: <i>The roof terraces use hereby permitted shall not be carried out outside the following times 08.00 to 20.00 Mondays to Fridays. No music shall be played on the terrace in such a way as to be audible within any nearby residential premises.</i> <i>Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of Policies G1, CC1, D1, A1, and A4 of the London Borough of Camden Local Plan 2017.</i>
Castlewood House and Medius House, 77-91 and 63-69 New Oxford Street, London, WC1A 1DG		
2017/0618/P Approved	Demolition of existing office building at Castlewood House (Class B1), and erection of an 11 storey office building (Class B1) with retail and restaurant uses (Class	Condition 47: <i>The terrace on the 08th floor level located on the southeast corner of Castlewood House shown on plan A_PL_P_108 Rev 03 shall not be used</i>

21 st December 2017	A1/A3) at ground floor level; enlargement of existing double basement level and formation of roof terraces and rooftop plant along with associated highways, landscaping, and public realm improvement works. Partial demolition of Medius House with retention of the existing façade, and erection of a two storey roof extension including private roof terraces, in connection with the change of use of the building from office (Class B1) and retail (Class A1) to provide 18 affordable housing units (Class C3) at upper floor levels with retained retail use at ground floor level.	<p><i>between the hours of 21:00 and 08:00 Monday to Sunday.</i></p> <p><i>Reason: To safeguard the amenities of the adjacent residential premises in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.</i></p>
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Resultantly, there is planning precedence nearby and within Camden supportive of the amendment to an additional terrace hour to 20:00. Additionally, as in the case of permission 2023/4798/P, such use of terraces is typically accompanied by conditions prohibiting music and noise to further safeguard local amenities.

Summary

This application proposes a minor material amendment to planning permission 2023/4798/P to change the terrace hours of the sixth-floor terrace. This change is considered by you to be 'minor material' in the wider context of the permission and the development. Engagement with local residents has been undertaken in advance of this application.

As outlined in this Cover Letter, this application is made with careful consideration of the local amenity, the expected use of the terrace, the very limited prospect of overlooking from the six-floor terrace into the windows of Earlham House, and the existing conditions restricting music on the terraces.

We trust that you have everything that you require to properly assess and determine the application accordingly, but please do not hesitate to contact me should you require any further information.

Yours sincerely,

Blythe Dunk
Director
JLL

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30 Warwick Street
 London
 W1B 5NH

Appendix A - Letter sent to the residents of Earlham House dated 5th July 2024

5 July 2024

Flat 1
Earlham House
35 Mercer Street
London
WC2 9QS

Dear Resident

**Notice of Planning Application
Article 10 of Town and Country Planning (Development Management Procedure) Order
2015**

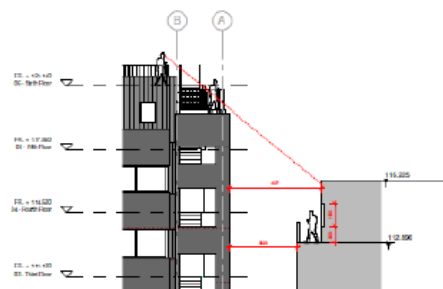
Last year our client Freshwater Group applied to Camden Council to improve their office building at 164 Shaftesbury Avenue, which is adjacent to you. The improvements are largely internal, and have significant environment gains, including full replacement of the rooftop plant machinery which will therefore be quieter and more efficient than in the past. Some are external – for example bringing an office entrance to Mercer Street, which will enhance the daytime activity on the street and bring a permanent security presence at night-time and weekends - helping to ward-off anti-social behaviour. There is also an upgrade to the bicycle (previously car) entrance to the building, which should improve the arrival to your flats at street level.

We know from representations made to the application that some Earlham House residents are concerned about daytime noise from the construction works. Residents also commented on the roof terrace proposed at the rear.

The architects have drawn the enclosed sketches to demonstrate the impact of someone standing on the terrace looking towards your flats. You will see from the red 'line of sight' that this shows that at the closest point, a person standing on the corner edge of the terrace (position B) will struggle to see into your windows on the top floor, and not at all to the lower windows. Looking south-west, the distance will be perhaps 15 metres. We understand that this side of Earlham House is a run of kitchens and bathrooms, which we expect will also help with minimising overlooking.

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[Position A shows a person using the fire escape, which is not a main-use stair]

The terrace would only be used during daylight hours (and as an emergency fire escape). There will be no music played – this is a condition of the planning permission but also a standard provision in leases across the West End where there are roof terraces. In general we expect the terrace to be used by the tenants for informal gatherings such as eating lunch or holding meetings in decent weather, with the occasional post-work gathering.

Because there will be no music and overlooking of your front doors and windows will be limited, we are applying to Camden for a *single* additional hour to use the terrace in the evening – to 8pm (20:00). At present it is limited to 7pm (19:00) which is only sixty minutes later than standard work hours.

During the Summer months (when the terrace will be primarily used), the sunshine at this hour is substantial and we do not anticipate any light-spill into your flats (lighting will in any case be very minimal and largely limited to indicating the way to the fire escape).

Camden has secured a construction management plan for the refurbishment, which is a formal system of documents and controls that go some way to reducing impact on residents – including communicating any particularly noisy works in advance. Additionally, there is a refurbishment planned rather than a major reconstruction of the building.

I write as the planning consultant for the client, however either myself, the client or the architect would be happy to talk to you through this (or indeed show you the view back to your homes from the fire escape).

Yours faithfully

Blythe Dunk
Director - Planning and Development