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Your ref: **APP/X5210/W/25/3359191**
Our ref: **2024/5112/P**
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Dear Deb Smith,

Appeal by 36-37 Great Russell Street Ltd
Site: Offices And Premises at Unit 5, Ground Floor, 37 Great Russell Street, London, WC1B 3PP

Appeal against refusal of planning permission (dated 07/11/2024) for: 'Change of use of part of the ground floor from Class E (office) to Class C3 (residential) with associated external alterations' was refused for the following reasons:

- 1. The proposed residential unit, by virtue of the proposed site layout and its location within the building, would result in a substandard unit of accommodation, providing poor quality outlook and sunlight contrary to policies D1 (Design) and H6 (Housing Choice and Mix) of the Camden Local Plan 2017 and policies D3 (Optimising site capacity through the design-led approach) and D4 (Delivering good design) of the London Plan 2021.*
- 2. The proposed development, in the absence of a legal agreement securing an affordable housing contribution, would fail to maximise the supply of affordable 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. Summary

Site and Designations

- 1.1. The site is located on the southern side of Great Russell Street and comprises a four-storey building plus basement. The basement, ground, first, and second floors consist of Class E commercial floorspace, while the third floor is in residential use (Class C3).
- 1.2. There are several extant planning permissions to extend the building and create additional residential units at upper floors. Please refer to the 'planning history' section of the officer delegated report for full details.
- 1.3. The site is within the Bloomsbury Conservation Area and the building is noted as being a positive contributor to the conservation area.
- 1.4. 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. Status of Policies and Guidance

- 2.1. The London Plan 2021 is the Spatial Development Strategy for Greater London. The Plan is part of the statutory development plan for London, meaning that the policies in the Plan should inform decisions on planning applications in all London Boroughs. The relevant London Plan policies as they relate to the reason for refusal are:

Policy H1 Increasing housing supply
Policy D3 Optimising site capacity through the design led approach
Policy D4 Delivering good design
Policy D6 Housing quality and standards
Policy H4 Delivering affordable housing
Policy T6 Car parking

- 2.2. The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on 3rd 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:

Policy G1 Delivery and Location of Growth
Policy H1 Maximising Housing Supply
Policy H4 Maximising the Supply of Affordable Housing
Policy H6 Housing Choice and Mix
Policy D1 Design
Policy T1 Prioritising Walking, Cycling, and Public Transport
Policy T2 Parking and Car-Free Development

- 2.3. 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. However, it should be noted that a new version of the National Planning Policy Framework was published in December 2024. It is however considered that these changes to the NPPF do not impact on the assessment of this application.

- 2.4. Additional relevant policy and guidance includes the Bloomsbury Conservation area appraisal (2011).
- 2.5. It should also be noted that the Council has published a draft new Camden Local Plan, which has just completed its Regulation 18 stage. Little weight can be afforded to the new plan, but it is nonetheless a material consideration.

3. Comments on Appellant's grounds of appeal

- 3.1. The appellant's case is set out in a document prepared by the appellant's planning agent, Henry Planning.
- 3.2. The Council will summarise the key points in the Appellant's 'Appeal Statement' and respond to each point in turn.

Reason for Refusal 1

- 3.3. Section 7 of the Appellant's 'Appeal Statement' covers the principle of losing existing commercial floorspace. The marketing exercise submitted with the planning application satisfied the policy requirement, but the Council wish to flag two matters.
- 3.4. Firstly, it is noted that the marketing analysis submitted with the planning application focuses on the property's suitability for office use. Despite how it has been used historically, the site may actually be more well suited to a town centre use (e.g. retail, food & beverage) befitting of its Central London location. As such, the justifications put forward for the lack of interest concerning the size and quality of accommodation and changing working patterns do not sufficiently demonstrate that the property in its current state would not be suited to an alternative Class E use. At the same time; however, the proposed unit is re-imagined as a small retail unit with a much reduced ground floor; however, there is no evidence put forward around the viability of a larger retail unit.
- 3.5. The second issue concerns the internal layout of the proposed ground floor Class E unit. Not only is it very small but the space is extremely awkward and compromised by the positioning of the large cycle store and lift. It is clear that the commercial floorspace is just whatever is leftover after the residential and its ancillary functions have been accommodated. The Council therefore have concerns over the spatial quality and subsequently attractiveness and long-term viability of the proposed Class E unit and would ask the Inspector to take this into account.
- 3.6. Sections 8 and 9 refers to the impact of the proposal on the character and appearance of the property and Bloomsbury Conservation Area and neighbouring amenity respectively. For reasons set out in the delegated report, the Council has no concerns in this regard.
- 3.7. Section 10 refers to the standard of residential accommodation which is the key point of contention. The appeal statement does not address the contentious points which are outlook, sunlight and the wider issue of location in the building and arrival experience.
- 3.8. The appellant has not provided a rebuttal to the poor layout of the ground floor which creates an awkward and inefficient commercial unit and a residential unit accessed

by a long, dark and narrow corridor with its entrance door directly between two large bin stores that serve the homes on the floors above. This would not create satisfactory or sustainable living standards for future occupants.

- 3.9. A far better approach would have been to locate the ancillary facilities including cycle and bin stores at the rear of the ground floor and allow the Class E to occupy a well-proportioned and flexibly sized unit that is attractive to a range of commercial tenants.
- 3.10. Section 14 refers to other material considerations which acknowledges the Council's performance against the Housing Delivery Test, its lack of 5-year land supply and the subsequent engagement of the tilted 'balance' (paragraph 11d of the NPPF). The Council agree that this is applicable, but this does not mean all housing proposals should be approved. The NPPF also requires well-designed homes (para 77) and this objective is supported by policy D6 of the London Plan and policy H6 of the Camden Local Plan. Paragraph 11 requires the adverse impacts of granting planning permission to be weighed against the benefits of the NPPF which requires planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes. The proposal is not considered to comply with the aforementioned key policies and the benefits of the proposal are limited to a single sub-standard studio unit which would make a negligible contribution to the Borough's need for housing.

Reasons for Refusal 2 (affordable housing contribution) and 3 (car-free housing)

- 3.11. Sections 11 and 12 of the appellant's Appeal Statement refers to the Section 106 reasons for refusal and acknowledges the need for such an agreement to address these matters. Justification for the two heads of terms follow in section 4 of the Council's appeal statement.

4. Section 106 Reasons for Refusal

- 4.1. It is noted that the Appellant is willing to enter into a legal agreement to overcome reasons for refusal 2 and 3 of planning permission ref. 2024/5112/P which relates to the lack of a section 106 to secure an affordable housing payment and car-free housing. As such, the Council is providing the appellant with a draft section 106 planning obligation and will update the Inspector at final comments stage as to whether an agreement has been reached.
- 4.2. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the "CIL Regulations") creates statutory tests to determine whether a planning obligation is capable of being a reason for granting planning permission. Obligations must be:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 4.3. Current government guidance on the application of Section 106 is contained within the Planning Practice Guidance (NPPG) on Planning Obligations and the Use of Planning Conditions.

- 4.4. In this case, it is necessary to secure an affordable housing payment to maximise the contribution of the site to the supply of affordable housing in the borough and car-free housing to ensure the development promotes healthy and sustainable transport choices in accordance with policies T1, T2 and H4 of the Camden Local Plan 2017.

Affordable housing contribution

- 4.5. 5.8. The appeal scheme involves the creation of 47 sqm (GIA) of residential floorspace and an additional residential unit. Policy H4 expects a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to the residential floorspace of 100sqm GIA or more. Taken on its own, the proposal would not trigger an affordable housing contribution as the uplift of residential floorspace is below the 100 sqm threshold. Policy H4; however, includes a provision for split or related sites and states that the Council will use planning obligations to ensure that all parts and/or phases of a site make an appropriate contribution to the affordable housing supply.
- 4.6. Taken together with the previous permission (ref. 2023/2714/P), the total residential floorspace would be 350.6 sqm. An affordable housing payment of £78,600 (based on an uplift of 303 sqm and a 6% affordable housing target) has already been secured. The additional floorspace means that an 8% target is now applicable (as the total floorspace is now closer to 400 sqm and the target is based on 2% per 100 sqm) which means the additional PIL is $8\% \times 47 \text{ sqm} \times £5,000 \text{ per sqm} = £24,800$.
- 4.7. Under policy H4, for developments with a capacity of less than 25 units, the affordable housing contribution is based on a sliding scale with the target starting at 2% for an additional home (100sqm) and is increased by 2% for each home added to the capacity. Based on the floorspace uplift (rounded to the nearest 100sqm), for the development excluding the tower, the affordable housing contribution would be 28% (based on a GIA of 1406 sqm), and for a development including the tower, the affordable housing contribution would be 30% (based on a GIA of 1464 sqm). The difference between the two scenarios results in an affordable housing contribution of an additional 2%. This 2% is then applied to the proposed gross external area (GEA) of the scheme including the tower (GIA of 1464 sqm multiplied by the standard multiplier of 1.25), resulting in 36.6 sqm. This value is then multiplied by £2,650 (the multiplier factor to calculate payment-in-lieu for a market residential scheme) to get the required additional affordable housing contribution of £96,990.
- 4.8. The most appropriate way of obtaining the financial contribution is via a section 106 legal agreement and it is understood from the appellant's statement of case that they are willing to provide the full contribution should the appeal be allowed. A draft copy of a section 106 legal agreement has been sent to the appellant and PINs will be updated on any progress at the final comments stage.

Car free housing

- 4.9. As outlined within the Officer Delegated Refusal Report, Policy T2 limits the availability of parking in the borough and requires all new developments in the borough to be car-free. The new unit would be car-free to limit the availability of both off-street and on-street parking. A planning obligation is considered the most appropriate mechanism for securing the development as car-free as it relates to controls that are outside of the development site and the ongoing requirement of the development to remain car-free. The level of control is considered to go beyond the remit of a planning condition. Furthermore, a legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free". The Council's control over parking does

not allow it to unilaterally withhold on-street parking permits from residents simply because they occupy a particular property. The Council's control is derived from Traffic Management Orders ("TMO"), which have been made pursuant to the Road Traffic Regulation Act 1984. There is a formal legal process of advertisement and consultation involved in amending a TMO. The Council could not practically pursue an amendment to the TMO in connection with every application where an additional dwelling/use needed to be designated as car-free. Even if it could, such a mechanism would lead to a series of disputes between the Council and incoming residents who had agreed to occupy the property with no knowledge of its car-free status. Instead, the TMO is worded so that the power to refuse to issue parking permits is linked to whether a property has entered into a "Car-Free" legal obligation. The TMO sets out that it is the Council's policy not to give parking permits to people who live in premises designated as "Car-Free", and the Section 106 legal agreement is the mechanism used by the Council to signal that a property is to be designated as "Car-Free".

- 4.10. The use of a legal agreement, which is registered as a land charge, is a much clearer mechanism than the use of a condition to signal a potential future purchaser(s) of the property that it is designated as car-free and that they will not be able to obtain a parking permit. This part of the legal agreement stays on the local search in perpetuity so that any future purchaser of the property is informed that residents are not eligible for parking permits.
- 4.11. The car-free requirements comply with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. This supports section 9 of the National Planning Policy Framework: Promoting sustainable transport. It is also directly related to the development and fairly and reasonably related in scale and kind as it relates to the parking provision for the site and impact on the surrounding highway network.

5. Conclusion

- 5.1. 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 and delegated report. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns. For these reasons the proposal fails to meet the requirements of policy and therefore the Inspector is respectfully requested to dismiss the appeal.
- 5.2. Should the inspector be minded to allow the appeal, it would be requested that conditions in Appendix A are attached the decision that a section 106 legal agreement is secured including the following head of terms:
- Car-free
 - Affordable Housing contribution of £24,800

Should any further clarification or submissions be required, please do not hesitate to contact Kristina Smith by the direct dial telephone number or email address quoted in this letter.

Yours faithfully,

Kristina Smith
Deputy Team Leader

Appendix A

Suggested conditions should the appeal be allowed.

Should the Inspector be minded to allow the appeal, the Council respectfully requests the following conditions to be attached the permission:

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 23033/PA-01 P-00, 23033/PA-02 P-00, 23033/PA-03 P-00, 23033/PA-04; P-00, 23033/PA-05; P-00, 23033/PA-06 P-00, Design and Access Statement received 26/03/2024 by SM Planning, Heritage Statement received 26/03/2024 by Cogent Heritage, 23033/EX-01 P-00, 23033/EX-02 P-00, 23033/EX-03 P-00, 23033/EX-04 P-00, 23033/EX-05 P-00, 23033/EX-06P-00, Covering Letter received 26/03/2024 by SM Planning, 23033/LP-00 P-00

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

3. All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

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 and of the Camden Local Plan 2017.

4. The development hereby approved shall achieve a maximum internal water use of 110litres/person/day. The dwelling/s shall not be occupied until the Building Regulation optional requirement has been complied with.

Reason: To ensure the development contributes to minimising the need for further water infrastructure in an area of water stress in accordance with Policies CC1, CC2, CC3 of the London Borough of Camden Local Plan 2017.