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Our ref: **2023/2445/P**
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The Planning Inspectorate
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Dear Claire Vicary,

Appeal by Emdico Limited.
Site 100 Hatton Garden, London, EC1N 8NX.

Appeal against refusal of planning permission dated 08th May 2024 for:

Proposal: Retention of 2 x air condenser units within the internal courtyard and installation of new acoustic screens at ground floor level.

1.0 Summary

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 consider the following information and comments before deciding the appeal.

Site and designations

1.1 The site comprises a jewelry shop located at ground floor of a three storey building. The submitted Statement of Case indicates that applicant has a 14 year lease.

1.2 The site is located within the Jewelry quarter of Hatton Garden and is part of a large 20th century complex comprising shops, offices and residential units on upper floors. The ground floor level consists of commercial units with access to the internal courtyard. The courtyard is currently used to house a number of plant units. It is accessible through monitored security gates on Greville Street. The jewellery shop, Suite 108/109, faces Hatton Garden. The area of concern for the plant location is the internal courtyard.

1.3 The 2 x existing outdoor air condenser units are located in the internal courtyard. This serves as a common amenity area. This courtyard is surrounded on the ground floor by commercial and office units, with residential flats situated on the upper floors to the north and east sides. There are numerous air conditioning units operating in this courtyard.

1.4 The Residents Association objected to the application. It says that they represent 1000 residents on upper floors. It has objected to the application stating that there are already over 100 air

conditioning units in situ. It says that there have been complaints about noise and that buffering arrangements have not worked. The residents oppose the application, citing ongoing disputes with the freeholder regarding noise from existing plant units. The Residents Association report that the current noise levels have prompted legal action and involvement from both the LBC and a local councillor. With over 100 air conditioning units already in place, they believe adding new units will worsen the impact on residents' quality of life. They further allege that noise buffering for existing units has not been adequately implemented by the freeholders.

1.3 The site is within a conservation area and the Conservation area statement describes the area as being a dense network of minor streets. connected to four major streets.

1.4 Planning Permission was refused on 8th May 2024 for the following reasons in full as listed below:

1. ***The submitted supporting information is considered insufficient to demonstrate that the Council's noise conditions would be complied with and that the proposed plant will not cause noise disturbance and a loss of amenity to residential neighbours. The proposals is therefore contrary to policies A1 (Amenity for occupiers and neighbours), A4 (Noise and vibration) of the Camden Local Plan 2017 and;***
2. ***The 2 x air condenser units is having a cumulative impact with the amenity of residential occupiers in terms of noise and vibration contrary to policies A1 (Amenity for occupiers and neighbours), A4 (Noise and vibration) of the Camden Local Plan 2017.***

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 A1 and A4*

The Council has published a new Draft Camden Local Plan (incorporating Site Allocations) for consultation (DCLP). The DCLP is a material consideration and can be considered in the determination of planning applications, which has limited weight at this stage. The weight that can be given to it will increase as it progresses towards adoption (anticipated 2026). It is not envisaged that there would any material differences between the Council's policies and the emerging new plan in relation to this appeal

2.2 The Hatton Garden Conservation Area Statement was adopted in 2017 and Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area under s.72 of the Listed Buildings and Conservation Areas Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

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.

2.4 National Planning Policy Framework 2023 (paragraphs 174 and 185)

2.5 With reference to the National Planning Policy Framework 2023, there are no material differences between the Council's policies and the NPPF in relation to this appeal.

3. Comments on grounds of appeal

The appellant's statement is summarised and addressed below in italics.

Objection from residents

3.1 The appellant refers to the objection from residents. The appellant is aware of the complaints regarding other units yet maintain that their responsibility is confined to the 2 units proposed to be retained and their assessment does not take *under consideration the "other source of noise"*.

3.2 Council's response: revision was sought due to the lack of transparency with the application regarding noise complaints at the site. The appeal statement acknowledges that the appellant was aware that this was the case. The appellant estimates that there are about 30-40 units within close proximity to the Unauthorised units. The LPA disagree with the appellants assessment that these units should not be considered as part of the NIA given the previous concerns raised by the Residents Association. The LPA in view of adopted guidance CPG (Amenity) 2021, please refer to paragraph 6.20 states that when assessing noise impact a minimum of the below information "please refer to paragraph 3.4 below is expected to be submitted as part of an acoustic report must consider the proposal in its entirety when assessing any potential harm arising from the noise being emitted from the proposal. Thus, there is no satisfaction that the unauthorised units are compliant with the appropriate noise standards, and the mitigation measures proposed by the appellant could worsen the impact of residents' quality of life due accumulative impact of the scheme.

Revisions to noise assessment

3.3 Revisions to the Noise Assessment and acoustic enclosure were also requested by the LPA, and two updated reports were submitted by KP Acoustics yet the application was still refused.

3.4 LPA is duty bound to ensure the noise and vibration of the unauthorised air condenser units would not have a significant impact on amenity nor the quality of life and wellbeing of the residents. It's therefore important that the Noise Impact Assessment is written with the appropriate amount and information required to address any noise concerns, which is on a "case by case" basis and level of information would also depend on the specific circumstances of a proposal. In this instance. The following listed below from planning Policy A4 of the Local Plan 2017 list some of the requirement criteria that most Noise Impact Assessment should consider. However, the submitted NIA lacks clarity on some of the items listed below which is addressed separately in this report:

- *details of the plant or other source of noise and vibration both on plan and elevations and manufacturers specifications; **No information provided***
- *noise or vibration output from proposed plant or other source of noise and vibration, including noise or vibration levels; frequency of the output; and length of time of the output. **No information provided***
- *features of the noise or vibration e.g. impulses, distinguishable continuous tone, irregular bursts;*
- *location of noise sensitive uses and neighbouring windows; **not fully disclosed***
- *details of measures to mitigate noise and vibration;*
- *details of any associated work including acoustic enclosures and/or screening;*
- *cumulative noise levels; and; **No information provided***
- *hours/days of operation. **No information provided***

3.6 Notwithstanding the above, all revisions to the submitted noise impact assessments failed to provide sufficient information to satisfy the requirement of Policy A4 which requires the LPA to take into consideration the general character of the noise (whether noise is intermittent, has a distinct screech, bang, hiss) and where appropriate, the cumulative impacts of noise from one or more noise

sources. In assessing applications, we will have regard to noise and vibration thresholds. The proposed development fail to comply with Policy A4 of the Local Plan 2017; and. The main part of the assessment is whether the submitted report assessed other cumulative noise levels from the other plant/other noise sources which clearly this was not the case.

Revisions to acoustic enclosure

3.8 Revised drawings (Rev 3 and Rev 4) were submitted on 18/01/2024 and 31/01/2024, respectively.

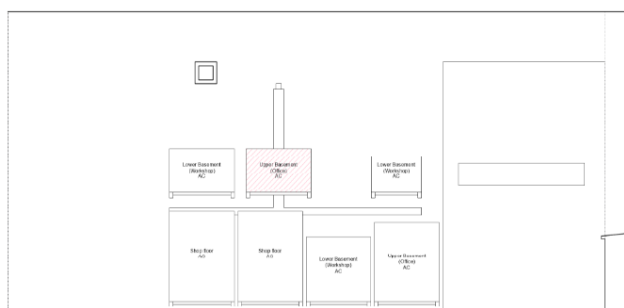
The appellant states that it has also agreed to install noise screening panels for the existing units as per KP Acoustics' recommendations. Specifications for these panels were submitted to the LPA.

Council's response: Planning policy A4 in the Local Plan 2017 reaffirms (paragraph 6.95) that where uses sensitive to noise and vibration are proposed close to an existing source of noise or when development that is likely to generate noise is proposed, the Council will require an acoustic report to accompany the application. It is clear that the existing noise source should form part of any assessment which the agent also confirmed. Thus the appellant fail to consider the the accumulative impact of the existing units, which is of great concern and this concern stills remains unaddressed with this appeal submission. Thus, if allowed the proposal may have a cumulative adverse impact on the amenity of residential occupiers in terms of noise and vibration. As such, the proposal is contrary to Camden Local Plan Policies A1 and A4, and related Camden Planning Guidance in this regard. Therefore the screens may not alleviate cumulative impact.

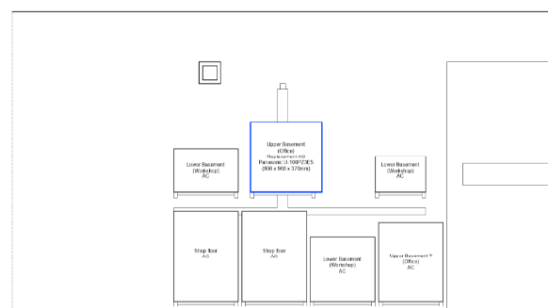
Comparing scheme with other approval

3.9 The appellant states that one of the key reasons for refusal was the claim that the applicant had not sufficiently demonstrated compliance with the council's noise standards, leading to concerns about the loss of amenities to neighbouring residents. However, KP Acoustics, a recognized noise consultant, also provided a noise assessment for a similar planning application (ref. 2021/5743/P) at No. 98 Hatton Garden. That application, for the replacement of an AC unit, was approved under the same policies (Camden Local Plan policies A1 and A4, as well as the methodology in the National Planning Policy Framework and Planning Practice Guidance). The site is located in the same courtyard as the subject property (Nos. 108-109 Hatton Garden).

3.10 *Council's response: The council disagrees with the appellant's statement and the comparison to the application that was approved at 98 Hatton Garden which was for a replacement of an existing unit rather than the installation of a new air condenser unit, which is shown in image 1, below.*



Existing rear elevation of AC units in internal courtyard to back of 98 Hatton Garden.



Proposed rear elevation location of AC unit in internal courtyard to back of 98 Hatton Garden.

Given the works to install both of the air condenser units are unlawful the assessment of the two planning applications are not comparable. Notwithstanding this, all applications should be determined on its own merit and no prior objection(s) was received during the consultation period for 98 Hatton Garden. If this was the case during the consultation period, the complaint/objection would also be material consideration. Moreover, what the appellant is proposing here is the addition

of 2 x additional air condenser unit in an area which is already sensitive to noise. As discussed previously above in paragraph 3.8, the area not appropriate, in light of the existing noise complaint the location seems to be having an impact that would likely have an impact (including effects) with the health and wellbeing with the living conditions impacting on with the health and wellbeing of the neighbouring residential properties in the wider area. Notwithstanding the above there could be further impact that could arise from the development. Thus, the unauthorised air condenser units would be contrary to the aims NPPF 2023, in particular paragraph 185 which requires the Planning Authority to ensure that new development mitigate potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

4.5 The appellant states that comparing both reports, it is clear that the assessment procedures used for both applications are consistent and in compliance with Camden Local Plan policy 6.89, which addresses the assessment of noise and vibration impacts. Both proposals align with policies A4 (Noise and Vibration) and A1 (Managing the Impact of Development).

4.6 Council's response: The council disagrees with the appellant's characterisation. It is apparent that the noise report for this appeal site whilst similar in its assessment did not take into consideration the existing site context and the fact that there were other air condenser units or other noise sources that were installed in the same location and unfortunately these mechanical equipment's did not form part of the noise impact assessment as required by national and local planning policies. This is not considered as precedent and there are noise complaints from neighbouring residents.

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. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns and the development as submitted is considered insufficient to demonstrate that the Council's noise conditions would be complied with, the unauthorized units will have a cumulative impact given the existing site context of other air condenser units and other noise sources. Thus, the proposed plant will cause noise disturbance and a loss of amenity to residential neighbours.

6 Suggested conditions should the appeal be allowed.

1) The development hereby permitted shall be carried out in accordance with the following approved plans: FL129 A101 REV04; FL129 A103 REV04; FL129 A204 REV04; FL129; A305 REV04; FL129 A306 REV04; 26706.PCR.01 REVB and Energy Statement by MES Building Solutions dated 05 June 2023.

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

2) The external noise level emitted from plant, machinery or equipment at the development with specified noise mitigation hereby approved shall be lower than the typical existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with installation operating at maximum capacity and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from mechanical installations/ equipment in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

Yours sincerely

Obote Hope
Planning officer