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# Appeal Decision

Site visit made on 7 June 2013

by **G J Rollings BA(Hons) MAUD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 31 July 2013

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**Appeal Ref: APP/X5210/A/13/2190910**

**Fairgate Group, 78 New Oxford Street, London, WC1A 1HB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Fairgate Estates Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref 2012/2942/P, dated 29 May 2012, was refused by notice dated 5 October 2012.
  - The development proposed is an extension of ground floor commercial property.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed development on highway safety, with particular reference to pedestrian traffic.

## Reasons

### *Highway safety*

3. The appeal site comprises a commercial building on the corner of New Oxford Street and Dyott Street. The ground floor of the building has a small undercroft cut from the corner of the building at ground floor level, between the two streets, and the appeal proposal seeks to extend the adjacent commercial unit to fill this space.
4. The pavement serving New Oxford Street is narrow at this point and at the time of my visit, which was on a weekday at lunchtime, there was significant pedestrian congestion. This was exacerbated by the volume of people waiting at an adjacent bus stop, some of whom were using the appeal site undercroft as a waiting area. The bus stop is a starting point for some routes and a stopping point for several other frequent routes, and I noticed a constant high volume of bus passengers using the pavement, as well as those looking to pass the bus stop. Some pedestrian queuing was evident, and there were examples of pedestrians using the undercroft area to bypass the congestion.
5. Policy DP21 of the Council's Development Policies<sup>1</sup> expects works affecting highways to avoid causing harm to highway safety or hinder pedestrian movement. The proposal would reduce the area available to pedestrians and intending bus passengers, and these users would be displaced onto the

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<sup>1</sup> *Camden Development Policies 2010-2025*, adopted 8 November 2010.

pavement. This would in turn increase pavement congestion, and create additional hindrance to pedestrian movement, which is in contravention of the policy. The additional impact would create highway safety concerns. Moving the bus stop would be likely to create a wider space available to pedestrians but, in this case, such a condition would fail to meet the tests set out in Circular 11/95 *The Use of Conditions in Planning Permissions*.

6. I note the appellant's comments that alternative powers are available to administer rights of way and highway safety. Nonetheless, in this case, an adopted development plan policy directly addresses this issue, and the development plan is the basis on which planning decisions are made. I note also the appellant's statement that the appeal site is not a public highway, but the Council has confirmed in its evidence that it is dedicated highway, albeit not maintainable at public expense. The proposal is unacceptable on its planning merits and I therefore conclude that it would have a detrimental effect on highway safety, with particular reference to the flow of pedestrian traffic. It would not comply with Policy DP21, for the reasons set out above, nor would it comply with Core Strategy (2010) Policy CS11, which amongst other things, seeks to improve pedestrian links in the borough.

#### *Other matters*

7. The works to extend the ground floor unit on the appeal site would include a new shop front, with a modern appearance similar to that which currently exists. This would be an appropriate addition given the context of the area, and would preserve the appearance of the Conservation Area. Busy pedestrian traffic is a feature of its overall character. I do not therefore consider that the proposal would detrimentally affect the character of the Conservation Area or cause harm to its significance as a heritage asset. To that extent, it would preserve or enhance its character or appearance, though this does not alter my conclusion on the main issue.
8. I am mindful that the proposal would provide some benefits, namely the renewal and reuse of a commercial unit, and that this accords with the core planning principles of the *National Planning Policy Framework*, particularly with regard to sustainable development and reuse of existing land. I note also the appellant's comments on the lack of local opposition to the scheme. However, such benefits and considerations do not outweigh the harmful effect that the proposal would have on highway safety, which I have identified above.

#### **Conclusion**

9. Accordingly, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*G J Rollings*

INSPECTOR