

Address:	Omega House 67-74 Saffron Hill London EC1N 8QX	
Application Number:	2011/2442/P	Officer: Jonathan Markwell
Ward:	Holborn & Covent Garden	
Date Received:	16/05/2011	
Proposal: Retention of infill extension for additional office (Class B1) accommodation and associated windows and installation of bi-fold door, all at ground floor level on side (south) elevation.		
Drawing Numbers: 2923 05; 2923/01; 2923/02; 2923/03E; 2923/04C; 2923/05; Saffron Hill Records of bikes and cleaners, as received 07/07/2011; Letter from Raymond Stemp Associates dated 25/07/2011.		
RECOMMENDATION SUMMARY: Grant Planning Permission subject to S106 Legal Agreement and warn of enforcement action		
Applicant:	Agent:	
Nyraff Ltd c/o Agent	Raymond Stemp Associates Westwood Park London Road Little Horkeley Colchester Essex C06 4BS	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing (prior to any works taking place)	B1 Business		600m ² (ground floor only)
Proposed	B1 Business		696m ² (ground floor only)

Parking Details:		
	Parking Spaces (General)	Parking Spaces (Disabled)
Existing (prior to any works taking place)	3	0
Proposed	0	0

OFFICERS' REPORT

Reason for Referral to Committee: The Director of Culture and Environment has referred the application for consideration as it involves the making of a planning obligation under Section 106 of the Town and Country Planning Act 1990 [Clause 3 (vi)].

1. SITE

- 1.1 The application site is a five storey and basement commercial building located within the Hatton Garden Conservation Area. The property is occupied at basement floor level by Cameron Mackintosh (for the storage of clothing), ground floor level by Call Print, first floor level by Jenkins and Potter, second floor by Choice Hotels, third and part fourth floor level by Mededin Sans Frontier and part fourth floor by Usbourne. All operate within a Class B1 use, with this application relating to the ground floor level occupied by Call Print (reprographics, digital printing and associated Class B1 uses). However the application must be considered on the basis of any Class B1 operator and not the specific occupier at this point in time.
- 1.2 An existing vehicle access into the site is located along Saffron Hill. Parking on the site is within the established service yard, which also acts as a lightwell at this point. This area also provides cycle parking and an area for waste and recycling storage. An area of parking for motorcycles is located along Saffron Hill directly opposite the building's front entrance.
- 1.3 A residential building (The Ziggurat Building) is located immediately to the south of the site (60-66 Saffron Hill), with the present 5 metre wide lightwell/service yard separating the two buildings. The Ziggurat Building comprises 62 residential apartments and a commercial unit on the ground floor.
- 1.4 There is a total of 23 (as confirmed by Ziggurat Freehold Limited) flats facing the lightwell with six of those immediately opposite and with the only windows (i.e. single aspect) facing the south elevation of the application site building. The other flats do have a double aspect; however two of those have bedrooms facing onto the lightwell where the room concerned is single aspect.
- 1.5 The application site building is located within a distinctly mixed-use area comprising offices, research and development space, studios, light industrial units, public houses, shops, a multi-storey car park and residential apartments. The application site building is not identified in the conservation area statement as being one of local interest.

2. THE PROPOSAL AND BACKGROUND CONTEXT

- 2.1 Planning permission is sought for the retention of an infill extension at ground floor level on the south elevation of the building. This extension, previously an undercroft servicing area, creates 96m² of additional Class B1 floorspace for the ground floor occupier of the building (18m² of which is in the form of new facilities comprising 3 x male and 3 x female toilets). Permission is also sought for retention of associated windows on the south elevation at ground floor level. Both of these elements are sought retrospectively, with the works denoted by the applicant to have been carried out from 09/11/2008 and completed on 29/09/2009.
- 2.2 Planning permission is also proposed for the installation of bi-fold doors on the side (south) elevation at ground floor level. This will replace an unauthorised white

shutter and shutter door which has been installed at the premises without permission.

- 2.3 During the course of the application more information has been provided as to the nature and operational demands of the ground floor occupier (Call Print) and other occupiers within the building in terms of cyclists, cleaners and waste collection. Furthermore more explicit and detailed information as to the elements the applicant is willing to secure as part of a S106 Legal Agreement has been provided. This information has been passed on by officers to a representative of The Ziggurat Building. In addition an existing and proposed section through the proposed bi-fold door on the side (south) elevation of the building has been submitted.
- 2.4 The submission of this application follows, in short, an initial enforcement investigation, planning application refused by the Council, serving of an Enforcement Notice by the Council, submission of an appeal against the Enforcement Notice by the applicant which was subsequently part dismissed, enforcement notice upheld and planning permission refused at appeal by the Planning Inspectorate (see relevant history below). The time period for the dismissed part of the appeal, relating to the unauthorised infilling of the former undercroft and associated fenestration and roller shutter was denoted to be 6 months from the date of the decision (12/01/2011). This application has been submitted following a series of meetings and correspondence between the applicant, agent of the application, a representative of the residents within The Ziggurat Building and Council officers. Given the submission of this planning application on 16/05/2011 the enforcement action to completely and permanently remove the aforementioned unauthorised works has been put in abeyance pending the outcome of this application.

3. **RELEVANT HISTORY**

Planning Application History

- 3.1 8580026 - Projecting box sign (1300 x 300mm at height of 2.4m to the underside). (As shown on one unnumbered drawing) – Granted 13/03/1985.
- 3.2 9000107 - Continued use as the Headquarters of the National Society for the Prevention of Cruelty to Children including offices meeting and teaching facilities and ancillary storage and housekeepers flat as shown on location plan (Ref:K205/P307/001/1) – Approved 26/06/1990.
- 3.3 PSX0005186 - Construction of new 5th floor – Withdrawn 06/12/2000.
- 3.4 PSX0104764 Construction of new 5th floor to be used as offices – Refused 24/10/2001.
- 3.5 PSX0204458 Erection of fifth floor roof extension to be used as offices – Refused 06/03/2003, appeal dismissed 30/09/2003.
- 3.6 2010/0938/A - Retention of two internally illuminated projecting signs at ground floor front elevation of office building – Approved with conditions 11/05/2010.

- 3.7 2010/0941/P - Retention of roller shutter doors with pedestrian gates on the front and side elevation and windows at the side elevation, and infill extension at side elevation over part of the service yard at ground floor level. Refused and warning of enforcement action to be taken 08/07/2010 after consideration of the application at a Development Control Committee meeting on 24/06/2010.

The minute from the Development Control Committee meeting on 24/06/2010 denotes:

The Committee considered the additional information contained within the supplementary agenda, the written submissions and deputations referred to in Item 4 above. Councillor Julian Fulbrook, in his capacity as ward councillor, made a deputation objecting to the application. Members raised concerns regarding the residential amenity, specifically the noise level from the shutters in the court yard and the displacing of activity from underneath the building to the courtyard caused by the infilling of the yard area.

Discussion took place regarding additional conditions that could be imposed as suggested by the deputation in objection to the application. The Committee also considered a noise mitigation scheme. In response the Compliance and Enforcement Manager advised the Committee that the conditions proposed were not suitable but they could decide to serve an enforcement notice.

*On being put to the vote, with none in favour, 8 against and 1 abstention, it was **RESOLVED** – THAT permission be refused and enforcement action instigated for the following reason:*

1. The infilling of the former undercover yard area and the retention of the roller shutter within the south elevation is detrimental to the amenity of the residents at the Ziggurat, 60-66 Saffron Hill. This is by reason of noise and disturbance directly caused by the operation of the roller shutter and pedestrian entrance and consequential noise and disturbance arising from the impact of the unauthorised development [in such a confined location] including the effect of operation of the roller shutter and the effect of activities displaced from the former undercover yard area to the open area of the courtyard. This is contrary to policies SD6 (Amenity for occupiers and neighbours) and SD7 (Light, noise and vibration pollution) of the LB Camden Replacement Unitary Development Plan 2006.

- 3.8 2010/5251/P - Retention of roller shutter to front (Saffron Hill) elevation of office building at ground floor level. Certificate of Lawfulness (Existing) Refused 01/12/2010.

Enforcement History

- 3.9 An enforcement complaint was logged with the Council on 30/09/2009 (Ref: EN09/0860). The alleged breach in planning control was registered as the unauthorised infilling of the ground floor and the insertion of a new roller shutter (with pedestrian access) and temporary ramp. Through a review of the property's planning history it was established that works to the building, undertaken between

March 2009 and September 2009, did not benefit from planning permission and were therefore unauthorised.

3.10 Following the Council's decision into planning application 2010/0941/P (see paragraph 3.7 above), an Enforcement Notice was served under delegated powers on 29/07/2010. The breach of control was described as follows:

1. The unauthorised installation of a new roller shutter with pedestrian doorway within the west elevation (Saffron Hill).
2. The unauthorised infilling of a former undercroft and creation of an enlarged office area, including the installation of windows within the south elevation and a roller shutter with pedestrian doorway within the south elevation.
3. The unauthorised installation of a metal staircase that provides access to the roller shutter within the south elevation.

The requirements of the Notice were:

1. Completely and permanently remove the roller shutter and pedestrian doorway within the west elevation (Saffron Hill)
2. Completely and permanently remove the office area created by the infilling of the former undercroft. This also includes the removal of the new fenestration and roller shutter within the south elevation.
3. Completely and permanently remove the metal staircase.

The reasons for issuing the Notice were as follows:

- a) It appears to the Council that the above breach of planning control has occurred within the last 4 years.
- b) The new roller shutter within the west elevation (Saffron Hill), the infilling of the undercroft and the installation of new fenestration and new roller shutter within the south elevation and associated metal staircase is detrimental to the amenity of the residents at the Ziggurat, 60-66 Saffron Hill. This is by reason of noise and disturbance directly caused by the operation of the roller shutters and pedestrian entrances and consequential noise and disturbance arising from the impact of the unauthorised development (in such a confined location) including the effect of operation of the roller shutters and the effect of activities displaced from the former undercroft yard area to the open area of the courtyard. This is contrary to policies SD6 (Amenity for occupiers and neighbours) and SD7 (Light, noise and vibration pollution) of the LB Camden Replacement Unitary Development plan 2006.

3.11 Following the service of the Notice a letter dated 25/08/2010 was sent by the Council advising that under Section 173A (1) (b) of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991, requirement 3 ('completely remove the metal staircase') of the Planning Enforcement Notice served on 29/07/2010 will be waived. This is as the staircase is a moveable structure and thus falls outside of the meaning of development and hence control by the Council in planning terms.

- 3.12 The applicant appealed against the enforcement notice issued by the Council (received by the Planning Inspectorate on 02/09/2010) under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 under grounds (a), (c) and (g). On 12/01/2011 the appeal was decided, with it being part dismissed, meaning an enforcement notice was upheld and hence planning permission refused.
- 3.13 The first alleged breach of control (unauthorised roller shutter and pedestrian doorway within the west elevation (Saffron Hill)) was varied by the deletion of this alleged breach, as the Inspector considered that *“the replacement of the previous shutter has been a maintenance operation that has not materially affected the external appearance of the building. Planning permission is not required for the roller shutter on the Saffron Hill frontage of the appeal building and the ground (c) appeal thus succeeds. As planning permission is not required no planning permission can be granted subject to conditions restricting the use and operation of the roller shutter”*.
- 3.14 The second alleged breach of control (unauthorised infilling of a former undercroft and creation of an enlarged office area, installation of windows and a roller shutter with pedestrian doorway within the south elevation) appeal was dismissed, enforcement notice upheld and planning permission refused. The Inspector concluded *“the infilling of the undercroft has had a serious adverse effect on the amenities of residents of the Ziggurat and this is sufficient reason in itself to withhold planning permission. The ground (a) appeal thus fails”*.
- 3.15 The third alleged breach of control (unauthorised metal staircase) was withdrawn by the Council (see paragraph 3.11 above), with the enforcement notice duly corrected by deletion of this alleged breach.
- 3.16 The appeal decision letter is provided in full as Appendix 1 of this report.
- 3.17 As already outlined in section 2 of this report, given the submission of this planning application on 16/05/2011 the enforcement action to completely and permanently remove the unauthorised works (as per the second breach in control outlined in paragraph 3.10 above) has been put in abeyance pending the outcome of this application. This is despite the Inspector denoting that *“A compliance period of six months is a reasonable period for the tenant company to find and relocate to alternative premises and for the building to be restored to the condition it was in before the undercroft was infilled”*.

4. **CONSULTATIONS**

- 4.1 Councillors Fulbrook and Olad were formally consulted on the application given that they have responded to previous applications at the site. No response has been received from either Councillor.

Local Groups

- 4.2 Ziggurat Freehold Limited (in two separate submissions), on behalf of the residents of The Ziggurat Building, 60-66 Saffron Hill (leaseholders of 44 of the 62 flats are

shareholders in the Freeholder), objects to the proposals. A summary of the issues raised and comments made are as follows:

- Previous applications shows that Camden has consistently developed strong precedents against commercial development at Omega House, with all attempts to develop/intensify the use being rejected;
- Appeal decision is robust and clear; “the effect of the ground floor reconfiguration is to decant commercial and delivery activity into a confined, enclosed space outside resident’s windows, causing unacceptable harm to residential amenity. In other words, the planning inspector has made it plain that no development on the current ground floor footprint is acceptable in planning terms...It is, quite simply, not open to the Council to allow the application whilst it remains on the current footprint and any decision will be judicially reviewable”.
- Parking decanting to the lightwell has caused: i) pollution and fumes from vehicles; ii) intolerable noise from vehicles (amplified in lightwell and also caused by car radio’s, mobile phones, talking); intrusion of privacy and lack of light to flats from parking of vehicles outside windows “the only way this (fumes and dust) can be reduced is by banning vehicles in the yard”.
- Roller shutter on south side elevation is unsightly, loud (reverberating and amplified) and causes disturbance to residents given door is open at night for rubbish to be taken to bins and door slams at all times of the day;
- Parking decanting to the lightwell and roller shutter on south side elevation has caused: increased noise, smoking and privacy compromised in lightwell for residents, “the only way that privacy can be protected is for a total ban on any access to the yard apart from discrete delivery operations and to access bicycles within the hours suggested by the applicant”;
- Closure of the roller shutter on Saffron Hill at night and at the weekend hinders residents’ right of escape onto Saffron Hill;
- Pedestrian door in roller shutter on Saffron Hill used by occupiers of bikes, causing noise disturbance 24 hours a day “it appears that the applicant places greater emphasis and interest of 12 employees than the interests of residents of 23 flats who are disturbed by the noise caused by cyclists”;
- “The noise mitigation measures suggested by the applicant are insufficient... The only way noise can be prevented is by a total ban on access to the yard outside of the suggested hours of operations”.
- Microclimate not been considered by the applicant. Protecting sunlight and clear air into the single aspect flats is of paramount importance. No air quality assessment has been submitted. No mitigation has been suggested. “The only way air quality can be protected is by banning vehicles in the yard”.
- The development has increased traffic activities in Saffron Hill, putting unnecessary strain on what is already a narrow and congested street. Any development which encourages vehicular activity should be actively rejected by the Council. This can only be overcome “by banning vehicular access to the yard and by banning parking”.
- The Council should not underestimate genuine neighbour concerns over disturbance suffered. It is wrong to suggest that any noise is minimal or acceptable. We have been continually disturbed at night and in the early morning by cars, employees, cleaners, by people banging metal shutters and by people collecting/depositing bikes and belongings. This noise is generated directly outside people's windows and many of the flats are single aspect, with

bedrooms facing out onto the yard. It is amplified and carries right up to the top floors as a result of the artificial echo chambers which has been created by the infill. Vehicles continue to be parked nose to tail in a space that is barely wide enough to enable doors to be opened. Operatives congregate on metal steps and talk, whistle, play car radios”.

- In negotiations prior the submission of the applicant our representative suggested “there be no access whatsoever to the yard between the suggested hours of 8am-7pm weekdays, 10am-3pm Saturday. This has not been adopted by the applicant, ostensibly for three reasons: (i) because the Council needs access to the yard to collect bins; (ii) because cleaners need access to the yard to deposit rubbish; (iii) although not expressly identified, presumably because the early arrivers/late leavers by bicycle need access to the cycle racks”.
- None of the above are defensible. As to (i), bins should be moved onto the street, but if this is not permissible Veolia should not come before 8am. As to (ii), if the bins cannot be relocated is for cleaners to change their working patterns so that rubbish is deposited in the bins after 8am or before 7pm. As to (iii), it is not acceptable to put the interests of 4-5 cyclists above that of residents of 23 flats which face the yard simply because a cyclist leaves late or arrives earlier than 8am.
- Unless all of the following conditions are attached to the permission, and unless all of them are the subject of a s.106 agreement, a strong objection to the application is made:

1. Permanent immobilisation of the pedestrian door in the blue roller shutter from the outside. Installation of exit only lock.
2. Replacement of the white roller shutter with bifold doors.
3. No access to the yard at all (whether by person (including workers, cleaners or refuse collectors) or any vehicle, including bicycles) outside the hours of 8am-7pm Monday-Friday and 10am-3pm Saturdays. No access at all on Sundays or bank holidays.
4. No parking of vehicles within the yard at any time.
5. Vehicular access to the yard is only permitted within the above hours and for deliveries only. No car radios and engines to be turned off immediately upon stopping. Deliveries to be undertaken swiftly and quietly.
6. Access to the yard is to only be permitted for leaving/collecting bicycles or for vehicles carrying out deliveries. No pedestrian access to the yard is permitted to enter/exit the building through the bi-fold doors.
7. The bifold doors and the blue roller shutter (either the shutter or the pedestrian door within is) are not to be operated at all outside the above hours.
8. Within the above hours, the bifold door is to remain locked and only to be opened to receive/enable deliveries and is not to be used for general access/egress by operatives. The door to be locked immediately after the delivery is complete.
9. Rubber stops to be installed on the metal staircase and foam piping to be installed on the cycle racks.
10. Code of conduct and point of contact to be drawn up.
11. All of the above to be part of a legally binding s.106 agreement.

Adjoining Occupiers

Original

<i>Number of letters sent</i>	66
<i>Total number of responses received</i>	11
<i>Number of electronic responses</i>	10
<i>Number in support</i>	0
<i>Number of objections</i>	10

4.3 A site notice was erected on 08/06/2011 (expiring on 29/06/2011) and press notice published on 16/06/2011 (expiring on 07/07/2011). A total of 11 separate objections have been received from occupiers within the Ziggurat Building, 60-66 Saffron Hill. More specifically, Flats 1.9, 2.7, 2.9, 3.4, 3.6, 3.9, 4.1, 4.9 (two separate submissions), 7.1 and 8.1 all object to the application. A summary of the issues raised and comments made are as follows:

- "There is an extremely robust and recent appellate decision which concluded that development in the infill area was unacceptable, in that the physical effect of the same was to decant activities which had previously been carried out within the building envelope to a small contained area right outside residents' windows. This has created unacceptable noise problems at all hours, as well as creating a foreboding echo chamber which has had a detrimental effect on the residential amenity of occupiers of the Ziggurat building".
- "Any application involving the retention of an infill should be refused, even on appeal. We are confident that any inspector will refuse planning permission based on the current footprint and that is the starting point for this application. In short, there is no credible basis upon which the application can be allowed on the current footprint, as it would run contrary to the inspector's findings that development of the infill is impermissible. No rational or reasonable authority can simply ignore that decision, or indeed the previous appellate decision on the matter which refused further vertical development above 4th floor level".
- "The applicant's continuous references to the previous use of the land (unrestricted B1) is an irrelevance... It cannot credibly raise an argument that 'it will be much worse in terms of noise if the infill is demolished as the users could drive cars over the land at all hours of day' at this stage... There were no noise problems before the infill".
- The Council should "disregard the applicant's attempts to play down our genuine concerns as residents over the disturbance that we have suffered. It is wrong to suggest that any noise is minimal or acceptable. We have been continually disturbed at night and in the early morning by cars, employees, cleaners, and people banging metal shutters. This noise is generated directly outside people's windows and many of the flats are single aspect, with bedrooms facing out onto the yard. It is amplified and carries right up to the top floors as a result of the artificial echo chambers which has been created by the infill".
- "The conditions [put forward by the applicant to be secured via S106 Legal Agreement] fall short of what we made very clear would be acceptable".
- As Ziggurat Freehold Limited has also outlined (see the objection in paragraph 4.2 above) in negotiations prior the submission of the applicant a representative of the residents suggested "there be no access whatsoever to the yard between the suggested hours of 8am-7pm weekdays, 10am-3pm Saturday. This has not been adopted by the applicant, ostensibly for three reasons:

(i) because the Council needs access to the yard to collect bins; (ii) because cleaners need access to the yard to deposit rubbish; (iii) although not expressly identified, presumably because the early arrivers/late leavers by bicycle need access to the cycle racks”.

- None of the above are defensible. As to (i), bins should be moved onto the street, but if this is not permissible Veolia should not come before 8am. As to (ii), if the bins cannot be relocated is for cleaners to change their working patterns so that rubbish is deposited in the bins after 8am or before 7pm. As to (iii), it is not acceptable to put the interests of circa 10 cyclists above that of residents of a building simply because a cyclist leaves late after the pub or arrives earlier than 8am.

- Unless all of the following conditions are attached to the permission, and unless all of them are the subject of a s.106 agreement, a strong objection to the application is made:
 1. Permanent immobilisation of the pedestrian door in the blue roller shutter from the outside. Installation of exit only lock.
 2. Replacement of the white roller shutter with bifold doors.
 3. No access to the yard at all (whether by person (including workers, cleaners or refuse collectors) or any vehicle, including bicycles) outside the hours of 8am-7pm Monday-Friday and 10am-3pm Saturdays. No access at all on Sundays or bank holidays.
 4. The bifold doors and the blue roller shutter are not to be operated at all outside the above hours.
 5. Within the above hours, the bifold door is to remain locked and only to be opened to receive/enable deliveries and is not to be used for general access/egress by operatives. The door to be locked immediately after the delivery is complete.
 6. No parking of vehicles within the yard at any time.
 7. Vehicular access to the yard is only permitted within the above hours and for deliveries only. No car radios and engines to be turned off immediately upon stopping. Deliveries to be undertaken swiftly and quietly.
 8. Rubber stops to be installed on the metal staircase and foam piping to be installed on the cycle racks.
 9. Code of conduct and point of contact to be drawn up.
 10. Access to the yard, at all times, should only be for the purpose of deliveries or for access to the cycle racks.
 11. All of the above to be part of a legally binding s.106 agreement.

- Pedestrian access point in the side wall of the new infill encourages congregation and noise right outside our windows. Previously pedestrian access was many metres further away from windows; it is now literally right outside residential windows, with people using the side door as a convenient means of access/egress, causing unnecessary disturbance. Desire for it to be remained locked shut outside of deliveries. Leaving it open will simply encourage people to return to previous bad habits.

- Noise and fumes associated with car movements, car radio's, cleaners, people congregating and smoking in the service yard adversely impacting on quality of

life for residents – suggesting that all cars should be banned from the service yard area;

- Fire engine access issues if shutters are locked, safety implications for occupiers of residential units who use the yard as a means of escape in case of an emergency;
- Loss of privacy and light to lower floor flats as vehicles park right outside their windows;
- Increased light pollution at night;
- Cannot rely on the applicant to adhere to concessions they are willing to make given “the neighbouring commercial occupiers are not willing to behave decently towards their neighbours”. Another occupier states “the applicant has treated residents, and the planning process, with disdain. I have zero confidence that any future arrangements will be honoured”.

4.4 Residents also wish to point out that this is the fourth time that they have had to raise objection to the unauthorised infill. At the time of the 2010/0941/P application there were 19 objections to the application from the occupiers of Flats G.1, G.5, 1.1, 1.6, 2.7, 2.9, 3.6, 3.8, 3.9, 4.1, 4.7, 4.8, 4.9, 5.1, 5.7, 5.8, 7.1, 7.3 of The Ziggurat building, and Ziggurat Freehold Limited. Further representations were made at the previous Development Control Committee meeting on 24/06/2010 and during the course of the subsequent part dismissed enforcement appeal. Residents note “this has been an incredibly frustrating and protracted process, at which our position has been vindicated at every stage”.

5. **POLICIES**

5.1 **LDF Core Strategy and Development Policies**

CS1	Distribution of growth
CS3	Other highly accessible locations
CS5	Managing the impact of growth and development
CS8	Promoting a successful and inclusive Camden economy
CS9	Achieving a successful Central London
CS11	Promoting sustainable and efficient travel
CS14	Promoting high quality places and conserving our heritage
CS18	Dealing with our waste and encouraging recycling
CS19	Delivering and monitoring the Core Strategy
DP17	Walking, cycling and public transport
DP19	Managing the impact of parking
DP24	Securing high quality design
DP25	Conserving Camden’s heritage
DP26	Managing the impact of development on occupiers and neighbours
DP28	Noise and vibration

5.2 **Supplementary Planning Policies**

Camden Planning Guidance 2006 (elements which have not been superseded by CPG 2011 Phase 1)

Camden Planning Guidance 2011 (Phase 1 adopted 06/04/2011 / draft Phase 2)

Hatton Garden Conservation Area Statement

6. ASSESSMENT

6.1 The principal considerations material to the determination of this application are summarised as follows:

- Land use
- Design
- Amenity (also incorporating transport and waste & recycling matters)

Land use

6.2 The proposed extension creates 96m² of additional Class B1 floorspace within this Central London area. Policy CS9 denotes that the Council will seek to promote a successful Central London area while achieving a balance between the interests of its residents and the area's economic, social and cultural use and roles. In addition policy CS8 states that the Council will promote the provision of office space in Central London as part of securing a strong economy. With this in mind the provision of additional Class B1 accommodation at the site does not result in any land use issues in principle. Naturally this is subject to a host of other factors, such as amenity, which is discussed further below. It is however important to recognise that the provision and continuation of commercial occupiers within this Central London part of the borough is a material consideration. During the course of the application the applicant has denoted that the ground floor occupier employees between 15-20 staff and the overall building comprises 145 other employees, meaning a total of 160-165 people are employed at the site building.

Design

6.3 In respect of the design of the infill extension, the Inspector has confirmed that this element of the proposals is not considered to result in any design or conservation issues: *"The infilling of the undercroft is only visible from the yard area, other than in inconsequential glimpses through the opening off Saffron Hill, and has not harmed the character or appearance of the Hatton Garden Conservation Area"*.

6.4 In relation to the proposed bi-fold door on the side (south) elevation, this is considered to be satisfactory in design terms. Although acknowledged to be utilitarian in design, the framework of the door is shown to be of white aluminium, which matches that on other windows on this elevation. It is simple in its composition and would only be visible in glimpses from the public realm within Saffron Hill. A detailed section has been provided during the course of the application which means that no specific detailed design conditions are considered to be required. As such, no concerns are raised with regard to this proposed element from a design perspective.

Amenity

6.5 In the recent appeal at the site (the full Appeal decision letter is included at Appendix 1 of this report) the Inspector concluded that "the infilling of the undercroft has had a serious adverse effect on the amenities of residents of the Ziggurat and

this is sufficient reason in itself to withhold planning permission”, with it being noted that this conflicts with LDF policies DP26 and DP28 in particular.

6.6 In an attempt to overcome the adverse amenity impact identified by the Inspector the applicant has, following discussions with both Council officers and a representative of The Ziggurat Building, put together a series of measures which the applicant has agreed to be secured as part of a S106 Legal Agreement at the site. These measures have been refined and developed further during the course of the application.

6.7 The measures are outlined below from a) to m) in *italics*, with a brief explanation as to the intentions and implications of these measures provided below each measure:

6.8 *a) The front roller shutter pedestrian door to have an exit only lock fitted*

This relates to the recently replaced Saffron Hill shutter and roller shutter door, which the Inspector considered did not require planning permission and thus is not subject to any conditions restricting the use and operation of it. This measure means that residents of The Ziggurat Building will still be able to use the service yard as an emergency exit, but those entering the service yard from Saffron Hill when the shutter is down will not be able to use the door (which has been denoted by residents as causing a noise disturbance). Instead they will have to operate the entire shutter, which as installed causes less of a noise disturbance.

6.9 *b) No deliveries to take place between 7pm and 8am Monday to Friday, 3pm and 10am on Saturdays and no deliveries whatsoever on Sundays or public holidays.*

As a result the only times in which deliveries within the service yard will be able to take place is between 0800 – 1900 Monday to Friday, 1000 – 1500 on Saturdays and at no time on Sundays or Bank Holidays. The Inspector commented at paragraph 19 of the appeal decision that *“It is quite possible that the increase in floorspace has resulted in an increase in commercial activity and an increase in activity within the yard area”*. The delivery hour restriction is one way in which the applicant is willing to allow a certain level of control over the activity in the yard to be made, with view to this reducing the amenity impact on neighbouring occupiers. It is noted however that these delivery restrictions exclude waste collection by the Council’s Environment Services.

6.10 *c) The bi-fold doors will be replaced as shown on the drawing the subject of the planning application.*

In effect this measure will ensure that the existing white roller shutter and shutter door will be removed and replaced with the bi-fold doors, which is considered to be significantly quieter than the existing shutter. The Inspector commented at paragraph 21 of the appeal decision that the presently installed doorway *“results in significant disturbance for residents of flats in the Ziggurat where windows are only a few metres from the door”*.

6.11 *d) The bi-fold doors will be secured with rubber gaskets and utilise low E-double glazing.*

Such measures are sought to reduce the noise generated by the operation of the proposed doors and that within the extension being audible in neighbouring buildings.

- 6.12 *e) Cleaners will not use the bi-fold door to dispose of waste but will remove waste via the front entrance and reach the bins in the service yard through the front roller shutter. This will be ensured as enforceable by locking the bifold door between the hours where deliveries are not permitted (7pm and 8am Monday to Friday, 3pm-10am Saturdays and at all times on Sundays and public holidays). No cleaners shall enter the service yard after 10pm or before 8am on weekdays, after 3pm or before 8am on Saturdays and at any time on Sundays and bank holidays.*

The locking of the bi-fold door outside of the delivery times will mean no persons will be accessing the service yard via this location at these times. It also clarifies that the only means of access cleaners will have is via the Saffron Hill shutter. The measure secured by point a) above will mean cleaners will not be able to open the roller shutter door but instead operate the entire roller shutter to gain access, reducing noise (such as bins coming into contact with the roller shutter via the door and the noise of the door itself shutting) given the entire roller shutter causes less of a noise disturbance. The applicants have also agreed a restriction on cleaners outside the delivery hours to limit night time disturbance. Further discussion in respect of the impact of use of the space by cleaners is set out in para 6.30 to 6.34 below.

- 6.13 *f) A representative point of contact will be put in place should the residents have any complaints. Their contact details will be made readily available to neighbouring residents.*

This measure will seek to improve dialogue between the residents of The Ziggurat Building and the owner/occupiers of the building, in both the short and long term.

- 6.14 *g) A code of conduct will be put in place discouraging excessive noise, talking and promoting general courtesy and awareness of neighbours. This can be displayed in certain positions at the discretion of the Council.*

The Code of Conduct will include:

- no radio's / audible equipment such as walkie talkies within the yard so as to be audible within neighbouring buildings*
- no loitering/congregation of any persons*
- no smoking*
- no raising of voices*
- waste deposited into bins in a manner to minimise noise, by way of placing rather than throwing waste into the bins*

The above mentioned Code of Conduct will be enforceable outside of the delivery hours already specified.

These measures specifically seek to reduce as far as it is practicable the noise and disturbance the Inspector identified and neighbouring occupiers have outlined in

representations. Such measures will be enforceable outside of the specified delivery times (0800 – 1900 Monday to Friday, 1000 – 1500 on Saturdays and at no time on Sundays or Bank Holidays). The Inspector did acknowledge at paragraph 20 of the appeal decision that *“It is difficult to quantify how this change in the degree and location of activity within the yard has contributed to complaints by residents of the Ziggurat about noise disturbance”*. With this in mind and the comments received from occupiers of The Ziggurat Building, the code of conduct and measures outlined are considered to seek to reduce noise and disturbance to neighbouring occupiers.

- 6.15 *h) A more generic code of conduct applicable at all times of day will also exist. This will require ‘all users of the service yard to act with general courtesy and with an awareness of neighbours at all times’.*

This measure follows on from the code of conduct noted in g) above, but will apply at all times. The general aim here is for all users to behave appropriately and with courtesy to neighbouring occupiers at all times of the day, which would aid the residential amenity of neighbouring occupiers who are present during daytime hours.

- 6.16 *i) No parking of vehicles within the service yard. The only vehicles to enter the service yard would be those making deliveries during the allocated hours.*

This measure has a number of elements and implications. It first effectively means that no vehicles will be parked within the service yard at any time, only vehicles making deliveries will enter the yard. The consequence of this is that no vehicles at all will be within the service yard outside of the delivery hours put forward in measure b). Therefore no vehicles (and associated noise, disturbance, loss of light and outlook to residents of The Ziggurat Building) will be within the yard overnight and instead vehicular access is restricted to daytime hours. Thus at the times occupiers are most likely to be within their flats (evenings, early mornings, majority of the weekend and bank holidays) no vehicles will be within the service yard.

- 6.17 *j) Rubber strips will be installed on the movable staircase.*

This measure seeks to reduce the noise and disturbance caused by the moveable staircase. In the recent enforcement appeal this breach of control was withdrawn by the Council as the staircase did not constitute development (see paragraphs 3.11 and 3.15 for more details). As such there is limited control in planning terms over the operation and use of this staircase at present and thus any measures offered by the applicant are welcomed by officers.

- 6.18 *k) Rubber or foam strips to be installed on the bins, cycle racks and all metal bars within the service yard which are utilised for cycle storage.*

This measure seeks to reduce noise and disturbance from the cycle stands, metal bars used for more informal cycle stands and bins at the site and should be read in conjunction with the measures secured via the code of conduct in g) and h) above.

- 6.19 *l) Ensure that the roller shutter, bi-fold door and cycle stands are maintained in a good order (in order to avoid noise disturbance in the future owing to lack of maintenance).*

This measure is considered to be required in order to assist in protecting the residential amenity of neighbouring occupiers over the medium to long term. This is as inevitably over time some of the other measures put forward, such as j) and k) may become a noise disturbance owing to lack of maintenance. If such a scenario occurs, this measure will ensure the necessary repairs are made. This could be facilitated by measure f) outlined above (representative point of contact to liaise with residents over any complaints).

- 6.20 *m) Although not explicitly referred to in the Letter from Raymond Stemp Associates dated 25/07/2011, an in-principle agreement to the use of bins with noise deadening inserts has been agreed in correspondence with the agent during the course of the application.*

This will reduce the noise implications of cleaners putting rubbish in bins within the service yard. This is in addition to the code of conduct points outlined in g) and h) above that waste is deposited into bins in a manner to minimise noise, by way of placing rather than throwing waste into the bins.

- 6.21 The securing of these measures via Legal Agreement is considered to have a number of benefits. It will firstly provide the Council with sufficient safeguards against a large proportion of operations at the site, in particular the delivery times and movement of vehicles. If the measures sought to be secured are not adhered to the Council will have sufficient means to take any necessary action. The Legal Agreement also provides a range of measures which, by the nature of the wording of the conditions, would not be able to be secured via planning condition as they would not accord with the necessary tests in Circular 11/95. Furthermore it also provides clarity and certainty for both residents and the applicant with view to future operations at the site. Meanwhile the introduction of the measures put forward will also allow the applicant to continue to operate a viable business from the site, which is another material consideration in the determination of this application.

- 6.22 More specifically, the primary purpose of the measures put forward is to protect the residential amenity of neighbouring occupiers. Such measures being secured via Legal Agreement provides a greater level of comfort to residents than planning conditions and also provides a stronger basis for the Council to take action in the future should any of the elements to be secured are breached. It is also considered that the nature of the various measures put forward by the applicant indicate a willingness from the applicant to consider the views of local residents, following pre-application discussions, to achieve a workable solution which is mutually beneficial.

- 6.23 It is however acknowledged that local residents do not consider that the measures proposed go far enough in protecting their residential amenity (see section 4 for more details). In short, the primary concern centres around residents seeking for there to be a complete ban on any operations or persons being permitted within the service yard area outside of the delivery hours. The applicant has outlined that it is not considered possible for the roller shutter on the Saffron Hill elevation to be

locked outside of the proposed delivery hours. There are considered to be three main areas why this is the case, namely for waste collection to possibly take place, for cleaners to deposit rubbish into the bins within the yard and for staff members who cycle to work to store their bikes within the service yard. Each of these three elements are discussed further below.

Waste Collection

- 6.24 At present the waste collection services at the application site building are undertaken by Veolia, the Council's provider of such services in the borough. There are three waste containers at present located within the lightwell adjacent to the Saffron Hill shutter. These containers are scheduled to be emptied on a Tuesday and Thursday morning between 7.30am and 9.30am as part of the commercial waste service provided to all of the businesses at this site. Prior to submission and during the course of this application the Council's Environment Services team has confirmed that they have sought for Veolia to avoid collections from the site prior to 8am. It has been confirmed that this request to Veolia has not caused any logistical issues concerning collections.
- 6.25 It is not possible for this measure, ensuring collections after 8am, to be secured via S106 Legal Agreement. This is as the waste collection is by the Council, and is therefore not something within the owner's control. Thus it is not possible to include an obligation restricting the time of the waste collection. It is also worthwhile reiterating that the applicant has agreed in principle to install noise deadening inserts into the containers (measure m) above), the code of conduct (measures g) and h) above) will seek to minimise noise, the containers are located as close to the Saffron Hill highway as practicable (and as far away from residential windows therefore) and the collections take place twice a week. As such officers consider that all possible steps have been put in place to minimise noise and disturbance from waste collections at the site.
- 6.26 In addition, other options have been considered. The re-location of the containers onto Saffron Hill (thereby outside of the service yard entirely) has been explored. The Council's Environment Services team has considered the width of the footway and available storage space. Given there are two other waste containers located at the junction of Saffron Hill and Hatton Wall, there is no suitable location for another three containers. Furthermore the footways along this section of highway of Saffron Hill are very narrow and any further placement of waste containers would cause an unacceptable obstruction to pedestrians and thus highway safety issues. In addition, fly tipping has also been experienced in the local vicinity, which has a detrimental impact on the local environmental quality of the area). Thus it is not considered possible for waste storage to be re-located outside of the application site.
- 6.27 Another option explored is an alternative location elsewhere on the application site. The applicant has confirmed that this is not possible owing to the nature of the existing space and the practical difficulties in achieving this. Thus this option cannot be achieved in practice.

- 6.28 There is acknowledged to be one shortcoming in this approach; this being that the applicant may decide in the future to change to another waste collection provider (other than the Council). Such a provider may have different collection times to Veolia. However, the aforementioned code of conduct outside of delivery times measures to be secured do provide sufficient safeguards for nearby occupiers over general noise.
- 6.29 In overall terms it is considered that the present location of bins is the most logical and the variety of steps being introduced, together with Environment Services working with Veolia for collections to only take place after 0800 is sufficient to maintain the residential amenity of neighbouring occupiers as far as is reasonably possible.

Cleaners

- 6.30 The proposed measures to be secured now include control over cleaners associated with all occupiers of the building entering the service yard outside of delivery hours. The applicant still wishes for cleaners to continue to be able to deposit waste into the waste containers until 10pm on weekdays and 3pm on Saturdays. During the course of the application the applicant has been asked to provide more information as to the typical level of activity associated with cleaners at the building and the times this typically takes place. The information provided is re-produced below:

Typical operations of cleaners at Omega House (information provided by applicant)

Company	Space	Cleaners	Time
Usborne	Part 4th	Yes	After 6.00pm
MSF	Part 4th/3rd	Yes	7.00-9.00pm
Choice Hotels	2nd	Yes	8.00-9.00pm
Jenkins & Potter	1st	Yes	6.00-7.00pm
Callprint	Ground	Yes	7.00-9.00pm M/W/F

(no information provided in relation to basement floor occupier Cameron Mackintosh as this occupier utilises a dedicated separate entrance to the rear of the site)

- 6.31 It is shown that all occupiers that utilise the service yard have cleaners which typically work during the evening, which is expected and general practice for Class B1 premises (so as to not coincide with staff working hours).
- 6.32 The measures to be secured will to an extent reduce the impact of cleaners on the amenity of neighbouring occupiers. First, the locking of the bi-fold doors (measure e) noted above) and explicit reference to cleaners not using these doors will mean the only possible route for cleaners to enter the yard will be via the Saffron Hill shutter entrance. The exit only lock on the Saffron Hill shutter (measure a) noted above) ensures cleaners will only be able to access the yard by opening the whole shutter (which causes less of a noise disturbance, as maintained by measure m) above). The code of conduct (measures g) and h) outlined above) has specific measures which are designed to reduce the possible noise and disturbance from cleaners, such as waste being placed rather than thrown into bins, no

loitering/congregation of any persons, no smoking and no raising of voices. In addition, the foam strips (measure k) outlined above) and noise deadening inserts into the containers themselves (measure m) outlined above) will also reduce noise disturbance to neighbouring occupiers. Finally the applicant has agreed to restrict access to 10pm on weekdays and 3pm on Saturdays which will prevent noise nuisance during the most noise sensitive hours at night and during weekends/bank holidays.

- 6.33 Another important point to note is that if the applicant were to adhere to the requirements of the enforcement notice (remove the infill office area created and removal of associated fenestration and roller shutter) instead of pursuing this application, then the Council would not have any control over the timing or operations of the current or future occupiers of the building in respect of cleaners. The planning history section demonstrates that there are no conditions or control over such matters and this is another factor material to the consideration of this application.
- 6.34 Given the measures already agreed to be secured, the local context and by virtue of the position of the containers adjacent to the entrance on Saffron Hill, it is considered, on balance, that the continued use of the service yard for cleaners within the specified hours would not result in significant loss of amenity to neighbouring occupiers.

Cyclists

- 6.35 There are six Sheffield cycle stands within the service yard, providing space for twelve cyclists to park their bicycles within this area. The responses from the public consultation into this and the previous application/appeal indicate that the noise disturbance, primarily during early morning hours, from cyclists is causing noise and disturbance to the detriment of their residential amenity. The applicant has indicated that they are not willing to accept cyclists only being able to enter the service yard within delivery hours. The applicant thus still wishes for cyclists to continue to be able to use the service yard at any point in time.
- 6.36 During the course of the application the applicant has been asked to provide more information as to the typical number, arrival time, departure time and storage location of cyclists. This is provided below. In addition, it is noted in representations made (please see section 4 for more details) that adjoining occupiers refer to typically 4-5 or circa. 10 cyclists.

Typical operations of cyclists at Omega House (information provided by applicant)

Company	Space	No. bikes	Arrival	Storage	Departure
Usborne	Part 4th	4 to 6	8.00 - 8.30	Rack	20.00
MSF	Part 4th/3rd	Up to 20 but not all in UK all the time	7.00-9.00	rack	20.00
Choice Hotels	2nd	2	8.00-9.00	Rack	20.00
Jenkins &	1st	6 to 8	7.00-8.00	Rack	20.00

size which existed prior to any (presently unauthorised) works taking place. Such an area (significantly larger than present) would not be subject to any planning conditions or planning controls over vehicular/person movements or hour restrictions for example. It could be that if the enforcement notice is complied with the subsequently impact on the residential amenity of neighbouring occupiers may be more significant and harmful than the issues raised by neighbouring occupiers at present.

- 6.43 It is acknowledged that representations received as part of this application do not consider this to be a material point, given the noise and disturbance prior to the works taking place is understood not to have caused a significant amenity impact. However, officers also recognise that this may not be the case in the future, as the occupier(s) of the application site premises in the future may have more significant servicing needs than previous or current occupiers. Therefore it is considered that this is a material consideration for officers to denote in relation to protecting the residential amenity of neighbouring occupiers.

Enforcement matters

- 6.44 Finally in relation to enforcement matters, it is recommended that the warning of enforcement action is made alongside the recommendation to grant planning permission subject to a Section 106 Legal Agreement. This is as the while roller shutter and shutter door is currently still in place at the site on the south elevation. It is proposed by the applicant to remove this and replace it with a bi-fold door. To ensure that these proposed works are completed in a timely manner it is recommended that a warning of enforcement action is made should these works not be completed within 3 months of the decision date of this application. Such a period of time is considered to be reasonable, as the Inspector in dismissing the previous appeal identified the noise from this shutter to be audible within a neighbouring flat and its operation at night would be likely to cause disturbance. In addition, the applicant has already indicated that the bi-fold door is on order awaiting installation pending the outcome of this application.

7. CONCLUSION

- 7.1 The application site building is subject to a recently refused planning application, enforcement investigation and notice and part dismissed at appeal enforcement case. This planning application seeks to secure a range of measures which will sufficiently safeguard the amenity of neighbouring occupiers whilst allowing the unauthorised infill extension and associated works to remain at the site. A plethora of measures have been put forward by the applicant. These include restrictions on the delivery times of goods to the service yard via the proposed bi-fold door (which will replace the existing roller shutter at this point), restrictions on vehicular parking in the service yard, a code of conduct within the yard and other measures all aimed at maintaining the quality of life for neighbouring occupiers within the Ziggurat Building.
- 7.2 Such measures are proposed to be secured via a S106 Legal Agreement, which provides the Council with a stronger basis for the Council to take action in the future should any of the elements to be secured are breached. It will also provide

nearby residents with more certainty over the exact parameters in which the occupier(s) can operate, whilst also ensuring the occupier(s) of the building can continue to viably trade from the premises.

- 7.3 It is acknowledged that considerable levels of objections have been raised that the proposed measures do not go far enough to protect the residential amenity of neighbouring occupiers. In light of the appeal decision at the site local residents are seeking a complete ban on activity within the service yard outside of the proposed delivery times. The applicant has outlined that this is not possible for practical reasons, primarily owing to waste collection, cleaners and cyclist reasons. Given the range of measures put forward, to be secured via Legal Agreement, it is not considered that, on balance, either individually nor collectively that these three factors result in significant adverse amenity impact on neighbours.

8. LEGAL COMMENTS

- 8.1 Members are referred to the note from the Legal Division at the start of the Agenda.

9. RECOMMENDATION

- 9.1 Planning Permission is recommended subject to a S106 Legal Agreement covering the following matters:

- The front roller shutter pedestrian door to have an exit only lock fitted
- No deliveries to take place between 7pm and 8am Monday to Friday, 3pm and 10am on Saturdays and no deliveries whatsoever on Sundays or public holidays.
- The bi-fold doors will be replaced as shown on the drawing the subject of the planning application.
- The bi-fold doors will be secured with rubber gaskets and utilise low E-double glazing.
- Cleaners will not use the bi-fold door to dispose of waste but will remove waste via the front entrance and reach the bins in the service yard through the front roller shutter. This will be ensured as enforceable by locking the bifold door between the hours where deliveries are not permitted (7pm and 8am Monday to Friday, 3pm-10am Saturdays and at all times on Sundays and public holidays).
- Cleaners shall not enter the service yard after 10pm or before 8am on weekdays, after 3pm or before 8am on Saturdays and not at all on Sundays or public holidays;
- A representative point of contact will be put in place should the residents have any complaints. Their contact details will be made readily available to neighbouring residents.
- A code of conduct will be put in place discouraging excessive noise, talking and promoting general courtesy and awareness of neighbours. This can be displayed in certain positions at the discretion of the Council.

The Code of Conduct will include:

- no radio's / audible equipment such as walkie talkies within the yard so as to be audible within neighbouring buildings

- no loitering/congregation of any persons
- no smoking
- no raising of voices
- waste deposited into bins in a manner to minimise noise, by way of placing rather than throwing waste into the bins

The above mentioned Code of Conduct will be enforceable outside of the delivery hours already specified.

- A more generic code of conduct applicable at all times of day will also exist. This will require 'all users of the service yard to act with general courtesy and with an awareness of neighbours at all times'.
- No parking of vehicles within the service yard. The only vehicles to enter the service yard would be those making deliveries during the allocated hours.
- Rubber strips will be installed on the movable staircase.
- Rubber or foam strips to be installed on the bins, cycle racks and all metal bars within the service yard which are utilised for cycle storage.
- Ensure that the roller shutter, bi-fold door and cycle stands are maintained in a good order (in order to avoid noise disturbance in the future owing to lack of maintenance).
- Although not explicitly referred to in the Letter from Raymond Stemp Associates dated 25/07/2011, an in-principle agreement to the use of bins with noise deadening inserts has been agreed in correspondence with the agent during the course of the application.

9.2 Planning permission is also recommended subject to a warning of enforcement action regarding the removal of the unauthorised white roller shutter and shutter door and replacement with the proposed bi-fold door on the south elevation within 3 months of the decision notice.

10. **APPENDIX 1**

Appeal decision (Ref: APP/X5210/C/10/2135649) at 67-74 Saffron Hill in relation to Enforcement Notice EN09/0860).