



Appeal Decision

Inquiry held on 25 – 28 October 2011 and 9 November 2011

Site Visit made on 8 November 2011

by E C Grace DipTP FRTPI FBEng PPIAAS

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

Decision date: 1 December 2011

Appeal Ref: APP/X5210/A/11/2153696

65-69 Holmes Road, London NW5 3AN

- 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 65 Holmes Road Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2010/6039/P, dated 4/11/10, was refused by notice dated 4/2/11.
 - The development proposed is demolition of existing Magnet warehouse building and erection of part six, part three storey building with two basement levels to provide student accommodation comprising 268 student rooms housed within 245 units with ancillary facilities (sui generis), storage and distribution use (Class B8) at lower basement and ground floor level and coffee shop (Class A1) at ground floor level.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing Magnet warehouse building and erection of part six, part three storey building with two basement levels to provide student accommodation comprising 268 student rooms housed within 245 units with ancillary facilities (sui generis), storage and distribution use (Class B8) at lower basement and ground floor level and coffee shop (Class A1) at ground floor level at 65-69 Holmes Road, London NW5 in accordance with the terms of the application, Ref 2010/6039/P, dated 4/11/10, and minor revisions contained in the amended plans submitted at the Inquiry, subject to the conditions set out in the Schedule at the end of this decision.

Procedural Matters

2. The current proposal follows on from previous similar schemes for redeveloping this site with a mix of uses, but predominantly to provide purpose built student accommodation (PBSA), that were refused by the Council or withdrawn. The current proposal was supported by numerous reports including a Design and Access Statement, Planning Statement, BRE Daylight/Sunlight Assessment, Sustainability Report, Energy Report, Transport Assessment, Draft Travel Plans, Draft Construction Management Plan, Noise Assessment, Surveyor's Report of Proposed Employment Space, and Student Management Plan. The number of student rooms has been progressively reduced with successive proposals and the number of refusal reasons has decreased from 26 previously to 19 in this instance. At the Inquiry, several revised plans were submitted, which contain minor detailed amendments, which, with the Council's agreement, I accepted as forming part of the application. The Council indicated, without prejudice, that they considered the refusal reasons numbered 9 – 19 could be overcome by entering into a Section 106 Agreement.

Section 106 Unilateral Undertaking

3. A Section 106 Unilateral Undertaking was presented to the Inquiry, which has the effect of placing obligations on the owner to: a) secure approval in respect of a construction management plan, b) ensure that no less than 20% of the workforce is comprised of local residents in the Borough of Camden, c) provide opportunities for local businesses to bid/tender for the provision of goods and services for the development, d) secure Council approvals for plans relating to sustainability, renewable/efficient energy, service management, travel, and student management. It undertakes to ensure the development is car free by notifying all intended occupants that they will not be entitled to apply for a residents parking permit or buy a contract to park in any Council car park. From the evidence presented to the Inquiry I am content that these measures reflect planning policies and guidance in the Council's adopted development plan and Planning Guidance and are compliant with the advice in Circular 5/05.
4. In addition, the legal Undertaking makes provision for financial contributions in respect of highway works, public open space, training and employment, environmental improvements and monitoring. The Council indicated that it therefore suitably addresses their objections raised in refusal reasons 9 – 19, with the exception of the quantum of contribution in respect of reason No. 14 relating to their Pedestrian, Cyclist, Environmental and Safety Improvements Strategy. In this regard, the appellant included a sum of £50,000 which reflected the amount previously indicated by the Council, but the Council had latterly proposed a figure of £200,000 as being the payment sought. I am required to assess whether the obligations meet the 3 statutory tests of the Community Infrastructure Levy (CIL) Regulations: ie they are: i) necessary to make the development acceptable in planning terms, ii) directly related to the development, and iii) fairly and reasonably related in scale and kind to the development.
5. I am satisfied the CIL tests are met regarding the specific improvements to the highway that are identified at paragraph 2.12 of the Agreement. The formulaic contributions for off-site public open space, training and employment and monitoring accord with the Council's adopted guidance in CPG8 – *Planning Obligations* and also meet the CIL tests. However, I do not regard the tests as having been met by either the £50,000 offered, or the £200,000 now sought by the Council for environmental improvements as they have not been specified precisely or subject to detailed costing. Indeed, the clause relating to the "Environmental Contribution" in the Agreement refers in general terms only to pedestrian environmental and safety improvement works in the vicinity of the site. It was not until the Inquiry that some suggested projects were advanced in evidence and even then these were not adequately justified in connection with the development nor quantified financially. Consequently, whilst I have no doubt some environmental and safety improvements would be appropriately linked to the development, I am unable to satisfactorily assess which of them are justified and hence the precise quantum of contribution that is appropriate and necessary. Whilst I cannot therefore take account of this element of the Agreement it nonetheless remains a binding clause in the document, albeit that the sum is less than latterly sought by the Council.
6. The Undertaking also includes a clause (4.14.1) which precludes occupation of the student accommodation until the commercial element of the scheme has been let and occupied.

Main Issues

7. The unresolved matters at the appeal thus relate to those covered by refusal reasons 1 – 8 and I characterise the main issues arising from those reasons as being whether the development proposal would result in the following:
- a) an unacceptable loss of flexible employment floorspace;
 - b) an inadequate mix of housing types;
 - c) an over-concentration of student accommodation, with no identified Higher Educational Institution (HEI) as an end user;
 - d) an unacceptable loss of residential amenity for neighbouring residents and/or poor living conditions for future student occupants;
 - e) general inadequacies relating to access, servicing, refuse/recycling, ventilation extract system and cycle parking.

Reasons

Loss of Flexible Employment floorspace

8. The Council maintain the present Magnet warehouse is a valuable Category 1 employment building as defined in their adopted planning guidance document CPG5. However, the appellant points out that several of the criteria required for this high rating are not met by the appeal building. In particular, they do not regard most of the internal space as being provided at ground floor level with clear tall ceiling heights and with high loading bays and doors (min. 5.5m high). They point out that there are 5 different levels between the separate building elements, with some accessible only via steps and pedestrian doors. The area of warehouse with the highest ceiling is not accessible by forklift trucks and the largest roller door to the building is only 3.98m high and 2.98m wide. Although the Council maintain it is purpose built, walls from the original Victorian structure are apparent, parts of the building date from the 1950s and there is a later element to the front. These factors, together with the evidence I saw during my site inspection, of dilapidation, damp penetration and restricted accessibility, lead me to entirely agree with the appellant that the existing building has serious shortcomings. It cannot conceivably be regarded as providing the highest quality of commercial accommodation to merit its consideration as a Category 1 building. I thus conclude it is more appropriate to regard the structure as a Category 2 building, in line with the majority of Camden's employment buildings.
9. The property was a vacant industrial building when Magnet applied for change of use to storage, sale and distribution of manufactured joinery products. The permission (Ref CTP/G11/5/A/12570) dated 21 February 1972 was personal to Magnet Joinery Ltd, citing special circumstances of the case and indicating the Council wished to exercise control over any subsequent use in the event that Magnet Joinery Ltd vacate the premises. However, evidence was supplied to indicate there is no longer such a company name registered at Companies House and the planning history indicates that in 2003, an application to remove the personal condition was withdrawn, in the light of officer advice it would be refused. Nevertheless, the Council indicated they are now unopposed to an alternative business user on the site and supportive in principle of a mixed use redevelopment scheme.

10. The current lease on the building expires on 24 March 2016 and Magnet has indicated that it wishes to relocate to alternative premises in the locality to improve its market exposure. Correspondingly, the appellant has offered a financial inducement to Magnet in the event they wish to surrender their lease earlier. The Council claim the proposal would involve the unacceptable loss of flexible employment floorspace suitable for continued occupation by existing or alternative business uses, but the commercial agent called by the appellant categorically refuted that opinion and considered it would have very limited marketability having regard to its style, age, condition, current limitations and relatively poor accessibility by articulated lorries. In their experience premises on purpose built industrial estates such as nearby Regis Road, are quickly let, but in Holmes Road they remain vacant for long periods when tenants leave. Moreover, buildings of this nature are generally considered to have a lifespan of between 20 and 25 years before substantial refurbishment or replacement is necessary. Indeed, the appellant has indicated that if no permission is forthcoming for this proposal, the building would be refurbished when vacated and possibly subdivided for lease to a number of different smaller companies in view of the Council's desire to seek retention of sub-optimal employment sites such as this in accordance with Camden LDF Policies CS8 and DP13.
11. The proposed commercial floorspace would be slightly larger than in the present building, but unlike the existing, it would all be accessible by forklift truck, due to incorporation of a ramp and forklift elevator platform. The commercial agent candidly stated that there is market resistance to basement employment accommodation and the Council cited the experience in the nearby premises at 55 Holmes Road that remained vacant for many years following construction in 2004, which in that case has led to the Council approving conversion of part of it to residential accommodation. The agent explained the slow take-up as being the result of a number of factors including uncertainty relating to the current economic climate, and in the example of 55 Holmes Road, pillars obstructing clear floorspace, which does not apply in the case of the appeal structure design. Also, he indicated there was a lack of demand for commercial floorspace generally in this locality, due to constraints associated with its mixed use character and poor accessibility, as witnessed by the lack of take-up of ground floor commercial floorspace at 74A opposite the site, which has remained unlet since being constructed in 2006. Nevertheless, the agent was emphatic that the new commercial floorspace here would be more readily lettable than the present building due to it being a new building with no serious repairing or maintenance liabilities, having better insulation, full accessibility by forklift trucks and secure undercover loading facilities. These attributes would make it attractive for a wider range of companies. Moreover, whilst Magnet would relocate the 13 jobs it provides at the site, the evidence suggests that the overall scheme is likely to generate a similar or greater number of jobs.
12. Indeed, the appellant is so confident that the replacement commercial floorspace will be more attractive than the existing premises that he has included a clause in the Undertaking to preclude first occupation of the student accommodation until the commercial element of the scheme has been let and occupied in Class B8 Use. In light of that obligation and the definitive commercial evidence concerning the prospective attraction of the proposed warehouse, compared to the existing building, and its capability to also be subdivided if required, I am satisfied that the proposal would not represent an unacceptable loss of flexible employment floorspace and that the provisions of LDF Policies CS8 and DP13 will not be breached.

Inadequate mix of housing types

13. The Council consider that a development of this size should provide a mix of housing types and sizes including market and affordable housing in addition to the student accommodation. They consider the failure to do this would be contrary to their goal of fostering mixed and balanced communities as promulgated in their planning advice in CPG2. However, paragraph 6.13 of the Core Strategy indicates that the Council will seek to manage sites for student housing to ensure it does not prejudice the availability of sites to meet other housing needs. This site is not allocated for housing use in the development plan and the Borough has consistently exceeded its house building targets set in the London Plan and adopted Core Strategy and is on target to continue to so do throughout the Core Strategy Plan period. The proposal does not of itself therefore jeopardise the house building targets envisaged in the development plan. Furthermore, there is no indication the site would come forward for market and affordable housing if permission for student housing is not granted, nor for that matter, whether such a proposal would be given favourable consideration by the Council, bearing in mind the Council wish the site to retain employment use and that it is not allocated for residential development and would lead to the Borough's house building target being exceeded.
14. The Council further assert that the failure to provide affordable housing would represent an opportunity missed. However, the appellant points out that the text accompanying Policy DP9 specifically supports provision of student housing and recognises its potential to mitigate pressure on the stock of private rented homes in Camden, while paragraph 9.7 indicates that the requirement to provide affordable housing does not apply to student housing.
15. Thus, I interpret the Council's expectations in this regard as being not so much based on a desire to encourage additional house building, but rather to further engender a social mix in the locality. However, I saw this is not only a mixed use area, but it also already contains a wide range of dwelling types, with the older modest terraced family houses in the Inkerman Conservation Area to the south, purpose built social housing to the east, modern private apartments to the north and key workers flats to the west. Therefore, it appears that the Council's concern relates more to "*studentification*" of the area, which is a term coined to describe where concentrations of students within parts of cities can evolve to create an undesirable imbalance in established local communities. I deal with this matter under the next issue.

Over-concentration of student accommodation, with no identified HEI end user

16. LDF Policy DP9 is supportive of Purpose Built Student Accommodation (PBSA) provided it meets defined criteria, including that it does not create an over-concentration of such use in a locality. The Council indicate that there is PBSA at Mary Brancker House, opposite the site at 54-74 Holmes Road, that contains 142 student bedspaces. They consider that as the proposal would thus lead to a concentration of 410 students in this section of the road, a "tipping point" would be reached at which the area can no longer continue to foster a sustainable community. They maintain this would result in pressure to provide infrastructure accessed by students and loss of infrastructure required by the pre-existing population. The Council refer to a report that was commissioned by Universities UK entitled "*Studentification*" – *A Guide to Opportunities, Challenges and Practice*, to look into the various phenomena associated with the concentrations of student populations in established communities.

17. The appellant draws attention to paragraph 3.10 of that study which indicates that negative effects of *studentification* are not felt evenly across the UK with Brighton and Manchester appearing to manage their student populations with little complaint from resident communities, while Leeds, Nottingham and Loughborough have been the focus of highly publicised problems. It states that in London, students are dispersed into the wider housing market with limited concentrations leading to few complaints. It is apparent that the physical manifestation of this is where areas of cities (typically those containing larger older properties) change from family housing to Houses in Multiple Occupation (HMOs), with increased population density making demands on the limited infrastructure (designed for lower key usage), attendant pressures for on-street parking, poorly maintained gardens and numerous agents advertising boards reflecting the frequent turnover of occupants.
18. In this instance, there would be no displacement of any existing residents or loss of family housing and the existing character of Holmes Road is mixed use rather than predominantly residential. In fact, arguably the proposal could lead to the release of some existing housing in the Borough currently used by students. The site is in a sustainable location and the local infrastructure is already commensurate with a busy urban location, with a wide variety of shops on nearby Kentish Town Road where there are also buses and an underground station. The legal agreement provides for the development to be car free and the building would be a modern managed structure and thus be more attractive in the street scene than the current warehouse and unlikely to require any agent's boards to secure lettings of the rooms. In fact, the Council indicate the proposed building is acceptable in scale, mass and height and would not harm the setting of the adjacent listed Kingsway College building or the character and appearance of the Inkerman Conservation Area. I thus find no objections to the proposal on physical environmental or infrastructure grounds.
19. The Council have reviewed the provision of student housing in their approved planning guidance document CPG2 – *Housing*. Paragraph 3.18 states that where there is an existing concentration of resident students, the Council considers that proposals for student housing may harm the mix and balance of the community if they provide more than 100 bedspaces. Where there is no existing concentration, the corresponding figure rises to 250 bedspaces. CPG2 indicates there are 11 accredited HEIs in Camden and a plan identifies the existing concentrations of student population in the Borough, which clearly illustrates this is mainly towards the south of the Borough. A table in CPG2 indicates that 7.92% of Camden's population are full time students aged 19 or over. This proportion rises to about 25% in Bloomsbury and 23% in Kings Cross, whereas in Kentish Town it falls to just 5.64%.
20. Having regard to the above and the fact that the locality is a mixed use area adjacent to an industrial estate, close to good public transport links, I do not regard a single building with 142 bedspaces as representing an unacceptable concentration of student accommodation. I therefore consider that as this proposal for a further 268 student bedspaces only marginally exceeds the CPG2 indicative 250 bedspace figure, the development would not result in identifiable physical harm to the housing mix in the area. Furthermore, as the site is at the periphery of the residential neighbourhood, I do not find the proposal would result in an undesirable over-intensification of PBSA or harm the overall social balance of the wider community, but rather serve to redress it by bringing the proportion of students in Kentish Town up to the Borough average.

21. That conclusion is based on the assumption that the proposal would lead to a gross inflow of students, but clearly the accommodation could lead to some of the housing stock now used for this purpose becoming available for other non-student households, particularly as only about 30% of the students resident in the Borough occupy PBSA. The Council did not suggest any other locations as having greater potential for use as student accommodation and indeed, my attention was drawn to other sites where such proposals have been refused permission, including at appeal. Having visited some of these, I was able to see they were in less suitable locations and settings.
22. The Council point out that Mary Brancker House serves the nearby Royal Veterinary College and refer to the clauses in Policy DP9 that student housing should serve HEIs based in Camden or adjoining Boroughs and be accessible to the Institutions it is intended to serve. In this instance, the proposal is not linked to any HEI. Nevertheless, a letter from CRM Students, who describe themselves as UK's leading independent manager of student accommodation, states that the area is "a fantastic location for students, having great accessibility to London's Universities and Colleges by public transport or on foot and bike". The letter also refers to a "bustling creative vibe" and highlights the presence of markets, entertainment venues and open space expanses nearby. They also consider it offers a varied mix of units, a pleasing level of communal areas and confirm they would look forward to adding it to their property portfolio.
23. The London Plan was adopted in July 2011 after the Council's LDF and following the date the application was refused. It thus contains the most recent policies against which the proposal must be assessed. Whilst the draft London Plan did indeed have a clause that required PBSA to be linked to HEIs, this was not included in the adopted Plan, so as to enable specialist providers to use their stock efficiently, which was regarded to be of particular importance given the scale of need for such accommodation. The London Plan also notes the significant contribution HEIs make to the local economy and labour market and underlines the importance of ensuring their attractiveness and potential growth are not compromised by inadequate provision of new student accommodation. Though there is thus no longer a policy requirement to link the PBSA with an HEI, the London Plan does require the accommodation to be robustly secured for students by legal agreement or planning conditions. I am satisfied such measures are in place here.

Unacceptable loss of residential amenity for neighbouring residents and/ or poor living conditions for future student occupants

24. With regard to the matter of residential amenities of neighbouring residents the main concern centred on fears relating to noise and disturbance. The Council and some residents state that problems have been encountered in connection with the existing students' housing. Despite assertions regarding noise and disturbance made in written representations and orally at the Inquiry, these appear to be based on isolated incidents or preconceived assumptions that students engage in unsociable activities. However, the appellant conducted a noise impact assessment to monitor the ambient noise levels both during term time and the Easter vacation. In practice it showed there was no appreciable increase in noise levels arising from the presence of students at Mary Brancker House and concluded the proposed development is similarly unlikely to have significant adverse impacts upon the amenity of residents in nearby housing.

25. An average of 12 incidents of individual night-time spikes in noise occurred which were correlated to identifiable events through the use of CCTV. This demonstrated that over 95% of these were attributable to motor vehicles and less than 5% were people walking along Holmes Road talking loudly. It was not possible to accurately identify which were students or other residents, but the only evidence supplied in support of the Council's case in this regard came from the Minutes of Inkerman Residents Association which estimated that only about half of pedestrian night-time noise is associated with students compared with other people. Correlating this to the proposed student accommodation and the noise survey would mean that in future, still more than 90% of the night-time noise spikes exceeding 80dB LA_{max, fast} will be unrelated to students.
26. The locality is clearly not a quiet suburban residential area, and the site is positioned between St Patrick's RC School and a 700 pupil French School that has recently opened in the former Kingsway College building. It is an urban locality with a wide mix of commercial uses including a Council Depot where I consider residential occupiers could reasonably expect some degree of noise. It is evident that the projected noise incidents likely to be attributable to students are still very much in the minority and not at a level where refusal would be warranted. Furthermore, as the noise report indicates, these sound levels can be attenuated to acceptable levels within a building by double glazed windows, which most of the adjoining buildings appear to have.
27. Similarly, concerns about disturbance to students in the proposed building arising from external noise sources such as road traffic or loading/unloading deliveries at the site are capable of being addressed by the imposition of a condition requiring installation of double glazing and ventilation which meets BS8233 and WHO guidance. This was apparently conveyed to the Planning Officer in an internal consultation with the Environmental Health Department, but not mentioned in the officer report or in any evidence supplied to the Inquiry by the Council's witnesses. It emerged following a request from the appellant's acoustician and demonstrates the site falls mainly within PPG24 categories NEC A and B and clearly indicates the Council's noise expert considered acceptable internal noise levels could be achieved by the imposition of conditions. I am satisfied that this can also be combined with conditions to restrict the hours of use of the landscaped courtyard and to preclude use of the flat roofs as amenity space to provide further safeguards.
28. References were made to specific incidents of disturbance associated with Mary Brancker House, although these appear to have been suitably addressed firstly by the Council issuing a warning letter which has led to the front terrace being closed to students and in another instance through contacting the manager, which led to the eviction of the offending students from the building. I am content that a similar management regime for the proposed building would ensure adequate control can be exercised over the student occupants. Also, as the police station is less than 150m away from the site, which I note is manned 24 hours a day 7 days a week, there is a ready police presence available to deal with any disruptive or anti-social behaviour in the locality. A plan from the Community Police Sergeant mapping where incidents of anti-social behaviour, noise and domestics have occurred in the area demonstrate these are centred near the junction with Kentish Town Road, with the Monmouth House tower block cited as being problematic, not Mary Brancker House. Indeed, there was no objection to the proposal by the police and only anecdotal evidence from the Council or residents to contradict the appellant's noise survey findings.

29. A further aspect which the Council raised was that whilst they have no objection in principle to the levels of daylight and sunlight received at the student rooms, they consider some would have a poor outlook and heightened sense of enclosure due to the proximity of the blocks to each other and to the high boundary wall. However, I note that the BRE sunlight and daylight standards are met and I do not regard their outlook from the units cited by the Council as causing concern to be any worse than is achieved in the basement flats recently approved at No 55 Holmes Road.

General inadequacies relating to access, servicing, refuse/recycling, ventilation extract system and cycle parking

30. The site at present has vehicular access to both Holmes Road and Cathcart Street. The proposal would entail closure of the former and widening of the latter. The Council's Highways witness observed that most vehicles currently enter and leave the site in forward gear and do most of their manoeuvring within the site, whereas with the proposal, HGVs would need to reverse into the site from Cathcart Street undertaking most of their four-point manoeuvre within the highway. Also, one of the accesses to the French School is directly opposite this access to the appeal site and attracts numerous pedestrians, cyclists, cars, taxis and mini buses at school opening and closing times. Nevertheless, none of the 19 refusal reasons cite highway safety as a concern.
31. The Council's transport planner considers it necessary to have an off-street loading bay for the B8 Use although the proposal is below the size threshold where it would be a requirement. This is because of their appraisal of the potential cumulative servicing activities. The arrangement was considered to be unacceptable though based on an assessment that HGVs would occupy the service bay throughout the day and other vehicles would therefore need to service the site from the road. However, the appellant's expert illustrated how other vehicles could access the bay while an HGV was parked on site. Also, they argued that as the floorspace would be similar to the Magnet building, the numbers of HGV trips would be comparable and though on-street servicing would be possible, off-street is preferable and reversing into the site is not unusual for these types of premises in London.
32. The Council pointed out the access to the café from the service area would be a little circuitous. In view of this and the scale of goods that would be delivered, the appellant indicated it is likely to be by smaller goods vehicles which could use the parking bays in Holmes Road for dropping off. With regard to the route from the café to the refuse/recycling area, it was contended that as the quantities of such material are also likely to be small, it is unlikely to adversely affect the amenities of students whose rooms are served by the corridor between the café and bin store. I am satisfied the management plans would adequately address these matters and ensure no bins are left in the corridor.
33. Also, it is envisaged that the student use would generate only one or two 2-way lorry trips daily. Moreover, as the production and approval of a Travel Plans and a Service Management Plan (SMP) is a legal requirement of the Unilateral Undertaking, I am content that deliveries to the site could be arranged to ensure any perceived shortcomings of potential highway obstruction and conflicts with traffic associated with drop-off and pick-up times at the school is minimised. In addition, it is proposed that potential safety hazards would be addressed in the SMP by the services of a "banksman" to direct reversing vehicles.

34. The removal of the current parking spaces within the site and making the development car-free is likely to secure an overall reduction in daily vehicular trip generation. The widening of the Cathcart Street access would ensure the pavement is not over-run as sometimes occurs now. I noted the pavement was in the process of being re-laid and I consider it would be prudent for consideration being given to widen that access in any event, at the earliest opportunity, to prevent the new pavement surface being damaged.
35. I am satisfied that traffic generation associated with arrivals and departures of students at the beginning and end of term can also be addressed through the Student Management Plan, whereby it is entirely feasible to channel this to occur at weekends thereby avoiding conflict with operational hours of the B8 Use and the French School.
36. Refusal reason 7 relates to the absence of information regarding the proposed extract ventilation system for the café. However, it is apparent from the internal consultation with the Council's Environmental Health section that this matter could be suitably addressed by the imposition of a condition. I agree.
37. Refusal reason 8 concerns the cycle parking layout, which was considered to have inadequate spacing between the two tier racking system that is proposed. An amended plan (A(GA)F080rev A) was submitted to the Inquiry reducing the number of cycle parking spaces to 156 and widening the spaces between them to 2.5m which was confirmed as suitably addressing the matter. With the Council's agreement, I accepted the plan as a minor revision of the application.
38. I am therefore satisfied in the final issue that matters connected with perceived inadequacies relating to access, servicing, refuse/recycling, ventilation extract system and cycle parking can be suitably addressed by the imposition of conditions or through Management Plans which are committed to be produced by the Unilateral Undertaking.

Conditions

39. Being therefore minded to allow the appeal, I have had regard to the Conditions that have been discussed and agreed between the parties and aired at the Inquiry. I accept the need and appropriateness of all 19 that were tabled, subject to minor amendments as I have deemed necessary for accuracy and certainty, with the reasoning for them being as follows: Condition 1 is the standard time limit; 2 & 3 are in the interests of the visual amenities of the area; 4 is in the interest of public safety; 5, 6 & 7 are to ensure that future occupants have landscaping, waste disposal/recycling and cycle storage facilities in place when they occupy the building; 8 & 9 are in the interests of the residential amenities of neighbouring occupants; 10, 11 & 12 are in the interests of certainty; 13 is to safeguard endangered species; 14 is in the interest of public and private safety; 15 is in the interest of public health and accessibility; 16 is in the interest of sustainability and avoidance of flood risk; 17, 18 and 19 are in the interests of the amenities of intended occupants and neighbouring residents. In addition, in the interest of certainty, I have added a condition referring to the plans upon which this decision is based. However, in response to representations made on behalf of the owners of adjoining No 61 and 63 Holmes Road, indicating that windows in the elevation of the proposed building facing that property could be prejudicial to their redevelopment proposals, I have required this element of the scheme to be removed and fresh details submitted.

40. Despite the current use having no restrictions upon working hours, the current occupant does not run a 24hr operation. I questioned the appropriateness of imposing a condition to restrict operational hours of the commercial elements, but was advised by both parties that this could be achieved more effectively through the agreement of the Service Management Plan, which could go into far greater detail than would be appropriate in a planning condition and also be capable of modification in response to changes or issues that may arise.

Conclusion

41. For the reasons given above I conclude that the appeal should be allowed and permission granted subject to conditions set out in the schedule below.

Edward Grace

Inspector

Schedule of Conditions

1. The development hereby permitted shall be begun not later than the end of three years from the date of this permission.
2. The details of the layout, sections, elevations at scale 1:100, plus larger scale details at 1:20 scale of windows, door framing and roof plant equipment, to be used on the building shall not be otherwise than as those submitted to and approved by the Council before any work is commenced on the relevant part of the development. Such details shall include proposed slab levels of the building in relation to the existing and proposed levels of the site and the surrounding land. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.
3. A Sample panel of all approved facing materials demonstrating the proposed colour, texture, face-bond and pointing shall be provided on site and approved by the Council before the relevant parts of the works are commenced and the development shall be carried out in accordance with the approval given. The approved sample panel shall be retained on site until the work has been completed.
4. No development shall take place until:
 - a) The applicant has submitted a programme of ground investigation for the presence of soil and groundwater contamination and landfill gas for approval by the Council.
 - b) The investigation has been carried out in accordance with the approved details and the results and remediation measures (if necessary) have been submitted to and approved by the Council.
 - c) All approved remediation measures shall be implemented strictly in accordance with the approved details and a verification report shall be submitted and approved by the Council.

5. No development shall take place until full details of hard and soft landscaping, including the amenity spaces, planted walls, and means of enclosure of all un-built, open areas have been submitted to and approved by the Council. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved and shall be implemented prior to the first occupation of any of the new units and permanently retained thereafter.
6. Before the development commences, details of the location, design and method of waste storage and removal (including recycled materials) shall be submitted to and approved by the Council and the approved facility shall therefore be provided prior to the first occupation of any of the new units and permanently retained thereafter.
7. Before the development commences, details of the proposed cycle storage area for 156 cycles shall be submitted to and approved by the Council (which shall accord with drawing number A(GA)F080rev A). The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units and permanently retained thereafter.
8. The areas of external amenity space hereby permitted shall not be used after 22.00 or before 08.00 Mondays to Sundays (including Bank Holidays).
9. The flat roofs of the buildings shall not be used as amenity terraces.
10. Before the development commences, details of the proposed Combined Cooling Heat and Power technology shall be submitted to and approved by the Council. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units and permanently retained thereafter.
11. The student accommodation hereby approved shall only be occupied as part of the overall use of this part of the building as "Sui Generis" student accommodation, and it shall not be used as independent and separate self-contained dwellings within the meaning of Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
12. Prior to the first occupation of the building a plan showing details of the green roof including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the green roof, and a programme for an initial maintenance scheme for a period of 5 years shall be submitted to and approved in writing by the local planning authority. The green roof shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained.
13. Prior to the occupation of the building, details of an artificial bat roost within the application site should be submitted to and approved by the Council and subsequently incorporated in the development in accordance with the approved details and thereafter retained.
14. No work shall take place on site until a detailed design, structural calculations and method statement for the foundation design and all new groundworks has been submitted to and approved by the Council. The development shall only take place in accordance with the detailed scheme approved agreed pursuant to this condition.

15. Before the development commences, details of the internal access routes to the refuse storage area, including accessible routes, and details of the external ramped entrance to the restaurant, shall be submitted to and approved by the Council. The approved facility shall be provided in its entirety prior to the first occupation of any of the new units and permanently retained thereafter.
 16. Before the development is commenced details of a Sustainable Drainage System (SUDS) including green or brown roofs, pervious paving and collection of rain water for reuse shall be submitted to and approved in writing by the local planning authority. Such details shall, demonstrate how the proposed system will minimise the site surface water run-off and amount and rate of waste water discharged to the sewer. The approved details shall be implemented prior to first occupation and retained in the development.
 17. Noise levels arising from external sources audible within all habitable rooms during the night period (23:00 – 07:00) shall not exceed 30dB LAeq (8 hours) nor 45dB L_Amax (fast). Similarly, noise levels in habitable rooms shall not exceed 35 dB LAeq (16 hours) during the day time (07:00 – 23:00). Details of sound insulation measures for the student windows fronting Cathcart Street shall be submitted to and approved in writing by the Local Planning Authority. The approved sound insulation measures shall be installed prior to occupation of any of the student units, and retained thereafter.
 18. Before the relevant uses commence, plans and acoustic information of any extract ventilating system/air-conditioning plant shall be submitted to the Council for approval, this shall include details of any acoustic isolation and sound attenuation. Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A). The equipment and any noise control measures shall thereafter be retained.
 19. Ductborne noise arising from the café ventilation equipment, when measured inside student bedrooms shall not exceed Noise Rating Curve 25 LAeq (NR25).
 20. The development hereby permitted shall be carried out in accordance with the approved plans listed in the Schedule of Plans at A and B below, except in respect of the windows in the elevation of the proposed building facing towards adjoining No 61 and 63 Holmes Road, which shall be deleted and fresh details of this element of the scheme shall be submitted.
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APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Harrison QC, of Counsel	Instructed by Louise McLaughlan, Legal Services Department, LB Camden
He called	
Sara Whelan BA(Hons) MA	Senior Planning Officer, LB Camden
Steve Cardno BSc AMIHE	Principal Transport Planner, LB Camden
Vivienne Lewis BA	Project Officer, LB Camden

FOR THE APPELLANT:

Paul Tucker QC, of Counsel	Instructed by Kieran Rafferty, KR Planning
He called	
Kieran Rafferty BA(URP) CUKPL MPIA MRTPI	Director of KR Planning
Margaret Theobold BSc(Hons) DipH&T MCIHT	Associate, URS/Scott Wilson
Stephen Gosling BEng(Hons) MIOA MAES	Principal Consultant, 24Acoustics
Alan Harvey MRICS	Partner, Salter Rex Chartered Surveyors

INTERESTED PERSONS:

Cllr Georgia Gould	Local Councillor
David Johnson	Secretary, Inkerman Area Residents Association
Robert O'Hara	Architect, Representing 61-63 Holmes Road
Alex Dunbar	Local Resident

DOCUMENTS

- 1 Council's Notification Letter
- 2 Responses (8) received
- 3 Opening submissions on behalf of the Appellant
- 4 Opening submissions on behalf of the Council
- 5 Unilateral Undertaking dated 17 October 2011
- 6 Statement of Common Ground
- 7 Appendices to Ms Lewis's Evidence
- 8 Appendices to Mr Cardno's Evidence
- 9 Appendices to Miss Whelan's Evidence
- 10 Appendices to Mr Harvey's Evidence
- 11 Appendices to Mr Gosling's Evidence
- 12 Appendices to Mrs Theobold's Evidence
- 13 Appendices to Mr Rafferty's Evidence
- 14 Appendix to Mr Harvey's Rebuttal Evidence
- 15 Appendices to Mr Rafferty's Rebuttal Evidence
- 16 Letter from Hallmark Property Group dated 19/10/11
- 17 Extracts from Companies House Register re Magnet
- 18 Planning permission Ref: CTP/G11/5/A/12570 dated 21/2/72

- 19 Details of International Student House, 229 Great Portland Street
- 20 Pedestrian count undertaken by Mr Cardno 13/10/11
- 21 Bundle of documents submitted by Mr Johnson
- 22 Extracted Minutes of Inkerman Area Residents Association
- 23 Bundle of Documents submitted by Mrs Dunbar
- 24 Policy Justifications for obligations in the Unilateral Undertaking
- 25 Draft Conditions agreed between the parties at the Inquiry
- 26 PINS Advice Note 16
- 27 Closing Submissions on behalf of LB Camden
- 28 Closing Submissions on behalf of Appellant

PLANS

- A Planning Application Drawings
 - EX.00 OS Plan
 - EX.01 Existing Site Plan
 - EX.02 Existing Elevations
 - EX.03 Existing Section AA
 - EX.04 Existing Section BB
 - A(GA)F100 Proposed Ground Floor Plan
 - A(GA)F110 Proposed First Floor Plan
 - A(GA)F120 Proposed Second Floor Plan
 - A(GA)F130 Proposed Third Floor Plan
 - A(GA)F140 Proposed Fourth Floor Plan
 - A(GA)F150 Proposed Fifth Floor Plan
 - A(GA)F160 Proposed Roof Plan
 - A(GA)F300 Proposed Section AA BB
 - A(GA)F301 Proposed Section CC DD
 - A(GA)F302 Proposed Section EE
 - A(GA)F303 Proposed Section FF
 - A(GA)F400 Proposed North Facing and Cathcart Street Elevation
 - A(GA)F401 Proposed East, South and Courtyard Elevation
 - A(GA)F402 Proposed South Facing Courtyard Elevation
 - A(GA)F403 Proposed Block 2 Boundary and Courtyard Elevation
 - A(GA)F420 Proposed Detailed Part Elevation 1
 - A(GA)F421 Proposed Detailed Part Elevation 2
 - A(GA)F422 Proposed Detailed Part Elevation 3
- B Amended Plans submitted at Inquiry
 - A(SO)F100 Existing Ground Floor
 - A(SO)F110 Mezzanine & Section
 - A(GA)F080revA Proposed Basement 02 Plan
 - A(GA)F090revB Proposed Basement 01 Plan
- C Revised Swept Path of 3.5 tonne Panel Van
- D Plan Showing Student Attractions

PHOTOGRAPHS

- 1 Additional Photos submitted by Mr Harvey