METROPOLIS PLANNING AND DESIGN
1 – 11 EUSTON ROAD, LONDON
OPINION

Context

1. I am instructed by Metropolis Planning and Design on behalf of Gaylord Investments Limited, the owner of land at 1-11 Euston Road, London situated on the south side of the Euston Road, directly opposite the grade 1 listed Kings Cross Station, St Pancras Station, and St Pancras Chambers buildings. The site in question fills the northern part of the block between Birkenhead Street and Crestfield Street. It is plainly a prominent and a significant site.

2. 1-11 Euston Road provides 3,503 square metres of floorspace, currently in the following uses

    - Hotel 1,621 sqm
    - Cafe/Restaurant 938 sqm
    - Office 666 sqm
    - Retail 278 sqm

3. These uses are distributed as follows: the upper floors and to some extent the rear of 1-7 Euston Road are in office use, the rear and upper floors of 9-11 are in hotel use (the Northumberland Hotel), while the retail and cafe/restaurant uses occupy the 6 single storey units which form the whole of the site's frontage to the Euston Road. These are deep units, having been constructed on what were once the front gardens to residential properties.

4. The site lies within the Kings Cross Conservation Area as designated by the London Borough of Camden. It is also within the setting of the three Grade 1 listed buildings referred to above.

5. Metropolis PD has prepared proposals to redevelop this important site. The proposals envisage demolition of the buildings presently on site and providing in their place

    - A mixed use development of 7,276 square metres on the site. This development to consist of an hotel (Use class C1), residential flats (Use Class C3), and Class A retail development (likely to include an element of cafe/restaurant use). The GIA of each use to be

        Hotel 6,033 sqm

        Residential 770 sqm

        Retail 473 sqm

    - A new residential development of at least 1,175 square metres floorspace at 8 Spring Place in Kentish Town, formerly in B1 use. The delivery of this development is to be secured by section 106 planning obligation.

6. The design of the development proposed at 1-11 Euston Road enjoys the support of CABE (now merged with the Design Council) following a presentation of the proposals by Metropolis PD in early April 2011. Although the composition of the mix of uses has changed since that presentation the overall design concept has been retained.

7. The approach the development takes to the Euston Road enjoys the support of Transport for London in transportation terms, and a generally supportive response at an informal level from the Greater London Authority.

8. The officers of the Borough planning authority have been consulted repeatedly during the genesis of these proposals. Amongst the advice received, the following points have been made

    - Although there is no objection to the demolition of the single storey shops fronting the Euston Road, officers are likely to object to the demolition of the 19th century elevations behind them;
    - In terms of use, there is no objection to the loss of office floorspace;
    - The site is an appropriate location for a hotel use;
    - The location of uses in the "A" group of classes at ground and basement level is appropriate;
    - The mixed use policy DP1 requires delivery of an element of residential use, and the policies prefer on site provision.

9. The proposals for redevelopment have therefore reached the point where an application for planning permission is imminent. However, pre-application discussions with officers of the Borough suggest that they may be taking an unduly rigid approach to the application of relevant policies. Those instructing me are concerned that officers should apply the relevant policies in a balanced and reasonable way.

10. I am therefore asked to give an independent opinion on

    - The approach which should be taken to the issue of demolition of the buildings on the site.
    - Whether the proposals, taken as a whole, accord with the objectives of DP1, and any other policy issues arising under that policy.

11. This is not a comprehensive assessment of the proposals or the relevant policies, but is intended to cover the main points arising from pre-application discussions between Metropolis PD and officers of the Council. If I have misunderstood the basis of the issues raised by the Council I should please be told as I will gladly revisit and reconsider my opinion.

Demolition

12. By virtue of the site's location within a designated Conservation Area, conservation area consent is required for the demolition of the buildings[1].

13. The statutory duty imposed by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 on the local planning authority requires that in exercising their functions (in this case determining an application for planning permission and/or conservation area consent for demolition) "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

14. It is artificial to separate out the demolition of buildings from their proposed replacement. Where an unlisted building is proposed to be demolished as part of a redevelopment project, it is the net effect on the character and appearance of the conservation area to which "special attention" has to be paid.

15. As PPS5 advises, the Government's objectives include "to deliver sustainable development by ensuring that policies and decisions concerning the historic environment ... recognise that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term." [paragraph 7].

16. The site is just outside the Kings Cross growth area, in which substantial investment and change is taking place. The train stations opposite the site are Grade 1 listed buildings which have benefited from a programme of modernisation, not only to their fabric but within their settings. These stations are one of the most significant gateways to London, in the case of St Pancras a gateway to and from Europe as well as other parts of the UK. The site's capacity to accommodate change needs to be considered in that light.

17. The Council's Core Strategy seeks to manage and guide the process of growth and change within the Borough. Policy CS14 is relevant. Its supporting text states "Our overall strategy is to sustainably manage growth in Camden so it meets our needs for homes, jobs and services in a way that conserves and enhances the features that make the borough such an attractive place to live, work and visit." [paragraph 14.2].

18. While there are more detailed policies to be considered, and while there is useful published guidance designed to assist with the task of assessing development proposals which affect the historic environment, the critical judgment should ultimately address the simple statutory objective. The critical question is whether the overall effect of a decision to grant permission/consent furthers that statutory objective. Does it preserve or enhance the character or appearance of the conservation area?

19. Provided no harm to the character or appearance of the conservation area is caused, the statutory and policy objective is met by the decision to grant planning permission

[1] Section 74 of the Planning (listed Buildings and Conservation Areas) Act 1990.

and conservation area consent[2]. This is recognised by the Council's Development Control Policy DP25, which states at c) that the Council will

> c) prevent the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area **where this harms the character or appearance of the conservation area**, unless exceptional circumstances are shown that outweigh the case for retention;
> [emphasis added]

20. In considering the net effect of the decision to grant planning permission, the first step must be to assess the contribution currently made by the site to the character and appearance of the conservation area. Where the site is itself a heritage asset, and demolition is proposed, this requires an assessment of the significance of that asset and the impact of its loss.

21. The Council has prepared a Conservation Area Appraisal which states that the site described as "1-11 Euston Road" makes a positive contribution to the area. The Appraisal assessed the area as at 2003 and recognised that the area around Kings Cross would change considerably in the light of the regeneration of the opportunity area, and the effect of Crossrail proposals. For example, the 1974 canopy to Kings Cross remained and was shown as making a negative contribution, the expectation being that it would be removed with the regeneration of the opportunity area which covers a large area of land to the north of the Euston Road.

22. The Appraisal places the site within Sub-Area 3 (of four) within the Conservation Area, a Sub-Area linear in form running along the southern side of the Euston Road. About the site it says this

> **4.2.101** The properties at nos. 1-11 Euston Road form an attractive unlisted four-storey terrace probably dating to c1840, which are a vestige of the original Euston Road frontage buildings, which remained almost intact in this area until the early 20th century. The elevation is divided into three sections: nos. 9 and 11 at the western end of the group and nos. 1 and 3 at the eastern end have decorative white painted window surrounds, which are arched at first floor level, and the central properties have less decoration and a plain façade. The single storey, flat roofed retail units added to the front of the properties detract from the appearance of the original properties and alter and obscure the original building line that returns into Birkenhead and Crestfield Streets. In addition they obscure views of the upper floors of nos. 1-11 from Euston Road pavement, and include a range of garish signage. No. 11 has a projecting single storey to the front that is earlier in date than the modern retail units, and has arched windows to the side to match those on the side elevation of the main house. The flank elevations of no. 1 on Birkenhead Street and no. 11 on Crestfield Street also retain a high level of decoration.

23. Since that statement was written the Council's officers have received an analysis of the site and its contribution to the area by Eleni Makri RIBA IHBC AABC. Ms Makri is a respected, independent expert on the historic environment and has done site specific research and analysis which informs and underpins her conclusions. Her report is entitled Justification for Demolition and Replacement Part 1 (revised March 2011) and makes appropriate reference to published sources, not least to the

[2] This was settled by the leading case of ***South Lakeland v SoSE*** [1992] 2AC 141.

Council's Conservation Area Appraisal. It concludes in unqualified terms that the terrace "cannot be taken as making a positive contribution to the character of the conservation area." [paragraph 8.4]. She analyses the terrace against the criteria published by English Heritage in Appendix 7, and shows in a robust way that the first sentence of the extract above is simply incorrect.

24. Ms Makri's focus on the significance of the heritage asset accords with PPS5 [see in particular HE6.1; HE7.1; HE7.2].

25. Both she and the Council are at least agreed on the fact that the single storey retail premises detract from the character and appearance of the area. However, she reaches a different conclusion from that of the Appraisal where the contribution of the site as a whole is concerned, which the Appraisal takes to be positive on account of the "attractive" four storey terrace.

26. In my opinion, her report should be given greater weight than the Conservation Area Appraisal when assessing whether or not the terrace facade makes a positive contribution to the character and appearance of the area and the implications of this for the site as a whole. I say this because it takes that earlier assessment fully into account and reflects a more detailed analysis of the specific site and its role within the area. It demonstrates that the Appraisal's conclusion that the block makes a positive contribution to the character and appearance of the area is not reliable.

27. The Council is free of course to seek its own expert advice on the site's contribution to the conservation area, but is likely to act unreasonably if officers simply prefer the Appraisal to Ms Makri's report without more.

28. Even if the Council ultimately concludes that this element of the site (the terrace) makes a positive contribution to the conservation area, the underlying statutory objective remains the guiding principle. Therefore in my opinion, to insist on retention of the terrace without assessing (and recognising as the determinative factor) whether demolition and redevelopment would, taken as a whole, have a neutral or positive effect on the designated assets referred to above, would reflect a legally flawed approach to policy.

29. Ultimately the statutory and policy objective is met by the development if no harm is caused. In fact in this instance I understand that the development is thought to enhance the conservation area, and (importantly) the settings of the Grade 1 listed buildings. The opportunity for enhancement in this prominent and significant location should in my view be given considerable weight in the overall planning balance.

Mixed use development

30. The redevelopment proposals will need to be assessed against all the relevant policies of the Development Plan, and these include DP1 of the recently adopted Development Policies DPD.

31. This policy is designed to help deliver the Core Strategy policy CS1 "Distribution of growth". CS1 recognises the need to plan for growth and seeks to accommodate it in the most appropriate locations. Growth areas are identified (there is one just over

the road at Kings Cross) and the policy promotes "appropriate development at other highly accessible locations" such as the site under consideration. Paragraph 1.15 advises "These areas are considered to be particularly suitable locations for uses that are likely to lead to a significant increase in travel demand (for example, retail, offices, leisure and tourism), although the scale of development at these locations is expected to be less than that in the growth areas."

32. It is also notable that redevelopment proposals should, to meet the objectives of CS1, make full use of the site (the single storey frontage development would be an offence to this objective if it were to be retained), and provide for "a mix of uses in suitable schemes ... including an element of housing where possible."

33. DP1 similarly requires a mix of uses only "where appropriate" and the supporting text states "No non-residential uses are excluded from the policy. However, we acknowledge that there are a number of circumstances where a mix of uses may not be sought." [paragraph 1.6]

34. The development under consideration is a mixed use scheme. Residential use is proposed as part of the overall package of proposals, in part on the application site and in part on a different site within the area, something the policy says the Council "may accept".

35. The policy requires the decision maker to weigh in the balance all relevant matters (in particular those identified within a) to i)) and conclude whether, between them, the development advances the objectives of DP1 and CS1. An unduly technical or rigid application of these relevant factors would be unreasonable.

36. I am instructed that the character of the area [first factor] (including the noise environment and limited prospect of providing useable outdoor amenity space) is such that only some types of residential development are suitable on the application site. The development proposed at 8 Spring Place, on the other hand, is capable of providing high quality accommodation and of meeting particular housing needs.

37. It may also be thought that the overriding planning objective for a site of this importance [final factor], particularly in terms of its relationship to the Grade 1 listed buildings on the opposite side of Euston Road, is to present a well designed, coherent frontage to Euston Road and accommodate a use which relates well to the transportation function of the two railway termini. It is therefore at least arguable that it would be a wasted opportunity to require more residential floorspace at this site than is proposed, bearing in mind the very close proximity of the Kings Cross growth area. The hotel and retail uses could be said to make a much more appropriate use of the site's location.

38. Although I only draw attention to two of the factors, the application of others may be thought relevant by those with planning expertise, and I do not suggest that the relevant considerations are limited to these.

39. I turn to the floorspace figures and whether sufficient residential floorspace would be provided when that at 8 Spring Place is taken into account.

40. The policy states "In the Central London Area .... we will require up to 50% of all additional floorspace to be housing." In this case, there would be 3,773 square

metres of additional floorspace (all on the application site). Of this at least 1,945[3] square metres would be residential. This comfortably exceeds the 50% maximum which the policy states may be required in any given case.

41. It should be recalled at all times that

    - The scale of the contribution should reflect the nine listed factors
    - There is no distinction in policy between on and off site contributions to the provision of complementary floorspace.
    - The quality of the contribution to housing supply must be taken into account as well as its quantity.

42. As I've explained, there is no basis within the policy itself for requiring that more than 50% of additional floorspace is in residential use, whether or not provision is made off site. The supporting text to DP1, however, suggests that the Council aims to "match" the increase in floorspace devoted to the primary use with the contribution by secondary uses [see for example paragraphs 1.10 and 1.16].

43. The arithmetic involved in this part of the supporting text is difficult to apply where there is a mixture of uses both before and after the increase in floorpace. Furthermore it is the policy which needs to be applied – the text should be no more than a guide to the application of the policy.

44. I have seen an email to those instructing me from Stuart Minty, Development Management Team Manager[4]. He suggests that the stated aim is met by matching the net growth in non residential floorspace with the net growth in residential floorspace. If one takes that approach, the net growth in non residential floorspace is 1,828[5] square metres, and the net growth in residential floorspace is a little more than that at 1,945 square metres. As for the policy itself, therefore, the figure work appears to meet the aims of the supporting text where "matching" uses is concerned.

45. However in cases like this it is not the complex or obscure arithmetic that should prevail but the underlying objectives of policy DP1. It is also vital not to lose sight of qualitative factors relating to the residential proposal. When it is considered that the proposal is to include a mix of housing to be agreed with the Council and to include an appropriate quantum of affordable housing, its merits and the benefits the overall package brings to the area may be considered persuasive.

Conclusions

46. The proposal to demolish the buildings at 1-11 Euston Road and redevelop the site, providing in association with it new housing development in a part of the Council's

[3] This is calculated as follows: 770 sqm on the application site, and at least 1,175 sqm at 8 Spring Place.
[4] Dated 20th May 2011
[5] Hotel plus retail use in proposal is 6,506 sqm, less the uses formerly on site being 3,503 sqm and less the commercial uses at Spring Place being 1,175 sqm makes 1,828 sqm.

area where people want to live and where family housing can be provided, deserves careful assessment on its merits.

47. It represents a significant opportunity on a very important site.

48. If, on balance, the proposals would preserve or enhance the setting of the grade 1 listed Kings Cross Station, and the Conservation Area, they deserve the Council's support.

49. Similarly, if the mix of uses they provide on site is considered appropriate and is adequately complemented by residential development at 8 Spring Place, they deserve the Council's support.

50. If I can help any further in relation to these issues, those instructing me should please not hesitate to contact me through my clerk.

Mrs Harriet Townsend

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25th

~~15th~~ July 2011