

APPLICATION BY NYRAFF LTD TO RETAIN THE UNDERCROFT AS OFFICE SPACE WITH THE
WHITE ROLLER SHUTTER DOOR REMOVED AND REPLACED WITH A BIFOLD DOOR ON THE
SOUTH ELEVATION OF OMEGA HOUSE, 67-74 SAFFRON HILL, LONDON

MARCH 2011

DESIGN AND ACCESS STATEMENT

AGENT REFERENCE: 10-6086

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1.0 SITE AND SURROUDNINGS

1.1 The application site is located on the north eastern side of Saffron Hill, London which runs in a north to south direction adjoining Clerkenwell Road to the north and Charterhouse Street to the south.

1.2 The site is within central London, located between Islington to the north, Moorgate to the east and Bloomsbury to the west. To the south is the Thames River.

1.3 There is good public transport access to the site via the Farringdon underground station located within a short walking distance of the site to the south east.

1.4 Saffron Hill is a very narrow one way road with high building built up to the back edge of pavement on either side. There are very limited parking facilities and single yellow lines all along Saffron Hill.

1.5 Photograph 1 below shows the street scene with the application site at the rear.

1.6 The building is constructed of red brickwork and part rendered walls, with a large amount of glazing.

1.7 The site, comprising 67 to 74 Saffron Hill, comprises a part 2 part 5 storey building, the two storey element of which fronts onto Saffron Hill with the 5 storey element behind.

Photograph 1: The Street Scene with Application Site at the Rear

The application building



1.8 Due to the central location of the site within the city, public transport is readily available and easy to use for those who work at or visit this building. Cycle spaces are also provided within the service yard, obscured by the blue roller shutter on Saffron Hill frontage. The cycle rack provides space for 12 bicycles and so further enhances the sustainability of accessibility to work.

1.9 Photograph 2 shows the roller shutter door and pedestrian access on the front elevation of the building. This has been confirmed as lawful on appeal (reference APP/X5210/C/10/2135649) and is not subject to further action. This also confirms that the roller shutter is considered suitable within this locality within the conservation area. The work proposed within this application is obscured by this roller shutter and so not visible from the street scene.

Photograph 2: The Roller Shutter Confirmed as Lawful on Appeal



1.10 The application building is currently in use by a number of companies. The table below clearly sets this out.

Floor	Company
BASEMENT	Cameron Mackintosh
GROUND FLOOR	Call Print
FIRST FLOOR	Jenkins and Potter
THIRD AND PART FOURTH FLOOR	Medecin Sans Frontier
FOURTH FLOOR	Usborne

1.11 The building is owned by the Applicant Company – Nyraff Ltd.

2.0 THE PROPOSAL

2.1 The application seeks planning permission for the retention of the use of the undercroft as office space. This was considered not to require planning permission given initial pre-application advice. However, this officer's opinion was subsequently altered.

2.2 Neighbour complaints have arisen with regard to this use based upon the increased activity within the service yard. The neighbouring residents are located within a block of flats that is located on the other side of the service yard (the Ziggurat building). Some of this noise however, comes from the blue shutter door and pedestrian access that has been confirmed as lawful on appeal. However, a compromise is suggested and further detail shall be provided within this statement to appease these concerns.

2.3 The total office space provided with this undercroft extension is approximately 78 square metres. As well as office space, this floor area is also used for the provision of 3 male toilets and 3 female.

2.4 To ensure that the retention of the undercroft as office space is reasonable, it is proposed that a new bi-fold door be installed to replace the existing white roller shutter door. This avoids risk of noise when opening and closing the door.

2.5 It is also proposed that the applicant is willing to enter into a S.106 agreement with regard to the operation times of the various doors. For instance, while the blue shutter door at the front of the service yard has been confirmed as lawful and has no conditions imposed upon it, the applicant is willing to negotiate and apply restrictions in its operation to appease the neighbouring occupiers. This is clearly illustrative of the applicant's willingness to come to a fair outcome for all parties. Not only this, but the applicant is also willing to sign an agreement confirming that vehicles will not be parked within the service yard beyond access needed to deliver goods. Even the time these deliveries take place can be restricted. Only bicycles will be present within the service

yard for any significant length of time. More detail on these and further suggestions shall be provided later within this statement.

2.6 With regards to the bi-fold door proposed, particular attention is placed on alleviating any risk of noise produced from the access. As can be seen on the illustrative diagram provided within Appendix A, the glazing shall all be Low E double glazed units and the doors shall utilise rubber to avoid noise during movement.

2.7 To further minimise noise, the cycle storage and bins shall also have rubber or foam attached.

2.8 It is clear from the brief suggestions highlighted above, that the applicant clearly wishes to reach a compromise that benefits all parties concerned. This shall further be discussed within the following sections.

3.0 SITE HISTORY

3.1 A significant application history is associated with the site and the central issues shall be identified in the following paragraphs, contextualising the present application.

3.2 Firstly since neighbouring residents have drawn upon applications to expand the roof of the building, these need acknowledgement. Two applications in 2001 and 2002 were submitted requesting permission to extend the fifth floor for additional offices. Both of these applications were refused and no further action has been taken.

3.3 Due to the need and demand for further commercial space, the applicant continued to consider alternative options to provide additional office space. As a result, the applicant sought guidance from Camden Council on their options to extend within the undercroft and use this space for offices. Following communication with the Council, the applicant was informed that planning permission for such modifications would not be required. As a result, the applicant made the necessary changes with absolutely no malice and believing that they were acting within the expected procedures. This therefore does not in any way make the applicant a 'serial offender' as is claimed by a councillor. They argue that the applicant constructing this undercroft extension was a way of bypassing the planning system and their previous refusals to extend into the roof space. However, as is made clear here, the applicant was acting on Council guidance and in no way intended to divert from procedure. In fact, the subsequent issues that have arisen have caused significant adverse expense both financially and in terms of time.

3.4 Following complaints, it was deemed that planning permission would be required and an application was subsequently submitted. This was for the retention of the undercroft extension, the roller shutter and windows on the side of this undercroft extension and also the roller shutter on Saffron Hill frontage. This application was recommended planning permission to be granted by the officer with the ways in which

it adhered to policy guidance clearly set out (see Appendix B for a copy of the report). However, this application was refused planning permission in June 2010 on the basis that the activity would be harmful to the neighbouring residents. Enforcement action was then taken.

3.5 Following this, an appeal was lodged against enforcement. Firstly however, the metal staircase used to access the roller shutter on the undercroft's side elevation was removed from the enforcement notice as it was highlighted that this movable object could not be considered 'development'.

3.6 The enforcement appeal was made under grounds a, c and g. It was argued that the shutter door on Saffron Hill's frontage was not development and was merely a replacement of the previous shutter door. This was accepted by the Planning Inspector and the front shutter door was removed from the enforcement notice. The remaining arguments within the appeal suggested that the infilling of the undercroft deserved planning permission to be granted. Particular attention was drawn to the noise report conducted and that the white roller shutter only produced noise of 'marginal significance'. However, the Inspector upheld the enforcement notice against the infilling of the undercroft due to potential harm to neighbouring occupiers. The time scale for meeting the notice requirements was also upheld.

3.7 Following this enforcement dismissal, further discussions have been made and options considered. These discussions have involved the applicant considering options both with the Council and neighbouring residents.

3.8 It is considered crucial to emphasise that talking and people within the service yard are not planning concerns and cannot be forcefully stopped. Given the fact that the blue roller shutter and pedestrian access on Saffron Hill's frontage has been clarified as lawful, it is clear that the service yard may well be utilised for the B1 use at any time of day or night. No conditions are imposed upon the building in terms of hours of operation. As a result, it is proposed that this issue can provide a source of negotiation and a compromise can be reached.

3.9 A new bi-fold door on the undercroft extension is suggested to replace the existing shutter door, thus avoiding the risk of noise. To produce a compromise with the neighbouring residents, it is suggested that this quiet replacement door is in combination with a S106 agreement. This shall address such issues as the operation times of the shutter door on Saffron Hill frontage (which is entirely voluntary), the stopping of vehicle parking within the service yard except for temporary deliveries and the time that deliveries are allowed to take place. Further details shall be provided within a separate section of this statement.

3.10 At this point however, it is crucial to emphasise that should planning permission be approved, it is clear that the Council would gain some level of control over the usage of the service yard, which does not presently exist. No conditions are currently imposed on the site, contrary to the Councillor's incorrect claim that the applicant continually breaches conditions. No conditions exist that they can breach and consequently the suggestions put forward by the applicant clearly provide an element of control over activity which is beneficial to the neighbouring residents. Without such control and the absence of conditions, it is clear that the service yard could be used far more intensively and with significant noise disturbance, irrespective of the existence of the undercroft extension.

4.0 POLICY CONTEXT

4.1 Relevant policy is found within the Core Strategy and the Hatton Garden Conservation Area document has also been given attention. All considerations of the scheme have also been taken with knowledge of guidance set out within the relevant planning policy statements.

4.2 Policy CS5 addresses the management of growth and development, such as its possible impacts on the amenity of occupiers and neighbours (see Appendix C). It is argued that the bi-fold door proposed does not harm such amenity. Significant care has been taken to provide a development that is both respectful and suitable for the mixed use nature of the locality.

4.3 Policy DP28 is also relevant (see Appendix C) as it expresses concerns for development that might cause noise or vibration pollution. This is a principal issue and a main basis for producing the bi-fold door design, which focuses on avoiding any noise impact. Subsequently, noise concerns are removed. The additional legal agreement will also ensure the avoidance of noise is maintained.

4.4 Policy CS14 relates to design. However, it must be emphasised that in deliberating the quality of design, commercial activity is a common feature within the area and thus *'respects local context'*. Therefore commercial activity is expected within the Hatton Garden Conservation Area and is not a basis to refuse planning permission. This is emphasised by the previous appeal decision provided by the Planning Inspector, not identifying the Conservation Area as a basis to refuse the proposals.

4.5 Policy DP24 relates to alterations and claims that they should consider the surrounding character of buildings and their proportions. It is argued that the undercroft extension is clearly obscured from view by the front roller shutter. Also it is clear on the elevations submitted with the application, that the design and materials of the door reflect the existing building design, integrating within that which exists. The character of the building is subsequently retained.

4.6 DP25 relates to conservation areas and the site in question is located within the Hatton Garden Conservation Area. Therefore any development has to ensure that the *'character and appearance of the area'* is preserved or enhanced. Once again, it is emphasised that the retention of the undercroft extension is not visible from the street scene and has been designed to appear suitable for the design of the building. Also the Hatton Garden Conservation Area is known for its mixed use nature and actually fears that residential conversions and development could destroy this character. Caution is therefore needed that unreasonable residential complaints do not cause the commercial activity to be threatened or harmed, to the detriment of the historic and inherent character of Hatton Garden.

4.7 Other relevant policies within the Core Strategy and Development Policies include CS11, DP17 and DP19, in relation to transport. It is argued that the shutter door complies with these various policies. For instance, the positioning of the site is highly sustainable for pedestrians and cyclists and cycle storage is provided within the service yard, made more secure by the shutter door. Such forms of transport are thus likely to be encouraged.

4.8 CS8 is also relevant. This relates to the location of businesses and it is considered that the site in question is appropriate, as reflected by the entire building used for business purposes. The undercroft being utilised for business purposes is therefore considered to provide more efficient use of the site, without harming the adjacent residential amenity. It should also be emphasised that this space between Omega House and Ziggurat has long been actively used and its use has not risen to any unreasonable level. In fact, the suggestions made within Section 7 of this statement, clearly show that the applicant is willing to enter legal agreements that shall likely reduce the level of noise associated with the service yard to a lower level than even if the undercroft was reinstated.

5.0 DESIGN PRINCIPLES

5.1 The proposal does not involve a change of use but merely the expansion of space available within Omega House to be utilised as office space (class B1). This totals approximately 78 square metres.

5.2 The undercroft has already been extended following guidance that planning permission would not be required from the Council. However, it was subsequently stated that permission would be required and an enforcement notice was implemented. This has been upheld on appeal with regard to the undercroft extension. However, it is not the principle of additional office space that is criticised but only the risk of additional noise that might take place to the harm of the neighbouring occupiers. Therefore the present application has focused attention on removing any risk of noise that could be associated with the modifications. This is not only in terms of physical noise from the door but also ways in which noise not technically a planning issue (such as talking) can be minimised. This shows the applicant actively attempting to mollify and consider the neighbouring residents and reach a compromise.

5.3 The existing side white roller shutter door shall be removed and replaced by a bi-fold door as illustrated within Appendix A of this statement. This shows that the design of the door has taken care to integrate within the existing elevation in terms of materials and crucially, rubber gaskets shall be utilised to evade any risk of noise possible from the physical utilisation of the door. The existing movable steps (see Photograph 3) shall still be used to access the door as it is raised above floor level. Their mobility was also necessary for practicality, depending on what objects were to be delivered. This mobility of the ladder was not in any way intended to bypass the need for planning permission. However, they have obviously been confirmed as not requiring planning permission and were removed from the previous enforcement notice. However, rubber strips will be installed on the steps to minimise any potential footfall noise, illustrating once again the applicant's desire to avoid disturbance to the neighbouring residents.

Photograph 3: The mobile steps providing access into the extended undercroft to be retained. The white roller shutter to be removed and replaced by bi-fold door.



5.4 The glass within the bi-fold door shall be toughened 'Low E' double glazing. This not only acts as efficient insulation but importantly in this case, avoids the passing of internal noise into the service yard.

5.5 Dimensions are provided on drawing 2923/04C but to clarify, the doors shall be 3910 wide and 2400 high. The fixed over panel shall then be 1060.

5.6 It should also be noted that such designs as the bi-fold door proposed is typical of residential development and illustrative images of the type of structure installed by the company are identified within Photographs 4 and 5. A video illustration of the door type in operation is also available at the following link: www.youtube.com/watch?v=TkLCrrjN7Is (for illustration only and not the exact door

proposed for installation]. These images and video show the sensitive and small scale design of the scheme and the use of aluminium in this case will ensure the materials are suitable for the design of the building, while the rubber gaskets avoid any risk of noise.

**Photograph 4- Illustrative Example of the Bi-Fold Door Structure
Installed by the Selected Company**



**Photograph 5- Illustrative Example of the Bi-Fold Door Structure
Installed by the Selected Company**



6.0 ACCESS

6.1 The entire purpose of the bi-fold door is to provide access into the extended undercroft office space, which this application desires to be retained.

6.2 Access to this bi-fold door on the building's side elevation is reached via the service yard between Omega House and the Ziggurat. This service yard has a blue roller shutter door with incorporated pedestrian door at its frontage, restricting access into this service yard from the street scene (see Photograph 2). This roller shutter was confirmed as not development in a recent appeal decision (reference 2135649 and found within Appendix D).

6.3 Access into the service yard is not controlled via planning legislation as no conditions on this matter are imposed upon Omega House operating as B1 and also since the blue shutter door has been confirmed as not development. As a result, talking, vehicles and personnel entering and leaving the service yard is perfectly within their rights. However, as will be shown in the following section, it is proposed that a compromise is reached and the retention of the undercroft is balanced against strong consideration of possible noise and restrictions to the level of activity that can take place within the service yard and at what times. This can be subject to a legal agreement.

6.4 Access into the extended undercroft proposed for retention, is possible through the proposed bi-fold door. This replaces the existing white roller shutter door which has been considered to cause adverse noise disturbance.

6.5 The bi-fold door is above ground floor level due to the nature of the building and possible deliveries. As a result, movable metal steps are provided to enter through the bi-fold door.

6.6 This bi-fold door also incorporates a single panel portion so that personnel can enter and exit with minimal disturbance. This shall have the rubber gaskets and Low E glazing, much the same as the remaining bi-fold door to ensure harm is avoided.

6.7 In terms of wider access issues, it is emphasised that the location of Omega House is highly sustainable in terms of public transport, much like the entirety of London. Farringdon station is under a 5 minute walk and bus stops are closer still. Such opportunities minimise the need for private vehicles and to encourage sustainable transport options further still, a cycle store is provided within the service yard, secured by the front roller shutter.

7.0 POSSIBLE CONDITIONS AND AGREEMENT

7.1 A range of propositions are suggested to provide a compromise between the applicant and the neighbouring residents. These have been drawn upon throughout this statement but for clarity, shall be identified below.

7.2 It should firstly be noted that the initial draft proposals have been provided to the Council (on the 17th March 2011) and then later (30th March) to the representative of the Ziggurat Building. Their comments have been taken on board wherever feasible and incorporated within this statement.

7.3 Following this, a more recent letter with portions of the design and access statement was provided to those residents who directly objected to the previous application. This action was following the recommendation of the planning officer. We expected responses within 10 days of the date of the letter, which we considered reasonable since the residents had already had the entire draft document for over a month and this additional action was purely to seek any minor, additional points prior to submission. We considered it beneficial to enable the previous objectors to have the opportunity to highlight their concerns directly with us rather than relying on just one representative.

7.4 The retention of the undercroft extension is the principle desire of the applicant and modifications to its side access are proposed to ensure that it is viable and alleviates harm to the neighbouring residents. To further mollify concerns of the residents the following is proposed, which the applicant is happy to formalise within a legal agreement.

7.5 While the blue roller shutter door with pedestrian access on the service yard frontage has been confirmed as not development and subsequently lawful on appeal, the applicant is willing to impose voluntary restrictions on its usage to ensure that the combined effect of the undercroft extension and service yard activity is not harmful to

neighbouring residents. The front roller shutter pedestrian door shall have an exit only lock installed. This discourages pedestrian access into the service yard, whilst still enabling personnel and residents to exit the area in case of fire. Should cleaners or other personnel need to enter the service yard, they would open the actual blue roller shutter. As was proven within the acoustic report previously conducted (see Appendix E), the front blue roller shutter door does not produce noise at a level considered problematic.

7.6 It should be noted that the use of the front roller shutter cannot be stopped at night altogether as it would be totally impractical. Refuse collections often take place prior to 8am and so it is vital that the refuse can be accessible within the early hours. Discussions have been conducted with the Council in relation to the re-siting of bins outside of the service yard. However, initial discussions indicated that this would likely be discouraged. If opinion changes however, during the preparation of the legal agreement, there could be the opportunity of removing the bins from the service yard.

7.7 In relation to the use of the proposed bi-fold door on the side elevation of the extended undercroft, it is suggested that its usage could be restricted to operation within typical business hours and consequently no deliveries would take place between 7pm and 8am Monday-Friday. Details on weekend operation and public holidays are identified in the following paragraph. Also cleaners within the office space, who obviously operate more frequently at night, will be instructed to not use the bi-fold door but remove waste via the front of the building. This again avoids risk of disturbance. To ensure that this is met and enforced, the bi-fold door would be locked outside of delivery hours (see paragraph below).

7.8 To confirm, suggested delivery hours are between 8am and 7pm Monday-Friday and 10am-3pm on Saturdays. Outside of these hours, the bifold door would be locked. No deliveries would take place on Sundays or public holidays and again, the bifold door would be locked.

7.9 While talking is criticised by neighbouring residents, it is highlighted that this is not shown as possible for regulation within the Planning Act. However, the applicant is keen to request all tenants and personnel to act appropriately and be sensitive to surrounding residents. This would be the same irrespective of whether the undercroft is extended or not. It is strongly emphasised that a pedestrian access and shutter door has always existed on the side elevation and thus, irrespective of the undercroft extension, personnel had the opportunity to enter the service yard. While the extension makes the access point slightly closer to the neighbouring windows, it is highlighted that the potential noise of the door has been removed by the proposed bi-fold design and the space of a few metres of where the door is positioned does not affect the likely noise produced by personnel when they are within the service yard. In fact the situation is improved by the suggested code of conduct as well as the proposed point of contact. This means that a representative will be put in place who will be contactable should residents have a specific complaint. It is necessary to assert however, that personnel will only be able to use this bifold door during normal working hours as it will be locked outside of delivery hours. This is considered more than reasonable and, in combination with the code of conduct, will not cause unreasonable disturbance during the day. Some form of minor activity is to be expected within normal business hours when one neighbours a commercial building and so this is not considered in any way unreasonable.

7.10 However, to further alleviate the risk of noise, it is suggested that the parking of vehicles within the service yard could be restricted should the retention of the undercroft extension be approved. As a result, no parking would take place within the service yard, so avoiding the risk of noise. This also complies with policy guidance, which seeks to promote sustainable transport techniques and the use of public transport. Vehicles would consequently be restricted to those accessing the service yard to deliver products through the proposed bi-fold door, which would take place within the delivery hours stated earlier.

7.11 It is also suggested that rubber strips could be installed upon the movable metal staircase to avoid the risk of footfall noise and also rubber or foam strips on the cycle rack and bins to avoid any further noise contribution.

7.12 The above suggestions are considered to in combination, produce an outcome that reduces any risk of noise beyond that which would occur even if the undercroft was reinstated. The applicant is willing to go beyond requirements are go to additional expense and effort to avoid concerns of neighbouring occupiers. It is thus hoped that the mixed nature of the locality can be harmonious and all parties content with the situation.

8.0 CONCLUSION

8.1 It is proposed that the existing undercroft extension providing office space is retained and to ensure that such a proposal is appropriate, additional work will take place. This is in the form of a new bi-fold door to replace the existing white roller shutter door on the side elevation.

8.2 Furthermore, additional suggestions are made to alleviate the risk of disturbance to neighbouring residents. It is consequently hoped that a suitable balance can be reached between the various parties. The applicant is willing to enter into a legal agreement to formalise such proposals.

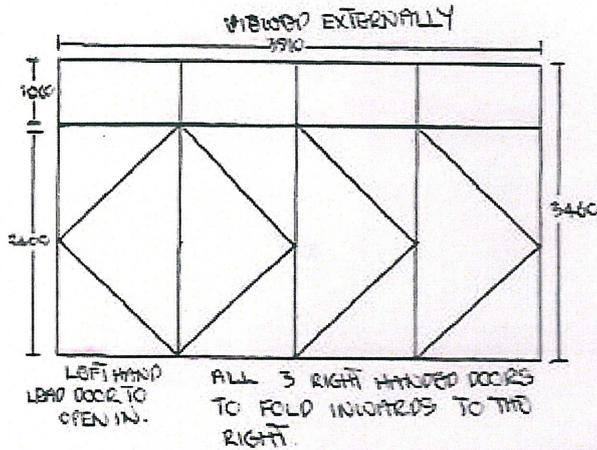
8.3 It should be noted that the applicant has not in any way intended to breach planning procedures and the undercroft extension was initially constructed in compliance with Council pre-application advice confirming that planning permission would not be required. Since being informed that permission would be required, the applicant has gone to great lengths to meet all the necessary points and resolve the issues raised. As a result, claiming the applicant is a 'serial offender' is considered highly unreasonable and not considering the wider planning history associated with the site.

8.4 It is clear that the design of the door has been constructed in such a way as to appear sensitive in terms of materials and the design of the existing building, while also minimising noise in its operation. This was a significant focus in terms of its configuration. It should also be noted that an access point on the side elevation is a long established feature, though in a different form. Access into the service yard is thus by no means simply a recent issue associated with the extension.

8.5 This sensitive door construction, in combination with the conditions suggested, actually means that the noise that may be associated with the site will actually be lower than if the undercroft were reinstated. For instance, the removal of vehicles parking

within the service yard, as well as the operation times of the doors, including the front roller shutter not considered development. It is hoped that this is made clear to both the Council and the residents and planning permission is subsequently granted.

APPENDIX A



- ALL FRAMEWORK TO BE WHITE ALUMINIUM TO MATCH EXISTING.
- ALL GLASS TO BE TOUGHENED 'LOW E' DOUBLE GLAZED UNITS, HELPING TO REDUCE HEAT LOSS + SOUND.
- ALL DOORS SUPPLIED WITH HEAVY DUTY RUBBER GASKETS TO REDUCE NOISE WHEN DOORS IN OPERATION.
- ALL MEASUREMENT SUPPLIED IN MM.

From: The Wright Glazing Co. Ltd [<mailto:info@wrightglazing.co.uk>]
Sent: 20 December 2010 15:58
To: nyraff@btconnect.com
Subject: Re: Saffron Hill Bi-Folding Doors

Hi Derek,

Please find attached a sketch of the doors and also a few bullet points I think are important.

I've also attached an image that should be opened in Internet Explorer that shows an example of the doors and how they operate.

As discussed the doors will be in White Aluminium to match the existing windows.

But also the glass supplied along with the heavy duty rubber gaskets will improve any noise emissions greatly.

The doors being supplied are made by Sapa Architectural Aluminium Solutions.

If you have any more questions do not hesitate to give me a call.

Regards

Symon Wright
Director

The Wright Glazing Co. Ltd
020 8644 4224
www.wrightglazing.co.uk

APPENDIX B

Address:	Omega House 67 - 74 Saffron Hill London EC1N 8QX		2
Application Number:	2010/0941/P	Officer: Ben Le Mare	
Ward:	Holborn & Covent Garden		
Date Received:	18/02/2010		
Proposal: 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.			
Drawing Numbers: Location Plan; 2923/01 B (Part 1); 2923/01 B (Part 2); 2923/02 A (Part 1); 2923/02 A (Part 2); 2923/03 B; 2923/04 A (Part 1); 2923/04 A (Part 2)			
RECOMMENDATION SUMMARY: Grant Planning Permission			
Applicant:		Agent:	
Nyraff Ltd Omega House 67 - 74 Saffron Hill London EC1N 8QX		Raymond Stemp Associates Kingfisher House 19 Springfield Lyons Approach Chelmsford Business Park Chelmsford CM2 5LB	

ANALYSIS INFORMATION

Land Use Details:			
	Use Class	Use Description	Floorspace
Existing (Pre Extension Works) Ground Floor	B1 (office)		600 m ²
Proposed (As Built) Ground Floor	B1 (office)		696.33 m ²

OFFICERS' REPORT

Reason for Referral to Committee: The Director of Culture and the Environment has referred this application for consideration after briefing members (Clause 3 (ix))

This application was deferred from the 06/03/2010 Development Control Committee due to lack of time.

1. SITE

- 1.1 The application site is a four storey commercial building located within the Hatton Garden Conservation Area. The property has 4 different occupiers on the ground and upper floors, all of which operate within a Class B1 use. The basement is used by Cameron Mackintosh for the storage of clothing.
- 1.2 A residential building (Ziggurat Building) is located immediately to the south of the site, with a 4 metre wide lightwell/service yard separating the two buildings. The Ziggurat Building comprises 62 privately own residential apartments and a commercial unit on the ground floor.
- 1.3 An existing vehicle access into the site is located along Saffron Hill. Parking on the site is within the established service yard. This area also provides cycle parking. An area of parking for motorcycles is located along Saffron Hill, directly opposite the building's front entrance.
- 1.4 The property is located within a distinctly mixed use area, comprising; offices, research and development space, studios, light industrial units, public houses, shops, a multi-storey carpark and residential apartments.

2. BACKGROUND

- 2.1 An enforcement complaint was logged with the Council on 30 September 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.
- 2.2 Full planning permission (2010/0941/P) is sought to regularise this breach in planning control and therefore seeks to secure consent for the retention of a 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. The application also seeks to retain 6 Sheffield cycle stands within the service yard.

2.3 The infill extension on the ground floor of the building, recently occupied by a printing firm (Callprint), provides additional Class B1 (office) floor space (78 square metres) and new facilities in the form of 3 x male and 3 x female toilets (18 square metres).

2.4 Once Callprint had moved into the property, two internally illuminated projecting signs were erected on the ground floor front elevation of the building. The signage was approved on 13 May 2010 under application 2010/0938/A.

3. RELEVANT HISTORY

3.1 **EN09/0860** - Enforcement case (logged 30/09/2010) relating to unauthorised works - the insertion of a roller shutter and associated infill extension on the south side elevation of the property, a pedestrian door on the Saffron Hill frontage, the provision of cycle parking stands in the service yard and the erection of two box signs – Ongoing investigation.

3.2 **2010/0938/A** - Retention of two internally illuminated projecting signs at ground floor front elevation of office building – Approved with conditions 11/05/2010.

3.3 **PSX0204458** - Erection of fifth floor roof extension to be used as offices – Refused 06/03/2003, appeal dismissed 30/09/2003.

3.4 **PSX0104764** - Construction of new 5th floor to be used as offices – Refused 24/10/2001.

3.5 **PSX0005186** - Construction of new 5th floor – Withdrawn 06/12/2000.

3.6 **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

3.7 **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

4. CONSULTATIONS

Statutory Consultees

4.1 None require to be consulted.

Conservation Area Advisory Committee (CAAC)

4.2 There is no CAAC for the Hatton Garden Conservation Area.

Adjoining Occupiers

<i>Number of letters sent</i>	79
<i>Total number of responses received</i>	19
<i>Number of electronic responses</i>	18
<i>Number in support</i>	0
<i>Number of objections</i>	19

4.3 Objections have been received from the owner/occupiers of flat Numbers 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 Ltd (Freeholders of the building), have raised objections around the following issues:-

.4 Impact on residential amenity

- *Noise and disturbance*

Noise and disturbance resulting from the use of the roller shutters and pedestrian gates on the front and side of Omega House, and an increased level of activity within the service yard, is considered by the residents of the Ziggurat Building to harm their living conditions. The rattling of the roller shutter on the side elevation of the property is of particular concern to the residents.

- *Light pollution/light spill*

The insertion of windows on the ground floor of Omega House is regarded to increase the amount of light pollution/light spill within the existing service yard/light well.

- *Odours, fumes and dust*

The increased number of vehicle movements and new parking arrangements in the service yard are considered to result in a greater level of odours, petrol fumes and dust within the service yard/light, causing potential future health problems to the residents of the Ziggurat Building.

- *Overlooking/loss of privacy*

The windows on the side elevation of the property and an increase in the usage of the service yard (movement and parking of vehicles and bicycles and use of a raised platform to access the roller shutter) by employees and contractors are considered to contribute to a greater level of overlooking and loss of privacy.

- *Loss of sunlight/daylight*

The roller shutter on the front of the property and the infill extension on the ground floor are considered to reduce the amount of natural light within the existing service yard/lightwell.

Transport

- *Impact on highway safety*
The increased number of vehicle movements resulting from Callprint's operations, together with a change in parking arrangements, is considered to have a detrimental impact on highway safety along Saffron Hill.
- *Use of the delivery yard*
The newly built roller shutters and infill extension are considered to have resulted in an unacceptable increase in the use of the service yard for deliveries and collections.
- *Off-street parking for commercial vehicles*
The infill extension, through reducing the number of off-street parking spaces, is considered to heighten parking pressures within the area and result in more vehicles being parked on the pavement along Saffron Hill.
- *Cycle parking provisions*
The provision of Sheffield cycle stands below the windows of the Ziggurat Building is considered to result in a greater level of noise and disturbance to neighbouring residents and have a detrimental impact on fire safety by partially blocking an exit from the service yard.

Impact on the Conservation Area

The provision of a roller shutter and pedestrian gate on the front and side of the property is considered by neighbouring residents to visually harm the character and appearance of the Hatton Garden Conservation Area.

Other Issues

- *Fire Safety*
The insertion of a roller shutter on the front elevation of the property, together with the provision of Sheffield cycle stands within the service yard, is considered to impede on the resident's ability to exit the property in the event of a fire. The development is also regarded to prohibit the ability of firefighters access the service yard.
- *Hours of operation of Callprint*
The residents of the Ziggurat Building are concerned about the noise and disturbance resulting from Callprint's hours of operations. Callprint advertise themselves as a 24 hour business.
- *Waste disposal*
The roller shutter fronting Saffron Hill is regarded to hinder the removal of waste from the site. The roller shutter on the side of the Omega house is being used outside of office hours for the removal

of waste from the ground floor by Callprint and is considered to cause noise and disturbance outside of office hours.

- 4.5 Councillor Fulbrook has also registered an objection to the application on the following grounds:-

1. *'The further possibility of a disruption of the quiet enjoyment of their property for the residents of the Ziggurat;*
2. *The very substantial loss of light in this light well, which is an established feature of architecture;*
3. *The clear invasion of privacy for a number of the flats;*
4. *The very serious problem with fire safety.'*

5. **POLICIES**

Replacement Unitary Development Plan 2006

- 5.1 SD6 (Amenity for occupiers and neighbours),
SD7B (Noise/vibration pollution),
B1 (General Design Principles),
B3A (Extensions and Alterations),
B4b (Advertisements and signs)
B7A (Conservation Areas),
T1 (Sustainable Transport),
T3 (Pedestrians and Cycling),
T9 (Impact on parking).
E1 (location of business uses)

Supplementary Planning Guidance

- 5.2 Hatton Garden Conservation Area Statement
Camden Planning Guidance 2006

LDF Core Strategy and Development Policies

As the draft LDF Core Strategy and Development Policies documents have now been published they are material planning considerations particularly where they directly stem from and accord with national policy. However, as a matter of law, limited weight should be attached to them at this stage because they cannot override the Council's legal duty to determine planning applications in accordance with its existing development plan unless material considerations indicate otherwise. At the present time it is likely to be difficult to justify refusal of any application based solely on draft LDF policies and members should always seek specific officer advice before considering voting for refusals on this basis

- 5.3 CS1 (Distribution of growth), CS5 (Managing the impact of growth and development), CS11 (Promoting sustainable and efficient travel), CS14 (Promoting high quality places and conserving our heritage), 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),

ASSESSMENT

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

Impact on residential amenity

Noise and disturbance

- 6.2 There are essentially two main issues relating to the noise and disturbance which result from this development that need to be addressed, these comprise; the use of the roller shutter and pedestrian gates, and the use of the service yard. The property is located within an area comprising a range of different land uses. It has been observed that there is a greater level of general background noise during the day time, which becomes quieter in the evenings/night time.
- 6.3 It has been alleged that service yard, and the roller shutters are being used outside of normal working hours. On visiting the site it was identified that the newly inserted roller shutter and pedestrian gate on the south side elevation of the building has a tendency to rattle when in use. In assessing the noise resulting from the roller shutter the Council's Environmental Health Officer visited the property on Thursday 25 March between the hours of 10.20pm and 10.40pm. It was observed that people exiting the building were solely using the main entrance. However, it is not inconceivable that employees could use the pedestrian access through the roller shutter outside of normal working hours.
- 6.4 The use of the roller shutter and pedestrian gate on the south side elevation of the building is considered to result in an element of noise disturbance within the service yard. When used outside of normal working hours it is considered to cause an element of noise disturbance to the occupiers of the neighbouring properties. In the interests of neighbouring amenity it is recommended that a condition limiting the use of the roller shutters outside of normal working hours be added.

Light pollution/light spill

- 6.5 The proposed development includes windows on the south side elevation of the building which face into the service yard/lightwell and the Ziggurat Building. It is alleged that these windows are resulting in light pollution/light spill in the service yard which is regarded to have a detrimental impact on the living conditions of neighbouring residents.
- 6.6 Given that four floors of windows on the south elevation of Omega House currently all face into the service yard/lightwell, the additional

windows on the ground floor of the property are considered on balance not to make the situation significantly worse for the occupiers of the Ziggurat Building.

Odours and fumes

- 6.7 It is alleged by neighbouring residents that infilling the undercroft parking area on the ground floor of the Omega House has resulted in vehicles being parked closer to the Ziggurat Building and that the delivery operations of 'Callprint', has resulted in an increase in the level of odours, fumes and dust from the motor vehicles. Whilst the removal of the open undercroft parking could have resulted in vehicles being parked slightly closer to the Ziggurat Building, it is considered the total number of parking spaces for vehicles has been reduced and therefore the odours and fumes are unlikely to be significantly worse. A review of the planning history for the property has not identified any conditions which restrict the use of the service yard.

Overlooking/loss of privacy

- 6.8 There are no windows serving residential apartments on the ground floor north elevation of the Ziggurat Building which directly face the newly inserted windows on the ground floor Omega House. The windows on the first floor and upper floors of the Ziggurat Building directly face windows on the first floor of Omega House. In light of the existing situation, the windows proposed by this application are considered not to have a detrimental impact on the privacy of the occupiers of the Ziggurat.
- 6.9 There has always been a service yard on the south side of the Omega House site used by Class B1 occupiers. Whilst the operations of the new occupier might have increased activity in the service yard this is considered not to have resulted in an unacceptable loss of privacy.

Transport

Impact on highway safety

- 6.10 The property has an established vehicle entrance into the site, located along Saffron Hill. Whilst the application proposes a new pedestrian gate at this entrance into the site there have been no physical alterations, i.e. widening of the entrance. Although 'Callprint' are alleged to be using this entrance more than the previous occupiers (an increase in vehicle movements), there is no planning condition restricting its use. As identified above, Callprint are operating within the established Class B1 use of the site. It is therefore considered that the development has not had a detrimental impact on highway safety.

Use of the service yard

- 6.11 As identified above, there is alleged to have been a general increase in the use of the service yard by delivery and other commercial vehicles associated with the operations of Callprint. However, as stated above, the operations of Callprint fall within the existing Class B1 use of the

site. Therefore whilst there could be more activity in the area from the business operations of Callprint are authorised.

Off-street parking for commercial vehicles

6.12 It has been identified that through infilling the undercroft parking area there has been a slightly different arrangement to vehicle parking in the service yard. However, as identified above there are no existing restrictions on in this area, so it is conceivable that the previous occupiers could have adopted a similar parking to what exists now if they had chosen to do so. In light of the fact the proposed development is considered not to have resulted in unacceptable use of the area.

Cycle parking provisions

6.13 The provision of 6 Sheffield Cycle Stands (space for 12 cycles) on the south side of the service yard is considered to have a positive impact on the use of the property through encouraging a greater number of employees in Omega House to cycle to work. Creating a greater level of secure cycle parking is in accordance with Policy T3 of the Replacement UDP. Although the cycle stands are sited alongside the Ziggurat Building they are considered not to harm the amenity of the neighbouring residents. In addition, the relocation of the cycle stands further away from the Ziggurat Building will not materially change the current situation within the service yard.

6.14 It is also considered that the cycle stands in their current location do not harm the ability of the occupiers of the Ziggurat Building or the employees in Omega House to exit the site in the event of a fire.

Impact on the Conservation Area

6.15 The infill extension, and associated roller shutter and windows, on the ground floor south side elevation of the property are considered to blend in with the existing architectural design of the building. In addition, this element of the proposal is visible from the street scene when the roller shutter on the front elevation of the property is open and is considered to preserve the character and appearance of the Conservation Area.

6.16 The main element of this application which is visible from the street scene is the roller shutter and pedestrian gate which front on to Saffron Hill. The design of the roller shutter is considered to be appropriate in its setting and therefore preserves the character and appearance of the Conservation Area.

Other Issues

Fire Safety

6.17 Whilst not strictly a planning consideration, it should be noted that through discussions with the Council's Fire Officer it was established

that the insertion of a pedestrian side door leading onto Saffron Hill is regarded not to have a detrimental impact on fire safety. If anything, the pedestrian side door improves fire safety as it has a Yale lock which can be opened from the inside, enabling people to exit the service yard when the roller shutter is down – the old roller shutter on the front of the property did not have this provision.

Hours of operation of Callprint

- 6.18 As identified above there are currently no planning conditions in place on the site which restrict Callprint's hours of operation. As Callprint operate within the existing established use of the site (Class B1 office use) there has been no change of use of the property and therefore this application can not reasonably propose any conditions which would restrict Callprint's hours of operation.

Waste disposal

- 6.19 The roller shutter with pedestrian side gate replaces an existing roller shutter on the front elevation of the property. There has been no change by this application to arrangements for commercial waste disposal from the building.

7. CONCLUSION

- 7.1 Whilst it is acknowledged that the application is retrospective, and that the carrying out of works without planning permission is never encouraged, the development has to be assessed on its merits. Overall, the proposal is considered to safeguard the appearance of the host building and preserves the character and appearance of the Hatton Garden Conservation Area.
- 7.2 The development is not considered to significantly harm the living conditions of the occupiers of the neighbouring Ziggurat building as the site has an existing service yard and the use of the ground floor of the property has not changed from the established office use (Class B1).
- 7.3 The proposed development is therefore in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, in particular with policies SD6 (Amenity for occupiers and neighbours), SD7B (Noise/vibration pollution), B1 (General Design Principles), B3A (Extensions and Alterations), B7A (Conservation Areas), T1 (Sustainable Transport), T3 (Pedestrians and Cycling) and T9 (Impact on parking).

8 LEGAL COMMENTS

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

Conditions and Reasons:

- 1 The use of the roller shutter and pedestrian access gate on the south side elevation of the building shall only be used between the hours of 08:00 and 18:00 Monday to Friday and 08:00 and 13:00 on Saturdays and not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of neighbouring residents, in accordance with Policy SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans - Location Plan; 2923/01 B (Part 1); 2923/01 B (Part 2); 2923/02 A (Part 1); 2923/02 A (Part 2); 2923/03 B; 2923/04 A (Part 1); 2923/04 A (Part 2)

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

Informative(s):

- 1 Reasons for granting planning permission

The proposed development is in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, with particular regard to policies SD6 (Amenity for occupiers and neighbours), SD7B (Noise/vibration pollution), B1 (General Design Principles), B3A (Extensions and Alterations), B7A (Conservation Areas), T1 (Sustainable Transport), T3 (Pedestrians and Cycling) and T9 (Impact on parking).

Further more the proposal accords with the specific policy requirements in respect of the following principle considerations: Overall, the proposal is considered to safeguard the appearance of the host building and preserves the character and appearance of the Hatton Garden Conservation Area. The development is not considered to significantly harm the living conditions of the occupiers of the neighbouring Ziggurat building as the site has an existing service yard and the use of the ground floor of the property has not changed from the established office use (Class B1).

APPENDIX C

CS5 - Managing the impact of growth and development

The Council will manage the impact of growth and development in Camden. We will ensure that development meets the full range of objectives of the Core Strategy and other Local Development Framework documents, with particular consideration given to:

- a) providing uses that meet the needs of Camden's population and contribute to the borough's London-wide role;
- b) providing the infrastructure and facilities needed to support Camden's population and those who work in and visit the borough;
- c) providing sustainable buildings and spaces of the highest quality; and
- d) protecting and enhancing our environment and heritage and the amenity and quality of life of local communities.

The Council will protect the amenity of Camden's residents and those working in and visiting the borough by:

- e) making sure that the impact of developments on their occupiers and neighbours is fully considered;
- f) seeking to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities; and
- g) requiring mitigation measures where necessary.

Making sure development achieves the objectives of the Core Strategy

- 5.2 Central to managing Camden's future growth is the need to consider not just the scale and nature of that growth, but how it is provided and the effect on those who live in the area and the borough as a whole. All development in Camden, large or small, whether located in growth areas, highly accessible locations or in other parts of the borough, should take place in accordance with all relevant policies in the Core Strategy and the other documents that form part of Camden's Local Development Framework (see paragraph 4 in the Introduction) to ensure that the Council's vision for the borough is achieved. The Council will seek to ensure that the borough's growth brings benefits and opportunities to all.
- 5.3 The second section of this Core Strategy, *Meeting Camden's needs - Providing homes, jobs and facilities*, sets out our approach to providing the land uses, infrastructure and facilities that are needed to support Camden's communities, workers and visitors. This includes places to live, work and shop, community facilities and provision for walking, cycling and public transport. The section also sets out our approach to the unique issues faced in Central London, the home to many of the uses that contribute to London's role as a capital and major international city, as well as long-established residential communities.
- 5.4 One of the key elements of managing Camden's growth is securing the infrastructure and services needed to support Camden's growing numbers of residents, workers and visitors. To identify the infrastructure need in the borough in future years we commissioned the Camden Infrastructure Study 2009. This work formed the basis of the schedule in Appendix 1, which set out identified key infrastructure programmes and projects including transport, utilities, emergency services, education, health and other community facilities. It gives information on the nature of each infrastructure scheme, where it will be located, who will lead on its delivery and when it is expected to be provided. As the boundaries of the growth area are relatively tightly drawn, taking in the main development opportunities, the infrastructure to support a particular growth area may be provided outside its boundary. Please see section 19 - *Delivering and monitoring the Core Strategy* for more detail on our approach to infrastructure provision. In addition, the individual sections in the Core Strategy also contain details of

DP28. Noise and vibration

- 28.1 Noise and vibration can have a major effect on amenity and health and therefore quality of life. Camden’s high density and mixed-use nature means that disturbance from noise and vibration is a particularly important issue in the borough. Camden’s Core Strategy recognises the importance of this issue for Camden’s residents and policy DP28 contributes to implementing a number of Core Strategy policies, including CS5 – *Managing the impact of growth and development*, CS9 – *Achieving a successful Central London*, CS11 – *Promoting sustainable and efficient travel* and CS16 – *Improving Camden’s health and well-being*.

DP POLICY

DP28 – Noise and vibration

The Council will seek to ensure that noise and vibration is controlled and managed and will not grant planning permission for:

- a) development likely to generate noise pollution; or
- b) development sensitive to noise in locations with noise pollution, unless appropriate attenuation measures are provided.

Development that exceeds Camden’s Noise and Vibration Thresholds will not be permitted.

The Council will only grant permission for plant or machinery if it can be operated without cause harm to amenity and does not exceed our noise thresholds.

The Council will seek to minimise the impact on local amenity from the demolition and construction phases of development. Where these phases are likely to cause harm, conditions and planning obligations may be used to minimise the impact.

- 28.2 The effect of noise and vibration can be minimised by separating uses sensitive to noise from development that generates noise and by taking measures to reduce any impact. Noise sensitive development includes housing, schools and hospitals as well as offices, workshops and open spaces, while noise is generated by rail, road and air traffic, industry, entertainment (e.g. nightclubs, restaurants and bars) and other uses.
- 28.3 The Council will only grant planning permission for development sensitive to noise in locations that experience noise pollution, and for development likely to generate noise pollution, if appropriate attenuation measures are taken, such as double-glazing. Planning permission will not be granted for development sensitive to noise in locations that have unacceptable levels of noise. Where uses sensitive to noise are proposed close to an existing source of noise or when development that generates noise is proposed, the Council will require an acoustic report to ensure compliance with PPG24: *Planning and noise*. A condition will be imposed to require that the plant and equipment which may be a source of noise pollution is kept working efficiently and within the required noise limits and time restrictions. Conditions may also be imposed to ensure that attenuation measures are kept in place and effective throughout the life of the development.
- 28.4 In assessing applications, we will have regard to the Noise and Vibration Thresholds, set out below. These represent an interpretation of the standards in PPG24 and include an evening period in addition to the day and night standards contained in the PPG, which provide a greater degree of control over noise and vibration during a period when noise is often an issue in the borough.

APPENDIX D



Appeal Decision

Site visit made on 20 December 2010

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 12 January 2011

Appeal Ref: APP/X5210/C/10/2135649

Call Print, 67-74 Saffron Hill, London EC1N 8QX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Nyraff Ltd against an enforcement notice issued by the Council of the London Borough of Camden.
 - The Council's reference is EN09/0860.
 - The notice was issued on 29 July 2010.
 - The breach of planning control as alleged in the notice is; 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 are; 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 period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c) and (g) of the Town and Country Planning Act 1990 as amended.
-

Decision

1. The enforcement notice is corrected by the deletion of the third alleged breach of planning control in Section 3 and the third requirement in Section 5.
2. The enforcement notice is varied by the deletion of the first alleged breach of planning control in Section 3 and the first requirement in Section 5.
3. Subject to the correction and the variation the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Reasons

Procedural matter

4. The Council has formally withdrawn the third alleged breach of planning control. The enforcement notice has therefore been corrected by the deletion of the third alleged breach of planning control and the third requirement.

The ground (c) appeal

5. The ground (c) appeal relates to the first alleged breach of planning control; the roller shutter with pedestrian doorway on the Saffron Hill frontage of the appeal property. The Council accepts that the current roller shutter replaced a previous shutter but they maintain that the installation of the current shutter, given its differences to the previous shutter, has had a material effect on the external appearance of the building and that planning permission is required, and has not been granted, for the replacement shutter. The current shutter is powder coated in a dark blue colour and incorporates a pedestrian doorway whereas the previous shutter was in unfinished steel and did not include a pedestrian doorway.

6. Saffron Hill is a narrow urban street with high buildings on both sides fronting onto pavements. The long frontage of the building within which the roller shutter is located is rectilinear in form and comprises panels of brickwork, render and glazing. The roller shutter is at one end of this frontage, is complimentary in its form and proportions and, given the size of the building, is a small element in the architectural composition of its Saffron Hill frontage.

7. The pedestrian doorway is a small element in one lower corner of the roller shutter. It is in the same colour and material as the roller shutter, is discernible only in near views of the shutter, and is complimentary in form and proportion. The current shutter is almost identical to the shutter that it replaced and, given the overall size of the building's frontage and its architectural composition, neither its dark blue colour nor the incorporation of a pedestrian doorway has materially affected the external appearance of the building.

8. Section 55(2)(a) of the Town and Country Planning Act 1990 states that "the carrying out (of works) for the maintenance...of a building..." does not involve development provided the works "do not materially affect the external appearance of the building". Planning permission is not required for the maintenance of a building as long as the works do not materially affect its external appearance.

9. 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.

The ground (a) appeal

10. The ground (a) appeal, given the conclusion on the ground (c) appeal, relates to the second breach of planning control.

11. The roller shutter on Saffron Hill provides vehicular and pedestrian access into a yard area. On the north side of the yard area is the five storey appeal building and on the south side is a five storey elevation of a residential building known as the Ziggurat that has frontages onto Saffron Hill, Onslow Street and Saffron Street. At the east end of the yard area is an east elevation of the Ziggurat. The yard area, which is about five metres wide, is about one metre below ground floor level of the adjoining buildings. The appeal building originally had an undercroft on the north side of the yard area that extended under the upper floors of the building by about seven metres. Photographic evidence indicates that the undercroft was used for the parking of cars.

12. The appeal building has been extended by 'filling in' the undercroft and the south elevation of the appeal building now extends down to yard level. The yard elevation to the extension has a brick plinth about one metre high and above this plinth is a white roller shutter door within which is a pedestrian doorway. A moveable metal stair provides pedestrian access from the yard to the door. In the five storey north elevation of the Ziggurat, above ground floor level, are single glazed windows to single aspect flats that overlook the yard area. Other flats in the Ziggurat with primary frontages onto Onslow Street and Saffron Hill have windows overlooking the yard area.

13. The main issue in the ground (a) appeal is the effect of the infilling of the undercroft at the appeal building on the amenities of residents of the Ziggurat.

14. A noise survey carried out on behalf of the Appellants states, with regard to operation of the roller shutter door, that "This source of noise rates as 'marginal significance' and given that this door is operated only once a month then this is clearly not likely to generate complaints". A condition to restrict the use of the roller shutter to once a month would not be enforceable and it is quite possible that the shutter could be used on a frequent basis and at any time of the day or night. It was noted at the site visit, from within a single aspect upper floor flat in the Ziggurat overlooking the yard area, that noise generated by operation of the roller shutter is audible within the flat though at a low level.

15. During the day when background noise levels are higher and residents of the flat are active the noise is not likely to be disturbing but at night, when background noise levels are low, the noise could be disturbing particularly when residents are asleep or in the process of going to sleep. Disturbance would be greater at flats at the lowest levels and particularly in single aspect flats during the summer when windows are likely to be kept open to provide ventilation. Operation of the roller shutter at night, which could not be controlled by condition, would be likely to cause disturbance, of at least marginal significance, for residents of flats in the Ziggurat that overlook the yard area.

16. Evidence indicates that the pedestrian doorway in the roller shutter is used throughout the day and night and it was noted at the site visit that the noise of it slamming shut is sharp, loud and clearly audible in the upper floor flat. It is accepted in the noise survey, for operation of the pedestrian doorway, that the "...specific noise level at the nearest noise sensitive window is 48 dB $L_{Aeq,1hr}$ " and it is acknowledged that "This breaches the requirements of UDP policy SD8, which is not to exceed 39 dB $L_{Aeq,1hr}$, by a significant margin". This conclusion is based on only one event per hour. The UDP is the London Borough of Camden Replacement Unitary Development Plan which has, since the report was prepared, been replaced by the Core Strategy and Development Policies Documents of the Local Development Framework (LDF) for the Borough. The change in policy framework does not alter the fact that operation of the doorway is a noise nuisance.

17. Measures are proposed to mitigate the accepted noise nuisance of use of the pedestrian doorway in the roller shutter. It is proposed that the doorway is latched open in the morning and closed at the end of the day and that an internal soundproofed lobby is constructed in which would be a door fitted with a soft closing mechanism. It is claimed in the noise survey that "The effect of this lobby will be to completely eliminate noise from this source". The specification for the lobby includes the requirement that "It is essential that the lobby makes no physical contact with the existing white roller shutter door". It is not clear

therefore, for instance, how the lobby would be draught proofed or how sound generated internally would not add to noise within the yard area. This is a proposal that is not likely to be a practical solution.

18. A direct consequence of the infilling of the undercroft is that the pedestrian doorway to the yard area at ground level of the appeal building is now on the elevation to the yard not well back from the yard under the main bulk of the building. In the original position comings and goings between the building and the yard were discrete and well away from a location where noise generated is disturbing for residents of flats in the Ziggurat. The inner lobby is not likely to be a practical solution and the noise of use of the pedestrian doorway in the roller shutter, if the appeal were to be allowed, would continue to cause disturbance for residents of flats in the Ziggurat.

19. The committee report for a refused retrospective application dated 18 February 2010 states that "The infill extension...recently occupied by a printing firm...provides additional Class B1 (office) floor space (78 square metres) and new facilities in the form of 3 x male and 3 x female toilets (18 square metres)". The infilling of the undercroft has provided significant additional internal floor space and has reduced outside space that could otherwise be used, for instance, for refuse and cycle storage. Furthermore, residents of the Ziggurat paint a consistent picture of changes to, and an increase in, activity within the yard area. It is quite possible that the increase in floor space has resulted in an increase in commercial activity and an increase in activity within the yard area.

20. Activity in the yard area is likely to have increased as a result of the infilling of the undercroft and is now in close proximity to windows in flats in the Ziggurat whereas previously activity could have occurred within the undercroft and therefore away from those windows. 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. However, it is likely that infilling of the undercroft has altered the degree and location of activity and the noise disturbance resulting from this must be added to the noise disturbance that has resulted by the insertion and use of a pedestrian doorway in the roller shutter door on the south elevation of the extension, in close proximity to windows in flats in the Ziggurat.

21. Infilling of the undercroft of the appeal building has increased commercial space within the building and is likely to have resulted in an increase in commercial activity. Activity outside, which is likely to have increased as a result of greater internal commercial activity, has been displaced from possibly being in the undercroft to being in the yard area. The access from the yard area into the building is now through a door on the main elevation of the building rather than through a door at the rear of the undercroft. The use of this doorway results in significant disturbance for residents of flats in the Ziggurat where windows are only a few metres from the door. The construction of an internal lobby is not a practical solution for mitigating the accepted noise nuisance of the use of this door. Even if it was, the increase in activity within the yard area resulting from an increase in commercial floor space within the building, in close proximity to windows in the Ziggurat, would be sufficient reason to conclude that the infilling of the undercroft has had a serious adverse effect on the amenities of residents of the Ziggurat.

22. In conclusion on the main issue, the infilling of the undercroft has, for the aforementioned reasons, had a serious adverse effect on the amenities of residents of the Ziggurat and conflicts with LDF policies DP26 and DP28 in particular.

23. The appeal building is within the Hatton Garden Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. 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. Residents of the Ziggurat are concerned about fire safety but there is insufficient information on which to reach a clear conclusion on this matter. The economic viability and future of the business that occupies the ground floor of the appeal building has been taken into account but does not outweigh the harm that has been caused to the amenities of nearby residents of the Ziggurat. Neither these nor any other matters raised, either individually or collectively, alter the conclusion on the main issue or affect the overall outcome of the ground (a) appeal.

24. In overall conclusion 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.

The ground (g) appeal

25. The Appellants maintain that the business that occupies the ground floor of the appeal building would have to relocate if the appeal were to be dismissed and that relocation to suitable and comparable accommodation in Central London, which would be hard to find, would not be possible within a compliance period of six months. They also maintain that demolishing the extension, removing the debris and restoring the building could not be achieved within that period. The argument that a planning application could be submitted for the infilling of the roller shutter door opening is discounted because it is the infilling of the undercroft that has resulted in harm being caused to the amenities of nearby residents. Planning permission would not be required for the restoration of the building which would be a direct consequence of compliance with requirement 2 of the notice.

26. Harm has been caused by the breach of planning control to the amenities of nearby residents and the pressure that has been imposed upon them will continue until the extension is removed. It is not unreasonable for them to expect that the breach is redressed as soon as possible. Demolishing the extension and restoring the building could be achieved in no more than three months and a lead in time, to appoint suitable contractors, would take no more than the same period. In practical terms a compliance period of six months is reasonable. The alleged difficulties in locating alternative business space is unsubstantiated as is the argument that more time is needed to avoid unnecessary and undesirable pressure, job cuts and harm to the revenue of the tenant company.

27. 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. The ground (g) appeal thus fails.

John Braithwaite

Inspector

APPENDIX E

When assessed against the UDP Policy SD8 the specific noise level at the nearest noise sensitive window is calculated to be 48 dB $L_{Aeq,1 \text{ hour}}$. This breaches the requirements of UDP Policy SD8, which is to not exceed 39 dB $L_{Aeq,1 \text{ hour}}$, by a significant margin. That assessment is based on only one event per hour and this is clearly a significant issue in terms of the UDP Policy SD8. Consequently I am proposing noise mitigation measures in the next section of this report.

8.3 Blue Roller Shutter Door

	Up	Down
Measured Specific Noise Level	35.5	35.6 dB $L_{Aeq, 1 \text{ hour}}$
Acoustic Feature Correction	+ 0	+ 0 dB(A)
Rating Level	35.5	35.6 dB(A)
Background	49.0	49.0 dB $L_{Aeq, 1 \text{ hour}}$
Rating level Minus Background	- 13.5	- 13.4
Assessments	"Complaints Unlikely"	"Complaints Unlikely"

This is clearly not a problem and is rated as "Complaints Unlikely".

When assessed using the UDP Policy SD8, which requires that the specific noise level should be less than 44 dB $L_{Aeq,1 \text{ hour}}$, then this complies with that requirement by a significant margin of approximately 8.5 dB(A).

9.0 PROPOSED NOISE MITIGATION

9.1 White Personnel Door

The noise from the white personnel door is the only source that has the potential to generate complaints that are justified. The noise is produced by the entire roller shutter door and not just the personnel door.

When the personnel door closes heavily it puts a great deal of vibration and energy into the main roller shutter door which vibrates for some time.

In essence the roller shutter door behaves like a very large loudspeaker cone and transmits the vibration as airborne sound. In order to prevent this from happening it is proposed that an internal lobby is constructed consisting of three sides and a roof. The open side will face the roller shutter door and encompass the white personnel door.

The lobby is to be constructed as follows:-

15mm Soundblock plasterboard either side of 70mm metal studs. The cavity is to include a layer of 25mm Isowool APR 1200. The roof of the lobby should be constructed to the same standard.

It is essential that the lobby makes no physical contact with the existing white roller shutter door. The internal door should close onto soft rubber gaskets via a door closer. The door closer should be adjusted to close quickly until the last 20mm or so of travel when it should slow down to achieve a gentle close.

The first time the lobby is used each day the existing white personnel should be opened and latched open for the rest of the day and should only be closed again at the end of the day. The effect of this lobby will be to completely eliminate noise from this source.