



# Appeal Decision

Site visit made on 7 November 2007

by **Paul K Jackson** B Arch (Hons) RIBA

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

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Decision date:  
28 November 2007

**Appeal Ref: APP/X5210/A/07/2051750**

**55 Neal Street, London WC2H 9PJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Shaftesbury Covent Garden Limited against the decision of the Council of the London Borough of Camden.
- The application Ref 2004/4442/P, dated 13 October 2004, was refused by notice dated 14 May 2007.
- The development proposed is dual/alternative use for Class B1 (offices) or Class C3 (2 bedroom maisonette) on first to third floors.

## Decision

1. For the reasons given below, the appeal is dismissed.

## Reasons

2. The appeal building consists of a ground level retail unit with office accommodation above. The retail unit is unaffected by the proposal. The main issue is whether the proposed dual/alternative use of the upper floors as a single residential unit would be acceptable without off-street car parking. There is no parking space available on the premises. The Council advises in an informative attached to the reasons for refusal that the requirements of policy would be satisfied if a section 106 (s106) agreement is entered into with the effect of ensuring future occupiers would be prevented from obtaining a parking permit.
3. The relevant policies of the Camden Replacement Unitary Development Plan (RUDP) are T8 and T9. These reflect a central aim of Government to reduce the need to travel, especially by car. T8 advises that planning permission will be granted for car free housing in central locations such as Neal Street, achieved by means of a planning obligation. Policy T9 indicates that planning permission will not be granted for development that would harm on-street parking conditions, including circumstances where a developer will not agree to a car free development, as envisaged in Camden Planning Guidance (CPG).
4. There is no dispute that the site is exceptionally well placed in respect of public transport, being close to tube and bus networks. The whole of Camden is a controlled parking zone. The appellants are satisfied that residential occupiers should be restricted from obtaining a parking permit, but objects to the Council's insistence that the S106 agreement should apply to all parties that have an interest in the land including the leaseholder. They also suggest that the area is not primarily residential and that such an obligation is unreasonable and unnecessary to make the development acceptable in planning terms.

5. A central thrust of Government policy is to reduce reliance on the car. Where car-free accommodation is permissible, the mechanism by which the occupier of a property is prevented from entitlement to a parking permit is by way of a s106 agreement that has the effect of omitting the development from the relevant Traffic Regulation Order. It is doubtful that this objective can be achieved by condition because this would be attempting to use planning controls to remove rights given under other legislation and may therefore be ruled unlawful if such a condition were challenged in the courts.
6. I consider that if the occupiers of the appeal property were to be granted the right to a parking permit, that would increase the pressure on the available spaces which are in short supply. The availability of a permit would only serve to encourage car use. Even though the addition of one vehicle might not be significant in itself, along with others there would be a cumulative effect. That would be counter to national and RUDP policies. I saw that the number of available spaces in the area is small and that there is significant demand.
7. The Council insists that all those with an interest in the land are party to the obligation. This follows the guidance in paragraph B54 of Circular 05/2005. No reason is put forward to justify releasing the leaseholder from complying with its provisions. Beyond suggesting that the costs of employing lawyers to expedite the agreement are out of proportion, the appellants do not explain, and it is difficult to understand, how this requirement is extremely onerous and costly to the landowner; particularly as there is no disagreement that public transport accessibility is very good and that the site is suitable for car free development. The cost of legal advice is not a consideration that I can take into account. The likelihood that the lessee might frustrate the process is not a planning matter. If it is unnecessary for the occupants to own a car, as all parties agree, then there is little disadvantage. In any case, restricting the availability of a parking permit does not prevent the occupants from obtaining private parking at market rates.
8. The appellants suggest that there is little residential use in the area. That is difficult to determine and I am provided with no statistics on the subject, but it does not in my view interfere with the principle that the availability of residents parking permits should be restricted to discourage use of the car. Furthermore, the fact that Neal Street is pedestrianised and the focus of many international visitors has little bearing on the pressure on parking spaces in adjacent streets.
9. I conclude that the suggested s106 'car-free' agreement is essential for mitigating parking stress that would result from the proposed development. I have had regard to all the other matters raised including the need for additional housing; and various inspectors' decisions submitted by the appellants. However the circumstances that prevailed at the time are unclear and the policy references all predate the current RUDP. I have decided the appeal on its merits under current policies and guidance in the Circular. Without a completed s106 Agreement the proposed development would fail to satisfy the requirements of policies T7 and T8 of the RUDP.

*Paul Jackson*

INSPECTOR