

the development would overshadow the space and detract from habitat and use. In policy terms the Council has regard to the Building Research Establishment (BRE) guidance, which requires that no more than two-fifths of a park be prevented by buildings from receiving any sunlight at all on 21st March. The applicants' have submitted an independent shadowing assessment demonstrating that there would be shadow during the morning (measured at 10am), significantly reduced by 12noon and there would be limited shadow in the afternoon. The area of permanent shadow would be less than the two-fifths specified by the BRE and is consequently acceptable in sunlight terms and would not materially affect its usability.

- 6.19 In relation to issues of protection of habitat, the existing vegetation growing on the southern boundary wall is of significance; in particular the ivy provides important cover for birds. The loss of the wall and its replacement with railings would therefore be detrimental to birdlife and a condition is recommended for its retention. The chainlink fence above could be replaced by trellis to improve its appearance to park users and could provide support for additional ivy grown on the application side of the boundary. In any event, it is an offence to disturb nests (the nesting season is April to August) and the condition should also require that no works to the boundary occurs within this period and suitable protective barriers be installed during the construction phase. In addition, the demolition works should also be carried out outside the nesting period, which is embodied in the recommended S106. The impact of shadowing on habitats is harder to predict; however much of the park is already overshadowed by existing structures and the degree of enclosure within and the existing vegetation is predominantly shade-tolerant species. The additional fenestration would increase light pollution, which may affect the habitat. Consequently a condition is recommended to ensure low level external light, the use of louvres for areas of extensive glazing and the submission of an internal lighting schedule to demonstrate that there would be no direct projection of light. It should be noted that the incorporation of a green roof may also improve habitat once the development is complete, provided it is not restricted to the Sedum species that the applicants specify. A condition is therefore recommended to ensure that a detailed landscape scheme is submitted with provision for additional habitat planting in open areas of the site, an appropriate range of species for the green roof and a nesting feature incorporated on the building.

Size, Mix and Quality of Residential Units

- 6.20 The scheme incorporates a mix of units sizes with over 50% suitable for occupation by families – welcomed by policy HG16 and the Brief – and all units meet internal space standards in SPG. Little amenity external space is provided; however the constraints of the site and the urban context are such that garden space should not be required in this case and residents would be able to utilise the adjoining park. Consequently, the development is acceptable in terms of the Borough-wide need for a range of unit sizes and the amenities of future occupiers.

Residential Amenity

- 6.21 Those most likely to be affected are the rear of properties facing Windmill Street and Charlotte Street (largely the upper floors due to the extent of ground floor development), the adjoining building in Whitfield Street and Colville Place. The

material considerations in this regard relate to loss of light, outlook, privacy, noise – from proposed plant, and light pollution. The new building would be 3.25m higher than the existing building from parapet level and 2.5m closer to the rear of the Windmill Street elevation.

- 6.22 Light The applicants have commissioned a detailed independent daylight assessment, which includes a vertical sky component (VSC) and average daylight factor (ADF) tests as recommended by the BRE in respect of all residential uses specified above. The report concludes as follows: In 33-37 Windmill Street – all second floor windows apart from 33 would pass the VSC test which specifies a reduction of less than 20% of its former value. In the case of 33 and all first floor windows the change is greater than 20%; however, the more detailed ADF tests indicates full light penetration and demonstrates that the amount of light meets the minimum British Standard for relevant room types. In 41-42 Windmill Street – all windows pass the VSC test. In both cases the elevation faces north and there would be no loss of direct sunlight. All other addresses affected would meet the relevant standards in BRE and are acceptable in daylight and sunlight terms.
- 6.23 Outlook The increase in height of the building and its closer proximity to the rear elevations of Windmill Street and Charlotte Street properties and in the case of the Whitfield Street property, a deeper projection – is not sufficient to materially detract from the level of outlook that residents currently enjoy. There will be some loss of view; however such a consideration is not material to the planning process. It should be noted that the green roof, although higher than the existing by 3.25m, would nonetheless improve outlook from higher windows.
- 6.24 Privacy The windows facing the rear of properties facing Windmill Street (the south elevation) fall within the 18m separation distance set out in the UDP. In recognition of this fact the applicants have included a purpose-designed window screen to minimise direct views, which is the subject of a recommended approval of details condition. Such control would enable to Council to prevent direct views between the existing and proposed buildings. There would be no windows facing Charlotte Street (west) and the separation from Colville Place (beyond the park) would be well over the 18m standard.
- 6.25 Noise The application incorporates a new roof level plant enclosure with indicative drawings of an integrally designed acoustic enclosure. No detailed noise assessment has been submitted with the application and it is therefore recommended that the matter be reserved by condition, incorporating a requirement to submit details of sound attenuation should it be required. In addition, a condition is included in the recommendation requiring that the plant operate within Council UDP noise standards (DS6). Such a degree of control would enable the Council to assess the impact of plant at a later stage and ensure that it is installed and maintained in a manner that does not compromise residential amenity.
- 6.26 Light Pollution The greatest impact in respect of light pollution to surrounding occupiers would be the south elevation facing Windmill Street. The degree of fenestration combined with the privacy screens referred to in para 6.24 above would limit light pollution such that it would not cause a material loss in amenity.

Transport and Parking

- 6.27 None of the residential units proposed incorporate on-site parking provision; however the site and its surrounds are suitable for a car-free development. The S106 requires that all new residential units be car-free.
- 6.28 The proposed vehicular access utilises the existing access point to the building and is intended for servicing purposes only. To ensure this is used efficiently without obstruction to the highway, a condition is recommended to require the submission of details of a servicing management plan. In addition the S106 includes a requirement for a financial contribution to highway improvement works.
- 6.29 The office/employment component of the scheme is of a sufficient scale to require the submission of a green travel plan – also part of the S106. In addition, a condition is recommended to ensure the provision of secure cycle storage and associated shower facilities.
- 6.30 Finally, the scale of the development and the location of development near to residential properties requires that a construction management plan be agreed (by S106) to minimize disruption to the public highway and ensure amenities of residential occupiers is protected. In addition the plan should ensure that no works of demolition are undertaken during the nesting period of protected birdlife as discussed in para 6.19 above.

Other Matters

- 6.31 Educational contributions The number of residential units proposed exceeds the threshold in SPG (5 units) whereby the Council can require a financial contribution to local educational provision. The financial contribution relates to only those units that would result in child 'yield' (two bedroom units and above). The amount required for the units proposed is £91440. The suitable control mechanism is the recommended Section 106 Planning Obligation and, as with the car-free requirement, a second reason for refusal is included should be applicant be unwilling or unable to conclude within the 13-week period.
- 6.32 Sustainability The applicants have submitted an Ecohomes and Breeam assessment to demonstrate that the development has a pre-certification rating of 'good', which is supported. A condition is included to ensure that the development is constructed to the same standard.
- 6.33 Extension of the park The Brief and local groups/residents would prefer an extension to the public open space over all or part of the application site. The extension of the park is precluded by the desirability of protecting existing habitats on the boundary wall and it would be commercially unrealistic to expect a private developer to demolish the existing buildings and provide public open space.

7. CONCLUSION

- 7.1 The proposed mixed use development accords with the Planning Brief for the site in that it achieves to minimum 35% residential floorspace requirement, which would be the primary land use. The office and flexible D1/D2 uses are appropriate for the local context, subject to the conditional restriction of use in the basement and ground floor of the Whitfield Street frontage building to a use that would benefit the

local community. In pursuance of such aims, the S106 includes provision for local community access to such uses and the applicants have offered a financial contribution to the local Fitzrovia Neighbourhood Centre. The residential component does not meet the affordable housing threshold, although the S106 allows further control over subsequent changes to residential in the building as a whole. The building has been sensitively designed to respect the surrounding conservation area and would have an acceptable relationship to the public open space and nearby listed buildings. Subject to extensive conditional control, it is considered that the building and its construction can be accommodated without detriment to important bird habitat in the public open space. The mix of sizes and quality of new residential units is acceptable and the lack of external amenity space is offset by the proximity of the park and an undertaking to make financial contribution to its upkeep. The development is acceptable in residential amenity terms and would not have a material harmful impact on light, privacy or outlook. The S106 ensures that the development would be car-free and there is no parking provided within the site. Finally, the scale of development is such that the Council will require that the developer enter into S106 agreement to manage the construction phase.

8. LEGAL COMMENTS

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

9. RECOMMENDATION

- 9.1 That planning permission and conservation area consent be granted subject to conditions and the satisfactory conclusion of a Section 106 planning obligation requiring the following:

- Car free development;
- Financial contributions to highway works, upkeep of the park, educational provision and the Fitzrovia Neighbourhood Centre;
- A requirement to provide affordable housing according to the entirety of the development should further residential use be proposed;
- The submission of an leisure plan to ensure community involvement in the D1/D2 use of the ground and basement floors (Whitfield Street frontage)
- The submission of a green travel plan for the commercial uses; and
- The submission of a construction management plan.

10. RECOMMENDATION 2

- 10.1 That in the event that the Section 106 agreement referred to in Recommendation 1 has not been completed within 13-weeks of the date of the registration of the application, the Head of Development Control be given authority to refuse the application for the following reasons:

1. The proposed development, in the absence of a legal agreement for car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area contrary to policies TR4 (Cumulative impact of proposals), TR17 (Residential parking standards) and RE6 (Planning obligations) of the London Borough of Camden Unitary

Development Plan 2000.

2. The proposed development, in the absence of a legal agreement for securing educational contributions, would be likely to contribute unacceptably to pressure and demand on the Borough's education provision contrary to policy RE6 (Planning Obligations) of the London Borough of Camden Unitary Development Plan 2000 and Section 3.13 (Educational contributions from residential developments) of the London Borough of Camden Supplementary Planning Guidance 2002

Condition(s) and Reason(s): 2005/2739/P

- 1 The development hereby permitted must be begun not later than the end of five years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 Prior to the commencement of any development hereby permitted, samples of all external facing materials and detailed drawings of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - (a) all glazing bar/frames for fenestration;
 - (b) doors;
 - (c) balustrades; and
 - (d) timber screens.

Thereafter the development shall be constructed in precise accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies EN1, EN13 and EN31 of the London Borough of Camden Unitary Development Plan 2000.

- 3 Prior to the commencement of any development hereby permitted, details of the proposed green roof shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include a range of planting suitable for bird habitat and incorporate nesting boxes, a long-term maintenance plan and automatic watering system, and details sections through the structure. Thereafter the development shall be constructed in precise accordance with the approved details.

Reason: To enable suitable control over the form and appearance of the roof in the interests of visual amenity and the enhancement of bird habitat for protected species pursuant to Policies EN1, EN13, EN31 and EN52 of the London Borough of Camden Unitary Development Plan 2000.

- 4 Notwithstanding the details shown on the drawings hereby permitted, the wall on the common boundary with the adjoining public open space shall be retained in its existing form in perpetuity and protected for the duration of the construction period

in accordance with details that shall have first been submitted and approved in writing by the Local Planning Authority. The scheme for the protection of the wall shall be implemented in accordance with the approved details and shall not be removed until construction is complete.

Reason: The wall acts as an important visual barrier to the public open space and supports vegetation important to the habitat of protected bird species and pursuant to Policy EN52 of the London Borough of Camden Unitary Development Plan 2000.

- 5 Prior to the occupation of any of the uses hereby permitted, precise details of secure cycle storage space together with details of showers for incorporation in the office space shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in precise accordance with the approved details.

Reason: To promote the use of cycles in pursuance of sustainability objectives in accordance with the requirements of Policy TR22 of the London Borough of Camden Unitary Development Plan 2000.

- 6 Prior to the commencement of any development hereby permitted, a detailed schedule of all external and internal lighting together with a scheme of internal louvres for areas of glazing facing the public open space shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include only low level external lighting and no direct projection of internal lighting towards the public open space. Thereafter the development shall be constructed and maintained in precise accordance with the approved details.

Reason: To ensure that the development does not result in light pollution to the public open space having regard to the nesting of protected bird species pursuant to Policy EN52 of the London Borough of Camden Unitary Development Plan 2000.

- 7 The use of the basement and ground floor of the part of the development facing Whitfield Street shall be a use within Class D1a-e and/or Class D2e suitable for community involvement in accordance with a statement of justification demonstrating local need for the use that shall have first been submitted to and approved in writing by the Local Planning Authority. Thereafter the use shall be retained in precise accordance with the approved details.

Reason: To ensure compliance with the Planning Brief for the site and to enable effective community benefit pursuant to Policy SSC1 of the London Borough of Camden Unitary Development Plan 2000.

- 8 Prior to the first occupation of any of the residential units hereby permitted, details of the privacy screen to the rear (south) elevation shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed and maintained in precise accordance with the approved details.

Reason: To protect the amenities of adjoining occupiers in accordance with Policy EN19 of the London Borough of Camden Unitary Development Plan 2000.

- 9 Prior to the first occupation of the building hereby permitted, details of a servicing management plan shall be submitted to and approved in writing by the Local Planning Authority. Such details shall demonstrate that the building can be serviced without obstruction to the highway. Thereafter all servicing shall be undertaken in precise accordance with the approved details

Reason: In the interests of highway safety and in accordance with Policy TR23 of the London Borough of Camden Unitary Development Plan 2000.

- 10 The new building hereby permitted shall be implemented in accordance with the sustainability agenda set out in approved supporting documentation, in particular the building shall meet approved 'ecohomes' and 'breeam' accreditation of 'good'.

Reason: To ensure the development is of a high standard and meets sustainability requirements in accordance with Policy EN12 of the London Borough of Camden Unitary Development Plan 2000.

- 11 Prior to the installation of any externally mounted plant, a full acoustic report demonstrating 1) existing background noise levels; 2) manufacturers details and noise output from proposed plant; 3) Whether proposed plant would comply with Camden's noise standards with particular regard to any nearby residences; 4) Any means of attenuation or isolation necessary to ensure that the plant complies with noise standards, shall be submitted to and approved in writing by the Local Planning Authority. In the event that acoustic attenuation is required, then the plant shall be installed in accordance with the agreed details.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies RE2, EN6 and DS6 of the London Borough of Camden Unitary Development Plan 2000.

- 12 At 1 metre outside the windows of any neighbouring habitable room the level of noise from all plant and machinery shall be at all times at least 5 decibels below the existing background noise levels, expressed in dB(A) at such locations. Where the noise from the plant and machinery is tonal in character the differences in these levels shall be at least 10 dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies RE2 EN6 and DS6 of the London Borough of Camden Unitary Development Plan 2000.

- 13 No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the Council.

Reason: To enable the Council to ensure a reasonable standard of visual amenity in the scheme in accordance with the requirements of policies EN15 of the London Borough of Camden Unitary Development Plan 2000.

- 14 All hard and soft landscaping works shall be carried out to a reasonable standard in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the Council gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a satisfactory standard of visual amenity in the scheme in accordance with the requirements of policies EN15 and EN35 of the London Borough of Camden Unitary Development Plan 2000.

Informative(s): 2005/2739/P

- 1 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 2 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. The penalty for contractors undertaking noisy works outside permitted hours is a maximum fine of £5000 per offence. You are advised to consult the Council's Environmental Health Division, Camden Town Hall, Argyle Street, WC1H (Tel. No. 020 7974 4444) or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.
- 3 The correct street number or number and name must be displayed permanently on the premises in accordance with regulations made under Section 12 of the London Building (Amendments) Act 1939.
- 4 Your attention is drawn to the fact that there is a separate legal agreement with the Council which relates to the development for which this permission is granted.
- 5 If a revision to the postal address becomes necessary as a result of this development, application under Part 2 of the London Building Acts (Amendment) Act 1939 should be made to the Council's Records and Information Service, Environment Department (Street Naming & Numbering) Camden Town Hall, Argyle Street, WC1H 8EQ (tel: 020-7974 5613).
- 6 Reasons for granting permission.

The proposed development is in general accordance with the policy requirements of the adopted London Borough of Camden Unitary Development Plan 2000, with particular regard to policies RE1 - 6, EN1, 4 - 7, 12 - 16, 19, 20, 31, 32, 52, TR16, 17, 21 - 23, HG5, 8, 11, 13 - 17, SC1, 2, LC2, 3 and CL3. For a more detailed understanding of the reasons for the granting of this planning permission, please refer to the officers report.

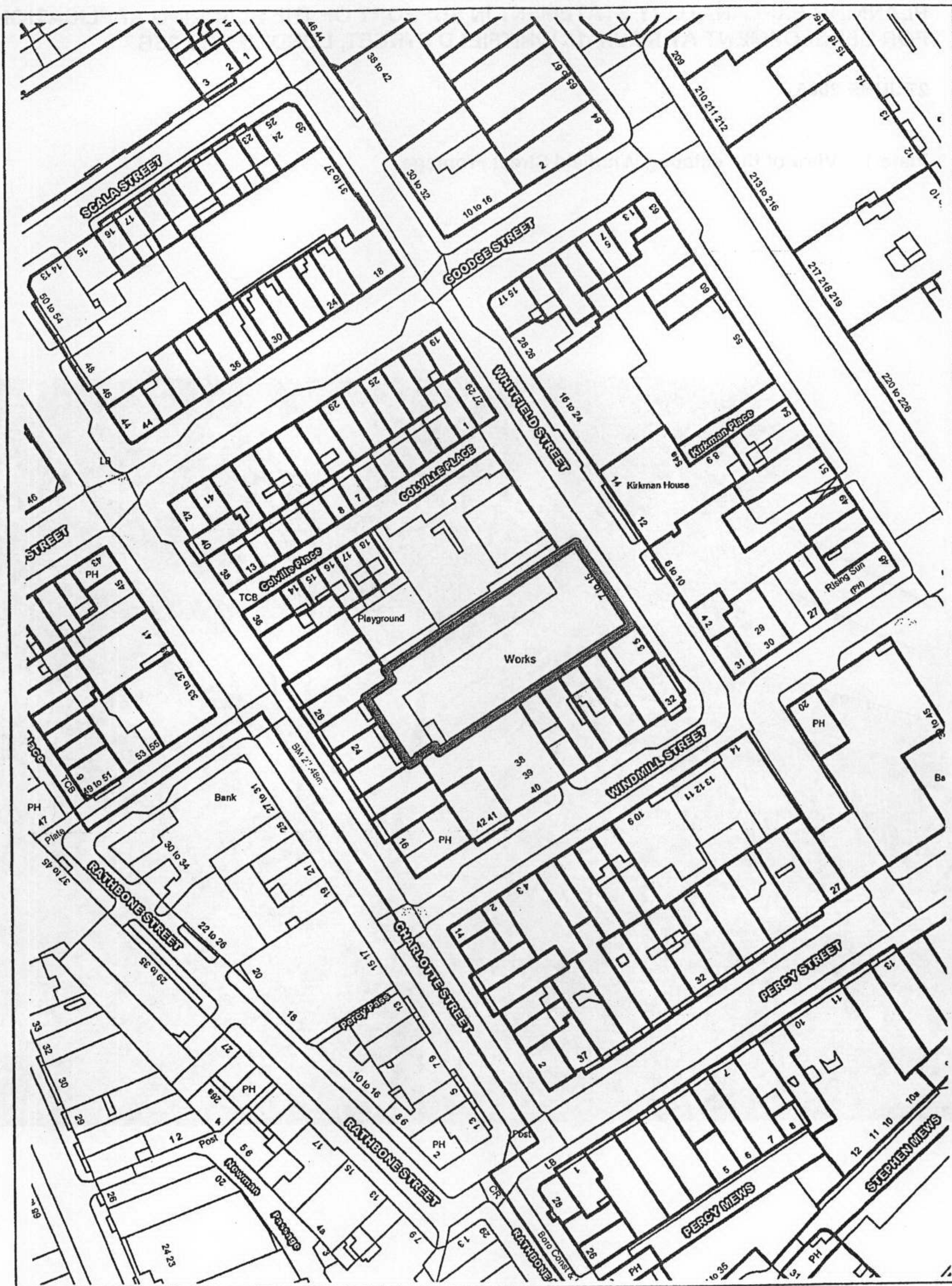
Condition(s) and Reason(s): 2005/2742/C

- 1 The works hereby permitted shall be begun not later than the end of five years from the date of this consent.

Reason: In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 2 The demolition hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been made.

Reason: To protect the visual amenity of the area in accordance with the requirements of policies EN31 and EN32 of the London Borough of Camden Unitary Development Plan 2000.



Application No: 2005/2739/P & 2005/2742/C

7-15 Whitfield Street
London
W1T 2SD

Scale:
1:1250

Date:
16-Sep-05



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PLANNING EXPLANATORY STATEMENT IN SUPPORT OF THE PLANNING APPLICATION
FOR DEVELOPMENT AT NOS.7-15 WHITFIELD STREET, LONDON W1T 2SB

27 JUNE 2005

Plate 1 View of the existing Whitfield Street Frontage

