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**Town and Country Planning Act 1990 (as amended):**

**Application under Section 73 for permission to  
modify condition 6 attached to previous consent  
Ref: 2006/1427/P**

34 - 36 Jamestown Road, Camden

**Supporting Statement**



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August 2006

## **SUPPORTING STATEMENT**

### **1.0 INTRODUCTION**

- 1.1 This statement is submitted in support of an application for planning permission in relation to the former Iceworks' building at 34-36 Jamestown Road. The application is made under section 73 of the Town and Country Planning Act 1990 (as amended) for permission to modify condition 6 attached to previous consent (ref: 2006/1427/P) granted on 28<sup>th</sup> June 2006. That consent was granted for:

***'additions and alterations including installation of plant, enclosure and associated works at roof level, extract duct on north elevation rising from ground floor to roof level in connection with restaurant at ground floor level and 8 no. satellite dishes at roof level'***

- 1.2 This statement aims to provide sufficient detail and reasoning for the proposals in order that the application can be validated and subsequently granted consent. This statement therefore contains the following sections:

- 1.0 Introduction
- 2.0 Planning History and Context
- 3.0 Description of Proposal
- 4.0 Planning Policy
- 5.0 Summary and Conclusions

### **2.0 PLANNING HISTORY AND CONTEXT**

- 2.1 The application site at 34-36 Jamestown Road is currently in mixed B1 office and C3 residential use. The application relates to previous consent granted for works in association with the refurbishment of the internal space. In order to provide context for this application, below is a summary of relevant previous planning applications at the site. They are as follows:

1. *PE9900778/R1 (15<sup>th</sup> December 2000):*

Full planning consent was granted for the demolition of existing buildings on the site of 34-36 Jamestown Road and the erection of a building on part-7, part 5 floors to provide 14 self-contained flats and class B1 floorspace together with 14 car parking spaces.

2. *2006/0635/P (21<sup>st</sup> April 2006):*

Full planning consent was granted for an extension at roof level to provide new lift and glazed link to top floor of office building (class B1).

3. *2006/1427/P (28<sup>th</sup> June 2006):*

On the 28<sup>th</sup> June 2006 full planning permission was granted for additions and alterations including installation of plant, enclosure and associated works at roof level, extract duct on north elevation rising from ground floor to roof level in

connection with restaurant at ground floor level and 8 no. satellite dishes at roof level.

- 2.2 The application that is supported by this statement is for the modification of condition 6 attached to previous consent ref: 2006/1427/P detailed in number 3 (above). Full details and discussion of the proposed modification are contained within the following sections of this statement.

### 3.0 DESCRIPTION OF PROPOSAL

- 3.1 This planning application is for permission to modify condition 6 attached to previous consent (ref: 2006/1427/P) granted on 28<sup>th</sup> June 2006. Appendix A to this statement contains a copy of the decision notice and attached conditions for reference.
- 3.2 The modifications to the condition 6 proposed as part of this application involve extending the permitted operational hours of the ancillary restaurant in the evening Mondays to Fridays, and permitting operation of the ancillary restaurant on Saturdays, Sundays and Bank Holidays. Also included is the removal of the restriction on deliveries to the site on Saturdays. A detailed discussion of the proposed modifications can be found below.
- 3.3 This application for planning permission is made under section 73 of the Town and Country Planning Act 1990 (as amended) (hereafter referred to as the Act). Section 73 relates to the determination of applications to develop land without compliance with conditions previously attached, and applies to *'applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.'* (s73 (1)).
- 3.4 Subsection (2) of section 73 to the Act continues to state that on such an application the local planning authority shall consider on the question of the conditions subject to which planning permission should be granted. If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly. If however they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.
- 3.5 This application therefore seeks planning permission to be granted by London Borough of Camden Council for:

***'additions and alterations including installation of plant, enclosure and associated works at roof level, extract duct on north elevation rising from ground floor to roof level in connection with restaurant at ground floor level and 8 no. satellite dishes at roof level'*** (as per previous consent ref: 2006/1427/P)

- 3.6 However this application seeks that permission is granted *'subject to conditions differing from those subject to which the previous permission was granted'* (section 73 (2)), and specifically subject to modifications to condition 6.
- 3.7 The approved condition number 6 attached to previous application ref: 2006/1427/P is as follows:

***'The ancillary staff restaurant hereby approved shall be used only in connection with the existing Class B1 offices and shall not operate outside the hours between 08.00 and 19.00 hours Mondays to Fridays. No deliveries shall take place on Saturdays, Sundays or Bank Holidays.'***

- 3.8 The approved planning application to which the condition is attached therefore permits the use of the staff restaurant ancillary to the Class B1 offices, but restricts the operation to between the hours of 08.00 and 19.00 Mondays to Fridays. In addition, deliveries to the site are not permitted on Saturdays, Sundays and Bank Holidays.
- 3.9 The proposal that is the subject of this application is for the modification of the above condition (number 6) to extend the operational hours of the ancillary staff restaurant and to enable deliveries on Saturdays. The modification to the condition sought is three fold:
- a. to extend the operational hours of the ancillary staff restaurant in the evenings on Mondays to Fridays by 2 hours (from 19.00 to 21.00)
  - b. to extend the operational hours of the ancillary staff restaurant to permit operation between the hours of 08.00 and 21.00 Saturdays, Sundays and Bank Holidays
  - c. to allow deliveries to the site on Saturdays
- 3.10 In order to clarify the modifications sought to condition 6, the suggested wording of the modified condition attached to the new permission would read:
- 'The ancillary staff restaurant hereby approved shall be used only in connection with the existing Class B1 offices and shall not operate outside the hours between 08.00 and 21.00 hours Mondays to Saturdays, Sundays and Bank Holidays. No deliveries shall take place on Sundays or Bank Holidays.'***
- 3.11 The justification and planning arguments for the modification sought to condition 6 are discussed in the following section 4.0 of this statement.

#### **4.0 DISCUSSION AND PLANNING POLICY**

- 4.1 In order to present the reasons for the proposed modifications to condition 6 (as detailed above), it is considered appropriate to discuss the operation of the B1 offices and to set the application in that context.

##### ***Operation of 34-36 Jamestown Road Offices***

- 4.2 The ancillary staff restaurant on the ground floor of 34-36 Jamestown Road is to provide a food service in connection with the B1 office use of the building. The intention is to provide a daily service of freshly prepared and cooked food to personnel within the building between the hours of 08.00 and 21.00. We therefore propose to modify condition 6 in order to enable that operation.
- 4.3 Whilst the majority of staff at 34-36 Jamestown Road are employed from Monday to Friday between the hours of 08.00 and 18.00, it is possible that a limited number of personnel may be present at the building outside those hours. To that end, a modification is sought to condition 6 for a small extension of the permitted operation to between the hours of 08.00 and 21.00 Monday to Friday. That modification equates to an extension to the permitted operational hours by only 2 hours in the evening, and would enable our client to cater for the potential needs of all personnel.
- 4.4 During weekends, it is anticipated that staff may be present within the building between the hours of 08.00 and 21.00. It is therefore proposed to modify condition 6 to enable operation of the restaurant between 08.00 and 21.00 hours Saturdays, Sundays and Bank Holidays. Whilst the use of the restaurant during those hours is



not expected to be intensive, the ability to operate will allow our client to cater for any potential need.

- 4.5 It is expected that food deliveries to 34-36 Jamestown Road will occur on the whole from Monday to Friday. However, a limited delivery of bread products and fresh fruit and vegetables may be necessary on Saturdays in order to provide for the needs of any staff present at the building at the weekend. The final proposed modification to condition 6 is therefore to allow food deliveries to the site on Saturdays.
- 4.6 Wet waste from the catering facilities will be disposed of via the waste disposal unit located in the dish wash area, with dry waste being bagged and placed in the waste bins provided. All dry waste from the catering facilities will be placed in the waste bins prior to 19.00. Given the proposed quality of the catering service a small, well trained and dedicated catering staff will be employed.
- 4.7 In summary, the proposed modifications are required in order to provide for the potential needs of personnel at the application site. The modification proposed involves a modest 2 hour extension to permitted operational hours of the staff restaurant during the evenings Monday to Friday, permitted operation on Saturdays, Sundays and Bank Holidays, and limited deliveries on Saturdays.

#### ***Planning Policy***

- 4.8 Under the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419), art.22(1)(a) ), the local planning authority is required to “*state clearly and precisely their full reasons ... for any condition imposed*”. The reason stated by Camden Borough Council for the attachment of condition 6 to the previous planning permission is as follows:  
  

***‘To safeguard the amenities of the adjoining residential premise and the area generally in accordance with the requirements of policies EN1, EN5, EN7 and EN19 of the London Borough of Camden Unitary Development Plan 2000 and policy SD6 and SD7B of the London Borough of Camden Replacement Unitary Development Plan 2006.’***
- 4.9 In the discussion of planning policy relating to the proposed modifications to condition 6 of the previous consent, it is therefore considered appropriate to refer to the policies highlighted by the Council within the reasoning above. The policies that will be discussed are therefore: EN1, EN5, EN7 and EN19 of the London Borough of Camden UDP 2000, and policies SD6 and SD7B of the London Borough of Camden Replacement Unitary Development Plan 2006.
- 4.10 Policy EN1 of the adopted UDP (2000) seeks to ensure that developments will not have an adverse impact on the amenity of the surrounding area and the quality of the wider environment in the short and long term. The discussion related to amenity below will demonstrate that the proposed modifications to condition 6 of the previous consent will not have an adverse impact on the amenity of the surrounding area.
- 4.11 Policy EN7 states that, where the construction phase of development proposals is likely to cause particular problems by virtue of its duration, scale, location or complexity of working, the Council will seek to minimise disturbance to amenity and the environment by the use of planning conditions. The construction phase of development for the scheme within the previous consent will not be altered by the proposed modifications. The proposals that are the subject of this s.73 application are therefore in accordance with the requirements of that policy.
- 4.12 Policy EN5 states that, in assessing developments which will place noise generating uses adjacent to noise sensitive uses, or where such uses are proposed in areas that contain noise generating uses already, the Council will have regard to

the likely impact of noise disturbance. Although complete elimination of all noise is impracticable, the Council will seek to ensure such disturbance is kept below the threshold levels set out in Development Standard DS6. Policy SD7B also refers to noise/vibration pollution and states that, unless appropriate attenuation measures are available and are included, the Council will not grant planning permission for:

- a) development likely to generate noise/vibration pollution; or
- b) development sensitive to noise/vibration in locations with noise/vibration pollution.

- 4.13 It is further stated in the supporting text to that policy that, in assessing applications against these criteria, the Council will have regard to the levels set out in Appendix 1 to the replacement UDP (2006).
- 4.14 The previous consent to which condition 6 relates incorporates acoustic isolation and sound attenuation which shall be provided to the extract ventilation system and the air-condition plant. Details are contained within Appendix B to this statement. The acoustic isolation will be thereafter maintained in effective order in accordance with condition 4 of the previous consent. In the case of *R (Reid) v Secretary of State for Transport, Local Government and the Regions* (2002) the conditions on the earlier permission were regarded by the courts as governing the fresh permission granted under s.73. This condition may therefore be applied to the s.73 permission and will in our view continue to protect the neighbouring amenity.
- 4.15 A noise report was submitted with the planning application, and a copy of that assessment is attached at Appendix C. That report demonstrates that, with the acoustic isolation and sound attenuation, the noise levels from the plant/equipment (including the kitchen extract duct) will remain at least 5db (A) less than the existing background measurement (LA90). This is in accordance with the Council's noise levels from plant and machinery at Appendix 1 to the replacement UDP (2006), which state that the noise level at 1 metre external to a sensitive façade must be less than the existing background noise measurement (LA90) during the day, evening and night. Condition 3 of the previous consent to which condition 6 is attached ensures that those levels will not be exceeded. The Council's noise levels will likewise not be exceeded as a result of the proposed modifications.
- 4.16 The proposed limited extension to operational hours from the approved plant/equipment will not in our opinion give rise to any additional impact upon the amenity of neighbouring properties or the area in general. The noise levels will remain at least 5db(A) less than the existing background measurement (LA90) as per the consent granted during the proposed extended operation of 3 hours between 19.00 and 21.00 Mondays to Fridays, and between 08.00 and 21.00 hours Saturdays, Sundays and Bank Holiday Mondays. The additional operational hours of the ancillary restaurant will not therefore have any additional impact upon residential amenity with regard to noise output than the approved scheme.
- 4.17 Policy EN19 states that, in assessing the impact of development, the Council will take into account the following considerations:
- a. the implications for daylight and sunlight into and between properties;
  - b. the extent of any loss of privacy; and
  - c. the degree of visual intrusion.
- 4.18 The proposed modifications to condition 6 of the previous consent seek a limited extension to permitted restaurant operational hours, and the allowance of deliveries on Saturdays. The proposed modifications will therefore not in our opinion have a detrimental impact upon the above mentioned considerations within policy EN19, and accord with the Council's policy.

- 4.19 Policy SD6 refers to amenity for occupiers and neighbours, and states that the Council will not grant planning permission for development that it considers causes harm to the amenity of occupiers and neighbours. The factors the Council will consider include:
- a) visual privacy and overlooking
  - b) sunlight and daylight levels
  - c) artificial light levels
  - d) noise and vibration levels
  - e) odour, fumes and dust
  - f) the adequacy of facilities for storage, recycling and disposal of waste; and
  - g) microclimate
- 4.20 It is considered that the proposed modifications that are the subject of this application will not cause harm to the amenity of the occupiers and neighbours in terms of visual privacy and overlooking, sunlight and daylight levels, artificial light levels and microclimate. The impact from noise and vibration is discussed in paragraphs 4.14 to 4.16 above, which demonstrate that the proposals will not in our opinion have a detrimental impact on amenity in that regard.
- 4.21 As stated in paragraph 4.6, wet waste from the catering facilities will be disposed of via the waste disposal unit located in the dish wash area, with dry waste being bagged and placed in the waste bins provided. All dry waste from the catering facilities will be placed in the waste bins prior to 19.00. The facilities for storage, recycling and disposal of waste are therefore considered adequate.
- 4.22 Turning the final point (f) regarding odour emissions, secondary odour control is required in accordance with condition 5 attached to the previous consent that is the subject of this application. Details of the secondary filtration system which is to be implemented can be found at Appendix D to this statement. The Council has already accepted the adequacy of this provision in the granting of the previous consent to which this application relates. The proposed modification will not in our opinion cause any additional harm to the amenity of residents in that regard.
- 4.23 In summary, the proposals are in accordance with the relevant policies of the Camden UDP. The proposed modifications to condition 6 of the previous consent relate only to a limited extension of operational hours of the staff restaurant, and deliveries. With the mitigation measures included in the scheme and the imposed conditions attached to the previous consent, we believe that the amenities of neighbouring residents and the general area will remain safeguarded with the grant of consent for the proposed modifications.

## **5.0 SUMMARY AND CONCLUSION**

- 5.1 This application seeks for the Council to grant planning consent for *'additions and alterations including installation of plant, enclosure and associated works at roof level, extract duct on north elevation rising from ground floor to roof level in connection with restaurant at ground floor level and 8 no. satellite dishes at roof level'* as per the previous consent ref: 2006/1427/P granted on 28<sup>th</sup> June 2006, subject to a modified condition 6.



5.2 It is suggested that the proposed modification to condition 6 would read:

***'The ancillary staff restaurant hereby approved shall be used only in connection with the existing Class B1 offices and shall not operate outside the hours between 08.00 and 21.00 hours Mondays to Fridays, Sundays and Bank Holidays. No deliveries shall take place on Sundays or Bank Holidays.'***

- 5.3 The operation of the staff restaurant will remain in association with the continued B1 office use of 34-36 Jamestown Road. The proposed modifications to condition 6 of the previous consent are required to cater for the potential needs of those within the building.
- 5.4 As part of the previous consent, it has been accepted by the Council that the noise levels and odour emissions from the plant/equipment will not result in loss of amenity for the nearby properties and general area. This is secured through the imposition of conditions 3, 4, 5 and 6. The noise levels will not increase as a result of the proposed modifications and odour will be controlled through the same means as has been accepted by the Council.
- 5.5 Acoustic isolation and attenuation is included as part of the approved scheme, and is secured by condition 4 of the previous consent. A noise assessment was conducted and included as part of the application which demonstrates that acceptable noise levels (as part of Camden's noise standards in Appendix 1 to the replacement UDP 2006) will not be exceeded. In that regard, condition 3 is imposed to ensure that the Council's noise levels are not exceeded. The proposed modifications will not result in any increase in noise levels. This will therefore ensure that noise emissions will not result in any loss of amenity during the extended operational hours sought as part of this application.
- 5.6 Condition 5 ensures that details of a secondary filtration system are submitted to and approved by the Council prior to the erection and operation of the kitchen extract duct, and that the system is maintained. That condition therefore ensures that the odour emissions will not result in any loss of amenity during the extended operational hours sought as part of this application.
- 5.7 Therefore it is our opinion that the '*amenity of the adjoining premise and general area*' (as quoted in the previous consent) will continue to be safeguarded by the suggested modification to condition 6, and there will be no loss of amenity as a result of the proposed modification of condition 6 attached to the previous consent.
- 5.8 The proposals that are the subject of this application are therefore in accordance with the relevant policies of the London Borough of Camden Unitary Development Plan.