

Delegated Report		Analysis sheet	Expiry Date:	22/04/2014
		N/A / attached	Consultation Expiry Date:	19/03/2014
Officer			Application Number(s)	
Hannah Parker			2014/0831/P	
Application Address			Drawing Numbers	
62-63 Tottenham Court Road & 1-7 Goodge Street London, W1T 2EP			Please refer to decision notice.	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Amendment to condition 2 (works to be carried out in accordance with the approved plans) of planning permission ref 2011/1821/P, decided on appeal refs APP/X5210/E/12/2177813, APP/X5210/A/12/2177819, dated 06/12/2012, for the erection of a five storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-63 Tottenham Court Road and 1-3 Goodge Street (including mansard roof), following part/complete demolition of existing buildings, all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Classes A1/C3], namely for changes to the height of the extract duct on the rear of 62 Tottenham Court Road, alterations to the roofline and plant screening, erection of a replacement front facade at 1-3 Goodge Street and alterations to windows				
Recommendation(s):		Refuse Planning Permission		
Application Type:		Variation or Removal of Condition(s)		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	27	No. of responses	02	No. of objections	02
			No. electronic	00		
Summary of consultation responses:	<p>Objections received from Metclif House Tottenham Street</p> <ul style="list-style-type: none"> • Excessive height would make it unpleasant for residents and pedestrians. • Upper floors should be set back to allow more light • Objection to treatment of waste, location of wheelie bins attract vermin. 					
CAAC/Local groups comments:	<p>The Georgian Group object for the following reasons:</p> <ul style="list-style-type: none"> • It is proposed to reconstruct the building in facsimile. • We note that it is proposed to use “new or reclaimed imperial bricks”. The development should reuse the existing bricks, supplemented with additional hand-made bricks where necessary; machine bricks should not be used. • It is clear there was a mix of sash windows <i>in situ</i> when the building was demolished and we note that it is proposed to put back a single style of timber sash. Whilst we welcome this coherent approach we have concerns regarding how this is to be executed. The proposed windows contain a number of incongruous details, the most obvious being the “horns” which are historically incorrect. The glazing bars are also poorly profiled. The Group strongly recommends that an experienced joiner be employed to build historically accurate glazing bar profiles, taking accurate measurements from neighbouring properties where necessary. • The Group would be pleased to review information submitted to discharge conditions relating to the points set out above. <p>TFL – comment as follows: With regard to the application, TfL have no observations to make with regard to the proposed amendments.</p>					

Site Description

The site is located on the southwest corner of the junction of Tottenham Court Road and Goodge Street and comprises 4 individual buildings: 62 and 63 Tottenham Court Road, and 1-3 and 5-7 Goodge Street.

62 Tottenham Court Road is a four storey building comprising a retail unit on the ground floor and vacant office floorspace above. It was originally constructed in the 1800s and was extended to the rear in the last century. The corner of Tottenham Court Road and Goodge Street is occupied by No.63, a three storey building dating from the late 1910s. This property is in use as an A1 retail unit at ground floor, with the upper floors providing ancillary storage space. 1-3 Goodge Street is a four storey building with an A1 retail unit a ground floor level and a single vacant residential unit with a separate access set over the upper storeys. This Georgian building is the oldest on the site, dating from the mid-18th Century and retaining much of its original character. 5-7 Goodge Street is a single storey A1 retail unit constructed following the destruction of the original Georgian building in World War II. Above this building, timber props span the gap between the side gable walls of the buildings on either side. All of the buildings currently have basement levels providing ancillary space, which extend into vaults under the pavement in the case of Nos. 1-3 Goodge Street.

The site is within the Charlotte Street Conservation Area, to which nos. 62 and 63 Tottenham Court Road and 1-3 Goodge Street are identified as making a positive contribution. The site is also within the Central London Area and a Neighbourhood Centre.

Relevant History

2011/1821/P: Erection of a five storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-63 Tottenham Court Road and 1-3 Goodge Street (including mansard roof), following part/complete demolition of existing buildings, all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Classes A1/C3]. **Granted on appeal 06/12/2012**

Approval of detail applications:

2013/4506/P: Details of cycle storage relating to condition 6 of planning permission (ref: 2011/1821/P) granted on appeal on 6/12/2012 (appeal ref: APP/X5210/E/12/2177819) for the erection of a five storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-63 Tottenham Court Road and 1-3 Goodge Street (including mansard roof), following part/complete demolition of existing buildings, all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Classes A1/C3] . **Granted 12/09/2013**

2013/5997/P

Details of the appointment of a qualified chartered engineer and detailed design and method statement of all foundations, basement and ground floor structures required by condition 7 and 12 respectively of planning permission ref: 2011/1821/P granted on appeal on 06/12/2012 ref: APP/x5210/A/12/2177819 (for the erection of a five storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-63 Tottenham Court Road and 1-3 Goodge Street (including mansard roof), all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Classes A1/C3).)

Granted 26/11/2013

Relevant policies

National Planning Policy Framework

LDF Core Strategy and Development Policies

Core Strategy Policies

CS1 – Distribution of growth

CS3 – Other highly accessible areas

CS5 – Managing the impact of growth and development

CS6 – Providing quality homes

CS7 – Promoting Camden's centres and shops

CS8 – Promoting a successful and inclusive Camden economy

CS9 – Achieving a successful central London

CS11 – Promoting sustainable and efficient travel

CS13 – Tackling climate change through providing higher environmental standards

CS14 – Promoting high quality places and conserving our heritage

CS15 – Protecting and improving our parks and open spaces and encouraging bio-diversity.

CS18 – Dealing with our waste and encouraging bio-diversity

CS19 – Delivering and monitoring the Core Strategy

Development Policies

DP1 – Mixed use development

DP2 – Making full use of Camden's capacity for housing

DP3 – Contributions to the supply of affordable housing

DP5 – Homes of different sizes

DP6 – Lifetime homes and wheelchair homes

DP10 – Helping and promoting small and independent shops

DP13 – Employment sites and premises

DP16 – The transport implications of development

DP17 – Walking, cycling and public transport

DP18 – Parking standards and the availability of parking

DP19 – Managing the impact of parking

DP20 – Movement of goods and materials

DP21 – Development connecting to the highway network

DP22 – Promoting sustainable design and construction.

DP23 – Water

DP24 – Securing high quality design

DP26 – Managing the impact of development on occupiers and neighbours

DP27 – Basements and lightwells

DP28 – Noise and Vibration

DP29 – Improving access

DP30 – Shopfronts

DP31 – Provision of, and improvements to, public open space and outdoor sport and recreation facilities.

Camden Planning Policy Guidance – 2011

Assessment

Background

Planning permission 2011/1821/P was granted on appeal APP/X5210/E/12/2177813 for the 'Erection of a five storey building plus basement at 5-7 Goodge Street and rebuilding to five storeys plus basement at 62-63 Tottenham Court Road and 1-3 Goodge Street (including mansard roof), following part/complete demolition of existing buildings, all in association with the provision of retail space at ground floor level and 8 additional residential units (9 in total) to upper floors (Classes A1/C3]'.

Conservation area consent was granted on appeal for the "demolition of 63 Tottenham Court Road and 5-7 Goodge Street and the substantial demolition of 1-3 Goodge Street behind a retained façade". This facade was demolished on the 16th December 2013.

The Council is currently investigating whether there is a breach in planning under a separate enforcement investigation.

Proposal

This application seeks changes to make minor material amendments as a variation to condition 2 of planning permission ref 2011/1821/P, dated 06/12/2012.

Condition 2 reads as follows:

The development hereby permitted shall be carried out in accordance with the drawings numbered 4840/T(10) E01 A; E02 A; E04 A;E05 A;P00 A; P0-1 A;P01 A; P02 A; P03 A;P04 A; S02 A; 4840/T(20) E01 E; E02 F; E03 C; E04 D; E05 C; D01 B; D02 B; P-1 D; P00 F; P01 E; P02 E; P03 E; P04 F; P05 E; P101 B; S02 A; 4840/T(11) P0-1 A; P00 A; P01 A; P02 A and P03 A.

The proposed amendments include the following:

- 1) Alterations to the approved basement layout, including relocation of the approved cycle storage area and re provision of the waste and recycling store from ground floor level;
- 2) Changes to the eight of the existing extract duct from the rear of the existing retail unit at 62 Tottenham Court Road
- 3) Removal of a small window from the rear elevation of the communal stair
- 4) Repositioning of the rear windows adjacent to No.9 Goodge Street;
- 5) Alterations to approved roofline and plant screening
- 6) Minor amendments to the elevation of No.7 Goodge Street
- 7) Erection of a replacement front façade at 1-3 Goodge Street

Assessment

While there is not a statutory definition of 'minor material amendment', the Planning Practice Guidance states that '*it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved*'.

This requires a professional planning judgment to be made assessing of whether the proposed alterations result in the scale and/or nature of the development being substantially different from the approved scheme.

In this case the approved scheme granted on appeal (“the approved scheme”) included the complete retention of the facade of 1-3 Goodge Street. The Inspector noted that “At 62 Tottenham Court Road and 1-3 Goodge Street this would comprise a refurbishment of the existing frontages but with adaptations to the roofs”. Conservation area consent was granted on appeal for the “demolition of 63 Tottenham Court Road and 5-7 Goodge Street and the substantial demolition of 1-3 Goodge Street behind a retained façade”.

The proposed amendment which is now sought includes the complete redevelopment of the building include the rebuilding of the façade of no. 1-3 Goodge Street with new materials, windows and a shopfront. It is therefore considered that the scale and nature of the proposed amendments result in a development which is substantially different from that which has been approved.

It is the judgement of planning officers that the erection of a replacement front façade cannot reasonably be viewed as a Minor Material Amendment because

- (a) it would be unreasonable to class as “Minor” something that is effectively seeking to retrospectively authorise a fundamental breach of the approved scheme which as noted included the complete retention of the facade of 1-3 Goodge Street –not least (i) because given the prominence of this feature in the conservation area such rebuilding could only adequately be controlled through submission of a full planning application and (ii) demolition of this element appears to constitute a criminal offence
- (b) it would be unreasonable to class as “Minor” an operation of this scale –effectively building a four storey façade with an area of 99 square metres
- (c) it would be unreasonable to class a “Minor” or an “amendment” an operation relating to a fundamental component of the approved scheme which was specifically required to be retained under the approved scheme

Accordingly it is considered that the submitted proposals cannot reasonably be considered as minor material amendments to the approved scheme.

Other issues

Principle of MMA application

Planning permission was only granted for the redevelopment of the building behind the retained façade requiring the complete retention of the façade of nos. 1-3 Goodge.

The demolition of the façade amounts to an unauthorised departure from one of the most fundamental components of the approved scheme.

The legal position is not straightforward given the unauthorised demolition of the façade but it is clear that the approved scheme can no longer be built out within the parameters set out in conditional planning permission and conservation area consent (Application references 2011/1821/P and 2011/1837/C) granted on appeal (Appeal reference (APP/X5210/E/12/2177813 and APP/X5210/A/12/2177819) on the 6th December 2012.

Thus it is strongly arguable as a matter of law the Council is unable to determine some or all of the aspect of proposed Minor Material Amendment (2014/0831/P) which relate to a permission which can no longer be built out in the approved form

The Council has advised the applicant that it considers planning permission is required for the amended development

Issues with proposals

- Notwithstanding the above an assessment of the proposed amendments has been made and are addressed in turn below;
- There proposed alteration to the basement layout to include the relocation of the approved cycle storage area and provision of the waste and recycling store from ground floor level are in accordance with policy and considered acceptable.
- There are no amenity or designs concerns raised with proposed Changes to the eight of the existing extract duct from the rear of the existing retail unit at 62 Tottenham Court Road.
- There are no design or amenity concerns raised with the removal of the small window from the rear elevation of the communal stair
- It is proposed to reposition the rear windows adjacent to No.9 Goodge Street. These windows would be set back and are considered to be appropriate in design terms.
- The proposed alterations to approved roofline and plant screening of the building result from pre-application discussion with officers. These proposals are considered to be acceptable in design terms.
- Notwithstanding the principle of whether the proposed demolition in itself can be considered as minor or not the proposed works/ detailing is not considered to be an appropriate Minor Material Amendment because it will substantially alter the appearance of the building specifically:
- The façade and shop front are proposed to be 'replicated as original'. For such a proposal to be considered acceptable it would need to replicate the original in terms of materials, detailed design and construction methods. However the approved plans show that the façade will not be rebuilt to match the original. The position, size and detailed design of the windows would differ from original and the façade is to be built using modern construction method. Insufficient information is provided to ensure the use of high quality materials and detailing.
- The proposed replacement façade fails to provide a sufficient quality of architectural design to adequately replicate the original façade. This would be detrimental to the character and appearance of the Charlotte Street Conservation Area contrary to policies CS14 (promoting high quality places and conserving our heritage), DP24 (securing high quality design) and DP25 (conserving Camden's heritage) of the London Borough of Camden Core Strategy and Local Development Framework Development Policies.

Therefore if it were possible to assess these amendments as non-material amendment applications permission would be refused for the proposed amendments.

Conclusion

Demolition works which have taken place at the 62-63 Tottenham Court Road and 1-7 Goodge Street, London, W1T 2EP ("the Property") surpass that which was permitted under conditional planning permission and conservation area consent (Application references 2011/1821/P and 2011/1837/C) granted on appeal (Appeal reference (APP/X5210/E/12/2177813 and APP/X5210/A/12/2177819) on the 6th December 2012.

It is arguable that the Council is unable to determine the Minor Material Amendment application (2014/0831/P) as the proposed works, are substantially different to the approved scheme and seek to vary a planning permission which can no longer be implemented.

In any event it is considered that the submitted proposals cannot reasonably be considered as a minor material amendments to the approved scheme.

Recommendation: Refuse minor material amendment application