



Date: 12th November 2014
PINS Ref: APP/X5210/W/14/3000030
Our Ref: 2014/3918/P
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The Planning Inspectorate
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Dear Mr Devereux,

Appeal by: Delbanco Meyer and Co Ltd against refusal of a section 73 application.

Site at: Portland House, 25a Ryland Road, London, NW5 3EB

Proposal for: Variation of replacement condition 7 (approved plans) of planning permission 2014/0405/P (for alterations to planning permission 2012/6021/P dated 27/08/2013), namely to provide a roof terrace with associated green wall privacy screen.

The Council's case is largely set out in the officer's delegated report and decision notice, which have already been submitted as part of this appeal. In addition to the delegated report / decision notice, I would be pleased if the Inspector could take into account the following additional comments before deciding the appeal.

1. Summary

1.1 The subject application, owing to its scale and nature, is considered to be substantially different from the one which has been approved at the site. As such, it cannot reasonably be considered as a minor material amendment (section 73) application. Moreover, the proposed design would have a detrimental impact on the appearance of the showroom building and wider

conservation area. In addition, the amenity impact of the proposal, by way of overlooking and loss of privacy to neighbouring residential properties, is also considered to be unacceptable. Please see Appendix 1 for photographs of the site from various points.

- 1.2 In terms of reason for refusal 2 (absence of a legal agreement), as per paragraphs 4.3 – 4.7 of the appellant's statement, the Council is liaising with the appellant to agree and submit an executed deed of variation by the required time. This would subsequently overcome reason for refusal 2. This is presently being progressed to meet the deadline of 26 November. Should this not conclude in the anticipated manner, further comments will be submitted on 26 November in this regard.

2.0 The status of the development plan

- 2.1 The Statutory Development Plan is the London Borough of Camden Local Development Framework Core Strategy and Development Policies, adopted following all due consultation and examination in November 2010. The Council refers to policies CS5, CS14, CS19, DP24, DP25 and DP26 in the reasons for refusal, as set out in the officer report already forwarded. In addition, at the national and London wide level the National Planning Policy Framework (NPPF) 2012 and London Plan 2011 are also applicable. The aforementioned London Borough of Camden policies are considered to adhere to the principles of the NPPF and London Plan in these regards.
- 2.2 The Camden Planning Guidance 2011/2013 (CPG) has been subject to full public consultation and was approved and adopted by the Council in September 2011/2013. The relevant extracts from CPG1 Design (adopted in 2013) and CPG6 Amenity (adopted in 2011) have already been forwarded with the questionnaire. CPG is an adopted supplementary planning document (SPD) and is thus invited to be given significant weight in addition to the LDF.

2.3 The Inkerman Conservation Area Statement is another SPD and was adopted in October 2001. The statement is another adopted SPD and therefore invited to be given significant weight.

3.0 Relevant history

3.1 This is outlined in the relevant history section of the officer delegated report. For completeness details of the most relevant decisions, such as a copy of the relevant plans, officer reports and decision notices, are attached to this submission as follows:

- Appendix 2 – Decision notice and plans associated with application PEX0201107 – this shows the pre-existing two-storey building and the approved plans for the largely glazed roof addition which is seen today.
- Appendix 3 – Decision notice and relevant approved floor plans / elevations associated with 2011/1484/P, showing the approved internal layouts for the recently implemented residential use on the upper floors of Portland House (known as Brinsmead Apartments), which is adjacent to the Showroom building.
- Appendix 4 – Decision notice, relevant approved plans and officer report associated with 2012/6021/P. This is the original permission to which the appeal proposal seeks to amend.
- Appendix 5 – Decision notice, deed of variation s106 legal agreement, relevant approved plans and officer report associated with 2014/0405/P. This is the first minor amendment scheme at the building, approved on 1 May 2014.

3.2 It is also noted that, since the application subject to this appeal was determined, a further application relating to the site has been submitted (on 27/08/14) and approved (on 22/10/14). This granted permission for:

Replacement of existing street access gate with new electronically operated hardwood timber clad entrance gate including pedestrian pass

door and branded text, addition of ground level planters to showroom and part of the front elevation of Portland House, insertion of crittall door to side ground level of Portland House and new paving to front of showroom and corridor to side elevation of Portland House (Ref 2014/5490/P)

4.0 Comments on appellants' appeal statement

- 4.1 The vast majority of points raised by the appellant have already been detailed within the officer delegated report. In the interests of brevity such elements, where it is clear that the appellant and Council are not in agreement, are not repeated. However, the following comments are made in response to specific parts of the statement by the appellant.
- 4.2 In response to paragraphs 5.4 – 5.20, the Council reaffirms that it considers the proposed changes would result in a scheme which is substantially different from the approved scheme. The Council refutes three of the four bullet points at paragraph 5.12, instead considering that:
- the amendment would result in a materially detrimental impact visually and in relation to amenity (as detailed in the officer delegated report);
 - the amendment would be contrary to relevant development plan policy (as detailed in the officer report and on the decision notice)
 - the amendment would cause a significant increase in height of building (the 1.65m high green wall / privacy screen, as described in the officer report)
- 4.3 The bullet points above therefore question the assertions made by the appellant at paragraph 5.17.
- 4.4 The Council disputes the appellant's statement at paragraph 5.26 that approved works at Unit D "will significantly limit any views of the Appeal proposals from Ryland Road" (emphasis added by the Council). Although it

is acknowledged that some views to the south end of Ryland Road may reduce, the appellant is failing to consider views such as those from photographs 1, 2, 3 & 6 detailed at Appendix 1, which the Council strongly considers would not be significantly limited by nearby development proposals. Instead it is considered that the appeal building and proposals would continue to be clearly (and detrimentally) visible from these points.

5.0 Conditions

6.1 In the event that the Inspector is minded to allow the appeal, the Council would suggest the condition listed below:

1. The development hereby permitted must be begun not later than the end of three years from the date of the original permission dated 27/08/2013 (Ref: 2012/6021/P).

2. All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

3. Detailed drawings at scale 1:10, or samples of materials as appropriate, in respect of the aluminium privacy fins at second floor level, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.

4. Prior to the first occupation of the residential unit the whole of the 20 spaces of cycle parking provision shown on the approved drawings at the site shall be provided. The whole of the cycle parking provision shall be permanently retained and maintained thereafter.

Reason: To ensure the development site provides adequate cycle parking facilities in accordance with the requirements of policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies.

5. The lifetime homes features and facilities, as indicated on the drawings and documents hereby approved shall be provided in their entirety prior to the first occupation of the new residential unit.

Reason: To ensure that the internal layout of the building provides flexibility for the accessibility of future occupiers and their changing needs over time, in accordance with the requirements of policy CS6 (Providing quality homes) of the London Borough of Camden Local Development Framework Core Strategy and policy DP6 (Lifetime homes and wheelchair homes) of the London Borough of Camden Local Development Framework Development Policies.

6. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the

(No. 2) (England) Order 2008 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the local planning authority.

Reason: To safeguard the visual amenities of the area and to prevent over development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 (Securing high quality design) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

7. REPLACEMENT CONDITION 7 The development hereby permitted shall be carried out in accordance with the following approved plans: 1051.25 Rev A; 1051.26 Rev A; 1051.29; 1051.30 Rev A; 202_150 Rev P1; 202_210 Rev P4; 202_211 Rev P4; 202_350 Rev P3; Lifetime Homes Checklist by CSA; Design and Access Statement dated 09/11/2012 Ref 1051/3.1/JM; Energy Statement by Energytest Ltd dated 01/11/2012; Report on the use and marketing activity of the showroom premises by Salter Rex dated 18/12/2012; Design and Access Statement by CSA; Letter from Savills dated 11/06/2014.

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

8. Prior to the first occupation of the building for residential purposes a plan showing details of the sedum roof and green wall including species, planting density, substrate and a section at scale 1:20 showing that adequate depth is available in terms of the construction and long term viability of the sedum roof and green wall, and a programme for a scheme of maintenance shall be submitted to and approved in writing by the local planning authority. The sedum roof and green wall shall be fully provided in

accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme of maintenance.

Reason: To ensure that the green roof is suitably designed and maintained in accordance with the requirements of policies CS13 (Tackling climate change through promoting higher environmental standards), CS14 (Promoting high quality places and conserving heritage / conservation areas), CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) and CS16 (Improving Camden's health and well-being) of the London Borough of Camden Local Development Framework Core Strategy and policies DP22 (Promoting sustainable design and construction), DP23 (Water), DP24 (Securing high quality design) and DP32 (Air quality and Camden's Clear Zone) of the London Borough of Camden Local Development Framework Development Policies.

9. Only the area specifically shown on the plans hereby approved as an external balcony terrace shall be used for such purposes; and no other flat roofed areas (such as the specified sedum roof) shall be used as a roof terrace, and any access out onto these areas shall be for maintenance purposes only.

Reason: In order to prevent any detrimental impacts of overlooking and/or noise and disturbance of the neighbouring premises in accordance with the requirement of policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

- 6.2 These conditions are recommended in line with paragraph 015 of the Planning Practice Guidance on 'Flexible options for planning permissions'. Condition 1 (timescale for implementation) has been modified to reflect that the applicant does not have a further 3 years to implement the permission,

as per paragraph 015 of the guidance. Conditions 2, 4, 5 and 6 remain unaltered from permission 2012/6021/P and are recommended to be repeated as they continue to apply. Condition 3 is a slightly amended version of condition 3 from permission 2012/6021/P, and repeats that stated as replacement condition 3 from permission 2014/0405/P (as also explained by informative 2 on this decision notice). Condition 7 has been varied / updated accordingly to detail the latest proposed plans and those which remain unaltered from 2012/6021/P. Condition 8 has been amended from that specified as part of permission 2014/0405/P, to reflect that a green wall as well as a sedum roof is proposed and requires further details to be submitted. Condition 9 remains unaltered from permission 2014/0405/P and is recommended to be repeated as it continues to apply.

If you require any further information or clarification on any matter associated with this case please contact Jonathan Markwell on the above direct dial number.

Yours Sincerely,

(Via email)

Jonathan Markwell
Principal Planning Officer
Regeneration and Planning
Culture and Environment Directorate

Appendices

Appendix 1 – Photographs of the site and surrounding area

Appendix 2 – Decision notice and plans associated with application PEX0201107

Appendix 3 – Decision notice and relevant approved floor plans / elevations associated with 2011/1484/P

Appendix 4 – Decision notice, relevant approved plans and officer report associated with 2012/6021/P.

Appendix 5 – Decision notice, deed of variation s106 legal agreement, relevant approved plans and officer report associated with 2014/0405/P.