
Appeal Decisions

Hearing opened on 17 June 2014

Accompanied site visit carried out on 17 July 2014

by Jennifer Vyse DipTP DipPBM MRTPI

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

Decision date: 8 August 2014

Appeal A: APP/X5210/A/13/2207166

Brook House, 2-16 Torrington Place, London WC1E 7HN

- 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 Torrington Place Limited and Whitbread Group plc against the decision of the Council of the London Borough of Camden.
 - The application No 2013/2934/P, dated 16 May 2013, was refused by a notice dated 18 September 2013.
 - The development proposed comprises change of use from offices (use class B1) to hotel (use class C1); internal alterations to facilitate hotel use; replacement of existing roof top plant room with new sixth floor and new roof top plant enclosure; installation of platform lift and new entrance doors to Torrington Place; and other minor associated internal and external works.
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Appeal B: APP/X5210/E/13/2207168

Brook House, 2-16 Torrington Place, London WC1E 7HN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Torrington Place Limited and Whitbread Group plc against the decision of the Council of the London Borough of Camden.
 - The application No 2013/3040/L, dated 16 May 2013, was refused by a notice dated 18 September 2013.
 - The works proposed are described on the application form as 'change of use from offices (use class B1) to hotel (use class C1); internal alterations to facilitate hotel use; replacement of existing roof top plant room with new sixth floor and new roof top plant enclosure; installation of platform lift and new entrance doors to Torrington Place; and other minor associated internal and external works.'
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Decisions

Appeal A

1. For the reasons that follow, the appeal is allowed and planning permission is granted for change of use from offices (use class B1) to hotel (use class C1); internal alterations to facilitate hotel use, replacement of existing roof top plant room with new sixth floor and new roof top plant enclosure, installation of platform lift and new entrance doors to Torrington Place, and other minor associated internal and external works at Brook House, 2-16 Torrington Place, London WC1E 7HN, in accordance with the terms of the application, No 2013/2934/P, dated 16 May 2013, subject to the eleven conditions set out in Schedule A attached hereto.

Appeal B

2. For the reasons that follow, the appeal is allowed and listed building consent is

granted for internal alterations to facilitate hotel use, replacement of existing roof top plant room with new sixth floor and new roof top plant enclosure, installation of platform lift and new entrance doors to Torrington Place, and other minor associated internal and external works at Brook House, 2-16 Torrington Place, London WC1E 7HN, in accordance with the terms of the application, No 2013/3040/L, dated 16 May 2013, subject to the five conditions set out in Schedule B attached hereto.

Procedural Matters

3. Notwithstanding the description of works proposed set out in relation to Appeal B in the header above, it was agreed at the start of the Hearing that listed building consent is not required for the proposed change of use. That is reflected in the wording of the formal Decision.
4. Prior to the Hearing, it became apparent that the Council had not notified all those with an interest in the proposal of the arrangements. At the start of the Hearing, it was agreed that I would proceed to hear evidence in relation to the implications of the proposal on employment floor space within the Borough, its effect on the special interest of the listed building and on the character and appearance of the Bloomsbury and Charlotte Street Conservation Areas, plus various other matters raised by interested parties but which formed no part of the Council's reasons for refusal. The Hearing was then adjourned until 17 July 2014, when I heard evidence relating to the implications of the proposal for the living conditions of local residents and the general amenity of the area and other outstanding matters, the Council having notified all those identified as having an interest in the proceedings of the resumption arrangements.
5. The application is accompanied by a planning obligation in the form of a deed of agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) between the appellant and the Mayor and Burgesses of the London Borough of Camden. The obligation is a material consideration in this case and is a matter to which I return in detail later.

Application for Costs

6. At the Hearing, an application for costs in relation to both appeals was made by the appellant against the Council. That application is the subject of a separate Decision.

Main Issues

7. The main issues relate to the effect of the proposal:
 - on the supply of employment floor space in the Borough;
 - on the living conditions of local residents;
 - and on the special architectural and historic interest of the listed building.

Reasons for the Decision

8. Brook House, built in the 1960s, provides almost 3000 square metres of net lettable office space. It occupies a corner location to the rear of the grade II* listed Heal and Son building (191-199 Tottenham Court Road, including Habitat). The main part of the appeal building, fronting onto Torrington Place, extends to five storeys above ground floor retail uses, plus a basement and

roof top plant. At second to fifth floor level, the accommodation also fronts onto Tottenham Court Road, above the double height retail floor space currently occupied by Habitat. This part of the accommodation is at a higher floor level than the rest of the building, as a result of the greater floor to ceiling heights within the ground and first floor retail element. As a consequence, the floors within this part of the appeal building are split level, separated by 3-4 steps.

9. The main pedestrian entrance to Brook House is taken from Torrington Place, via a wide flight of five steps which lead up to a ground floor lobby/reception area. Service access is also taken from Torrington Place, via a central shared courtyard.
10. It is proposed to convert the building to hotel use. Reception would be at first floor level accessed from Torrington Place through a secure lobby. A platform lift is proposed at the entrance to facilitate disabled/wheelchair access. The plans include a dining area at first floor level (approximately 40 covers) and an ancillary kitchen. It is proposed to replace the existing plant room etc at sixth floor level with an additional floor of bedroom accommodation (21 rooms). This would be set back from both road frontages to minimise its visual impact. Above this would be a new structure containing the lift overrun and stair access (approximately 15 square metres).
11. A total of 24 cycle parking spaces are proposed within the basement area, with two disabled parking spaces shown within the rear courtyard. No further on-site parking is proposed for either staff or guests.

Employment Floor Space

12. The development plan for the area includes the London Plan 2011, the Camden Core Strategy 2010-2025, the Camden Development Policies 2010-2015 and the Fitzrovia Area Action Plan, adopted March 2014 (AAP). The appeal site lies in a mixed use area within the Central Activities Zone as defined by the London Plan 2011. It is also in the Central London Area, forming part of the Central London Frontage, as defined by Camden's own policies. Policies CS9 and DP14,¹ together with Principle 8 of the AAP, are supportive of new hotel accommodation in the Central London Area and the Central London Frontage subject, among other things, to policies protecting employment floor space.
13. Policy CS8 seeks to safeguard existing employment sites and premises that meet the needs of modern industry and other employers. Policy DP13 seeks to retain land and buildings that are suitable for continued business use. It resists changes to non-business use unless it can be demonstrated that the land/building is no longer suitable for its existing business use, and where there is evidence that the possibility of retaining, reusing or redeveloping the land/building for similar or alternative business use has been fully explored, unsuccessfully, over an appropriate period of time. Principle 4 of the AAP seeks to ensure that, where appropriate, existing business premises suitable for small-medium enterprises (defined as those with less than 250 employees) are retained.
14. The supporting text to policy DP13, and Camden Planning Guidance 5: Town Centres, Retail and Employment, provide further guidance on the

¹ Policies in this decision prefaced with 'DP' are set out in Development Policies Document, whilst those prefaced with CS relate to policies within the Council's Core Strategy.

considerations that are to be taken into account when assessing whether development such as that proposed, is acceptable. In particular, changes of use may be allowed in the case of older premises, since the supply of new office accommodation is anticipated to meet current demand within the Borough.

15. Brook House has gradually become vacant since May 2011,² despite having been actively marketed for business purposes since mid December 2011 (a period of some 2½ years by the time of the Hearing). I was advised that the premises had been marketed as flexible floor space, at a very low rental, some £20 per square foot, confirmed as a very competitive rate for the area. Boards were, and indeed still are, displayed on the building, and it has been marketed on line. I also saw that one of the floors has been the subject of some refurbishment, to provide an example for prospective tenants of what could be achieved. Even so, as set out in Appendix 8 of the May 2013 Marketing Report, as updated at Appendix 5 of the appellant's Hearing Statement and at Appendix 2 of the appellant's further statement (May 2014), there has been no serious interest in the premises for employment purposes during the marketing period.
16. At the Hearing, the Council confirmed that it had no problem with the marketing undertaken. Rather, it considered that there must be more demand than that indicated by the interest reported. It also questioned the lack of detailed information in relation to the comments as to why any interest that had been shown had not been pursued.
17. Clearly, neither the appellant, nor the marketing agent, has any control over the number of enquiries that are elicited when premises are marketed, and I have no reason to suppose that the level of interest shown has been manipulated in any way. Indeed, there was no substantiated or objective evidence (such as, for example, details of enquiries in relation to comparable space in similar buildings over a similar period) to lend credence to the Council's concerns on this point.
18. Whilst the commentary on the interest shown is, of necessity, fairly brief, the comments appear to me to be fairly self explanatory. They confirm that the premises are relatively dated and do not have the features required by tenants looking for modern office accommodation. I note, in this regard, that the marketing agent estimates that, at current prices, it would cost in the region of £3.5-4 million to upgrade the building to a decent open plan specification. To partition rooms off to provide smaller spaces, and provide services for each of those spaces (for small-medium enterprises) would cost more still. Even were that work to be undertaken, the building would not be DDA compliant, floor to ceiling heights would not meet current requirements, the reception area would be very small in relation to the size of the building and the floor loading would be significantly below modern office specifications. The listed nature of the premises further restricts work that could be done to address some of those shortcomings.
19. It is no surprise, to my mind, that, as confirmed at the Hearing, the marketing details do not spell out the building's shortcomings (eg the lack of air conditioning, split floor levels, toilet facilities only available on half landings etc)

² At the time of the Hearing, the last remaining tenant, who had been in occupation on the fifth floor of the building, had served notice to quit and was in the process of vacating the premises.

in order not to deter potential interest. So, whilst air conditioning might have been a requirement many potential occupiers, it does not reflect badly on the marketing exercise that the initial interest was not pursued. It was also confirmed that other interest by apparently very large companies, was pursued on behalf of clients of theirs, and was not a search for office accommodation for the companies themselves.

20. My attention was also drawn to the quantity of second hand and new/refurbished office space in the locality that is on the market. That plentiful supply, at very reasonable rents, further reduces the attractiveness of the appeal premises to potential tenants.
21. Paragraph 22 of the National Planning Policy Framework indicates that planning policies should avoid the long term retention of employment sites where there is no reasonable prospect of a site being used for that purpose. On balance, I consider that the level of interest in the building is due to the quality of the premises, which are dated and do not readily lend themselves to conversion for alternative forms of modern employment usage, and not the marketing exercise itself. On the basis of the evidence that is before me, I am in no doubt that the building is no longer suitable for its existing office use and that the possibility of re-using the site for alternative business purposes is not a realistic viable proposition.
22. Where loss of office space can be justified, policy DP13, and the supporting text to CS8, indicate a preference for permanent residential or community use. However, for the reasons set out in the appellant's statement, the elongated plan form and split levels mean that the building is not readily suited to conversion for such purposes. Moreover, the Council confirmed at the Hearing that it was no part of its case that residential or community use was preferred to hotel use, its objection being to the principle of the loss of employment floor space. In any event, as noted above, other policies are supportive of new hotel accommodation in locations such as this.³ Given the location of the appeal site, within the defined Central Activities Zone, the Central London Area, and the Central London Frontage, I find no conflict in principle therefore, with policies CS9, DP14 and Principle 8 of the AAP in this regard.
23. Local residents drew attention to office premises in Windmill Street, where planning permission had been refused for conversion of offices to a hotel, and which have since been refurbished as Class A office space. The Council also referred to the Heals office building at 22 Torrington Place, St Georges Court at Bloomsbury Way/New Oxford Street, and 222 Euston Road, intended to show that it is not unfeasible to refurbish and modernise existing office space.
24. Windmill Street – the related Decision Notice (Document 16) indicates that permission was refused on the basis that the office floor space remained suitable for use, with particular regard to small and medium sized businesses. That is not the case with the appeal premises.
25. Heals – the scheme included extensive refurbishment of communal parts, involving the provision of a large atrium to provide access to the various

³ Principle 8 of the AAP guides the development of large scale visitor accommodation such as this to, among other places, the Central London Frontage on Tottenham Court Road. Whilst local residents queried the boundary of the defined Frontage here, the evidence before me, in the form of a plan submitted by the Council (Document 5), is that the appeal site does lie within the Central London Frontage on Tottenham Court Road, notwithstanding that the entrance to the building is off Torrington Place.

- blocks, and a large entrance hall commensurate with the size of the complex, with level access from the street. The building has been finished in a 'Media Style' that is much in demand currently, attracting premium rents. The appeal building has no period features internally on which to build, and it would not be feasible to create such a product within the 1960s constraints of the building.
26. St Georges Court – is a refurbished grade A headquarters building, in a more popular and higher value office location than the appeal site. It extends to some 13,000 square metres, a rare commodity in the West End. The landlord would have been very confident in being able to let the premises on completion. The appeal building bears no comparison in terms of quality, size or location.
27. For the reasons set out, I find that the schemes referred to are not directly comparable to the proposal. The appeal scheme has been the subject of a robust marketing campaign, which demonstrates that there is no demand for the space here, even were it suitable for refurbishment. The examples cited do not equate to evidence that the appeal building could readily be upgraded to modern standards and I have dealt with the proposal on its merits.
28. Although the Euston Road development was put forward in support of the Council's position, the opposite seems to be the case. Permission was granted by the Council for dual use of a number of floors (education and office), on the basis that that the building did not provide flexible office space nor grade A offices, and would require substantial investment to bring it up to that standard. It had been vacant for over two years and marketed on a flexible basis, with small to medium enterprises in mind, for 17 months without success. On that basis, the loss of the office floor space was considered to be acceptable in principle.

Living Conditions

29. Although the site is located just off Tottenham Court Road, there are residential properties around the appeal site, both further east along Torrington Place (Gordon Mansions and Woburn Mansions) and in its side streets. The concerns of the Council and local residents in relation to living conditions relate to the potential for increased noise and disturbance, particularly in the evenings and at weekends, times when activity associated with office use of the appeal building might be expected to decrease.
30. The evidence of the appellant, based on data derived from other similar establishments operated by the company, shows that there would be a significant decrease in total person trips associated with the use proposed when compared with the potential movements associated with office use of the building. Moreover, although there would be a net increase of vehicle trips, the majority would relate to taxi activity.
31. Torrington Place is part of a one way system that currently links Gower Street with Tottenham Court Road and, as noted in the officer's report to the planning committee, it is already more heavily trafficked than other roads to the east. In addition, the AAP notes (in relation to the Alfred Place Character Area within which the majority of the appeal site lies) that there is a significant pedestrian footfall and cycle traffic along Torrington Place, the south side being fronted by shops and cafés, some of which have seating on the street. Nonetheless, I

- have no reason to suppose that noise levels do not drop during the evening/night time and at weekends.
32. Guest activity associated with hotels peaks during the morning, with guests leaving/checking out, and again during the late afternoon and early evening as they return/check-in. Based on activity at other similar hotels operated by the appellant, the check-in peak occurs between 17.00–19.30/20.00.
 33. The entrance to Brook House is off Torrington Place, approximately 35 metres from its junction with Tottenham Court Road and the majority of the hotel guests arriving by public transport would be likely to come from nearby underground stations, approaching the hotel from Tottenham Court Road. They would not, therefore, pass the residential accommodation further down Torrington Place. Moreover, although there is a public house to the east, on the corner of Huntley Street, those guests not dining/drinking in the hotel would, in my view, be most likely to head back onto Tottenham Court Road to look for restaurants/bars.
 34. I recognise that some guests may arrive from the east though, or may leave in that direction, since buses run along Gower Street. Concerns were expressed, in this regard, about noise from wheeled suitcases. However, no objective or substantiated evidence was before me to support those concerns. Given the urban context of the appeal site, and all the other pedestrian comings and goings associated with existing uses in the locality, I am not persuaded that noise from wheeled suitcases, or even from pedestrian movements associated with the hotel, is likely to be of such magnitude that it would be readily discernable, or that it would result in material harm to the living conditions of local residents at the eastern end of Torrington Place.
 35. The Council took issue with the predicted number of taxi movements, on the basis that the comparison hotels used to inform the data were closer to mainline stations than the appeal site. Be that as it may, the appeal site is approximately 0.5 miles from Euston Station and between 2-8 minutes walking time from nearby underground stations and bus stops. As a consequence, it has a Public Accessibility Level (PTAL) of 6b, which indicates excellent accessibility by public transport. I see no reason therefore, why potential customers would, necessarily, be more likely to use taxis in preference to public transport than is the case at the other Whitbread hotels used to inform the appellant's Transport Assessment.
 36. Even if all anticipated taxi drop offs were to take place at the kerbside in Torrington Place,⁴ that would be unlikely, in my view, to result in any material increase in noise and disturbance for local residents. I am mindful, in this regard, that it is estimated that some 73% of the taxis dropping off at, or collecting from, the hotel would be vehicles that are already on the road network in any event.
 37. In terms of other vehicular noise, it is proposed that deliveries and servicing be restricted to between 07.00-18.00 on weekdays, 08.00-13.00 on Saturdays, with no servicing or deliveries on Sundays or bank holidays, with the evidence before me indicating that such activity is only likely to be around two-three vehicles a day, significantly less than would be associated with office use of the

⁴ The evidence of the appellant is that the one way traffic system makes it more likely that taxis arriving from the south of the site would be more likely to use the nearby taxi drop off bay on Tottenham Court Road, with a 50/50 split between drop offs on Tottenham Court Road and Torrington Place.

building. Existing yellow line markings outside the building on Torrington Place restrict loading/deliveries to between 08.30-20.30 Monday – Saturday. However, a Service and Access Management Plan is proposed, secured by the planning obligation. It would set out a package of measures for the management of access to the hotel, including controls over servicing and deliveries, in order to minimise potential conflict between service vehicles and car and pedestrian movements on the highway network, and to mitigate impact on the amenity of local residents. Such an arrangement is supported by Section 4 of Camden Planning Guidance 7: Transport. Among other things, it would require that service/delivery vehicles use the existing service bay on Tottenham Court Road, with deliveries to be wheeled along Torrington Place to the existing service yard at the rear of the building. Those movements would not pass the residential properties further down Torrington Place. I recognise that the bay might be in use by other vehicles at times. Again though, the process for dealing with those situations would be dealt with by the Service and Access Management Plan.

38. I am fully aware of the amplifying effect that tall buildings along a street can have on noise levels. Nonetheless, the nearest residential properties are at least 45 metres away from the entrance to the service courtyard. Given the existing urban character of the street, and the restrictions on hours for servicing and deliveries, I am not persuaded that there would be any material harm to the living conditions of local residents in this regard, or indeed the residential character towards the eastern end of the road.
39. Other concerns of local residents related to coach parties, stag/hen parties. The appellant confirmed that Whitbread does not take bookings from coach parties or other large groups. Again, this is a matter that would be controlled through the Service and Access Management Plan. Neither, on the evidence that is before me, am I persuaded that a great volume of activity is likely to take place at unsociably early hours. In any event, it seems to me that a hotel operator would be likely to seek to ensure that noise was kept to a minimum, in order to protect the interests of other guests at the establishment.
40. Other concerns for local residents related to loss of daylight and privacy. Although it is proposed to add a further floor of accommodation to the building, it would occupy a smaller footprint than the floors below, being set back approximately 1.15 metres from the Torrington Place elevation. A lift overrun and plant room is shown above part of the additional accommodation. The Daylight and Sunlight Study (May 2013) submitted with the application, demonstrates that all of the windows tested within the nearest residential accommodation to the appeal building would meet the Building Research Establishment daylight and sunlight standards. Moreover, as I was able to see during the site visit, there is little, if any, opportunity for direct overlooking and loss of privacy.
41. All in all, I am satisfied that there would be no material harm to the living conditions of local residents, or the slightly more residential character of the street heading east. There would be no conflict, therefore, with policies CS5, CS9, DP12, DP14, DP20 and DP26 which together, and among other things, seek to protect the amenity and quality of life of local residents and communities.

Listed Building

42. The appeal premises form part of a larger grade II* listed complex of buildings associated with Heals and Habitat. The complex is of both aesthetic and historic value as a tangible record of the incremental growth of Heals, a nationally significant furniture manufacturer and retailer.
43. The Tottenham Court Road frontage is of primary heritage significance. It was built as a salesroom and workshop space, designed to complement the proportions, materials and decorative treatment of the existing store buildings. It is generally regarded as a high quality example of a mid-20th Century contextual design by Fitzroy Robinson and Partners, a leading architectural practice of the period. The Torrington Place part of the building is of a lesser order of interest, although it has some value as an element of the mid-late 20th century expansion of the Heals site. It is of a different, albeit related architectural character to the Tottenham Court Road frontage. Nonetheless, its architecture is well handled, with a pronounced vertical emphasis, and it utilises good quality materials, acting as a foil to the more elaborate retail frontage on Tottenham Court Road.
44. Internally, Brook House does not retain any plan form or features of significance, although the change in level between the Tottenham Court Road frontage and the Torrington Place element is possibly a reflection of the different functions of the different parts of the building as it evolved. The existing office layout is heavily modified and is of no aesthetic or historic merit.
45. Since the current commercial office use makes no contribution to the significance of the building, the proposed change of use would not result in any harm to its special interest. No issue is taken with the proposed removal of the existing, unattractive, modern roof top additions, and replacement with a sixth floor of accommodation. The design and siting of the extension has clearly been informed by a good understanding of the architectural character of Brook House and its setting, and I have no reason to take a different view. Indeed, there would be some benefit, through the removal of the unattractive brick plant enclosure/lift overrun and safety railings on the roof top, and their replacement with an extension with an architectural character that responds well to that of the host building.
46. Internally, it is proposed to utilise room 'pods' which would be set back from the façade where possible. This would minimise the extent and nature of interference with the historic fabric of the building. Any associated external visual impact would also be minimised, with the windows to the pods appearing as secondary glazing, with the columns being the markers for the room partitions. This will ensure that there is no disruption to the architectural rhythm created by the regularly spaced windows and columns, particularly to the Tottenham Court Road frontage. The approach also allows for improved acoustic and thermal performance without the need for substantial alterations to the existing windows and the external building fabric. Although the arrangement is unusual, the impact on the historic fabric and on the external elevations of the building would, subject to conditions, be acceptable.
47. Taken as a whole, I consider that the internal and external alterations proposed would preserve the special interest of the listed building. Indeed, neither English Heritage nor the Council raised any objection to the physical works involved. I find no conflict, therefore, with policies CS14 and DP25 of the

development plan, which generally reflect the thrust of the statutory duty in relation to listed buildings, or with the Framework, which aims to conserve heritage assets in a manner appropriate to their significance.

48. The reason for refusal of the listed building application refers to the absence of any planning permission for the use proposed. The Council's case is that the works would undermine retention of the current office use, since the alterations would make occupation for office purposes 'inconceivable', resulting in a long period of vacancy which could, in turn, see the building deteriorate.
49. However, in determining applications for listed building consent, the crucial duty is that contained in the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). It provides that, in considering whether to grant consent, special regard is to be had to the desirability of preserving the building itself, its setting, or any features of special architectural or historic interest which it possesses. Accordingly, in the absence of any actual harm to the special interest of the listed building, I find that the Council's concerns in this regard, do not tell against the grant of listed building consent.

Other Matters

50. The appeal building lies within the Bloomsbury Conservation Area, adjacent to the Charlotte Street Conservation Area. The extensive Bloomsbury Conservation Area has been divided into a number of character areas, the appeal site lying within area 4, which is described as having a commercial character. The development proposed comprises a commercial use. I have also found that the physical alterations proposed would not have any adverse impact on the special interest or significance of the listed building. Accordingly, there would be no harm to the established character or appearance of Bloomsbury Conservation Area, which would be preserved. For the same reasons, there would be no harm to the setting or significance of the nearby Charlotte Street Conservation Area.
51. Local residents felt that refuse collections, and hotel customers arriving or departing by taxi, may cause an obstruction to traffic on Torrington Place, and that the existing two-way cycle lane along Torrington Place might be confusing for those customers arriving on foot, with consequences for their safety.
52. Torrington Place is a one way street, with traffic only being able to turn right at the junction with Tottenham Court Road which is, itself, currently one way at this point. I recognise, in this regard, that policy DP14 requires that new large scale visitor accommodation should provide necessary off-highway pick up and set down points for taxis. However, in the immediate vicinity of the appeal site the carriageway is relatively wide (approximately 6 metres) with single yellow line parking restrictions in places. As noted above, taxi drop offs will take place either at the nearby taxi lay-by on Tottenham Court Road or, alternatively, taxis are able to pull in and use the access off Torrington Place that serves the courtyard to the rear. In any event, I consider there to be sufficient space within the highway for kerbside drop offs without material harm to the safety and free flow of traffic along Torrington Place and a separate off-highway lay by here is not necessary. Whilst the two way cycle lane arrangement here might not be commonplace, I have no reason to suppose that it is particularly hazardous and saw that it was well marked. I note, in this regard, that there is no evidence to suggest that it presented a particular hazard for visitors to the office building or others who might not be familiar with area.

53. With regard to refuse, the hotel would continue with the existing arrangement for the offices, with space for waste and recycling storage provided within the shared internal courtyard, to be collected from the kerbside as part of the current collection arrangements. There is space to 'park' the refuse bins within the mouth of the vehicular entrance off Torrington Place on collection days, such that they need not obstruct the pavement. Refuse collection would be from the kerbside, the carriageway being of sufficient width to allow two large vehicles to pass each other.
54. Although highway safety was not an issue raised in the reasons for refusal, or in the Council's statement, the Council did express concern at the Hearing that the traffic generation data used to inform the Transport Assessment underestimated the expected movements that might be associated with the proposed hotel. Nevertheless, no objective analysis of its own was produced to support that assertion.
55. So, whilst Torrington Place is a busy road, no substantiated evidence is before me that leads me to the view that the development proposed would be likely to result in material harm to the safety and free flow of traffic or the safety of pedestrians. I am especially mindful that Transport for London is satisfied with the arrangement proposed and raises no objection, subject to conditions.
56. I was made aware of a number of small boutique hotels on Gower Street and its environs, at the opposite end of Torrington Place to the appeal site. Concern was expressed, in this regard, about the possible impact of the proposed hotel on the future of those establishments. However, it is well established that the planning system does not exist to protect the private interests of one person against the activities of another. Whilst public and private interests may sometimes coincide, the basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest. As is clear from my reasoning above, I am not persuaded that any such public interest arises in this case.
57. An appeal decision allowing change of use of offices to hotel in Red Lion Street, elsewhere in the Borough, was also drawn to my attention.⁵ However, that case is distinguished from that the subject of this appeal in that one of the main issues related to the impact of the development on the potential supply of permanent residential accommodation in the Borough, as opposed to concerns about the loss of employment floor space. Secondly, the environs of the building were different from that here, in that there were numerous uses in the locality that already operated well into the evening. Accordingly, that decision speaks neither in favour of, nor against, the scheme the subject of this current appeal, which I have considered on its own merits.
58. Local residents drew attention to a recent consultation on the West End Project (Document 17) which, in essence, plans to make Tottenham Court Road and Gower Street two way, to close some side streets to motor vehicles, improve cycling and walking and to create new and improved open spaces. In relation to the appeal scheme, any implications in terms of taxi access, and access for servicing and delivery vehicles, would be addressed through the Service and Access Management Plan to be submitted. I am mindful, in this regard, that

⁵ Appeal Ref: APP/X5210/A/12/2185213

the nearby taxi/servicing bay on Tottenham Court Road is shown to be retained, albeit with increased restrictions on hours of use. Whilst the project would, if implemented, result in a significant increase in traffic movements along Torrington Place, I am not persuaded that that speaks against the proposed conversion.

Planning Obligation

59. A planning obligation accompanies the application. It comprises an Agreement between the appellant and the Council and is in the form of a deed. It secures a number of measures in the event that the appeal were to succeed, and is intended to meet a range of local policy objectives. The use of planning obligations is supported by policy CS19, which relates to the delivery and monitoring of the Core Strategy, and by Camden Planning Guidance 8: Planning Obligations (CPG8). The National Planning Policy Framework confirms that planning obligations should only be accepted where they are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. I have also had regard to Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

CONSTRUCTION MANAGEMENT PLAN

60. Given the constrained nature of the site in terms of the local highway network, and its proximity to residential properties, a Construction Management Plan is necessary. It will minimise, so far as is possible, impact on the amenities of those living in close proximity to the development site during the construction process, and disruption to the highway network. The arrangement secured is supported by Section 3 of CPG8, which seeks to manage the transport of goods and materials in a sustainable manner and in a way that protects the amenities of Camden's residents.

SERVICE AND ACCESS MANAGEMENT PLAN

61. Hotel developments generally have high servicing needs. To this end, a Service and Access Management Plan is also secured. It would set out a package of measures to be adopted for the management of access to the development, servicing and deliveries, in order to minimise potential conflict between service vehicles and car and pedestrian movements on the highway network, and to mitigate impact on the amenity of local residents. The requirement is supported by Section 4 of Camden Planning Guidance 7: Transport (CPG7) which, in the pursuit of sustainable development, seeks to ensure that new development is well integrated with the existing highway network, improving Camden's health and well-being.

PUBLIC OPEN SPACE

62. The obligation secures the sum of £55,897 as a contribution towards the provision of public open space and improvements to existing public open spaces in the vicinity of the development. Section 11 of Camden Planning Guidance 6: Amenity (CPG6) makes it clear that developments of the size proposed are likely to increase worker/visitor populations of the Borough, with a consequent increase in demand on, and for, public open space. Such development is therefore required to make an appropriate contribution, with both CPG6 and CPG8 setting out the specific calculation.

EMPLOYMENT AND BUSINESS SUPPORT CONTRIBUTION

63. Where the loss of employment floor space can be expected to result in a reduction in job opportunities for Camden residents, Section 8 of CPG8, requires a contribution towards training and employment measures to enable residents to access alternative employment. To this end, the obligation secures a contribution of £90,750, based on the calculations set out in CPG8.

EMPLOYMENT IN DEVELOPMENT CONTRIBUTION

64. Section 8 of CPG8 also require a contribution to support training and provide employment advice to help local residents access local jobs, and support local procurement initiatives in Camden. A contribution of £12,000 is secured by the obligation for this purpose, based on the calculations in CPG8.

SUSTAINABILITY PLAN

65. Section 7 of CPG8 requires that all development should contribute to the mitigation of, and adaptation to climate change, should minimise carbon dioxide emissions and contribute to water conservation and sustainable urban drainage. To this end, the obligation secures the submission of a Sustainability Plan. It will ensure that the development achieves a BREEAM rating of Very Good or Outstanding, attaining at least 60% of the credits in each of the energy and water categories, and 40% of the credits in the materials category.

LOCAL EMPLOYMENT

66. There is an identified skills gap between Camden residents and local jobs on offer, with only 23% of the current workforce resident in the Borough. Local employment and training initiatives open up job opportunities for people from many sectors of the community who may otherwise find it difficult to access employment. Such benefits can help alleviate the recognised impacts that major development and construction works bring. The appeal scheme falls within the definition of major development set out in CPG8. To this end, the obligation requires that, working in conjunction with Kings Cross Construction Training Centre, all reasonable endeavours are used to ensure that no less than 20% of the work force is comprised of local residents.

LOCAL PROCUREMENT

67. Pursuant to Section 8 of CPG8, the obligation ensures that the developer signs up to the Council's Local Procurement Code. The sourcing of goods and services locally will help support economic growth in the area in order to achieve a more sustainable pattern of development.

TRAVEL PLAN

68. Although a Framework Travel Plan was submitted as part of the planning application, the obligation ensures that a detailed Travel Plan will be produced, subsequently implemented and periodically reviewed. The Travel Plan would contribute to the sustainability credentials of the development, pursuant to the requirements of Section 10 of GPG8 and Section 3 of CPG7.

ASSESSMENT AGAINST THE TESTS

69. The obligations secured are supported by the development plan and by various of Camden's Planning Guidance Documents. On the basis of the purpose of each of the obligations, as set out above, I consider them to be necessary to

make the development acceptable in planning terms, directly related to, and are fairly and reasonably related in scale and kind to, the development. I am satisfied, therefore, that the contributions and obligations meet the Framework tests and comply with the CIL Regulations

Conclusion

70. I have found that the appeal scheme would not materially undermine the Council's supply of employment floor space. There would be no material harm to the living conditions of nearby residents, or the character and appearance of the Conservation Area, and the special interest of the listed building would be preserved. Moreover, I have found that the contributions and other arrangements secured by the planning obligation are justified by the development proposed, with reference to the Council's guidance and policies. On balance therefore, for the reasons set out above, I conclude on balance that the appeals should succeed.
71. There is no doubt that there is strong local feeling about this proposal, as reflected by the volume of objections received at both application and appeal stage, and the well articulated opposition demonstrated at the Hearing itself. I quite understand therefore, that the outcome of this appeal will be disappointing for local residents and am mindful, in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents, very important though they are, must be weighed in the balance with other considerations. The starting point in this case, is the development plan. In coming to my conclusions on the issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have evaluated against the provisions of the development plan, the National Planning Policy Framework and other guidance. For the reasons set out above, I find no conflict with the relevant policies and guidance, nor any other material harm. On careful balance, therefore, the evidence in this case leads me to conclude that the appeals should be allowed.

Conditions

72. I have considered the conditions suggested by the parties in the light of the related discussion at the Hearing, the guidance set out at paragraphs 203 and 204 of the Framework, and in the recently issued planning guidance.

Appeal A

73. Suggested conditions relating to materials (2), details of the roof extension and plant enclosure (11c), service runs (11e), and other works (11f) were deleted on the basis that they either replicated other conditions, were unnecessary, or were more appropriate in relation to the listed building consent.
74. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.
75. Details of external materials, railings and handrails, and new door and window openings, need to be agreed in order to safeguard the character and appearance of the Conservation Area and the special interest of the listed building.

76. A condition controlling noise levels in relation to the rooftop plant is necessary in order to protect the living conditions of local residents and the amenities of the area generally. The possibility of inserting specific noise levels into the suggested condition was discussed at the Hearing. On balance, however, I consider that, in order to better protect the amenities of local residents in this regard, it would be preferable to use the suggested condition, but with an added requirement for the submission of details to demonstrate that the arrangement to be installed would comply with the limitations imposed.
77. AS discussed previously, hours for servicing and deliveries need to be controlled in order to protect the living conditions of nearby residents.
78. In order to ensure that the hotel is fully accessible by disabled persons, including those in wheelchairs, it is necessary to ensure that the rooms identified on the plans as being 'Universal Access' are provided as such, and that the on-site parking provision and platform lift, shown on the approved plans, are provided and retained thereafter.
79. In the interest of sustainable development, and to promote cycling as an alternative to the private car, it is necessary to ensure that the cycle parking proposed is provided and thereafter retained.
80. In order to ensure that the hotel development hereby permitted does not hinder the operation of neighbouring uses or interfere with the flow of pedestrians past the building, it is necessary to ensure that the refuse store proposed is provided and retained thereafter.

Appeal B

81. In addition to the standard time limit on the commencement of development, it is necessary to protect the special architectural and historic interest of the listed building. To that end, I shall therefore impose conditions requiring the submission of details of the internal partition walls, hotel room structures, and service runs for the new bathrooms, and their relationship with the historic fabric of the main building structure. All new external works and finishes, including works of making good, will also need to match the original adjacent work.
82. Although a condition was suggested to the effect that the only approved works were those shown on the approved plans, I am not persuaded that such is necessary. Any other works to the building which might affect its character as a building of special architectural or historic interest would require listed building consent and thus would be controlled by the local planning authority in any event.

Jennifer A Vyse
INSPECTOR

Schedule A
Conditions attached to
Appeal Decision APP/X5210/A/13/2207166
Brook House, 2-16 Torrington Place, London WC1E 7HN

- 1) The development hereby permitted shall begin not later than the end of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3114/OS/001A; 3114/P/001D; 3114/P/002D; 3114/P/003D; 3114/P/004D; 3114/P/005D; 3114/P/006D; 3114/P/009C; 3114/P/010C; 3114/P/011; 3114/P/012; 3114/P/013; 3114/P/014; 3114/P/099C; 3114/P/100C; 3114/P/101C; 3114/P/102D; 3114/P/103D; 3114/P/104B; 3114/P/105B; 3114/P/106C; 3114/P/107B; 3114/P/108B; 3114/P/109B; 3114/P/110D; 3114/P/111C; 3114/P/112C; 3114/P/113C; 3114/P/114C; 3114/P/115C; 3114/P/116C; 3114/P/117B; 3114/P/119C; 3114/P/120; 3114/F5/100A; 3114/F5/101D; 3114/F5/102D; 3114/F5/103D; 3114/F5/104D; 3114/F5/105E; 3114/F5/106D; and 3114/F5/107D.
- 3) The facing materials for the sixth floor extension shall match the existing materials in terms of colour, texture and finish, with details to have been submitted to and approved in writing by the local planning authority prior to commencement of development. A sample panel of the approved materials, at least 1 square metre in size, shall be constructed on site. The local planning authority shall be informed, in writing, on completion of the sample panel which shall then be inspected. All subsequent walling shall match the sample panel, subject to any modifications required in writing by the authority.
- 4) Prior to commencement of development, details in respect of the following shall be submitted to and approved in writing by the local planning authority:
 - a) details of the new railings and hand rails, at a scale of not less than 1:10, including materials, finish and method of fixing to the plinth;
 - b) plan, elevation and section drawings, including jambs, heads and cills of all new external window and door openings and secondary glazing;Development shall be carried out only in accordance with the approved details.
- 5) Prior to the first operation of any of the external cooling plant shown on plan Nos 3114/P/106C and 3114/P/107B, a detailed Acoustic Report, prepared by a suitably qualified acoustic engineer, demonstrating how that plant/machinery complies with the following, shall be submitted to and approved in writing by the Local Planning Authority:

Noise levels associated with the external cooling plant shall, at a point 1 metre external to noise sensitive facades, be at least 5dB(A) less than the existing background measurement (LA90), expressed in dB(A) when all that plant/equipment (or any part of it) is in operation, unless the plant/equipment hereby permitted will have a noise that is distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps),

then the noise levels from that piece of plant/equipment at any noise sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Development shall be carried out in accordance with the approved details. All installed external cooling plant and acoustic attenuation measures shall be retained thereafter and maintained in accordance with manufacturer's recommendations.

- 6) Service deliveries to and from the hotel premises hereby permitted shall not take place other than between the hours of 07.00-18.00 Monday-Friday and 08.00-13.00 on Saturdays, nor at any time on Sundays and bank/public holidays.
- 7) Prior to first occupation of the hotel hereby permitted, the nine bedrooms identified as being Universal Access rooms, shall be constructed as wheelchair accessible rooms and shall be retained as such for the life of the development.
- 8) Prior to first occupation of the hotel hereby permitted, the two disabled parking spaces shown on plan No 3114/P/100C shall be provided and made available for use. Once provided, those spaces shall be retained thereafter and shall not be used for any other purpose.
- 9) Prior to first occupation of the hotel hereby permitted, the platform lift shown on plan Nos 3114/P/100C and 3114/P/116C shall be provided and made available for use. Once provided, the lift shall be retained thereafter.
- 10) Prior to first occupation of the hotel hereby permitted, the cycle storage area within the basement, as shown on plan No 3114/P/099C, shall be provided and made available for use by staff and guests. Once provided, those cycle storage spaces shall be retained thereafter and shall not be used for any other purpose.
- 11) Prior to first occupation of the hotel hereby permitted, the refuse store within the rear courtyard, as shown on plan No 3114/P/100C shall be provided and made available for use. Once provided, the refuse store shall be retained thereafter and shall be used for no other purpose.

Schedule B
Conditions attached to
Appeal Decision APP/X5210/E/13/2207168
Brook House, 2-16 Torrington Place, London WC1E 7HN

- 1) The works hereby permitted shall begin not later than the end of three years from the date of this consent.
- 2) Detailed drawings showing how the internal partition walls would be detailed, finished and attached to the main structure of the building, are to be submitted to and approved in writing by the local planning authority before the relevant part of the works are begun. Work shall be carried out only in accordance with the approved details.

- 3) A full mock-up of one of the hotel room structures, including the partition walls, shall be constructed on site at second and third floor levels on the Tottenham Court Road frontage, before the relevant part of the works is begun. The local planning authority shall be informed, in writing, on completion of the mock-ups, which shall then be inspected. All subsequent works relating to the hotel room structures shall match the corresponding mock-up, subject to any modifications required in writing by the authority.
 - 4) Prior to commencement of works, details of the service runs for all new bathrooms, demonstrating the relationship of the pipework with the structure of the building, are to be submitted to and approved in writing by the local planning authority. Works shall be carried out only in accordance with the approved details.
 - 5) All new external works and finishes, and works of making good of the retained fabric, including the retained windows, shall match the existing original adjacent work in respect of material, colour, texture and profile unless shown otherwise on the drawings or other documentation hereby approved or as required by any condition attached to this consent.
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APPEARANCES

FOR THE APPELLANT:

Mr T Blaney MSc, Legal Associate MRTPI (Solicitor – currently not practicing)	Trevor Blaney Planning
Mr N Jenkins MRICS	Director Smith Jenkins Town Planning Consultants
Mr R Bouchier MRICS, ACI Arb	Partner at Allsop LLP
Mr N Rowe	Associate at RGP Transport and Infrastructure Design Consultants
Mr D Saunders	Clarke Saunders Associates
Mr J Langdon MRICS	Acquisitions Manager with Whitbread Hotels and Restaurants
Mr N Chan	Torrington Place Limited

FOR THE LOCAL PLANNING AUTHORITY:

Miss T Skelli-Yaoz	Planning Officer with the Council
Miss Z Trower	Transport Planner with the Council

INTERESTED PERSONS:

Mr C Henderson	Gordon Mansions Residents' Association (Chair) - also speaking on behalf of Mr M Neufeld, Charlotte Street Residents' Association
Miss S Wheen	Gordon Mansions Residents' Association (joint Secretary)
Mr D Wield CEng	Local resident
Mr A Cumming CEng, FInstMedE, DMS	Chenies Mews Residents' Association
Mrs B Cumming	Chenies Mews Residents' Association
Ms M Howard	Local resident
Mr H Rouse	Local resident
Ms Simmonds	Local resident

Documents submitted during the Hearing

- 1 Appearances for the Appellant
- 2 Charlotte Street Conservation Area Appraisal and Management Plan (July 2008)
- 3 Extract from The London Plan 2011 (policies 7.11 and 7.12)
- 4 Extract from The London Plan 2011 (policies 2.9, 2.10, 2.11, 2.12 and 2.13)
- 5 Extracts from the Core Strategy Proposals Map
- 6 Extract from the Core Strategy (Map 2 showing defined Growth Areas and Central London Frontages)
- 7 Extract from the Core Strategy (policy CS1; Map 1 Key Diagram; policy CS2)
- 8 Extract from The London Plan 2011 (Map 2.3 The CAZ Diagram)
- 9 Officer's report in relation to The Heals Building (Application No 2012/0059/P and 2012/0066/L)
- 10 Section 106 Agreement (as amended)
- 11 Officer's Report in relation to 199-206 High Holborn (Application No 2011/4914/P)
- 12 Supplementary Agenda (Public Document Pack) for the Council's Development Control Committee meeting of 5 September 2013
- 13 Minutes of the Council's Development Control Committee meeting of 5 September 2013
- 14 Additional Statement on behalf of the Appellant, plus appendices
- 15 Camden Planning Guidance No 5: Town Centres, Retail and Employment
- 16 Application details for Charlotte House, 11-14 Windmill Street, London (Application No 2012/6693/P)
- 17 West End Project Consultation
- 18 Traffic survey data (appellant)
- 19 Photographs showing traffic on Torrington Place (Mr Henderson)
- 20 Plan showing pubs/restaurants/cafes in the vicinity of Red Lion Street (Mr Henderson)
- 21 Plan showing extent of residential accommodation in the vicinity of Torrington Place (Mr Henderson)
- 22 Note on S106 policy compliance (appellant)
- 23 Section 106 (final)
- 24 Extracts from Camden Planning Guidance 7: Transport and 8: Planning Obligations
- 25 High level photograph along Torrington Place (Mr Henderson)
- 26 Application for costs