



Date: Wednesday 15th April 2015
PINS Refs: APP/X5210/W/15/3007974
Our Ref: 2014/4551/P
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Neale Oliver
The Planning Inspectorate
3/05a Wing
Temple Quay House
2 The Square
Bristol, BS1 6PN

Dear Neale Oliver,

Appeal by Mr Kamal Pankhania
Site at Alliance House, 27-29 High Holborn, London, WC1V 6AZ

Application proposal:

Erection of 2 storey rear extension at 4th and 5th floor levels above approved 2nd and 3rd floor rear extension under ref. 2013/7078/P dated 11.07.2014 to provide new office floorspace.

The Council's case is largely set out in the officer's delegated report dated 31st March 2015 which details the proposal, site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

In addition to the information sent with the questionnaire I would be pleased if the Inspector would take into account the following information and comments before deciding the appeals.

1. Summary

1.1 The site is located on the north side of High Holborn close to the junction with Fullwood Place. The surrounding area comprises a mix of uses, mainly commercial, with a variety of retail units and office entrances at ground floor level. The site is located in the Bloomsbury Conservation Area and is designated as a Central London Frontage. The site relates to a former bank/building society at ground floor and basement levels which form part of a 7-storey office building fronting High Holborn. The ground floor of the building runs through to Fullwood Place at the rear however there is a void at first floor level between the front building and a two storey office building at the rear of the site. The

two storey rear building and the High Holborn building are linked via a corridor at second floor level.

1.1 This is an appeal against non determination. The Council has subsequently resolved that it would have refused planning permission for the proposed development in the planning application that is the subject of this appeal for the following reason:

‘The proposed development fails to contribute to the supply of housing and so would result in an unacceptable mix of uses in the area contrary to policy CS1 (Distribution of growth) of the London Borough of Camden Local Development Framework Core Strategy and policy DP1 (Mixed use development) of the London Borough of Camden Local Development Framework Development Policies.

The proposed development, in the absence of a legal agreement to secure a Construction Management Plan, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP20 (Movement of goods and materials) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.’

2. Development Plan Policies

2.1. The Development Plan for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 will be The Camden Core Strategy and Camden Development Policies of the Local Development Framework. This was adopted in 2010 following a full consultation exercise. The relevant LDF policies as they relate the reason for refusal are set out in the decision notice. The proposal is also contrary to Camden Planning Guidance No 1 Design, amendments adopted 2013.

2.2. These policies are recent and up to date. They accord with paragraphs 214 -216 of the NPPF. There are no material differences between the Council’s policies and the NPPF in relation to this appeal.

3. Comments on the Grounds of Appeal

4. Response to appellant’s comments

The appellant has appealed (Ref APP/X5210/W/15/3007974) on the ground of non-determination, as the Council failed to give notice of its decision within 8 weeks, i.e. by 26th December 2014. The application is contrary to Policies CS1 (Distribution of growth) of the London Borough of Camden Local

Development Framework Core Strategy and policy DP1 (Mixed use development) of the London Borough of Camden Local Development Framework Development Policies which states where proposals would create an additional 200sqm of floorspace in central London locations, a contribution to the Borough's housing supply is required. The Appellant's Statement of Case has not offered any justification as to why no residential use can be included on site or why it cannot be included elsewhere or to provide a contribution to the mix of uses elsewhere in the area. Had an appeal not been lodged, the Council would look to seek further information and negotiate this policy where there is scope to do so.

5. Construction Management Plan

5.1.1 The proposed development, in the absence of a legal agreement to secure a Construction Management Plan, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP20 (Movement of goods and materials) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.

5.1.2 The proposal would result in significant demolition and construction works on a site located within a Conservation Area, close to neighbouring residential properties and High Holborn which is a Transport for London Road Network (TLRN) for which TfL are the highway authority. The construction is likely to have a significant impact and the management of the construction will need to be planned in order to minimise any impact on High Holborn and neighbours. This could be achieved through a Construction Management Plan (CMP) in accordance with policies CS5, CS11, CS19, DP20, and DP26 specifically paragraph 26.10, and CPG7 – Transport.

5.1.3 A planning obligation is considered to be the most appropriate mechanism for securing compliance with a CMP in this case simply

because a considerable extent of the activity during construction could cause conflict with other road users or be detrimental to the amenity of the area and will necessarily take place outside the curtilage of the planning unit of the appeal site. Potential impacts for the proposed demolition/construction works which should be controlled by a CMP include traffic generation from removal and delivery of materials to the site. This could result in traffic disruption and dangerous situations for pedestrians and road users.

5.1.4 Under the Planning Act conditions are used to control matters on land within the developers' control. However, a CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site but also around the site in order to minimise as far as reasonable the detrimental effects of construction on local residential amenity and / or highway safety on the nearby roads hence, using a condition to secure the type of off-site requirements usually included in a CMP would in this case be unenforceable.

5.1.5 Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to off site requirements, particularly public highway (which is not land within the developers' control). As such, a Section 106 Agreement (rather than a condition) is the most appropriate mechanism. This is in accordance with Planning Practice Guidance which states that conditions requiring works on land that is not controlled by the applicant often fails the tests of reasonability and enforceability. (PPG, Use of Conditions paragraph 9 – Appendix 6)

5.1.6 CIL Compliance: The CMP requirement complies with the CIL Regulations as it ensures that the development is acceptable in planning terms to necessarily mitigate against the transport impacts of the development as identified under the Development Plan for developments of the nature proposed. It is also directly related to the

development and fairly and reasonably related in scale and kind as it relates to managing impacts to neighbours and on the surrounding highways from construction at the site.

5.1.7 Under the Planning Act conditions are used to control matters on land within the developers' control. However, a CMP is designed to be an enforceable and precise document setting out how measures will be undertaken not just on site but also around the site in order to minimise as far as reasonable the detrimental effects of construction on local residential amenity and / or highway safety on the nearby roads hence, using a condition to secure the type of off-site requirements usually included in a CMP would in this case be unenforceable.

5.1.8 Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to off site requirements, particularly public highway (which is not land within the developers' control). As such, a Section 106 Agreement (rather than a condition) is the most appropriate mechanism. This is in accordance with Planning Practice Guidance which states that conditions requiring works on land that is not controlled by the applicant often fails the tests of reasonability and enforceability. (PPG, Use of Conditions paragraph 9 – Appendix 6)

6. Other Matters

6.1. Without prejudice to the Council's submissions and if the Inspector is minded to grant planning permission, it is requested that the condition attached to this letter as **Annex A** be imposed. The justification is set out beneath each condition.

6.2. On the basis of information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal.

6.3. If any further clarification of the appeal submissions are required please do not hesitate to contact Mandeep Chaggar on the above direct dial number or email address.

Yours sincerely

Mandeep Chaggar
Planning Officer
Culture and Environment Directorate

Annex A

Conditions

1) 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 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

1) A Construction Management Statement (CMS) outlining how construction work will be carried out and how this work will be serviced shall be submitted to and approved in writing by the Council before development commences. The development shall be carried out in accordance with the approved CMS unless otherwise agreed by the Council.

Reason: To protect the local transport network and the amenity and safety of pedestrians and other road users in accordance with the requirements of policy CS5 (Managing the impact of growth) of the London Borough of Camden Local Development Framework Core Strategy, and policies DP20 (Movement of goods and materials) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies.