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25284/A5/GS

3 September 2015

Dear Mr. Yeung,

REPRESENTATIONS ON FULL PLANNING APPLICATION (LPA REF: 2015/3605/P)
112A GREAT RUSSELL STREET, LONDON, WC1B 3NP

We write on behalf of on behalf of our client, Mrs Chrissie Ganjou of 14 Adeline Place, in respect of the Full Planning Application 2015/3605/P submitted to the London Borough of Camden by Criterion Capital ('the Applicant') in relation to the redevelopment of 112A Great Russell Street, London WC1B 3NP ('the Application Site') with the following:

Change of use of part ground floor and basement levels -4 and -5 from Car Park (sui generis) to 166 bedroom hotel (Class C1), including alterations to ground floor elevations on Great Russell Street and Adeline Place ('the Proposed Development').

Our client is a Bedford Mansions Owner who has either rented or owned their current address since 1991, which is located directly opposite (approximately 25 yards) from the Application Site and will be significantly impacted upon as a result of the Proposed Development. What is more, our client/family have lived in/been associated with Bedford Court Mansions for over 80 years. Our client therefore has a detailed understanding of the nature of the operation of the existing car park and have become accustomed to the noise and disturbance associated with living in a central London environment.

Our client is, however, concerned that the scheme fails to strike a suitable balance between supporting economic growth in London and importance of protecting the amenities of existing residents. In the interests of proper planning, this representation also considers the procedural matters relevant to planning application process and other planning policy issues.

In short, objection is made to the principle and merit of the above application. In our view, the proposals are contrary to national, regional and local planning policy and planning permission should be refused.



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Planning History

The current planning application follows three previous applications, all of which have either been refused or withdrawn by the applicant prior to determination. Details of the applications are summarised in the table below:

Application Ref.	Decision	Date	Description
2012/1825/P	Withdrawn	N/A	Change of use of basement levels -4 and -5 from car park (Sui Generis) to 175 bedroom hotel (Class C1), creation of entrances from Adeline Place (doors and cladding) and Great Russell Street (canopy, entrance doors and ground floor extension to accommodate lift) and installation of metal gate onto Adeline Place.
2012/3855/P	Withdrawn	N/A	Change of use of basement levels -4 and -5 from car park (Sui Generis) to 175 bedroom hotel (Class C1), creation of entrances from Adeline Place (doors and cladding) and Great Russell Street (canopy, entrance doors and ground floor extension to accommodate lift) and installation of metal gate onto Adeline Place.
2013/5075/P	Refused	29/09/2014	Change of use of part ground floor and basement levels -4 and -5 from public car park (sui generis) to 166 bedroom hotel (Class C1), including alterations to openings, walls and fascia on ground floor elevations along Great Russell Street and Adeline Place.

Most recently planning application 2013/5075/P was refused permission by the Council on 26 September 2014 for the nine reasons listed on the Council's decision notice. Reasons for refusal three to nine relate to the securing of various planning obligations and contributions deemed necessary to mitigate the impact of the development. The first and second reasons for refusal related to insufficient information being provided on the proposed ventilation equipment and achieving an acceptable level of carbon dioxide reduction and improved energy performance.

Whilst the issues highlighted in the reasons for refusal discussed above are relatively narrow in scope, the Council are obliged to continue to assess the proposals in the round and weigh up the competing issues created as a result of these proposals as well as any new evidence that comes to light. These are discussed, drawing upon national, regional and local planning policy where relevant, in more detail below.

Impacts of the Development

Procedural Matters

Prior to setting out our client's detailed objections to the proposals, this representation identifies a number of procedural related flaws associated with the application, which our client considers ought to be addressed prior to the determination of the planning application.

Neighbour Notification

Local Planning Authorities are required to undertake a formal period of public consultation, prior to deciding a planning application. This is prescribed in Article 15 of the Town and Country Planning

(Development Management Procedure) Order (DMPO) 2015. Whilst the DMPO outlines that the minimum statutory requirements regarding the publicity of major developments¹, paragraph 15-004 of the PPG also makes clear that:

Local Authorities have discretion about how they inform communities and other interested parties about planning applications (Reference ID: 15-004-20140306).

In this case, we note that the Council has notified a total of 21 neighbouring properties of the Proposed Development. Despite the significant amount of public interest associated with the planning application 2013/5075/P, this does not include all parties who commented previously and, more importantly the occupants of Adeline Place, which are some of the nearest residential properties to the Application Site.

Therefore, whilst by displaying a site notice the Council has satisfied the legal minimum outlined in the DMPO, it has clearly not utilised the discretion afforded to it by the PPG and consulted more widely. We would therefore recommend that notification letters are issued to all properties that lie immediately opposite the Application Site in order to ensure local circumstances are fully considered.

Environmental Impact Assessment (EIA)

It has been noted that none of the four planning applications submitted for the Application Site were preceded by request in accordance with Regulation 5(1) of the Town and Country Planning (Environmental Impact Assessment) Regulation 2011 (as amended) for the Council to adopt a Screening Opinion confirming whether the proposals constituted development requiring an EIA. In addition, we note that the Council has not considered whether the redevelopment of the Application Site would give rise to significant effects within the meaning of the EIA Regulations and whether the development constitutes EIA related development requiring an Environmental Statement. We therefore set out below the process that should be followed in relation to the consideration of EIA related development.

A change of use should be screened if the change would mean the new use is a development type listed in Schedule 1 or meets the criteria and thresholds for Schedule 2 development (Schedule 2 developments may be classified as EIA development depending on the location of the development (i.e. if it is within or adjacent to a sensitive area) and/or whether it meets any of the relevant thresholds or criteria).

Whilst the Proposed Development is not Schedule 1 development, the change of use from car park to hotel could be considered to fall within Category 10 of Schedule 2, 'Infrastructure Projects', sub-section (b) 'Urban Development Projects'. However, the application form indicates that the site is 0.637ha so falls below the relevant screening threshold of 5ha (it also doesn't exceed the other relevant criteria of 150 dwellings or 1ha of urban development). The Application Site is also not located within or adjacent to a 'sensitive area', as defined by the EIA Regulations.

Despite this, Schedule 3 of the EIA Regulations 'Selection Criteria for Screening Schedule 2 development' 1(b) states that the cumulation with other development should be considered. When considering the relevance of cumulative effects, paragraph 4-024 of the PPG states:

Each application (or request for a screening opinion) should be considered on its own merits. There are occasions where other existing or approved development may be relevant in determining whether significant effects are likely as a consequence of a proposed development. The local planning authorities should always have regard to the possible cumulative effects arising from any existing or approved development. There could also be

¹ This proposal constitutes a 'major development' on the basis the proposed change of use exceeds 1,000 sqm

circumstances where two or more applications for development should be considered together. For example, where the applications in question are not directly in competition with one another, so that both or all of them might be approved, and where the overall combined environmental impact of the proposals might be greater or have different effects than the sum of their separate parts (Reference ID: 4-024-20140306).

The Application Site is located in a densely populated central London location. A considerable amount of building work is taking place in the area, including the Crossrail infrastructure project and the refurbishment of the Centrepoint tower, along with numerous more committed schemes yet to be built out. As such, there is potential for significant cumulative effects arising from the extensive construction activities taking place. It should also be considered whether the cumulative effects from plant equipment and servicing of other committed developments along with the proposals subject to this application are significant within the context of the EIA Regulations.

The Applicant has not sought a Screening Opinion from the Council in advance of the application being submitted, nor has the Council stated in the Delegated Officer Report that accompanied the previous planning applications for the Application Site that the cumulative effects of the redevelopment would not be significant. The failure to give proper consideration to such effects therefore brings into question whether the Proposed Development achieves compliance with the EIA Regulations.

Inconsistencies - Named Applicant

The submitted application form states that the company name of the applicant responsible for this application is 'Mark Cooper', who is understood to be Criterion Capital's Head of Planning rather than a company. The accompanying Planning Statement, however, simply states that the applicant is Criterion Capital. Whilst the name of the applicant is not of concern for our client, the reason for highlighting this issue is linked to 'the applicant' having acknowledged that they are not the sole owner of the Application Site i.e. by completing Certificate B of the submitted application form. Article 13 of the GMPO requires notice to be served on anyone else who has, 21 days before the date of the application, an interest in the land or building to which the application related.

Paragraph 14-025 of the PPG goes onto state that:

An application is not valid, and therefore cannot be determined by the local planning authority, unless the relevant certificate has been completed. It is an offence to complete a false or misleading certificate, either knowingly or recklessly, with a maximum fine of up to £5,000 (Reference ID: 14-025-20140306).

As copies of the requisite notices have not been published on the Council's website, we draw this discrepancy to the Council's attention so to ensure that the notices have been served correctly and that it is clear that these details match the named applicant as stated on the submitted application form. If this is not the case, the application should be declared invalid by the Council and re-submitted with the correct notices/applicant name included.

Community Engagement

The planning application subject to these representations includes various supporting documents that offer technical justification to particular planning issues. In accordance with paragraph 193 of the NPPF, the Council has published a list of the local information requirements that will be required in support of a planning application (known as a 'Local List'). In terms of the application of the Council's Local List, paragraph 14-040 of the PPG adds:

The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location.

In addition to being specified on an up-to-date local list published on the local planning authority's website, information requested with a particular planning application must be:

- **reasonable having regard, in particular, to the nature and scale of the proposed development; and**
- **about a matter which it is reasonable to think will be a material consideration in the determination of the application** (Reference ID: 14-040-20140306).

Camden's Local Area Requirements for Planning Applications February 2014 specifies that for major planning applications or applications likely to generate significant public interest, a 'Pre-Application Consultation Statement' should be submitted with the application. This objective is consistent with paragraph 189 of the NPPF, which encourages pre-application engagement with local communities prior to the submission of planning applications.

Despite the previous application attracting 106 letters of objection, the Applicant has not undertaken any discussions with local residents/businesses either prior to this or earlier planning applications being submitted. By failing to engage with local stakeholders, the Proposed Development cannot be properly said to have fully accounted for and mitigated potential impacts. The Applicant should therefore be advised to withdraw the current planning application and engage in meaningful discussions with the local community.

Principal Objections

Our client may wish to provide further comment on the proposals once the above matters have been addressed. However, in the meantime, the following paragraphs set out our client's principal objections at this time.

Noise Impact Assessment

Paragraph 123 of the NPPF states that:

Planning policies and decisions should aim to:

- **avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;**
- **mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;**
- **recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and**
- **identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason**

Policy DP28 of the Council's Development Policies DPD outlines the Borough's approach to the consideration of noise and vibration issues. The policy confirms that the Council will not grant planning permission for development likely to generate noise pollution or development sensitive to noise in locations with noise pollution, unless appropriate attenuation is provided.

The planning application is accompanied by a Noise Impact Assessment (NIA) dated 2 June 2015 that has been prepared by noise specialists Hawkins Environmental Limited. The NIA includes details of the noise monitoring that the report claims was conducted in accordance with the guidance set out in BS7445-2: 1991 'Description and measurement of environmental noise Part 2: Guide to the acquisition of data pertinent to land use'. Having reviewed the document, we have a number of concerns with the approach that has been used as the basis for the subsequent assessments referred to in the report. These concerns are listed below:

- **Out of Date Survey:** The noise survey was undertaken in March 2012. Whilst BS7445-2: 1991 does not specify a maximum time period noise survey results are valid for, it is our understanding that it is good practice for noise surveys to be updated after 2 years. This is particularly relevant in a central London environment such as this, which is rapidly changing with new developments being constructed on a regular basis, many of which include new plant equipment that can affect the noise characteristics of an area. Therefore, in order to ensure the current noise environment properly represented, a new survey should be conducted.
- **Duration and Timing of Surveys:** The noise survey was undertaken for a single 24 hour period that did not record a weekend night or particularly a Sunday night to Monday morning period where background noise levels are typically at their lowest. As the hotel will still be in operation during quieter periods, it is essential that the noise conditions that exist at these times should be captured in the NIA. The length of the survey should therefore be extended to include a full weekday and the weekend.
- **Location of Recording Equipment:** The noise recording equipment was located near existing operating plant that has been subject to enforcement notices that are yet to be complied with. It is therefore wrong to base a noise assessment on conditions created by unlawful plant equipment, due to this not necessarily representing the characteristic situation for the Application Site. In addition, by locating the recording equipment close to existing operating plant, the results fail to confer the representative noise levels experienced 1 metre from the nearest noise sensitive properties. The location of the noise recording equipment should therefore be adjusted to be representative of the conditions likely to be experienced by the sensitive receptors.

We therefore do not consider the NIA submitted with the planning application to be robust and potentially misleading in terms of outlining the existing noise conditions experienced by local residents. As such, we do not consider that the submitted NIA adequately addresses the requirements of paragraph 123 of the NPPF or Policy DP28 of the Council's Development Policies. We therefore urge the Council's Environmental Health Officer to carefully scrutinise the report and recommend that the NIA is updated.

Crime Impact Assessment

As required by Section 17 of the Crime and Disorder Act 1998, Policy CS17 of the Council's Core Strategy as well as Section 9 of Camden's Planning Guidance 1 (Design), the Council has outlined its commitment to tackling crime and anti-social behaviour. The Council therefore requires as part of its Local Area Requirements for a Crime Impact Assessment to be submitted as part of major planning applications. Policy 7.3 of the London Plan has a similar requirement that outlines the importance of designing out opportunities for crime as part of new developments.

Local residents have repeatedly expressed concerns about the potential for people to congregate and loiter on the surrounding streets potentially leading to anti-social behaviour by future hotel occupants during the previously submitted planning applications. By proposing a total of 166 bedrooms, the

hotel would have a maximum capacity of 332 people². The hotel would be a 24 hour operation meaning that hotel occupants could come and go as they please whatever time of day. Given the proximity of the nearby Soho nightlife, there is significant potential for drunk and disorderly behaviour being caused by occupants of the proposed hotel. The capacity of the hotel also means there could be a significant number of such individuals. Furthermore, due to the existing building being a private car park and as a result of locating the new hotel below ground, there are substantial lengths of dead, inactive frontage along all aspects of the building. As a result, there is a lack of natural surveillance over the neighbouring streets. Whilst CCTV can address such issues to a certain extent, the inability to occupants of a building to properly overlook public areas, is a poor design approach that does not embody the principles of Secured by Design. It is therefore surprising that the Planning Statement, Design and Access Statement or Draft Hotel Management Plan do not address this issue.

In the absence of a Crime Impact Assessment being submitted with the planning application, there is a failure to demonstrate how the impact of the Proposed Development on crime and anti-social behaviour in the local area has been considered and mitigated. Accordingly, it cannot therefore be said that the requirements of Section 17 of the Crime and Disorder Act and Policy CS17 of the Council's Core Strategy have been fully discharged.

The Applicant should therefore be required to supply additional information, which utilises the guidance contained in the Government's 'Safer Places: The Planning System and Crime Prevention' and includes discussion with the MET Police's Design out Crime Officer, to create a clear strategy aimed at crime prevention.

Hotel Management Plan & Servicing Strategy

The Applicant has submitted a Draft Hotel Management Plan and Transport Statement as part of the planning application documentation. The Management Plan and Transport Statement outlines a broad, high level framework that will inform the operation of the hotel, including possible servicing arrangements.

As has already been noted, there are concerns regarding the omission of a Crime Impact Assessment from the application documentation and the potential for anti-social behaviour linked to the occupants of the hotel. The draft Hotel Management Plan is also vague and lacks detail on how a number of the proposed management strategies would be implemented in reality. Accordingly, we make the following comments regarding the strategies currently being suggested and outline what additional information should be provided:

- The hotel management plan assumes most guests will arrive by public transport. Evidence of similar situations for other hotels nearby, how this is predicted to change with time, and how it can be controlled should be provided;
- Examples should be provided from other similar operations of the proposed Street Management Policy and suggested measures setting out how the hotel management will ensure future occupants will not congregate outside the building and cause negative impacts on local residents;
- Assuming a suitable management plan can be devised the Applicant should be required to submit a quarterly report over the first three years the hotel is in operation to the Council describing the success of the management plan, reporting of any instances of anti-social behaviour or complaints from local residents and explain if any amendments to the plan are required in order to account for unanticipated circumstances;

² Assuming all rooms are capable of accommodating at least 2 people.

- As servicing is proposed to take place from the highway along Adeline Place, it is important that the timing and frequency of deliveries and servicing arrangements is clearly explained and anti-social hours avoided – the Transport Statement submitted with the planning application suggests at paragraph 3.1.21 that deliveries could take place in an unrestricted manner outside the controlled hours of 6:30pm to 11:00am;
- The hotel should nominate a banksman to coordinate deliveries and ensure delivery vehicle drivers do not wait in their vehicles outside the site with their engines running;
- Measures to control drop off and pick-ups from taxi services should be explained and waiting areas in non-residential areas identified³;
- A complaint resolution procedure should be devised outlining how the hotel would address any reasonable concerns of local residents resulting from the operation of the development;
- The plan should provide details of how plant will be maintained;
- The plan should provide details and specifics the timing and frequency the refuse bin stores will be operated and used and assurances given this will not include anti-social hours; and
- The plan must also address how such a plan will be implemented, enforced, and passed on to future operators as well as how it will inherently keep the neighbours from having to spend time, money and effort in ensuring its enforcement.

In our judgement, these issues go to the very heart of whether planning permission should be granted for the Proposed Development. We therefore now consider whether such matters should be resolved through the use of planning conditions or as part of the planning application process itself.

When imposing planning conditions paragraph 206 of the NPPF outlines six tests potential conditions must adhere to:

Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Paragraph 21a-004 of the PPG goes on to advise that a condition will not be considered 'reasonable in all other respects' if the condition seeks to make development that is unacceptable in planning terms acceptable. In addition, a condition will not be considered 'enforceable' if detecting or remedying any contravention would, in practice, be impossible or concern matters over which the applicant has no control.

Once occupants leave the hotel premises they will be in the public realm and not on land under the control of the Applicant. As such, enforcing the Applicant's suggested Street Management Policy is likely to prove challenging in practice as hotel staff are unlikely to have the authority to require problematic individuals to move on. This instead would require action from the Police. Combined with the absence of a Crime Impact Assessment and the requirements of paragraph 206 of the NPPF and PPG, we do not consider it appropriate to reserve this important issue to prospective planning conditions.

Elevations

Drawings 2897/P/07 and 2897/P/17 Rev D include a depiction of the existing and proposed elevations fronting onto Adeline Place and Great Russell Street that would be affected by the Proposed Development. The remaining elevations would be unchanged as a result of the proposals.

³ The content of the Transport Statement are noted in this regard and should be elaborated upon as part of the Hotel Management Plan.

Whilst the proposed elevations indicate that various openings will either have ventilation louvres or metal framed and panelled doors fitted to them, it is unclear from the drawings what the precise appearance of the doors/louvres would be and whether it would be feasible for adequate noise attenuation measures would be incorporated. We would therefore recommend that the Council seeks large scale, detailed drawings from the project architect that include details of the proposed noise attenuation measures prior to the determination of the planning application. We also recommend that the doors to the new cycle store, substation, plant room and refuse bin store are fitted with soft closers to minimise noise.

Summary and Conclusion

In summary, this representation concludes that there are a number of procedural and in principle flaws with the current planning application. These are summarised as follows:

- More extensive consultation should be undertaken with the local community;
- Contrary to the EIA Regulations, the Applicant and the Council have to date failed to consider the potential for significant cumulative effects to arise from the Proposed Development;
- Inconsistencies in the named applicant, creating concern whether the correct service of notice has been undertaken in accordance with Article 13 of the GMPO;
- The Applicant has failed to engage with the local community and has not submitted a Pre-Application Consultation Statement, which is a validation requirement for major planning applications;
- The Applicant has not submitted a Crime Impact Assessment in accordance with the Council's validation requirements and thereby failed to satisfy the requirements of Section 17 of the Crime and Disorder Act 1998, Policy 7.3 of the London Plan and Policy CS17 the Council's Core Strategy;
- The noise monitoring data used to inform the Noise Impact Assessment is flawed in a number of respects and should be revisited;
- The Draft Hotel Management Plan is vague and lacks a sufficient degree of clarity to allow the Council to be sure that the operation of the hotel will not lead to anti-social behaviour or disturb local residents;
- More detail and prescription aimed at minimising disruption to local residents is required in relation to the proposed delivery/servicing arrangements and taxi drop-offs and pick-ups; and
- Detailed elevation drawings should be submitted to provide sufficient clarity on the appearance of the new doors and ventilation grills and the measures that will be incorporate to attenuate noise related impacts.

For the above reasons, we respectfully request that the Council refuse planning permission for this application.

In the meantime, if you have any queries or wish to discuss matters further then please do not hesitate to get in contact with the writer.



GARY STEVENS
Planning Associate

cc. Mrs Chrissie Ganjou