

Our Ref: CG/KH/308328.0001  
Your Ref:  
Date: 18 November 2015

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Dear Sir

**Our client: Air Studios (Lyndhurst) Limited**  
**Site: 11 Rossllyn Hill, London NW3 5UL**  
**Applications: 2015/2089/P & 2015/2109/L**

We act for Air Studios (Lyndhurst) Limited in place of David Cooper & Co

Our client's previous lawyer has written to you to express our client's very serious concerns regarding the impact of the proposed development on both its day to day business operations during construction and the impact of those construction works on the stability of the Grade II listed Lyndhurst Hall from which it operates. In support of our client's strong objection, a wide range of representations have been submitted to the Council including reports and a petition, details of which and other matters of importance are set out below.

### Representations to date

Our client has already submitted a letter of objection dated the 18<sup>th</sup> June 2015 prepared by David Cooper & Co and with this letter supplied the following reports:

1. Vanguardia Consulting "*Potential Noise and Vibration Effects of the Proposed Construction Works at 11 Rossllyn Hill, London, NW3 5UL*" (3 June 2015)
2. Corbett and Tasker Structural Engineering "*Initial Appraisal of the Impacts on Lyndhurst Hall of the Proposed Basement Construction at 11 Rossllyn Hill, NW3*" (27 May 2015)
3. GEA Geotechnical & Environmental Associates "*Opinion of Basement Impact Assessment for 11 Rossllyn Hill, London, NW3 5UL*" (4 June 2015)

These reports highlight the omissions and failings within the documents submitted by the Applicants in support of the applications.

The report by Campbell Reith Consulting Engineers "*Basement Impact Assessment Audit*" (October 2015) which was prepared on behalf of the Council supports our client's findings and highlights that there are a number of issues which remain to be clarified and that a Basement Construction Plan is required. These and other matters are set out in a mail of 7<sup>th</sup> November from Peter Tasker, a copy of which is attached hereto.

In the Applicants' responses to our client's objections much is made of our client's refusal to allow access. As will by now be clear the Applicants failed to consult with our client prior to the applications being made and also failed to consult on the revised applications. Our client is entitled to refuse access. Please refer to the Para 1 of the 7<sup>th</sup> November mail which articulates our client's rights and the position that should be taken by the Council.

In addition to the reports submitted by our client, the Council has also received more than 10,000 objections from members of the public (including recording artists), objections from the Heath and Hampstead Society and a letter from the Rt Honourable John Whittingdale OBE MP Secretary for Culture, Media and Sports who has highlighted the national importance of the enterprise operated by our client. Within these objections is also a letter from the British Film Institute that sets out the international importance of our client.

Please also note the letter of objection from Historic England which raises serious matters relating to archaeological considerations which have yet to be addressed.

#### Further submissions

In addition to the reports already submitted, we now enclose the following further submissions by our client in respect of the applications:

1. Corbett and Tasker Structural Engineering "*Air Studios Response to Revised BIA 11 Rosslyn Hill, NW3*" (5 October 2015) which finds that the revised BIA submitted by the Applicants still fails to address a range of key issues including the need for a full and proper review of the construction of Lyndhurst Hall, that the structural drawings of Lyndhurst Hall are incorrect and that more detail is required in respect of controls on the construction process and ground movements from the construction of the basement.
2. Vanguardia Consulting "*Response to CG Letter 13 August 2015*" (12 October 2015) which responds to a critique (commissioned by the Applicants) by Cole Jarman of the 3 June 2015 Vanguardia report and highlights a number of misunderstandings and errors in Cole Jarman's critique.
3. First Steps Limited to Success "*Geological and Hydrological Issues of Concern Arising from Planning Application 2015/2089/P*" (2 October 2015) which finds that "*the excavation and*

*construction of [the basement extension], if approved in its present form, will jeopardise the stability of [Lyndhurst Hall] and has the potential to alter groundwater that could initiate long term adjustments to the stability of Air Lyndhurst Studios”.*

4. The email of 7<sup>th</sup> November referred to above.

We anticipate a further report dealing with underground noise and vibration which we expect will support the proposition that the Applicants have failed to understand how the proposed scheme will impact the studios

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest they possess. Recent case law confirms that this statutory duty gives rise to a strong presumption in favour of preservation rather than this simply being another material consideration to which the Local Planning Authority may attach such weight as it sees fit. At all times since the original conversion to a Studios in the 90s English Heritage has also shown a strong interest in preserving the building and the features inside.

Given the findings set out in our client’s additional reports, the Council cannot claim that the legal duty imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 has been met. Nor can the Council claim that the proposed development accords with Camden’s Planning Guidance CPG4 *“Basements and Lightwells”*.

Our client’s additional reports are a material planning consideration in the determination of these applications and cannot be disregarded.

#### Determination of the applications

We understand that the Cabinet Member for Regeneration, Transport and Planning has confirmed that, in the event that the applications are recommended for approval, they will be determined by the Development Control Committee. Given the weight of public objection and the severe threat the development poses to our client’s business and premises, we welcome this decision.

We note from the Council’s website that no date has yet been set for the determination of the applications even though they have been with the Council for more than 7 months. The aforementioned reports demonstrate that the applications, in both their original and evolved form, are inadequate and flawed. The Applicants have been given an unprecedented amount of time to address the deficiencies in the applications to the detriment of our client and the proper operation of its business.

Where an applicant has failed to demonstrate that a proposal will not cause harm, that application should be refused. In light of the Applicants’ ongoing failure to demonstrate that the applications are policy compliant and will not cause harm to our client’s business (by way of noise) and property (by way of vibrations or worse), we invite the Council to now take proactive steps to determine the applications promptly and with a recommendation of refusal.

Our client has been disappointed by the Council's unwillingness to engage in discussions relating to the applications to date. We hope that this will not continue and therefore request that you could please advise the writer of this letter of the deadline for determination of the applications and the Development Control Committee date, if known.

Yours faithfully

**BIRKETS LLP**

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