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Dear Sirs

50 Rochester Place, London NW1 9JX (the "Site")
Application reference: 2016/3719/P (the "Application")
Erection of a roof extension and a basement extension under the footprint of the host building
("the Proposed Development")

We are instructed on behalf of Ostrich Arts Limited, freehold proprietor of 52-54 Rochester Place, to register its objection to the Proposed Development. Our client, Paula Rego is a well-known artist and owns and occupies 52-54 Rochester Place as her studio and for ancillary business purposes.

50, 52 and 54 Rochester Place are three single storey commercial units which were built in 1900 by Philip Wilson. A special architectural feature of the units are glazed roof lanterns, which were installed to allow plenty of daylight into the units which were originally used for painting wagons and vans that were built there. The roof lanterns allow daylight into the units which is of paramount importance in an artist's studio.

Determination of the Application

Section 38(6) Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the development plan unless any material considerations indicate otherwise. The development plan relevant to the Application is the London Plan, the Camden Core Strategy and Development Policies and Camden Planning Guidance. The National Planning Policy Framework is a material consideration to be taken into account in the determination of the Application. By virtue of Core Strategy Policy CS14 and Development Policy DP25, the Camden Conservation area appraisals and management strategies are also a material consideration to be taken into account in the consideration of the Application.

As the Site sits within a conservation area, the Council is also under a statutory duty when determining the Application to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



Recent planning history

The Application is the latest attempt to enlarge the Site following two refusals of planning permission:

1. 2008/1635/P - Erection of two-storey extension above existing garage/workshop to provide two 2-bed flats at first and second floor levels ("the 2008 Application"); and
2. 2014/1538/P - Erection of a single storey extension above existing garage/workshop to provide one 2-bed flat at first floor level ("the 2014 Application").

The 2008 Application was refused on three grounds, the first of which is directly applicable to the Proposed Development:

- "1. *The proposed erection of two additional storeys above the existing ground floor commercial unit by reason of its siting, scale and detailed design would unbalance the appearance of the single storey building and would be out of keeping with its industrial character and neighbouring buildings, failing to preserve the character and appearance of the Rochester Conservation Area, contrary to policies B1 (General design principles), B3 (Alterations and extensions) and B7 (Conservation Areas) of the London Borough of Camden Replacement Unitary Development Plan 2006.*"

The other two reasons related to inadequate cycle storage provisions and the absence of a planning obligation in respect of car free housing.

An appeal of the decision was dismissed with the Planning Inspector's main concern being in relation to the impact of proposed development on the Rochester Conservation Area:

- "6. *The first relates to the character of the commercial units; the appeal site and the two similar units adjacent are of simple design, dominated by large doors. Nevertheless, they are unspoilt remnants of the commercial history of this part of the conservation area, and I agree that they add to its character. Whilst the set-back position of the proposed upper storeys would ensure that the commercial and residential uses would remain well defined, the development would detract from the simple architecture of the garage, and more importantly, would unbalance the cohesive group of commercial units. I find that this would not preserve or enhance the character of the conservation area, and would conflict with Camden Replacement Unitary Development Plan (UDP) Policy B7, which aims to protect conservation areas.*"

The 2014 Application was a revised application by the applicant scaling back the 2008 Application which was refused for two reasons, both of which were reasons for the 2008 Application refusal. Again, the most pertinent reason related to the proposed development failing to enhance and preserve the Rochester Conservation Area (the "Conservation Area"):

- "1. *The erection of an additional storey above the existing ground floor commercial unit by reason of its siting, scale and detailed design would unbalance the appearance of the single storey building and would be out of keeping with its industrial character and neighbouring buildings, failing to preserve and enhance the character and appearance of the Rochester Conservation Area, contrary to policies contrary to policies CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and to policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage) of the London Borough of Camden Local Development Framework Development Policies.*"

The Proposed Development

Conservation Area

The Site sits within the Conservation Area and is adjacent to the Jeffrey Street Conservation Area. The Rochester Conservation Area statement recognises the "*unity of the area*" and its "*strong cohesive identity*" and specifically identifies 50-54 Rochester Place as buildings which make a positive contribution to the Conservation Area.

National Planning Policy Framework

Part 12 of the NPPF is entitled 'Conserving and enhancing the historic environment'. Paragraphs 128 and 129 discuss what is expected of both the applicant and the local planning authority where an application for planning permission is likely to affect a heritage asset. The National Planning Policy Guidance provides further clarity on these paragraphs of the NPPF; it explains that that an applicant for planning permission is expected in its Design and Access Statement to explain and justify their proposal with reference to its context, demonstrating how the proposed design has responded to the historic environment by including the necessary heritage assessment as part of the Design and Access Statement. The Application fails to meet the requirements of paragraph 128 NPPF as it does not assess the impact of the Proposed Development on the Rochester and Jeffrey Street Conservation Areas.

Paragraph 138 NPPF sets out how the loss of an element which makes a positive contribution to a conservation area should be treated in the determination of an application by reference to paragraphs 133 and 134 NPPF. Whilst we would not seek to direct the Council as to whether the Application falls within paragraph 133 or 134 NPPF, it is worth noting that case law¹ has held that paragraph 134 should be treated as being restrictive of development, as referred to in footnote 9 NPPF, and so falls within the exceptions to the presumption in favour of sustainable development set out in paragraph 14 NPPF.

Camden Planning Policy

The relevant policies against which the Application falls to be determined in terms of the impact on the Conservation Area are policies CS14 and DP25. These policies emphasise preservation and enhancement of Camden's heritage asset and expect new development to make a positive contribution to retaining the distinctive character of conservation areas. DP25 requires the design of new development to identify and respond to those policies which support the preservation and enhancement of conservation areas. Paragraph 25.2 of the Camden Development Policies makes particular reference to the various elements which contribute to the character of a conservation area, including architectural detailing.

Paragraph 25.3 of the Camden Development Policies goes on to state that "the character and appearance of a conservation area can be eroded through the loss of traditional architectural details such as...characteristic rooftops." The Proposed Development would remove the existing roof lantern, which has architectural significance and forms part of the history of the three units. This loss would be irreversible and is in direct conflict with policies CS14 and DP25.

The Proposed Development, whilst seeking to address the shortcomings of the two previous applications, would introduce a first floor storey which it has been found by the Planning Inspector would "*detract from the simple architecture of the garage and unbalance the cohesive group of commercial units.*" The Proposed Development would substantially change the appearance of this cohesive group of units. The current roof lanterns are not visible from the street and the proposed

¹ *Forest of Dean DC v Secretary of State & Gladman Developments* [2016] EWHC421 Admin

roof extension will be a drastic departure from this unity which gives the units their unique charm and character as single storey garage units.

The Application also does not contain any assessment of the proposed basement on the Conservation Area either. There is likely to be a significant impact on the Conservation Area during the construction phase, given the extensive anticipated construction period, but the Application does not provide any details or assessment of the impact. The introduction of a basement at the Site and its impact on the Conservation Area is also not assessed.

Case law

The nature of the statutory duty imposed on the Council and the interpretation of part 12 NPPF has been the subject of extensive judicial discussion. Case law has established that the statutory duty in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 "...is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved."²

Where some harm to the conservation area is identified, that harm has to be given considerable importance and weight by the local planning authority in the planning balance³. A finding of harm to a conservation area gives rise to a strong presumption against the grant of planning permission⁴, a presumption that can be outweighed by material considerations. We do not consider that there are any material considerations that would outweigh the harm to the Conservation Area in favour of the grant of planning permission in the present case.

It is our view that the Proposed Development fails to enhance and preserve the Conservation Area, contrary to policies CS14 and DP25, and has no regard for the positive contribution that 50 – 54 Rochester Place has on the Conservation Area. For the reasons given for the refusal of the 2008 Application and 2014 Application, we consider that the Application should be refused.

Amenity - loss of daylight, privacy, security

Policy CS5 states that protecting amenity is a key part of successfully managing growth in Camden and that where possible, development is expected to avoid harmful effects on the amenity of existing and future occupiers and nearby properties or minimise potential negative impacts. The Core Strategy recognises that development proposals need to balance individual needs with the needs of a wider community.

Policy DP26 (Managing the impact of development on occupiers and neighbours) states that "*the Council will protect the quality of life occupiers and neighbours by only granting permission for development that does not cause harm to amenity.*" Three of the key factors to be considered in the determination of the Application are:

1. sunlight, daylight and artificial light levels;
2. visual privacy and overlooking; and
3. noise and vibration levels.

The addition of the first floor glass extension would have a detrimental impact on our client's amenity in respect of all of these factors and conflict with policies CS5 and DP26 for the following reasons:

² *South Lakeland DC v Secretary of State for the Environment* [1992] 2 AC 141

³ *R (Forge Field Society) v Sevenoaks District Council* [2014] EWHC 1895 (Admin)

⁴ *Northants DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137

1. it will cause changes to the sunlight, daylight and artificial light levels - the Design and Access Statement itself acknowledges at page 2 that it "*may partially reduce [a] small amount of sunlight to the rooflights during the morning.*" 52-54 Rochester Place is the studio of an eminent artist meaning the provision of unobstructed sunlight and daylight is paramount. To restrict this would result in an unacceptable and material adverse impact on the artist's working environment. It is proposed that light pollution from the extension will be mitigated with black out blinds but no assessment is produced to assess the light impacts on neighbouring properties of this measure. Given the use of the adjoining premises as an artist's studio, this assessment is critical and should be required prior to determination of the Application;
2. it will enable unacceptable overlooking from the Site down into 52 Rochester Place;
3. there will be access out onto the roof of the Site increasing the potential for noise disturbance to 52 & 54 Rochester Place and reducing the security.

Basement

Policy DP27 (Basement and Lightwells) states the Council "*will only permit basement and other underground development that does not cause harm to the built and natural environment and local amenity and does not result in flooding or ground instability*" and will consider whether schemes "*harm the appearance or setting of the property or the established character and surrounding area.*"

Risk of movement to neighbouring properties

The Basement Impact Assessment ("BIA") produced by Croft Structural Engineers identifies that there is a risk of movement to the neighbouring property. The report by Soils Ltd (ref 15051 -dated August 2015) which deals with land stability and is extensively referred to in the BIA does not appear to be included in the planning application documents.

Our client has grave concerns regarding the risk the proposed basement poses to the structural integrity of both the site and our client's property. However, this cannot be assessed in any meaningful way without reference to the Soils Ltd report, nor can the extent or accuracy of that report be assessed. The BIA does identify under the heading 'Mitigation Measures Ground Movement' that there is a risk of movement to the neighbouring property and should the Council be minded to grant planning permission we request that the mitigation measures proposed are secured by way of condition to minimise the risk of movement to our client's property.

Drainage and water environment

The BIA fails to meet the criteria specified in section 2 of the Camden Planning Guidance on Basements and lightwells (July 2015) (the "Basement Guidance") as it does not demonstrate that the Proposed Development will avoid adversely affecting drainage and run-off or causing other damage to the water environment; and does not demonstrate that the Proposed Development will avoid cumulative impacts upon the water environment in the local area.

Construction/Design Management Plan

Our client is extremely concerned about the level of disruption the Proposed Development will cause during the construction phase particularly in respect of the length of time she will be subjected to noise, dust and vibration.

Whilst there is an outline Construction Programme at Appendix B of Croft Structural Engineer's BIA, which proposes a 7 month build period, no detail is given and no Construction Management Plan has been submitted with the planning application. There is also no consideration of any other



developments in the vicinity of the Site which may have an accumulative effect on the Site and Rochester Place more generally.

The Design and Access Statement at page 12 states that *"a Construction Management Plan [will be] drawn up in close communication with the Reed's and Rochester Place neighbourhood association once planning consent is granted for the construction of a basement."* Paragraph 4.5 of Camden Planning Guidance 4 (Basements and Lightwells) states the Council *"will refuse permission for plans which do not minimise the harmful impacts of construction on the building and on local amenities."* The Council states in the Core Strategy that it will seek to ensure that the impact of construction traffic and the servicing of future developments are kept to a minimum. Currently there is no information before the Council in order to assess the Application against the stated policy objectives apart from the proposals put forward by Croft Structural Engineer's in its Construction Method Statement and there is no guarantee that these will be adopted.

A construction management plan is particularly important in this instance given that Rochester Place is a very narrow service road. This will exacerbate the disruption caused by the Proposed Development for neighbouring properties and other users of Rochester Place and pose challenges in terms of on street parking, traffic management and servicing the Site. In addition, the excavation of a basement requires careful consideration given the number of vehicle movements necessary to remove the excavated soil and other waste material during the construction phase. Without any information in respect of these matters it is not possible to assess compliance with policies CS5 and DP26.

Should the Council be minded to grant planning permission, we request that a condition is imposed restricting commencement of development until a draft construction management plan has been made available to neighbouring properties for consultation, and then submitted to the Council for its written approval.

Waste

Policy CS18 sets out the Council's commitment to making Camden a low waste borough. The accompanying explanatory text states: *"To make sure that residents and businesses can properly store and sort their waste and to make household recycling as easy as possible, the Council will require developments to provide adequate facilities for recycling and the storage and disposal of waste" and " To ensure an integrated approach to waste management and the highest possible re-use and recycling rates, the Council may require, through a planning condition, or as part of a Construction Management Plan, the submission of a site waste management plan prior to construction."*

The Application does not provide any details of the recycling facilities or waste storage and disposal proposed and it is therefore no possible to assess whether it complies with policy CS18.

Conclusion

There are a number of reasons why the Application should be refused which can be summarised as follows:

1. the Application is deficient in a number of respects and does not comply with national or local planning policy;
2. by nature of its design, the Proposed Development would fail to enhance and conserve the Conservation Area as it would unbalance a group of buildings which have been identified as making a positive contribution to the Conservation Area. The impact of the Proposed Development on the Conservation Area has also not been assessed; and

3. the Proposed Development would have a detrimental impact on the amenity of neighbouring properties in conflict with the Core Strategy and Development Policies.

For these reasons, we request that the Application be refused. However, if the Council is minded to grant planning permission, we request that the Application be determined by the Council's planning committee.

Yours faithfully



Forsters LLP

