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Planning Department
London Borough of Camden
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23 August 2016

Dear Sir / Madam,

Section 106A application relating to land to the rear of 106 Finchley Road London, NW3 5JN. Now known under a separate legal title as 1 Northern Heights, Trinity Walk, London, NW3 5SQ.

I hereby submit an application under s.106A of the Town and Country Planning Act 1990 (as amended) to the London Borough of Camden.

This application seeks the modification of a planning obligation imposed upon the grant of planning application ref. 2009/4045P (granted on 23/11/2010), which relates to the development of a single dwelling house know as 1 Trinity Walk, London NW3 5SQ;

'Erection of a new 2 story, plus basement single dwelling house to the rear of 106 Finchley Road.'

This application seeks the removal of planning obligation's under section 4.1 of the Section 106 agreement dated 13th July 2010, imposed upon the grant of that planning application, and the obligation 4.1 states;

'4.1 Car free

4.1.1 The owner hereby covenants with the Council to ensure that prior to occupying the residential unit forming part of the development, each new resident of the development is informed by the owner of the councils policy that they shall not be entitled (unless they are holder of a disabled persons badge issued pursuant to section 21 of the chronically sick and disabled persons act 1970) to be granted a residents parking permit to park a vehicle in a residents bay, and will not be able to buy a contract to park within any car park owned, controlled or licensed by the Council.

4.1.2 The owner for itself and its successors in title to the property herby acknowledges that the provision in clause 4.1.1 above will remain permanently.

4.1.3 On or prior to the occupation date, the owner shall inform the Councils planning obligations monitoring officer of the official unit number of the residential unit forming the

development, identifying that this residential unit is in the owners opinion affected by the owners obligations in clause 4.1.1 of this agreement’.

This planning application comprises one hard set of the documentation listed below, accompanied by a on line payment of £195 payable to the London Borough of Camden as payment of the statutory application fee:

- Covering letter.
- Completed application form.
- 1:1250 scale OS plan with application site outlined in red.
- Completed Mayoral CIL forms.
- Parking Study prepared by Transport and Traffic Consultancy.
- Transport for London PTAL map.

Description of application site and surroundings

The application site comprises a 2/3 story detached with basement family home on a rectangular shaped plot of land of approximately 100m². Prior to the construction of the family home, the site was overgrown with self seeded plants and formed the backland to the commercial building at 106 Finchley Road (NatWest Bank). Historic maps show that 106 Finchley Road had a rear extension in the late 1980's, leaving a small parcel of land to the rear that now forms the application site.

The site sits approximately half way up Trinity Walk which is a pedestrian walkway at a steep gradient exceeding 1:15. Trinity Walk acts as a transition between the busy commercial Finchley Road, and the quite residential Maresfield Gardens. The South-East boundary of the site is formed by a stepped red brick wall which runs the length of Trinity Walk. Immediately opposite the South-East frontage is the playground of Holy Trinity CofE Primary School. To the South-West is the rear of 106 Finchley Road which is in commercial use at the basement, ground and first floors (NatWest bank) and residential above. The North-West boundary is with an external rear garden area which is part of the commercial property at 108-110 Finchley Road. The North-East boundary is the end of the garden of 5 Maresfield Gardens which is a large Victorian detached villa that sits in an elevated position.

The site is located just outside the Fitzjohn's / Netherhall conservation area. It is on the edge of an area designated in Camden UDP as a major shopping area, and in accordance with policy SD5 is accessible to bus routes on Finchley Road and Fitzjohn's Avenue, with Frognal and Finchley overland rail and Finchley Road underground both five minutes walk away. The site has a Public Transport Accessibility Level (PTAL) of 5, as shown in the Transport for London map accompanying this application.

Maresfield Gardens and other local roads to the north and east of the site are in a controlled parking zone (CA-B), operating 09.00 - 18.30 Monday - Friday and 09.30 - 13.30 Saturday. It is in these local roads that occupiers of the house would park a car.

Relevant planning history

Following an earlier withdrawn planning application on 20/08/2009 (ref. 2009/2941/P) for the erection of a three story plus basement dwelling house, a revised planning application

was approved on 13/07/2010 (ref. 2009/4045/P) for the erection of a two story plus basement dwelling house. A further planning application (ref. 2010/3123/P) was granted on 01/09/2010 for various alterations facilitating a further one storey to the rear of the property.

Obligation which this application seeks to remove

A number of obligations were imposed upon the granting of planning application ref. 2009/4045/P, and this application seeks the removal of obligation 4.1 of the Section 106 agreement dated 13 July 2010, the content of which is set out on page 1 of this letter, and which in summary seeks to prevent occupiers of the approved dwelling house from applying for on-street parking permits.

Appraisal

The imposition of the car free housing obligation does not have any material change to the character and appearance of the local area. This is proven by the on road parking study accompanying this application. In addition, the car free obligation imposed restricts the properties appeal to family occupants, which is intended under lifetime standards of homes criteria. As a result of this the house is now financial unviable as it only appeals to single occupants rather than families as it is intended to. This severely reduces the rental and sales value and has amounted to well over £700,000 of additional financing fees making it likely the home will have to be sold at significant financial loss.

The reason provided by the Council for imposing this obligation, as set out within the decision notice, was;

'The proposed development is in general accordance with the policy requirements of the London Borough of Camden Replacement Unitary Development Plan 2006, with particular to policy T8, car free housing and car capped housing'.

It is also noted that the planning officer's delegated report relating to this planning application states that *'The site has a public transport accessibility level (PTAL) of 6a (excellent) therefore it is suitable for car free development. Provided that the new house is car free, the transport section considers the proposal acceptable'*. (Please see the attached Transport for London PTAL rating map for the site, which states the PTAL rating is 5 (very good), and not 6a (excellent) as referenced in the decision notice).

This sentence, which is incorrect in reference to the level of PTAL rating, coupled with the lack of any specific reference within that delegated report to on-road parking levels in the adjacent roads to the site. This suggests the Council imposed obligation 4.1 of the Section 106 agreement dated 13 July 2010, solely because the application site is within a area of excellent access to public transport, rather than establishing whether the surrounding streets actually experience parking stress, and therefore whether or not the imposition of such a obligation is necessary, reasonable or affects the character and appearance of the local area.

On road parking is available adjacent to Trinity Walk on Maresfield Gardens and other surrounding roads which are encompassed within the CA-B controlled parking zone, operating 09.00 - 18.30 Monday - Friday and 09.30 - 13.30 Saturday. It is clear that the primary purpose of the CPZ is to prevent commuter parking within this CPZ, rather than

seeking to restrict on-street parking by residential occupiers of the surrounding area, whom, if they do own a vehicle, are likely to be at work during the operational hours of the CPZ.

Furthermore, the application site and its surroundings benefit from a very good PITAL rating, with both Finchley Road and Swiss Cottage stations nearby, and also numerous bus services travelling in both directions from bus stops between 1 and 4 minutes walk from the site. Accordingly, the application site is situated in a sustainable location where occupiers in the surrounding area may not own their own vehicles.

Attention is also drawn to the accompanying parking study undertaken by Transport and Traffic Consultancy, which established that on a typical weekday evening, on-street parking stress with this CPZ is typically 70% but, significantly, on-street parking stress within 2 - 3 minutes walk of the site, outside hours of the CPZ, was found to be not higher than 65%.

The findings of the parking study therefore clearly demonstrate that there is considerable on-street parking available to those occupiers of the approved family home who may own a vehicle and wish to obtain an on-street parking permit, and that the removal of the s106 car free obligation would have no material harm to the character and appearance of the area. Hence there is no justification for the approved development to be car-free, as detailed in obligation 4.1 of the Section 106 agreement imposed upon the granting of planning application ref. 2009/4045P.

Conclusion

Evidence, in the form of the parking survey undertaken by Transport and Traffic Consultancy in accordance with the Council's approved methodology, has identified that considerable on-street parking is available outside the operational hours of the CPZ for use by residents. The level of parking stress on Maresfield Gardens and other surrounding roads outside operational hours of the CPZ is typically around 65%, which demonstrates if occupiers of the approved house owned a maximum of two cars the stress on CPZ availability would not be more than 76%. This does not account for all over night availability which if the house owned two cars would not be more than 45% on-road capacity.

That scenario is however unlikely given the sustainable location of the application site, which benefits from being in close proximity to both local bus services and two underground stations, and accordingly occupiers may decide, particularly taking into account the costs involved in acquiring a permit and the operational hours of the CPZ, that it is either not necessary to own a vehicle, or not necessary to apply for a permit.

Accordingly, in such circumstances it is neither necessary nor reasonable for future occupiers of the approved family home to be prevented from applying for on-street parking permits. With the no-permit obligation removed, residents would have the right to apply for a parking permit regardless, provided they apply correctly and pay the permit fee.

Therefore, the imposition of obligation 4.1 of the S106 agreement of planning application ref. 2009/4045P has not been in-correctly assessed to determine the impact of on road parking and the knock on potential consequences of change to the character and appearance of the area. Nor has the economic implication of developing a family house

which is now not appealing to families been considered. Consequently this application should be approved and the car free obligation removed.

I look forward to receiving formal confirmation of the validation of this Section 106a application and a receipt for the statutory application fee payment, but in the meantime should you require any further information or clarification please do not hesitate to contact me.

Yours faithfully,

Jeremy Church