

Our Ref: DF/MOO007/0001  
Your Ref: 2015/6955/P

Planning Department  
London Borough of Camden  
5 Pancras Road  
London  
N1C 4AG

For the attention of: Jonathan McClue

6 October 2016

Dear Sirs

**55 Gray's Inn Road – Objection to redevelopment of Panther House  
APPLICATION REFERENCE NUMBER: 2015/6955/P**

We act for David Moore, the owner of 55 Gray's Inn Road ('55'). 55 is located directly opposite 160-164 Gray's Inn Road and is significantly impacted by the proposed redevelopment.

Mr Moore wrote a letter on 29 January 2016 to register his objection to the redevelopment on a number of issues. On a simple basis, the harms from a combination of the development's impact on sunlight and daylight, impact on the setting of nearby listed buildings and the conservation area, and the likely loss of small businesses are not outweighed by the benefits set out by the applicant and provide a substantial reason to refuse the application. These objections remain.

The applicant's representatives have contacted Mr Moore to discuss compensation for the impact on his rights to light. We are representing Mr Moore in this regard. We are currently considering whether the impact of light caused by the proposed redevelopment is actionable. The applicant has not approached Mr Moore to discuss any of the issues identified in his letter of objection and Mr Moore would much prefer for the application to be refused, or the project stopped rather than receive compensation for the acknowledged impact on his property.

There is a risk that the Council will be put in a difficult position due to the approach taken by the applicant in some of the documents and correspondence submitted with the application. This letter addresses some of the issues in more detail in order to assist the Council.

## **Heritage Issues**

There is reference to correspondence in the application documents between representatives of the applicant and Historic England relating to the impact of the proposed development on heritage assets. Historic England has made objections to the application and the applicant has instructed Leading Counsel to draft an opinion that seeks to devalue the representations of the national adviser on heritage issues. Although not all of the correspondence has been made available for the public to review, the letter of Historic England dated 13 January 2016 clearly considers the proposed development will neither enhance nor preserve the character and appearance of the Hatton Garden Conservation Area and this consideration should be given considerable weight and importance in the decision-making by the Council.

Our interpretation of Historic England's advice is that there will be substantial harm to the significance of Hatton Garden Conservation Area and that they do not think that it has been demonstrated it can achieve substantial public heritage benefits which outweigh that substantial harm.

This is an extremely strong objection to the proposed development and this issue alone is sufficient to justify refusal.

The advice of Historic England should not be devalued based on whether or not the letter uses precisely the same language as the NPPF and the suggestion that the national adviser does not understand the legal duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is misplaced. In any event, the duties under section 66 and 72 applies to the Council as the decision-maker and no doubt the members will be advised accordingly in the report to committee. Historic England has a wealth of experience and knowledge that is unparalleled in its field and its judgment should not be set aside based on an unduly severe reading of its representations.

It is for the Council to decide whether to follow the strong advice of Historic England but we do not consider the reasons provided by the applicant's representatives to be sufficient to divert from those of the statutory consultee.

#### *55 Gray's Inn Road*

55 Gray's Inn Road is a Grade II listed building. It is a building of architectural and aesthetic interest and value and provides clear evidence of the history of development and altering uses of Gray's Inn Road. The significance is gained from the integrity of its historic fabric and in particular to its principal street elevation. It is a good example of an early Georgian townhouse and is an important contributor to the Georgian character of the road and the area generally.

Critically, despite submitting an analysis of over 57 pages in length, the applicant's heritage adviser fails to assess and describe the particular significance of 55, including any contribution made by its setting. This is a significant flaw in their assessment. The significance of 55 will be harmed by the unsympathetic development which in the words of Historic England is "*oversized and visually very dominant in the context of the remaining historic facades*" and are of "*a poor design and are incongruous with the conservation area*" and hence supports a conclusion that it makes a negative contribution to local character and distinctiveness and fails to preserve the setting of 55. A failure to remedy this will result in a legal error in the Council's decision making process and the applicant should be asked to make this assessment.

#### *Council's Approach to Heritage Issues*

The strong statutory presumption against the grant of planning permission applies whether the proposed development is considered to cause "substantial" or "less than substantial" harm. Even if the Council considers the harm to the significance of a particular designated heritage asset to be "less than substantial", it does not mean it is a less than substantial objection to the grant of planning permission. To consider otherwise would be a basic error in the Council's decision-making that is likely to be fatal to the planning permission. We make comments on the proposed wider public benefits below but it is considered they are not powerful enough to rebut the strong presumption against planning permission.

#### **Sunlighting and Daylighting**

Ansty Horne has been instructed by Mr Moore to advise on infringements on his rights to light and on the impacts of the proposed development on the sunlight and daylight to 55. Their advice on rights to light is that there are potentially actionable losses of light to all rooms facing the development site and these are potentially injunctable. In addition, they say that the proposed development materially impacts on the level of daylight to the habitable rooms facing the development. Whilst the rights to light is not a material consideration, it highlights the dramatic effect the development will have on 55 and the development, or at least part of it, may never be capable of being built if Mr Moore's rights are enforced. Impacts on

daylighting is a material consideration and the applicant's report catalogues numerous other similar significant impacts on other neighbouring properties.

In addition, there has been a failure in the assessment to take into account a particular aspect of my client's enjoyment of the morning sunlight. The flank elevation of 55 faces almost due east and benefits from the morning sunlight deep into the habitable rooms. This will be totally eliminated if the proposed development is constructed. No assessment has been made of these effects. This is a significant concern for my client and, to date, it has not been set at rest or even considered.

### **Public Benefits and S106 Agreement**

The Council will have to decide at the committee whether the scheme is in accordance with the Development Plan. The letter of Mr Moore dated 29 January sets out the conflicts with the policies of the Development Plan and it would be entirely appropriate for the Council to conclude that the scheme is contrary to the Development Plan when read as a whole. The Council will then need to consider whether there are other material considerations that indicate that it should be granted, such as the benefits of the scheme. It is our view that the benefits are not as substantial as the applicant makes out and are insufficient to outweigh the considerable harms.

The applicant sets out the potential public benefits of the proposed development in paragraph 6.5 of the planning statement. Some are questionable (enhancing the Conservation Area); some are likely to be minimal (a minor contribution to affordable housing, which may be reduced further as the submission of an undisclosed viability report will mean the scheme has marginal viability) and one may not be a material consideration (CIL contributions, unless it is stated how the CIL has been taken into account and its connection to the development). Others will require more detail if they are to be understood and relied on. An example of this is the affordable business space. The site currently provides affordable business space to SMEs in about 100 units, which is to be lost and is a significant harm. To mitigate that harm, the applicant has offered 600 square metres of affordable business space secured via a S106 Agreement. Part of the reason for the offered clause in the S106 Agreement must be to seek to protect the continued operation of the existing businesses. There is an inherent difficulty in drafting a requirement that ensures that the Council can be sufficiently confident of the delivery of genuinely affordable business space that has a reasonable prospect of being fulfilled and meets the requirements of the legislation. At present, unless further information is submitted, such as a draft clause, it would be appropriate for the Council to dismiss the proposed mitigation as unconvincing rather than make a bald assertion that the proposal is adequate on the scant information currently available.

The planning statement also sets out that there are further obligations to be secured in addition to the public benefits identified. This includes providing a contribution to a local school and enhancing a neighbouring property. It is not clear what planning purpose these serve, how they are related to the land use and what connection they have with the development proposed. This should be made out or not relied upon as material considerations.

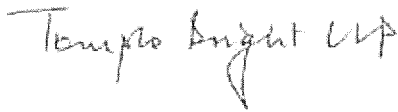
### **Conclusion**

The law does not tell the decision-maker what weight to accord to the Development Plan or to other material considerations and it is for the Council to weigh the balance of the harms and benefits of the scheme and come to a reasoned decision that can be readily understood by the current occupiers and general public. It is hoped that the Council will conclude that the proposed development has substantially more harms than those identified by the application documents and is in conflict with the development plan, and that the benefits are not as broad as the applicant considers and those benefits are outweighed by the harm.

The law will interfere if an immaterial consideration is wrongly taken into account or a material consideration is ignored. The courts will also interfere if legal duties are not discharged. At present, due to the failings of the applicant, there is a significant risk the Council will make such errors if planning permission is granted without resolving the issues set out in this letter.

Please note that Mr Moore would like to speak at the planning committee meeting and requests to be kept informed of when that meeting is likely to be and when the committee report will be released.

Yours faithfully

A handwritten signature in black ink that reads "Temple Bright LLP". The signature is written in a cursive, slightly stylized font.

**Temple Bright LLP**

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