

Application No:	Consultees Name:	Consultees Addr:	Received:	Comment:	Response:
2016/5372/P	Daniel Olive	1 Alma Street NW5 3DJ	25/10/2016 17:26:42	OBJ	<p>I object to application 2016/5372/P on the following grounds.</p> <p>My objections relate both to spatial planning (loss of D1, inappropriate C3 location etc.) and to the detail of the development (height, access, servicing, parking etc.)</p> <p>Firstly, the loss of D1 land is undesirable and not compatible with adopted planning policy. The Site Allocation calls for D1 use of at least part of the site. This is part of the relevant Development Plan, and must not be departed from unless justified by material considerations. There are no such material considerations, and the application must be refused on these grounds. The allocation also calls for the site to “minimise the loss of community uses”, which the application entirely fails to do, for D1 use to be safeguarded (which, self evidently, is not achieved by the application), and envisages open spaces and landscaping (which the application notably lacks). Contrary to the implication in the Planning Statement, the new D1 building does not replace Highgate Day Centre, and it is therefore not appropriate to release Highgate Day Centre for redevelopment. The change of use from D1 of this site is undesirable because there is a need for D1 land in this area, including for medical centres, mental health provision and social care, and libraries etc. where it could provide options both for a total relocation of Kentish Town Library or decant during any major works. The loss of this D1 space prejudices Kentish Town Neighbourhood Plan SSP3, which provides for possible reprovision of Kentish Town Library, and calls for work which would almost certainly require decant space if the library is retained at that site. This also illustrates the need for D1 space in the area.</p> <p>The demolition of the current D1 building is undesirable as it is well suited to use in various D1 uses required in the area, including mental health and social care provision, doctors and dentists surgeries, and library use. The demolition of the building prejudices Kentish Town Neighbourhood Plan SSP3, which provides for possible reprovision of Kentish Town Library, and calls for work which would almost certainly require decant space if the library is retained at that site. The existing building would be very suitable for reprovision or decant. This also illustrates the need for D1 space in the area. The table following 4.9 of the Planning Statement is irrelevant, and should not be considered, as Greenwood Centre already has consent, works to construct it have begun, and its delivery is not contingent on the grant of this application. The Development Agreement referred to in 4.10 is not enforceable by the LPA, and should be discounted. If it to be considered, the restrictions referred to should be made binding with a s. 106 agreement and/or or conditions on the application. If the provisions are considered, and the application is granted in reliance on them, the grant will be unlawful unless they are made enforceable. Similarly, 4.11 must be discounted or made enforceable. I would suggest that not only the transfer but the use referred to should be made a s. 106 obligation or planning condition.</p> <p>C3 use on the site, especially at high levels, is undesirable due to the greater part of the site facing either the busy Highgate Road, which is a major road carrying substantial traffic at all hours, including freight and several bus routes, including a bus lane in operation 42 hours a week, or the railway lines and a yard used for rail and other maintenance and construction work. The rail lines carry both freight and passengers at all hours, with very dense traffic for most of the day. The yard starts work early and runs late, including operating through the night. Higher floors in particular will have no protection from noise from the railway lines and the full range of the yard. Below, I object to the inclusion of windows facing out on these two sides of the building, in breach of the development plan, which prohibits this.</p> <p>By its height, style, design and visual impact, the proposed development does not “Enhance the setting</p>

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of the nearby listed church” as required by the Site Allocation. Design is further addressed below as a detail matter, but is also a breach of the spatial planning policies. The application must be refused because it is for development not in accordance with the Plan and there are no material planning considerations to justify departing from the plan.

It has been suggested in several places, including in the Planning Statement, that the application should be granted because it would bring substantial benefits, principally financial, to Camden LBC. It seems unlikely that councillors, while I am sure they are scrupulously honest, will not also be aware of the benefits to Camden LBC from their role as councillors. These financial benefits to Camden LBC as a corporate body are not relevant to decision making by the LPA. If they are taken account of by the LPA the grant would be unlawful. It is regrettable that the developer has drawn such a great degree of attention to consideration which it is unlawful for the LPA to consider. The financial benefit to Camden LBC must not be considered in determining the application. The only exception is where specific payments, for specific purposes, are provided for by a s. 106 agreement, where such payments would make an otherwise unacceptable development acceptable. Notably, this does not include the suggested funding for Greenwood. As it stands, it also does not appear to include the provision of the café, nor its use for training and/or supported employment. The arguments at 4.20 and 4.23 of the Planning Statement must be discounted as the enrichment of Camden LBC is not a proper matter for the LPA to consider. If similar payments are necessary to make the development acceptable, they should be contained in a s. 106 agreement, providing for funding for specific projects. However, as Greenwood is already well advanced, I submit that financial contributions to this project, which is part completed, cannot achieve any valid planning purpose. The suggestion at 4.21 that the “priority planning objective” for the site is, in essence, the enrichment of the freeholder (whatever they may wish to do with their profits) is erroneous.

The application does not comply with SP2a of the KTNP in that it does not comply with points iv (in that affordable housing is not included to the level required by the London Plan and DP3), vi (in that there is no mitigation for the impact of development on healthcare and education provision), vii (in that there is a great diminution in green spaces, and no meaningful green spaces are provided at all), x (in that the proposal will not, in fact, be car free), and xii (as there is no provision for on-site renewable energy generation). The application should therefore be refused.

There are numerous problems with the detail of the application.

The bin stores are sited such that a vehicle of anything like the normal size for refuse collection would have to reverse a long way, quite possibly around a corner and emerge in reverse on to Highgate Road. This would not only have serious safety issues (from lengthy reversing, including across the pedestrian access proposed to be provided to Greenwood CIL and across its entire frontage, and from reversing on to a major road) and traffic issues (from reversing on to a major road) but is contrary to the Highway Code, and would in most cases constitute careless and inconsiderate driving, a criminal offence. This would be necessary because the road around the edge of the site of the Christ Apostolic Church and the Forum is too narrow and has a tight bend at the end of the church site. That road, even if a vehicle is driven on the pavement, is too narrow to allow a normal bin lorry to pass. Even medium, 3.5 tonne GVW, vans would have difficulty on the corner. All vehicles in common refuse collection use would have great difficulty passing along the road without striking the walls. To quote a HGV driver familiar with the area “That ain’t gonna happen” and “The only way in and out” for HGVs is through the access

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on to Highgate Road next to Linden House. HGV access currently relies on turning on the construction site. Without that a HGV would have to reverse round a corner and emerge in reverse gear on to Highgate Road. Enlargement of the road (permission for which is not applied for, and which does not appear to be under consideration by anyone) would require either loss of a long strip of land from the works site, or demolition and reconstruction, much reduced, of the embankment on the church site, seriously damaging the setting of the listed building by removing the in character supporting setting of the building along the entire rear, and a large slice on the corner to radically enlarge the corner. It would also require loss of several parking spaces in the bays on the road between the church and the Forum.

The local water infrastructure does not have enough capacity to accommodate the development. The site appears to be unable to be unable to accommodate any soakaway or open space through which rainwater could reach the ground. In this situation, permission for this development, which involves considerable loss of green space, should be refused. SUDs does not seem practical on this site, nor is it part of the application, despite the box being ticked on the application. If exceptionally the application is granted, the conditions sought by Thames Water should be attached to the consent.

Access to the social housing is off a narrow alley which will provide poor observation, facilitating break ins. It will also attract people engaging in drug use, drug dealing and ASB. It is unclear from the plans whether there will be any access control. If access control is to be relied upon to address the above concerns, it should form part of the planning permission. The construction of the alley might require alterations to the wall along that edge of the site, forming part of the setting of the listed Christ Apostolic Church. These alterations would be damaging to setting of this listed building, and accordingly the application should be refused. Without major changes to the same wall, the affordable housing will have very little natural light. The necessary changes would seriously alter the setting of the listed Christ Apostolic Church, detracting from the features protected by the listing. Accordingly the application should be refused, either because of damage to the setting of a listed building or because the affordable housing will have very poor natural light.

CPG2 at 2.36 calls for 50% of the housing floorspace in a development such as this to be affordable. This target is missed by an immense margin in this application. There is no reason why this should be allowed. The particular use (supported housing) in no way requires a reduction in provision. There are no material considerations to justify this departure from the plan, and accordingly the application must be refused.

The entire affordable housing is single bed, which is the lowest priority size. While this may be appropriate for the supported accommodation, many of the market flats in the larger sizes, which are a high priority for affordable provision, should be affordable housing as well, and/or there should be much more supported accommodation. The lack of this, on a site which clearly can support larger flats (and which incorporates many of them, for market sale) is a wholly inappropriate departure from CPG2. As there are no material considerations justifying it, the application must be refused.

Any suggestion that the departures described above are justified by the provision of other facilities is wholly wrong. The site is in fact proposed to deliver far less in facilities than the plan proposes, especially in D1 uses, for which there is no provision at all.

If the community café is to be treated as being for the uses described in the Planning Statement, this should be made enforceable by a planning condition restricting use to a café providing education and supported employment, much like the conditions restricting otherwise unacceptable C3 development

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					<p>required for agricultural workers. Without this, the café is just an inappropriate A3 restaurant/café use whose bottle bins will have to be emptied throughout the (uncontrolled) opening hours under residential windows. It is poorly designed as a café, but would be ideally situated for A1 or A2 use, and as currently applied for would have permitted development rights to change to either. Unless consent is conditioned to prohibit such a change, the application is in effect for an estate agent or corner shop. Such uses are not desirable, as there is already an excess of estate agent offices in the area, but that is in effect what is being applied for. For this reason, the application should be refused. Even if not refused for this reason, no account should be taken of the aspiration expressed for a socially useful use of this area which is not part of the planning permission applied for.</p> <p>The extent of “Signage zone integral to building” is unclear in the plans. If it extends to anything other than an unobtrusive sign falling within Class 2 of Schedule 3 to the advertising control regulations, which does not draw undue attention to itself, I object on the basis that this would add unnecessary and unacceptably to the calls on the attention of drivers on this busy road, which has a bus lane, a fire station, difficult turns (which will only be made worse by vehicle access needs of this development), a complex junction, bus stops, several pedestrian crossings, pedestrians crossing away from formal crossings, vulnerable road users going to and from Greenwood, heavy cycle use, a high intensity of signage which increases the burden placed on driver attention, and pedestrian and bike traffic for Eleanor Palmer, Acland Burghley, La Sainte, and Parliament Hill schools. It should be restricted to unobtrusive signage indicating occupiers of the commercial parts of the site. The planning permission should be precise as to the extent of the area to have advertising, and have suitable conditions to prevent abuse of Class C of Schedule 1 to the advertising consent regulations.</p> <p>It is proposed that the development will be car free. To achieve this, a s. 106 agreement prohibiting application for a parking permit is used. This is unenforceable, as has been made clear by the High Court in <i>R (oao Khodari) v The Royal London Borough Council of Kensington and Chelsea</i> [2015] EWHC 4084, and in <i>Westminster City Council v Secretary of State</i> [2013] EWHC 690 (Admin) (see, especially, paragraph 22 of the 2013 judgement). Such a condition is not capable of forming part of a s. 106 agreement, does not run with the land and is not binding on subsequent owners of an estate in the land. It would be of no effect, and residents would be entitled to parking permits. Any attempt to use a TMO in a way that circumvents this would be highly speculative and likely to fail. Such a use of a TMO would not be for any of the purposes for which a TMO can be made, being instead a planning matter. The grant of a planning application in reliance on such a (unenforceable) s. 106 agreement has recently been quashed by the High Court in the 2015 case above. Given this, the construction of 60 flats on this site, without any on site parking for residents, is inappropriate as placing a very heavy burden on parking in the area. The application should be refused because it does not provide any residents parking, placing the entire burden on local roads.</p> <p>4.28 of CPG2, part of the relevant plan, provides that the following requirement “must be met” in new housing: “Windows should be located away from busy roads and railway lines/tracks to minimise noise and pollution and vibration.” The building has many residential windows facing the busy Highgate Road or the railway tracks behind the property. The high level of many of these windows precludes any kind of protection by the nearby works yard (which is itself a major source of noise). I object to the grant of the application on the grounds it contains windows in flats not located away from these two sources of noise. It should be rejected on this basis.</p> <p>The proposed development is overly tall in absolute terms, builds far too tall a slab right up against the</p>

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pavement, lacks any stepping back, and closes up around the road by removing a large open space. This is both undesirable in and of itself, making the area much less attractive, and in its effect on the setting of listed buildings, in particular Christ Apostolic Church and the Forum, but also other listed buildings on the road, whose wider setting will be damaged. The new buildings will dominate most views of Christ Apostolic Church, intruding on front views, dominating the backdrop to side views from Highgate Road looking broadly north, and obscuring most views looking broadly south from Highgate Road. Its impression of height will be much greater than that of Christ Apostolic Church, which gives an impression of being less tall than it is because much of its height is spires, which much sky behind. The Forum lessens the impression of its height by the clever use of pillars on the frontage. Buildings in the immediate area mitigate their height by stepping back (of which an excellent example is the flats opposite) as they rise, only partial use of their heights (such as Christ Apostolic Church's spires) and/or being set back, such as the Forum building, giving a much less oppressive effect. The proposed development does none of these, which will give a very oppressive impression and dominate the area.

The walkway between buildings 1 and 2 will be attractive to criminals, and encourage use of the area for "pre-drinking" before visits to the Forum, continued drinking after Forum shows, pre-drinking before visits to Camden Town night time economy premises, loitering after drinking, and loitering by people of all ages (but especially young people, who lack adequate activities and facilities which are affordable). This will cause noise problems for residents, and may be intimidating to some residents. It may also be attractive to drug users, drug dealers and people engaging in ASB. The zig-zags and plantings will provide cover for unobserved activities, including drug dealing, encourage loitering by drug users and drinkers, and provide hiding places for the stock of drug dealers. There appears to be no provision for the maintenance of the area, nor is it clear whether it will be dedicated as a highway. If it is a highway, it is not clear whether it will be adopted. There is no mention in the application of measures to ensure the walkway is of adoptable standard, and it seem to pose challenges in maintenance as an adopted highway due to the shallow depth over a private building. Adequate provision (whether conditions, s. 106 or some other means) should be provided to arrange for the upkeep of the area. Because of the effect on the area from crime, ASB, street drinking, and rowdiness, and the designing in of opportunities for crime, the application should be refused. Because of the tendency of the walkway to attract noisy users, especially late at night, under residential windows, including bedroom windows, the application should be refused.

So large an area of storage, with no practical control over what is stored, how flammable it is, the fire loading, and any other hazardous characteristics, under residential accommodation is inherently undesirable. A&A actively seek business storage contracts, especially paper archive storage, which has a very high fire loading. The risk this poses of fires cutting off escape routes and/or endangering the safety of the building calls for careful consideration, which seems not to have been given, and may require mitigating measures such as interlinking of alarms, so that fire in the storage area triggers evacuation of residents, sprinkler coverage of the storage area, enhanced dry falling main provision, enhanced protection of structural elements against heat, etc. If suitable steps are not provided for already, they should be provided, unless LFB considers them unnecessary. Of particular concern is that access to three sides does not meet requirements for fire appliance access, due to narrow roads and lack of turning circle/hammerhead. The location of the LV switch room and meter room in the least accessible area of the basement (with its high fire loading) is also undesirable.

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					<p>The residential meters are so sited as to make pre-payment meters impractical and to inhibit the use of smart meters.</p> <p>The location of the notional intake for any future district heat system is wholly unsuitable to use for that purpose.</p> <p>The application claims there are no trees or hedges on site. Accordingly, consent is not applied for in respect of development operations involving the removal of any trees or hedges. There are in fact several trees and hedges on site, and the grant of permission should make clear that their removal is not permitted.</p> <p>Alternatively, the LPA is invited to decline to determine the application until it is complete and accurate, including the additional details required when there are trees on the site.</p> <p>I will wish to speak to these points before the Development Control Committee, and would like to be informed of the date when this matter will be dealt with at committee.</p> <p>There are several issues with the application and advertisement process, which I would like to draw attention to. Beside the name of the applicant being wrongly entered (which, while an error, I do not contend is grounds to refuse the application or gives rise to any legal implications), the application was not validly advertised, as point d of the notice in Schedule 3 to the Town and Country Planning (Development Management Procedure) (England) Order 2015 was not accurately completed. The information at point d omitted reference to the A3 use entirely, despite detailing all the other uses. This may have been a well intentioned attempt to shorten what was a large block of text for public consumption, but it gave an inaccurate impression and deprived people seeing the notice of any warning of the possibility of conversion to A1 and A2 use, which would have been important to many residents. The notice also gave the wrong details for the address of the site, in that 19-37 Highgate Road does not have the postcode NW5 1LB. This is relatively minor, but the notice did not in fact contain at point a the address or location of the the proposed development. As the DPMO was not complied with in these respects, the LPA is prohibited by s. 65(5) of the Town and Country Planning Act 1990 from entertaining the application. Article 15(4) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 is a provision of a development order providing for publicising applications for planning permission, and providing for the form and content of such notices. As it has not been complied with, the LPA may not entertain the application. The application falsely asserts that there are no trees or hedges on the site. This is untrue, and I invite the LPA to refuse to determine the application until it receives an accurate application on which it may base its decision (but note that the LPA may not entertain the application, corrected or otherwise, until it has been advertised in compliance with article 15(4) as described above).</p>
