



Planning & Development Ltd

# **JMS Planning & Development Ltd**

**Town and Country Planning Act 1990**

**Draft Statement of Common Ground in  
Support of an Appeal**

**at**

**47 Marchmont Street**

**London**

**WC1N 1AP**

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June 2016

## **SECTION 1: INTRODUCTION**

- 1.1 This draft statement of Common Ground has been prepared by JMS Planning & Development Ltd on behalf of Marc Abomnes (*“the Appellant”*) in support of an appeal against the refusal of a planning application (LPA Ref: 2015/2757/P) by the London Borough of Camden (*“the Council”*) by decision notice dated 8 February 2016 for the following works in respect to 47 Marchmont Street, London, WC1N 1AP (*“the Appeal Site”*);

## **SECTION 2: APPEAL SITE AND SURROUNDING AREA**

- 2.1 The appeal site comprises 47 Marchmont Street. The ground floor of the unit is occupied by Burger & Shake (Use Class A3), a successful 'American style' barbecue restaurant which also occupies part of the lower ground floor. Part of the lower ground floor is therefore already in A3 (restaurant use). The remainder of the lower ground floor has not been fully converted and has been vacant for more than eight years. The lower ground floor has been accepted previously by planning officers of LB Camden to have no internal features of historical merit.
- 2.2 The upper floors of 47 Marchmont Street are in residential use. The application site is located on the west side of Marchmont Street and is situated within the defined Marchmont Street Neighbourhood Centre.
- 2.3 The Marchmont Street Neighbourhood Centre contains no basements which are in B1 use.
- 2.4 The appeal site forms part of a terrace within the Marchmont Street Neighbourhood Centre, which principally comprises commercial uses at ground floor. To the rear of the site is a large six storey block of residential flats which forms part of the Herbrand Estate. The rear yard of the application site comprises hardstanding. The rear yards of surrounding properties on the west side of Marchmont Street are generally similar with some further to the north containing large, double height outbuildings.
- 2.5 The appeal site is included in the listing of the west side of Marchmont Street, from numbers 39-73. The application site was first listed on 14th May 1974 (list entry number 1113112: 39-73 Marchmont Street). The listing is based on the external features of the buildings, detailing their origins as an early 19th Century terrace of housing, with later 19th Century and 20th Century modifications to accommodate shopfronts. The listing notice states:-

*“Terrace of 18 houses with the later shops. C1801-6. Yellow stock brick; numbers 45, 61 and 63 stucco storeys and cellars, 2 windows each. Mostly altered later C19 and C20 shopfronts. Gauged brick, (mostly reddened) flat arches to recessed sash windows, some with original glazing bars. Parapets.*

*No. 43: original wooden shopfront with pilasters and brackets carrying projected cornice. Shop window altered. Round—arched house doorway with fluted jambs, Lionhead stops, cornice—head, and light panelled door. Shop doorway with fanlight and panelled door.*

*No. 45: architrave, recessed sash windows. Stucco cornice and blocking course.*

*Nos. 57 & 59 mid C19 wooden shopfronts with pilasters carrying entablature with dentil cornice flanked by enriched consoles.*

*Shop window on No. 59 with segmental—arched lights.*

*Square—headed house doorways with overlights and panelled doors (No. 57 C20). No. 57 with wrought — iron sign (at 1st floor level).*

*Nos. 61 & 63: recessed sash windows with architraves and cornices. Bracketed stucco cornices at 3rd floor.*

*Nos. 65 — 73: with enriched fascia consoles.*

*No. 69: with plaque ‘ST.G.B 1817’.*

*No. 71: with plaque ‘S PP 1791’.*

*INTERIORS: not inspected.”*

2.6 The appeal site is also located within the Bloomsbury Conservation Area.

2.7 An assessment of the building confirms that there is nothing of the special interest of building which remains at either ground or lower ground floor level. This is accepted by officers (and as identified elsewhere in this statement it is confirmed that no heritage objection to the appeal proposals is raised by the Council).

2.8 The Brunswick Centre is located opposite to the appeal site, and constitutes a separate Neighbourhood Centre although it is directly adjacent to and accessed from Marchmont Street. The centre was renovated and re-opened in late 2006. It is occupied almost exclusively by shop and restaurant national multiples, including a large Waitrose.

2.9 The Brunswick Centre and contains a number of food, drink and entertainment uses including:-

- Nandos
- Gourmet Burger Kitchen;
- Itsu;
- Las Iguanas;
- Hare & Tortoise;
- Giraffe;
- Crussh;
- Apostrophe;
- Carluccio's
- Chatime;
- Petit A;
- Patisserie Valerie.

### **SECTION 3: APPEAL SITE PLANNING HISTORY**

- 3.1 Planning permission was originally granted on 17 July 1968 for the change of use of the premises to a betting office. Planning permission was granted on 28th October 1977 for alteration and extension to the rear of the ground floor and basement (LPA Ref: M14/10/5/HP/1728). The change of use of the basement from storage purposes to use as office and craft workshop and the construction of a basement and ground floor extension at the rear was also granted on 28th October 1977 (LPA Ref: M14/10/B/25030).
- 3.2 A planning application for the change of use of the lower ground floor from office (Use Class B1) to two-bedroom flat (Class C3) and alterations to the roof of the existing rear basement extension (LPA Ref: 2010/0847/P) was granted by decision dated 29 June 2010. At this time the ground floor was vacant. An associated application for Listed Building Consent (LPA Ref: 2010/0849/L) for internal alterations and replacement of roof to existing rear extension in connection with the change of use of the basement from office (Class B1) to a two bedroom flat (Class C3) was also granted by decision dated 29 June 2010. Notably, the associated Officer's Report states *"few historic or architectural features survive and the internal character of the spaces has been so altered that there is little of special interest remaining."*
- 3.3 The ground floor of 47 Marchmont Street previously traded as Panino D'Oro (Use Class A3) as an Italian restaurant for some 27 years. An application (LPA Ref: 2011/1437/P) for a Certificate of Lawfulness of an Existing Use or Development (CLEUD) confirming the lawful use of the ground floor as a restaurant was granted on 22 July 2011.
- 3.4 A planning application for full planning permission and an associated application for Listed Building Consent was submitted on 28th November 2011 (LPA Ref: 2011/6098/P and 2011/6142/L respectively). These applications proposed a rear extension at ground and lower ground floor levels extending the full depth of the

rear garden and included the change of use of the whole of the lower ground floor to a restaurant (Use Class A3). Following detailed discussions with the Council's Conservation Officer in respect to heritage issues these applications were withdrawn.

3.5 Subsequently, two further applications were submitted to facilitate the erection of a two-storey rear extension at lower ground and ground floor levels, installation of plant and flue to rear elevation on first to third floor level, and alterations to shopfront all in connection with the existing use of the lower ground floors and office (Use Class B1) and ground floor as a restaurant (Use Class A3). The relevant planning application was referenced LPA Ref: 2012/1526/P, whilst the associated listed building application was referenced LPA Ref: 2012/1581/L. Both applications were granted by decision dated 8 June 2012.

3.6 A planning application was submitted on 4 December 2015 for *“Change of use of part lower ground floor from B1 to A3 to provide additional storage to ground floor restaurant; replacement of rear lower ground floor extension; rear ground floor extension (including two new windows); installation of new door at lower ground floor; external rear staircase and new rear door at ground floor; new front staircase, door and window; new French doors at first floor level and installation of balustrade to create first floor terrace, new refuse store, timber fence and other associated works.”* An associated application for Listed Building Consent was submitted at the same time. These applications were referenced 2015/6802/L 2015/6619/P respectively. Both applications were granted by decisions dated 26 January 2016.

## **SECTION 4: PLANNING POLICY**

### **National Planning Guidance**

#### National Planning Policy Framework (March 2012)

- 4.1 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and confirms the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 6).
- 4.2 The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications (paragraph 13).
- 4.3 Paragraph 17 confirms that, within the overarching roles the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These principles include:
- Not simply be about scrutiny but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
  - Proactively drive and support sustainable economic development to deliver homes, business and industrial units, infrastructure and thriving local places the country needs.
  - Encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
  - Promote mixed use developments, and encourage multiple benefits from the use of land of urban and rural areas;

- 4.4 The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth (paragraph 19).
- 4.5 To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century (paragraph 20). Investment in business should not be overburdened by the combined requirements of planning policy expectations.
- 4.6 Paragraph 22 of the NPPF states that sites should not be protected for the long-term and where vacant, alternative uses for employment sites should be considered. The paragraph confirms that planning policy should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.
- 4.7 Planning policies should be positive, promote competitive town centre environments. Local planning authorities should, inter alia:
- Recognise town centres as the heart of their communities and pursue policies to support their viability and vitality.
  - Promote competitive town centres that provide customer choice and a diverse retail offer which reflects the individuality of town centres (paragraph 23).

## **The Development Plan**

- 4.8 For the purposes of Section 38 of the Planning and Compulsory Purchase Act 2004 the statutory development plan comprises The London Plan (Consolidated With Alterations Since 2011) (March 2015), the Camden Core Strategy 2010-2025 (November 2010) and the Camden Development Policies 2010-2025 (November 2010).

### The London Plan (Consolidated With Alterations Since 2011) (March 2015)

- 4.9 Policy 2.9 (Inner London) states that the Mayor will, and boroughs and other stakeholders should, work to realise the potential of inner London in ways that sustain and enhance its recent economic and demographic growth while also improving its distinct environment, neighbourhoods and public realm, supporting and sustaining existing and new communities, addressing its unique concentrations of deprivation, ensuring the availability of appropriate workspaces for the area's changing economy and improving quality of life and health for those living, working, studying or visiting there.
- 4.10 Policy 4.8 (Supporting a Successful and Diverse Retail Sector and Related Facilities and Services) states that the Mayor will, and boroughs and other stakeholders should, support a successful, competitive and diverse retail sector which promotes sustainable access to the goods and services that Londoners need.

### Camden Core Strategy 2010 (November 2010)

- 4.11 The Key Diagram Map 1 confirms the appeal site lies both within the Central Activity Zone and within the defined Highly Accessible Area.
- 4.12 Policy CS1 – (Distribution of Growth) confirms that the Council will promote the most efficient use of land and buildings in Camden by, inter alia, seeking

development that makes a full use of its site, taking into account quality of its design, its surroundings, sustainability, amenity, heritage, transport accessibility and any other considerations relevant to the site whilst resisting development that makes inefficient use of Camden's limited land.

- 4.13 Policy CS3 (Other Highly Accessible Areas) confirms the Council will promote appropriate development in the highly accessible areas of, inter alia, Central London. This is considered to be a suitable location for, inter alia, the provision of food, drink and entertainment uses.
  
- 4.14 Policy CS5 (Managing the Impact of Growth and Development) confirms the Council will manage the impact of growth and development in Camden through a variety of means. Including, providing uses that meets the needs of Camden's population and contribute to the Borough's London-wide role and protecting and enhancing the environment and heritage and amenity and quality of life of local communities. In particular, the Council will protect the amenity of Camden's residents through a variety of means, but principally, by ensuring that the impact of their occupiers and neighbours is fully considered and requiring mitigation measures where required.
  
- 4.15 Policy CS7 (Promoting Camden's Centres and Shops) states that the Council will promote successful and vibrant centres including the Council's neighbourhood centres throughout the borough to serve the needs of residents, workers and visitors. This includes providing for and maintaining, a range of shops, services, food, drink and entertainment and other suitable uses to provide variety, vibrancy and choice. Associated Map 2: Town Centres confirms Marchmont Street to be a Neighbourhood Centre.

4.16 Policy CS8 (Promoting a Successful and Inclusive Camden Economy) confirms the Council will seek to secure a strong economy in Camden and seeks to ensure that no one is excluded from its success. The policy confirms that the Council will support Camden's industry by:

- Safeguarding existing employment sites and premises in the Borough that meets the needs of modern industry and other employees, safeguarding the Boroughs' main Industry Area; and
- Promoting and protecting the jewellery industry in Hatton Garden.

4.17 Policy CS9 (Achieving a Successful Central London) confirms the Council recognises the integral character and challenges of Central London and will support Central London as a focus of Camden's future growth in homes, offices and hotels, shops and other uses.

Camden Development Policies 2010-2025 (November 2010)

4.18 Policy DP1 (Mixed Use Development) confirms the Council will require a mix of uses and development where appropriate in all parts of the borough. It states that in considering whether a mix of uses should be sought, the Council will take into account a number of factors, including the character of the development, the site and the area; the extent of the additional floorspace; the need for an active street frontage and natural surveillance; and whether an extension to the gross floorspace is needed for an existing user.

4.19 Policy DP12 (Supporting Strong Centres and Managing the Impact of Food, Drink, Entertainment and Other Town Centre Uses) confirms the Council will ensure that development of shopping, services, food, drink, entertainment and other town centre uses does not cause harm to the character, function, vitality and viability of a centre, the local area or the amenity of neighbours.

4.20 Policy DP13 (Employment Premises and Sites) confirms the Council will retain land and buildings that are suitable for continued business use and will resist a change to non-business use unless:

- (a) It can be demonstrated to the Council's satisfaction that the site or building is no longer suitable for its existing business use; and
- (b) There is evidence that the possibility of retaining, reusing or redeveloping the site or building for a similar alternative business use has been fully explored over an appropriate period of time.

4.21 DP26 (Managing The Impact of Development On Occupiers and Neighbours) confirms the Council will protect the quality of life of occupiers and neighbours by only granting planning permission for development that does not cause harm to amenity. The policy confirms the factors the Council will consider include:

- (a) Visual privacy and overlooking;
- (b) Overshadowing and outlook;
- (c) Sunlight, daylight and artificial light levels;
- (d) Noise and vibration levels;
- (e) Odour, fumes and dust;
- (f) Microclimate;
- (g) The inclusion of appropriate attenuation measures.

4.22 Policy DP28 (Noise and Vibration) confirms the Council will seek to ensure that noise and vibration is controlled and managed and will not grant planning permission for development likely to generate noise pollution or development sensitive to noise in locations with noise pollution unless appropriate attenuation measures are provided.

## Supplementary Planning Guidance

### Camden Policy Guidance 5 (CPG5)

- 4.23 Section 3 of this document discusses Neighbourhood Centres and states that food and drink uses can make a positive contribution to the character, function, vitality and viability of these centres. Paragraph 3.62 goes on to acknowledge that Neighbourhood Centres will be considered suitable locations for food and drink uses of a small scale that serve local catchments, provided they do not harm the surrounding area.
- 4.24 Section 4 of the Guidance has regard to the Central London Area. It seeks to maintain the mixed use character of the Central London area and protect the retail function of shopping streets. Paragraph 4.83 confirms that Marchmont Street is a Neighbourhood Centre within the Central London Area. The Guidance sets out approach to food, drink and entertainment ("*fde*") uses and specifies that, on Marchmont Street, there should be no more than 25% fde uses, with no premises larger than 100sqm. In addition, the Guidance states that there should be no more than two consecutive "*fde*" uses in a centre.
- 4.25 Section 6 of the Guidance states that food, drink and entertainment uses should be located in areas where their impact can be minimised. Paragraph 6.4 states that for all applications for food, drink or entertainment uses the Council will assess the potential impacts of the proposal on local amenity, the character and function of the area and its overall mix of uses.
- 4.26 Appendix 3 of CPG5 sets out how to calculate the percentage of uses and frontages, and confirms that the approach and policies apply to only ground floor uses and relates only to the existing lawful use of properties (paragraph 8.6).