

Our Ref: MR/CE/12874
Your Ref:

E-mail: matthew.roe@cgms.co.uk
Date: 10th November 2016

David Glasgow
Regeneration and Planning
Development Management
London Borough of Camden
Town Hall
Judd Street
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Dear Mr Glasgow

**WRITTEN REPRESENTATION TO PLANNING APPLICATION (LPA REF. 2015/6455/P)
CONCERNING THE REVISED AND ADDITIONAL INFORMATION SUBMITTED BY THE
APPLICANT ON 17TH AND 20TH OCTOBER 2016.
156 WEST END LANE, WEST HAMPSTEAD**

I write on behalf of my client, Travis Perkins, with regard to the revised and additional information submitted by the applicant in October 2016 concerning the above planning application. These comments should be read in conjunction with our original representation letter dated 8th January 2016 (enclosed at Appendix A) and the further representation letter dated 25th July 2016 (enclosed at Appendix B).

Having reviewed the new information, Travis Perkins maintain that the proposed scheme at 156 West End Lane is in direct conflict with the adopted Camden Development Plan and unquestionably should be refused.

The proposals are contrary to adopted Development Plan Policy DP13 and the adopted Fortune Green and West Hampstead Neighbourhood Development Plan Policy 12 (hereafter NDP). Furthermore, the proposed scheme is in conflict with the Draft Policy E2 'Employment Premises and Sites' within the Emerging Local Plan. The Local Plan Examination in Public Hearing took place in October 2016 and therefore the emerging Local Plan now carries material weight when determining planning applications.

No substantial changes are proposed from the original planning application submitted December 2015 or the co-called Addendum submission in June 2016 and thus, the points detailed within our previous representations remain relevant. These are attached for reference.

However, having reviewed the further additional submission we make the following representations in regards to firstly the applicant's further revised position on the compliance of the scheme with relevant planning policy and then the new information submitted on the ability to co-locate uses and alternative redevelopment options.

1) Planning Policy Context

The purpose of the applicant's Employment Policy Statement, as set out in the introduction, is to assess the proposals in the context of Development Planning Policy DP13. It is noted in paragraph 2.1 that the Development Plan comprises the London Plan (2015); Core Strategy (2010); Development Policies (2010); Site Allocations (2013); Fortune Green and West Hampstead Neighbourhood Plan (2015), and adopted Supplementary Planning Documents. Importantly, Policy DP13 is contained within the Development Policies (2010) and therefore the proposals must be considered within this planning policy context. It is noted that the applicant makes no reference whatsoever to the emerging Local Plan which has been submitted to the inspector and the Examination in Public was held in October 2016. The draft policies contained within this document are also material planning considerations.

Relevance of Development Plan Policy 13

The applicant's original submission (November 2015) recognised the importance of Policy DP13 at paragraph 6.61 and did not dispute that this site is suitable for continued business use. Indeed, the applicant suggested their proposals complied with DP13. However, the applicant wrongly argued that the proposed commercial space of 891m² of flexible non-residential floorspace (within Use Classes A1, 2 and 3 and D1 and 2) and 619m² of flexible employment space (within Use Class B1) compensated for the loss of business space of 1,618m². This claim is incorrect, as detailed within our representations dated January 2016, as this contradicts policy DP13. The proposed floorspace was not being reprovided in terms of employment type nor in terms of the quantum of floor space. The actual existing business floor space is 4,380m².

However, having presumably accepted that their original submission was fundamentally flawed, the applicant then proffered a completely new approach in their "Addendum" (June 2016). Whereas they accepted the site was suitable for continued business use in November 2015, they now suggested the site was "unsuitable for continued industrial use". This is at best disingenuous. As detailed within our previous representations (July 2016), quite simply, Travis Perkins is not an industrial use.

The Council's development plan considers a builders' merchant as a sui generis use which has the same level of protection as uses within Use Class B. This is confirmed in the supporting text of Policy DP13 paragraph 13.11. Furthermore, it cannot possibly be concluded that the site

was no longer suitable for continued use. In fact the site has remained occupied and therefore viable prior to even the original submission.

The “Addendum” of June 2016 also claimed that DP13 is ‘out of date’ and therefore not relevant. Again our representations have consistently confirmed that Policy DP13, the key employment policy for Camden, is up to date and a material planning consideration.

It must again be assumed that the applicant now accepted the fallaciousness of their second effort as trialled in their June 2016 “Addendum”. Extraordinarily, the additional information submitted in October 2016 shows that the applicant has shifted their stance in regards to DP13 for a third time.

The Employment Policy Statement is actually entitled “consideration of development policies Policy DP13 in the context of **other relevant** planning policies” (note the emphasis) and it spends almost 16 pages analysing the relevance of the development proposals in the context of the provisions of Policy DP13. Clearly, the applicant is, quite rightly, accepting that Policy DP13 is very much of relevance to the assessment of the development scheme.

Unfortunately the Employment Policy Statement continues to misrepresent Policy DP13. For example, paragraph 3.2 states that “*There is no policy protection for industrial or similar sui generis uses in this location, and no requirement to protect an existing occupier*”. Leaving aside the continued attempt to imply that Travis Perkins use is industrial, in the context of the adopted development plan this statement is simply wrong. Not only does this disregard the aims of Policy DP13 but it is also in conflict with Policy 12 criterion (1) of the NDP which has a presumption in favour of retaining existing employment sites. It is absolutely clear that the adopted development plan protects existing viable employment sites. Furthermore, whilst Policy DP13 is wholly up to date and a relevant material consideration, the applicant also fails to consider the protection afforded to employment sites by emerging development plan Policy E2. This policy is identical to DP13 in terms of the protection provided for existing and viable businesses.

Assessment of proposals against DP13

The Employment Policy Statement claims at paragraph 3.41 that assessing the existing floorspace against the criteria set out in the supporting text of Policy DP13 that the building and site and be considered no longer ‘suitable’ or ‘viable and sustainable’ for its existing employment use types. There is an implicit acceptance that their scheme needs to comply with Policy DP13 (per the applicant’s November 2015 submission, but contrary to their June 2016 submission). We assess below the compliance of the scheme with the criteria established in adopted Policy DP13.

Policy DP13 is clear that the Council will retain land and buildings that are suitable for continued business use and will resist a change to non-business use unless the requirements of criteria (a) and (b) are satisfied. These criteria are assessed in turn in the following paragraphs:

(a) It can be demonstrated to the Council's satisfaction that a site or building is no longer suitable for its existing business use

The site currently has an active and viable employment use as a builders' merchant (*sui generis*). It is therefore clear that the site is suitable for its existing business use. This is confirmed by the applicants' own Employment Policy Statement in paragraph 3.4 (b.2.7);

"Is in reasonable condition to allow the use to continue?"

The site is currently occupied at the groundfloor by a builder's merchant which suggests that its condition is reasonable to allow for the use to continue"

Therefore, by virtue of its current occupation, the site is wholly 'suitable', 'viable and sustainable' and thus it cannot be demonstrated otherwise. The proposals therefore do not comply with criterion (a).

(b) There is evidence that the possibility of retaining, reusing or redeveloping the site or the building for similar or alternative business use has been fully explored over an appropriate period of time

Policy CPG5 paragraph 7.18, in line with Policy DP13, confirms that this evidence requires continuous marketing over a period of 2 years, and where there is an existing employment use, evidence that the tenant intends to move out. The applicant has failed to provide any marketing evidence to substantiate the claims that the existing employment space is unsuitable for continued use. The simple answer for this is that the existing employment space *is* suitable for its continued business use and should any marketing have been undertaken this would have demonstrated a significant demand for the premises, including from the existing occupiers, Travis Perkins.

In light of the above, neither criterion (a) nor (b) are satisfied and the Council should therefore resist a change to non-business use. It is therefore it is necessary for a mixed use redevelopment scheme to comply with all 5 of criteria (c) to (g) of Policy DP13. These are examined in the following paragraphs.

(c) the level of employment floorspace is maintained or increased;

The applicants' Employment Policy Statement, contrary to all previous submissions, now accepts at paragraph 1.2 that the quantum of existing floorspace of Travis Perkins (Sui Generis) is 4,380sqm. The level of existing floorspace is therefore undisputed. The additional submission also proposes to increase the quantum of proposed employment floorspace. The scheme is now proposed to deliver 1,856sqm of employment floorspace. It is therefore clear that in terms of quantum of employment floorspace, the proposed development falls significantly short. Thus the proposal does not comply with criterion (c) of DP13. It should be noted that this criterion is identical in emerging Policy E2 criterion (c).

(d) they include other priority uses, such as housing and affordable housing;

The proposed development complies with this criterion and provides housing and affordable housing. The applicant claims that housing is *the* priority land use and all other uses are secondary to this. Consequently, the provision of employment floorspace would threaten the quantum of housing. If *the* priority land use was housing, over and above all other land uses, then the applicant would only have proposed a housing redevelopment. In addition, claiming housing as *the* priority over and above existing and viable uses is clearly wrong. If this were the case then all development, mixed use or otherwise, could be turned over to housing which commands much higher land value. In addition, the inclusion of 'other' within the policy wording is relevant as this suggests, contrary to the applicants view, that housing is not the only priority use.

(e) premises suitable for new, small or medium enterprises are provided;

The scheme is in accordance with this criterion providing 763sqm of flexible employment space and 500sqm of start-up floorspace.

(f) floorspace suitable for either light industrial, industry or warehousing uses is re-provided where the site has been used for these uses or for offices in premises that are suitable for other business uses;

The proposals do not re-provide the type of existing floorspace at the site. The 1,856sqm of employment floorspace has been designed as 'flexible space' suitable for office use. This is not a re-provision of like-for-like contrary to the requirement of criterion (f). Light industrial, industry or warehousing uses will be unable to occupy the site as the characteristics of the space are designed to be more suitable for office uses i.e. through reduced ceiling heights. As detailed above, this would again set an alarming precedent in that all redevelopments of existing uses would be replaced by higher value land uses making a nonsense of the policy.

(g) the proposed non- employment uses will not prejudice continued industrial use in the surrounding area.

Contrary to criterion (g) the proposed redevelopment, which does not re-provide the existing employment floorspace in terms of quantum or type, will prejudice continued industrial on other sites. Travis Perkins is a long-term employer and provides goods and services to other small and medium sized local businesses including industrial users. The proposed replacement of employment uses will undoubtedly be detrimental to the operation of businesses in the surrounding area. Again, the proposed redevelopment fails to comply with this criterion which is reiterated in emerging policy E2 (h).

Site Allocations Document

The applicant makes great play of the sites allocation within the adopted Site Allocations DPD (2013). The Employment Statement states at paragraph 1.7 the Site Allocation “confirms housing is the priority land use”. Furthermore, paragraph 3.9 states “any consideration of the employment potential of the site must therefore be in the context of these established site-specific planning principles and evidence of need: Housing as the primary use of the site; no protection of the existing occupier; no protection of the specific existing employment use; optimising the potential of the site; secondary uses for which there is need and which do not compromise the delivery of new housing”.

Indeed, the site allocation (site 28) supporting text ‘Main policy considerations’ states “Housing is the priority land use and will be sought as part of more efficient use the site”. Importantly, the text clearly states that housing is sought as ‘**part**’ of this use. Travis Perkins wholly supports the delivery of housing as part of the redevelopment scheme in accordance with the adopted Site Allocations Document. In addition to the delivery of housing the ‘Main Policy Considerations’ also confirms that the “council expects mixed use development to maximise site opportunities whilst protecting and encouraging the provision of a range of employment facilities (Policy CS8 and DP13)”. It is therefore very clear that the established site-specific planning principles uphold the principles of Policy DP13 and protect employment floorspace. The applicant’s conclusion that there is “no protection of the existing occupier” and “no protection of the specific existing employment use” are simply false and there is no evidence or planning policy principle to support this.

Furthermore, the actual wording of the site allocation guidance for 156 West End Lane recommends “a mixed use development to include residential alongside retail and employment uses”. In regards to the complimentary employment uses the guidance states that this should “Provide flexible employment floorspace (subject to relevant criteria)”. Whilst the development complies with the first part of this guidance and proposes to include some flexible employment floorspace, the applicant fails to take into account the second part of this guidance “subject to

relevant criteria". This criteria, as supported in the Main Policy Considerations, is set out in adopted policy DP13. Crucially, the scheme is unable to satisfy this criteria and the proposals remain in deep conflict with Policy DP13 and the adopted Development Plan.

2) Co-locating land uses

The Employment Policy Statement claims at paragraph 3.15 that there are challenges associated with co-locating industrial uses and permanent housing. They attempt to substantiate these claims using the redevelopment of a builders' merchant at St Pancras Way (2011/1586/P) as an example.

This is again a mendacious argument. Firstly, Travis Perkins is not an industrial use. Moreover, we have previously addressed this erroneous argument in our representations dated 25th July 2016 (enclosed at Appendix B) and our position remains the same. As the planning consultant who dealt with the St Pancras Way planning application throughout its consideration, I can confirm that it was in fact, UNITE, the developer of the site, who did not want to include any permanent residential accommodation as they are a student housing provider. We reiterate that at no point have Travis Perkins stated that residential development cannot be delivered at upper levels above a builders' merchant or similar use. Indeed, Travis Perkins has for some years been in discussion with house builders about mixed use schemes on a number of their properties. Developments have been built co-siting Travis Perkins with market and affordable housing. We have previously provided letters from house builders and developers making this absolutely clear, and attach them again in Appendix C.

3) Options for redevelopment

The applicant has submitted as part of the additional submission a document outlining two conceptual models for redevelopment of the site. Option A involves the re-provision of employment floorspace whilst Option B reflects the current proposed scheme.

The purpose of this document is unclear and again contains inaccuracies. As detailed above, the claims that co-location of Travis Perkins and residential uses are challenging, are erroneous. In addition, the exploration of Option A confirms that the re-provision of the existing floorspace can in fact be achieved in line with the adopted development plan. It is noted that this would result in the reduction in quantum of housing but the development would comply with the relevant employment policy considerations. Furthermore, the applicant states that they "*haven't worked on this in detail*" and thus we consider that a development proposal that is fully policy compliant is in fact achievable at this site.

Conclusion

In summary Policy DP13 and emerging policy E2 seek to protect existing employment sites and floorspace which are suitable for continued business use. It is abundantly clear that this site is suitable for continued employment use. In such circumstances it is necessary for any mixed use scheme to comply with all criteria (c) to (g) of Policy DP13. It is clear that the development proposals are in conflict with criteria (c), (f) and (g). There is no policy support or precedent demonstrating that any criteria commands more weight in determining planning application or that compliance with criteria (e) and (d) is sufficient and acceptable to disregard the other 5 criteria. Again, this is replicated in the emerging Local Plan Policy E2.

The proposals therefore remain in clear breach of Policy DP13 and should be refused on this basis. This is supported by the GLA stage 1 response which states that *“the loss of employment uses in particular the builder’s merchant which provides an important local service, should be addressed”*. It is not considered that the additional submission has sufficiently addressed the failure for the scheme to comply with the adopted development plan.

Further to this the proposed scheme directly conflicts with Policy 12 of the Neighbourhood Plan, which places a policy presumption in favour of the retention of existing employment uses. The significant reduction in the quantum of employment floorspace and the nature of the replacement provision conflicts with the development plan. Approving this scheme will set a dangerous precedent which will result in the erosion of the supply of employment floorspace and sites across the Borough as they will be allowed to be replaced by higher value residential use, even on viable employment sites.

I trust these comments will be taken into consideration in the Council’s determination of this planning application.

Yours sincerely,



MATTHEW ROE
Director

Appendix A – RPS CgMs letter dated 8th January 2016
Appendix B – RPS CgMs letter dated 25th July 2016
Appendix C – Letters from housebuilders and developers

cc. Colin Wilson – Greater London Authority

APPENDIX A

BY POST AND EMAIL

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8th January 2016

Dear Ms Chug,

WRITTEN REPRESENTATION TO PLANNING APPLICATION FOR COMPREHENSIVE REDEVELOPMENT FOLLOWING DEMOLITION OF ALL EXISTING BUILDINGS TO PROVIDE 164 SELF-CONTAINED RESIDENTIAL DWELLINGS (CLASS C3), 891SQM OF FLEXIBLE NON-RESIDENTIAL USE (CLASS A-A3, D1, D2), 889SQM OF EMPLOYMENT FLOORSPACE (CLASS B1) AND 63SQ.M OF COMMUNITY MEETING SPACE (CLASS D1) IN BUILDINGS RANGING FROM 3 TO 7 STOREYS. NEW VEHICULAR ACCESS FROM WEST END LANE AND PROVISION OF 16 ACCESSIBLE CAR PARKING SPACES. PROVISION OF NEW PUBLIC OPEN SPACE AND WIDENING OF POTTERIES PATH. ASSOCIATED CYCLE PARKING AND LANDSCAPING (LPA REF. 2015/6455/P). 156 WEST END LANE, WEST HAMPSTEAD

I write on behalf of my client, Travis Perkins, with regard to the above planning application to express their severe concerns about the conflict of the scheme with the adopted Camden Development Plan and the Fortune Green and West Hampstead and Neighbourhood Development Plan (hereafter the NDP).

Travis Perkins concerns relate primarily to the direct conflict of the proposed development with Camden Development Plan Policy DP13 and NDP Policy 12. It is clear these policies seek to protect industrial land and buildings which are suitable for continued business use. The applicant's planning statement recognises the relevance of this policy to the consideration of the appropriateness of its proposed development through its assessment at Section 6.

Furthermore, the applicant's planning statement, whilst dancing around the issue somewhat, does not dispute that this site is suitable for continued business use. Indeed it would be impossible to demonstrate otherwise given there is an active and viable employment use at the site. Importantly the Council's development plan considers a builders' merchant as a sui generis use which has the same level of protection as uses within Use Class B. This is confirmed in the supporting text of Policy DP13 paragraph 13.11 which states that the terms 'business' and 'employment' are used to refer collectively to the following uses:

- offices, research and development, and light industry (Use Class B1);
- general industrial uses (Use Class B2);
- storage and distribution (warehousing) (Use Class B8);
- other unclassified uses of similar nature to those above, such as depots or live/work (classed as sui generis).

The Council's planning policy is simple in that in such cases redevelopment schemes for mixed uses are only allowed where they meet five clear criteria. Crucially these include that "the level of employment floorspace is maintained or increased". The applicant's planning statement again dances around this issue but accepts at paragraph 6.61 that this is a very real planning policy consideration which needs to be satisfied.

However, it constructs an artificial argument to deal with this criterion by arguing that the proposed commercial space in the scheme of 891m² of flexible non-residential floorspace (within Use Classes A1, 2 and 3 and D1 and 2) and 619m² of flexible employment space (within Use Class B1) compensates for the loss of the industrial space of 1,618m². This argument is wholly flawed for the following reasons:

1. The Travis Perkins currently comprises 4,380m² total floorspace including the external yard which is used a crucially important part of the business for both sales and storage;
2. The external yard is a key part of the employment function and previously the Council have considered this as part of the employment floorspace. For example, in the determination of the planning application at 11-13 St Pancras (ref. 2011/1586/P), which proposed the redevelopment of an identical Travis Perkins builders' yard, in granting planning permission on 3rd October 2011 the Council recognised the importance of the external area in relation to the function of the employment use. As the Council considered that this site was suitable for continued employment use it was necessary for the applicant to not only re-provide the enclosed employment floorspace but also the external yard area;
3. The Council does not allow the replacement of employment floorspace with A Class or D Class uses. By way of an example, see the planning refusal at the ground and basement level of Mansion Lock House, 13 Hawley Crescent, Camden, ref. 2013/6908/P. This application proposed a change of use from Use Class B1 to D1. Despite the provision of marketing evidence, this application was refused because the applicant failed to demonstrate that the proposals would not result in the loss of floorspace which was considered suitable for B1/B8 employment use, contrary to policy DP13 of the development plan.

Thus the applicant's approach on land use is fundamentally flawed, as there is a loss of 4,380m² of business space which has not been accounted for. Camden Planning Guidance 5 in paragraph 7.8 states that "*Camden has a very restricted supply of sites and premises suitable for light industrial, storage and distribution uses.. This means that there is a high level of demand for the remaining sites and that the majority of sites are well occupied....*". Therefore, as also prescribed by Policy DP13 and the provisions in CPG5, proposals for the redevelopment of such sites must be supported by robust evidence to justify any such loss of floorspace.

Policy DP13 states that the Council will retain land and buildings that are suitable for continued business use and will resist a change to non-business unless the requirements of criterion (a) are satisfied. This requires for it to be 'demonstrated to the Council's satisfaction that a site or building is no longer suitable for its existing business use'. It is also required by CPG5 paragraph 7.18, in line with Policy DP13, for the marketing evidence to include, *inter alia*, continuous marketing over 2 years, and, where there is an existing employment use, evidence that the tenant intends to move out. We note that such marketing evidence is totally lacking in the application submission to support the view that the existing employment space is unsuitable for continued use. Consequently, we contend that the existing employment space is in fact *suitable* for its continued business use and therefore it is necessary for a mixed use redevelopment scheme to comply with the 5 stated criteria.

Policy DP13 also stipulates in criterion (f) that 'floorspace suitable for either light industrial, industry or warehousing uses is re-provided where the site has been used for these uses...'. Not only is the replacement floorspace deficient in terms of area but it has only been designed as suitable for office use. Therefore, this does not represent a true like-for-like re-provision of suitable light industrial floorspace of the existing levels, contrary to Policy DP13. It is unlikely that Travis Perkins or any other similar business would be able to continue their business operations at the proposed facility. In fact, the proposed employment floorspace would, by diminishing the level of usable light industrial floorspace, lend itself to the proliferation of office workspace under Use Class B1(a). Given that light industrial floorspace of the type that exists at this site is in short supply within the borough, the displaced business would struggle to find comparable facilities in the vicinity to meet their needs, which would be detrimental to their continued operation.

Furthermore, it should be noted that Policy specifically refers to the provision of floorspace and its continued use. At no point does policy stipulate that the number of jobs need to be maintained or increased. The applicant's argument in that regard therefore is not a material consideration when determining the application.

The applicant's statement makes great play of the contention that the limited replacement business floorspace is 'flexible space' that is 'suitable for a variety of business uses'. Firstly the part of Policy DP13 which refers to 'flexible spaces' relates to a proposal 'where a change of use' has 'been justified to the Council's satisfaction'. This test falls directly after the first paragraph of the policy and criteria a) and b). It is abundantly clear from the applicant's statement that no attempt is made to justify compliance with criteria a) and b). It has not been demonstrated that the site or buildings are no longer suitable for the existing business use (criteria a) and no marketing evidence has been provided to comply with part b).

Secondly, there is no policy support or precedence that the provision of flexible employment space should outweigh the need to comply with the criteria c) to g) where a mixed use scheme is proposed on a site suitable for continued business use such as this. Indeed the level of employment floorspace should be maintained or increased (to comply with criteria c) and flexible space suitable for light industrial, industry or warehousing (to comply with criterion f). Indeed, as with the example mentioned earlier at St Pancras Way, the provision of space for, say, Travis Perkins, with clear, open spans of space would in fact provide flexibility in accordance with the policy.

Conflict with the Neighbourhood Plan

The proposed scheme also directly conflicts with Policy 12 of the adopted West Hampstead and Fortune Green Neighbourhood Plan (March 2015). Criterion i) of the policy places a presumption in favour of the retention of existing employment sites, in recognition of the limited supply of such sites. Further reinforcement of criterion c) of Camden Development Plan Policy DP13 is provided by criterion ii) of the policy. Thus the significant reduction in the replacement floorspace directly conflicts with the Neighbourhood Plan.

Planning Balance and Recommended Way Forward

Our assessment of the scheme has demonstrated significant harm to the employment policies in the adopted development plan. Having appraised the proposed development in some detail it is clear there is nothing unusual or exceptional about the scheme which should outweigh this significant harm. Whilst the applicant emphasises the level of affordable housing provided, this is simply policy compliant at 50% as required by Development Plan Policy DP3.

It is clear that there is a pressing need for housing. However, policy does not state this should outweigh the need to protect sites suitable for continued business use. This is critically important to avoid the loss of lower value industrial use across the Borough which would conflict with the NPPF and the adopted development plan and NDP.

The Council should be taking a consistent approach when determining all planning applications and should rigorously apply the requirements of their own adopted policies. In light of the above, it is considered that the proposal is directly contrary to policy DP13 and the NDP and should be refused on this basis. Failure to do so will set a precedent and result in the significant erosion of sites suitable for continued employment use for important occupiers such as Travis Perkins and others. The wider issue is that this approach would bring into question the Council's credibility and ability to defend any of its adopted planning policies.

I trust these comments will be taken into consideration in the Council's determination of this planning application.

Yours sincerely,



Matthew Roe
Director

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APPENDIX B

Our Ref: MR/CE/12874
Your Ref:

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Date: 25th July 2016

David Glasgow
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Dear Mr Glasgow

**WRITTEN REPRESENTATION TO PLANNING APPLICATION (LPA REF. 2015/6455/P)
CONCERNING THE REVISED AND ADDITIONAL INFORMATION SUBMITTED BY THE
APPLICANT ON 14TH JUNE 2016.**

156 WEST END LANE, WEST HAMPSTEAD

I write on behalf of my client, Travis Perkins, with regard to the revised and additional information submitted by the applicant on 14th June 2016 concerning the above planning application. These comments should be read in conjunction with our original representation letter dated 8th January 2016 which was submitted on behalf of Travis Perkins and which is enclosed at Appendix A for ease of reference.

Having reviewed the new information, Travis Perkins' severe concerns remain regarding the direct conflict of the proposed scheme with the adopted Camden Development Plan. In particular the proposals are contrary to adopted Development Plan Policy DP13 and the adopted Fortune Green and West Hampstead Neighbourhood Development Plan Policy 12 (hereafter NDP).

There are two major inaccuracies with the applicant's position on the existing use of the land and buildings at 156 West End Lane which underpin the conflict with the development plan:

1. The existing floorspace as stated on the revised application form indicates this comprises 2,401sqm of Use Class B1(a) and 1,618sqm of sui generis space. This is not correct. The actual floorspace of the Travis Perkins operation currently comprises 4,380sqm including the external yard which is used as a crucially important part of the business for both sales and storage. The importance of the external yard as employment floorspace is demonstrated in the determination of the planning application at 11-13 St Pancras Way (ref. 2011/1586/P), which proposed the redevelopment of an identical Travis Perkins

builders' yard. The Council recognised the importance of the external area in relation to the function of the employment use. As the Council considered that this site was suitable for continued employment use it was necessary for the applicant to not only re-provide the enclosed employment floorspace but also the external yard area;

2. The applicant's Planning Statement Addendum infers throughout that the existing Travis Perkins operation comprises "industrial" floorspace. This is very misleading. The Travis Perkins business is an employment based use which serves the building and associated industries. Thus the property includes a dedicated enclosed sales area with ancillary offices. Given the size and nature of the products that they sell it is necessary to have a large display and storage area for materials. The Oxford dictionary defines 'industrial' as "relating to or characterized by industry" and then 'industry' as "economic activity concerned with the processing of raw materials and manufacture of goods in factories". There is no manufacturing or even assembly of goods or processing of raw materials at the site, and it is not a factory. For this reason, the use is considered sui generis in planning terms. The Council's development plan identifies that building depot uses, such as the Travis Perkins operation, are to be protected under the terms of paragraph 13.11 of Policy DP13 as an employment use. The plan is very clear in this respect.

On the basis of this entirely false premise, the applicant has now completely changed their stance on the need to retain employment floorspace as part of the proposed redevelopment of the site. Whilst the applicant has called the additional planning statement an Addendum, it is far from this, given they have changed their case on the loss of employment land and use. Our commentary on these changes is set out below:

- a. In the original submission the applicant suggested that site was suitable for continued employment use. They have now changed their case and are arguing it is unsuitable for continued industrial use. The simple point here is that the site is currently occupied by a viable business and is wholly appropriate for continued business use.
- b. The revised submission constructs an argument on the basis that adopted Policy DP13 is not up-to-date and can thus be disregarded. We believe this argument is completely flawed for the following reasons:
 - i. At Paragraphs 2.7 to 2.17 the applicant makes the case that housing is a priority land use and thus optimising housing delivery should weigh over and above other planning policies. Paragraph 2.10 states that all other uses to housing are secondary and subsidiary. Here we have an active and viable employment site. If the applicant's case is correct then all such employment sites will be lost to housing and there will be no employment sites remaining. Policy DP13 states that the Council will retain land and buildings that are suitable for continued

business use and will resist a change to non-business. Furthermore, Policy 12 criteria i of the NDP has a presumption in favour of retaining existing employment sites. Thus it is clear that the adopted policies protect viable employment sites;

- ii. Likewise at Section 3.0 we are aware that active town centre uses are appropriate on the front of sites in town centres. The current site has an active retail use on the site frontage as a Wickes Kitchen and Bathroom shop. Thus the claim in paragraph 3.2 that there is no retail floorspace at the site is wrong. In any event there is nothing in planning policy which says that the provision of such uses should outweigh the need to comply with relevant employment policy;
- iii. The applicant incorrectly states that the whole of the site falls within the town centre boundary. In actual fact there is only a very small part of the site which falls within the town centre boundary comprising the extreme western part which fronts onto West End Lane and currently accommodates the retail unit. The vast majority of the site is outside the town centre boundary as defined by the Council's Planning Guidance Note 5.

c. In terms of commentary of Section 4 on employment uses a number of points are provided:

- i. At paragraph 4.1 whilst the site is not a designated employment site in the development plan, this is not unusual in Camden, as the only defined employment area is at Kentish Town. Development Plan Policies CS8 and DP13 are clear that there is a need to safeguard other existing, viable employment sites;
- ii. Paragraphs 4.3 - 4.5 have regard to the level of employment the proposed development may provide. However, the development plan is clear that the amount of employment floorspace is protected and not the number of jobs. No weight can therefore be attached to the increase in the type of floorspace with a higher density otherwise, all Class B1c, B8 and B2 or similar Sui Generis Uses would be turned into Class B1c space;
- iii. At paragraph 4.7 the applicant states that there is no policy protection for industrial sites. However, there is protection for viable land and buildings that are suitable for continued business use. As we have outlined in the start of our submission, trying to argue the existing use and floorspace is industrial is disingenuous;

- iv. At paragraphs 4.9 to 4.15 the applicant attempts to discredit the relevance of Policy DP13 due to it being out dated, despite previously accepting its relevance in the original planning statement. Whilst Policy DP13 is wholly up to date and a relevant material consideration, the applicant's argument is erroneous as the emerging development plan policy E2 includes an identical policy which seeks to protect viable employment land and buildings;
- v. At paragraph 4.24 and 4.29 the applicant is softening up the argument that the site is not suitable for continued employment use. It then concludes at paragraphs 4.3 and 4.48 that there is no demand for offices. This is undisputed. It then looks at industrial uses and tries to pigeon hole the existing Travis Perkins occupation into this category and argues there is no demand. The applicant has failed here to consider the actual policy test at part a) of Policy DP13 which is to demonstrate "a site..... is no longer suitable for its existing business use";
- vi. At paragraph 51 the applicant claims that the site falls within Category 3 as defined at paragraphs 7.10 to 7.11 of the CPG5. In fact the site is more properly defined to fall with Category 1 as it exhibits the following characteristics:
 - 1. purpose built accommodation
 - 2. predominantly single storey premises;
 - 3. clear, high ceiling heights;
 - 4. high loading bays and doors (min 5.5m or 18ft high);
 - 5. access for large delivery and servicing vehicles both into and around the site.

The only criterion it arguably falls down on is 24 hour operation, but would at worst be a Category 2 site and certainly not 3.

- vii. The applicant's reference at paragraph 4.68 to industrial properties in residential areas is erroneous. This is not an industrial site. It is a builders' depot, which can quite happily co-locate with residential uses;
- viii. At paragraphs 4.66 to 4.72 no evidence is provided of the lack of demand for continued employment use. Indeed this is unsurprising as there clearly is demand as evident by the existing user. No marketing of the site for employment use has been undertaken. Again this is unsurprising as there would be interest in the site, including from the existing occupier;
- ix. Paragraph 4.59 of the Addendum refers to the Committee report relating to the planning permission for the redevelopment of the Travis Perkins at St Pancras

Way with student accommodation above. It concludes from this that “the view of Travis Perkins was unequivocal: no permanent housing would occur ...alongside its own use”. This statement is without context and is false. I was the planning consultant who dealt with this planning application throughout its consideration. It was in fact Unite, the developer of the site, who did not want to include permanent residential accommodation, as they are a student accommodation provider. I can categorically confirm that at no point in the determination of the application did Travis Perkins state that residential cannot be delivered at the upper level. Indeed student accommodation is an established form of residential development;

- x. The development plan is clear that student accommodation occupiers should be treated in the same way as permanent residents. The St Pancras scheme successfully integrates the builders’ depot with nearly 600 people happily living above. This is one of Unite’s most popular developments in the country. Indeed, Travis Perkins are talking to lots of developers and housebuilders about the potential for mixed use redevelopment of their existing branches to include the re-provision of the builders’ merchant with residential above. One of the most advanced proposals is at their Paddington branch. I can also attach a series of letters at Appendix B from various developers and housebuilders including Bellway, The William Pears Group, Mountpark, Kier, Taylor Wimpey and Barratt Homes. These letters categorically confirm that it is entirely feasible to successfully develop residential above a builders’ merchant.

The Planning Statement Addendum submitted 14th June 2016 accepts that the quantum of floorspace is not being reprovided at paragraph 5.1. It is therefore clear that the proposal does not comply with adopted Development Plan Policy DP13 or the NDP Policy 12. The applicant has failed to demonstrate that the site is unsuitable for continued business use. Indeed through the provision of a degree of employment floorspace as part of their proposed scheme they are accepting it is suitable for continued business use. Travis Perkins have demonstrated that it is suitable and this view has been shared consistently by the Council. In such circumstances the provision of part c) DP13 is unequivocal in that the level of employment floorspace should be maintained or increased. The proposed development fails in this respect. Furthermore the scheme fails with respect to part f) in that the existing floorspace which is suitable for warehousing and light industrial uses is being replaced by office floorspace. Likewise the proposed development directly conflicts with Policy 12 of the NDP which places a presumption in favour of retaining existing employment sites, due to the limited supply.

In light of the above, it is considered that the proposal is directly contrary to Policy DP13 and the NDP and should therefore be refused.

I trust these comments will be taken into consideration in the Council's determination of this planning application.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew Roe', written in a cursive style.

MATTHEW ROE
Director

Appendix A – RPS CgMs letter dated 8th January 2016
Appendix B – Letters from housebuilders and developers

APPENDIX C



BARRATT

HOMES

find the one

Stewart Drummond BSc FRICS
Travis Perkins
c/o Coombe Property Consultants
Coombe House Studio
Ferry Road
Studland
Dorset
BH19 3AQ

24th April 2013

Dear Stewart,

RE: New joint developments

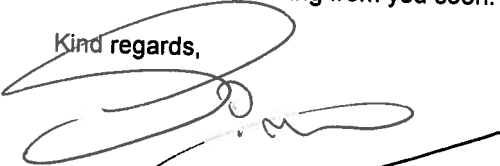
Further to our recent meeting with regard to potential news sites in Hackney I can confirm that Barratt London would be excited to work with Travis Perkins (TP) on the West Hampstead site.

Barratt have been looking at the West Hampstead site for some time now and do believe it will prove to be an excellent site location for both Private Treaty and affordable housing. We would be happy to work with TP to design a scheme where both TP remain with a working yard and retail outlets together with residential development living happily alongside each other.

As we discussed we are completing the Battersea Park Road site which we acquired from you eighteen months ago and the two shops should be ready to hand back in the next couple of weeks. I will be delighted to take you on a tour of the site if you are around the Battersea area in the next ten days before we hand the flats over to the individual purchasers. Indeed on this site we were to have a scheme with the shops and a builder's yard at Battersea but as I recall TP's mind changed and only the retail outlets were required.

Given the above Barratt are happy to develop further schemes with TP remaining on site. I look forward to hearing from you soon.

Kind regards,



Simon Guest - Land Director
Barratt London, Central House
32-66 High Street,
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London,
E15 2PF

Tel: 0208 522 5598
Mob: 07795 238 643
E-mail: simon.guest@barratthomes.co.uk
Web: www.barrattlondon.com

24th April 2013



Ref: JL/kl/356

Stewart Drummond
Coombe Property Consultants
Coombe House Studio
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Studland
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BH19 3AQ

Bellway Homes Limited
North London
Bellway House
Bury Street
Ruislip
Middlesex
HA4 7SD

Telephone 01895 671100
Fax 01895 671155

www.bellway.co.uk

Dear Stewart,

RE: Mixed Use Developments

Bellway routinely undertakes mixed use developments, particularly in London with a wide variety of uses, including hotels, retail, A3 and D1 uses etc. The majority of these are mixed use in a vertical sense i.e. with residential use above another use class. Invariably there are issues which need to be overcome but we are well versed in these and would undertake a mixed use development with a use class which may be deemed to conflict with residential use. We would look to design in servicing arrangements from the outset as well as appropriate noise mitigation measures etc to ensure a successful development and living environment for the future residents.

Yours sincerely

For and on behalf of
BELLWAY HOMES LIMITED
(NORTH LONDON DIVISION)



James Lidgate
Land Director
james.lidgate@bellway.co.uk



From: Huw Williams [<mailto:HWilliams@williampears.co.uk>]
Sent: 18 April 2013 10:38
To: Stewart Drummond
Subject: West Hampstead

Dear Stewart,

I understand that Camden's advisors have questioned whether private market and affordable housing can satisfactorily co-exist with a builder's merchant in a mixed use scheme.

This email is to confirm that the Pears Group are happy to look at schemes above builder's merchants and confirm that we are currently looking to do so in several locations – in one case we are looking at a wharf scheme on the river above a cement facility! In the case of West Hampstead we would like to develop a mixed use scheme even if it required a reinstatement of the builder's merchant of a similar size and with the same product range as that currently on site, together with private and affordable housing.

Kind regards,
Huw

Huw Williams
Director of Development
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The William Pears Group of Companies Limited Registered Number: 556533 England

24 April 2013

Our Ref: SD/POC/jt

Mr S Drummond
Coombe Property Consultants
Coombe House Studio
Ferry Road
Studland
Dorset BH19 3AQ

Dear Stewart

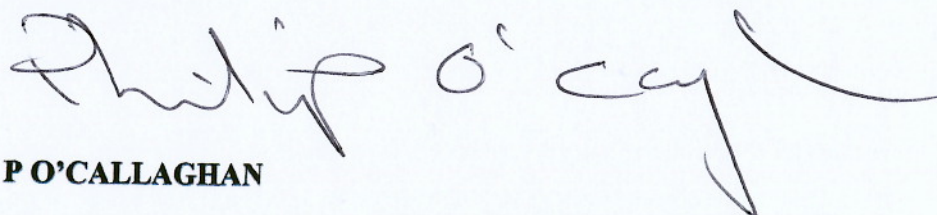
Further to our recent telephone conversation, I can confirm the following:

1. Mountpark's Directors have developed a large number of mixed commercial and residential developments. Most recently we developed a 250,000 sq ft scheme in Harrow which comprised a 65,000 sq ft supermarket, 300 car parking spaces and 146 flats, 42 of which were affordable. This completed three weeks ago and all 146 flats were sold or rented on Practical Completion of the scheme. We have also successfully developed residential led mixed use schemes in Solihull, Trowbridge and Brighton.
2. There is no reason why in a location like West Hampstead that a new development including a builders merchant would not be successful. We are working with Travis Perkins on a number of mixed use schemes incorporating both builders merchant and residential accommodation.
3. We believe that developing the air rights above commercial uses in London and other major cities provides an ideal solution to creating/retaining employment uses and providing much needed housing.

Please let me know if I can provide you with further information.

Kind regards.

Yours sincerely



P O'CALLAGHAN

Mountpark Properties Ltd
22-23 Old Burlington St London W1S 2JJ
T +44 (0) 20 7478 3333
W www.mountpark.com

Pat Youngs

Subject: FW: Travis Perkins - WEst Hampstead

From: Cooper, Maria [<mailto:Maria.Cooper@kier.co.uk>] **On Behalf Of** Turner, Nigel
Sent: 24 April 2013 15:13
To: sjd@coombepc.com
Subject: Travis Perkins

Dear Stewart

As you know we are a major UK development company and are hoping to promote sites for new Travis Perkins facilities.

I understand that Travis Perkins may be bringing forward various land ownership where the principal of mixed use schemes over a Travis Perkind's facility may be appropriate.

We are happy to consider and probably could make such a scheme viable in terms of apportionment of uses.

Replicate what you are doing at St Pancras/Kings Cross. Principle uses are separation of the commercial cores, entrances overlooking and the like.

I look forward to receiving detail of the sites.

Nigel Turner
Managing Director

Kier Property
6 Cavendish Place
London W1G 9NB

Tel 0207 462 2750

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Taylor Wimpey

Mr Stuart Drummond
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Coombe House Studio
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W1S 1SB

T: 020 7355 8150
F: 020 7355 8196

www.taylorwimpey.co.uk
11th April 2013

BY E-MAIL & POST

Dear Stuart

Re: Travis Perkins, 156 West End Lane, Hampstead, NW6

Further to our recent discussion regarding the above site, we would confirm our interest in pursuing this opportunity with Travis Perkins with a view to a possible "joint venture" or alternative deal structure. We would explore comprehensive redevelopment options for the site for a mixed use scheme comprising predominantly residential and the reprovision of the merchant's store with associated areas at either ground floor or semi-basement level.

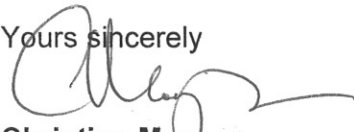
We have considered other Travis Perkins opportunities in London on a similar basis and are satisfied that providing satisfactory segregation of uses and accesses can be achieved then a deliverable scheme could be promoted.

Taylor Wimpey Central London recognise the site as an excellent development opportunity and are currently in the process of delivering two other schemes (Mill Lane Apartments and Regents Canalside) in LB of Camden.

We would be keen to explore the concept with you further and if agreeable instruct an architect to provide us with some options demonstrating how a mixed use scheme could be achieved.

I look forward to hearing from you shortly with keen interest.

Yours sincerely



Christian Morgan
Senior Land Manager

Taylor Wimpey plc
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Registered Office:
Gate House, Turnpike Road
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HP12 3NR

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