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Dear Planning Inspectorate

Site at 22-26 Cricklewood Broadway NW2

Appeal by Mr Henry Courtier from the Pegasus Group on behalf of The Co-Operative Group Food Limited against the issue of an Enforcement Notice dated 4 August 2016. It instructs: Completely remove the plant equipment in the rear yard (1 no. air conditioning unit and 1 no. refrigeration unit) and associated pipework and make good any damage to the original building.

The Council's case for this appeal is largely set out in the officer's delegated report dated 21 January 2016 which was sent with the Questionnaire. The report recommends enforcement action within a period of 3 months to completely remove the above plant equipment and associated pipework and make good any damage to the original building. The report also details the site and surroundings, the site history and all consideration of the issues. It sets out how the plant equipment is unacceptable on:

1. grounds of design upon the host building; it is an unsightly feature to numerous single aspect views for neighbouring properties and
2. amenity grounds resulting in noise and vibration to neighbouring properties.

In addition to the information sent with the questionnaire I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

Summary

This is a sensitive site. It is marked as a non- designated heritage asset. It is surrounded by and closely overlooked by various single aspect residential properties.

The site is located on the north-eastern side of Cricklewood Broadway. The ground floor is in Class A1 retail use whilst the upper floors are in Class C3 residential use. The site forms part of an attractive terrace of 15 properties, which date from the early 20th century, with shopfronts at ground level and two storey plus attic level above. The terrace is constructed from red brick with terracotta ornamentation; similarly the shopfronts have attractive pilasters and console bracket detailing.

The residential units are accessed via an alleyway at the rear of the site which runs parallel with Cricklewood Broadway and links Rondu Road with Manstone Road. Each unit has a small rear courtyard with an external staircase leading to the upper floor residential units.

The site is bound to the rear by no. 1 Rondu Road which is in residential use. There are windows in this properties side (north-east elevation) which look directly onto the rear courtyard of no. 26 Cricklewood Broadway.

To the north-western side of the site is no. 28 Cricklewood Broadway. No. 28 has residential units on the rear, ground floor as well as the upper floors. Furthermore the properties existing rear outrigger has been extended at ground floor level, with windows which face directly onto the rear courtyard of no. 26.

The site does not lie within a conservation area, However, the terrace and single storey shopfronts are a non-designated heritage asset, considered to have architectural and townscape significance. The site is within the neighbourhood centre

Unauthorised plant equipment has been installed in the rear yard of the property. The enforcement notice was issued on the back of refusal of Planning Application 2016/0398/P. The appeal is made against the Enforcement Notice (ref: EN16/0052) under ground (a) only. The reasons for serving the Enforcement Notice are as follows:

1. The proposed plant equipment by reason of its size, design and location is harmful to the appearance of the building contrary to policies CS5 (Managing the impact of growth and development) and CS14 (Promoting high quality places and conserving our heritage) of the London Borough of Camden Local Development Framework Core Strategy and to policies DP24 (Securing high quality design), DP26 (Managing the impact of development on occupiers and neighbours) and DP29 (Improving access) of the London Borough of Camden Local Development Framework Development Policies.

2. The plant equipment, by virtue of its operating noise and vibration, is harmful to the amenities of neighbouring occupiers, contrary to Policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and vibration) of the London Borough of Camden Local Development Framework Development Policies.

It is important to note that since the Enforcement Notice subject to this appeal was served, Planning Application 2016/5016/P has been submitted to regularise the development and

noise mitigation works that have further since been installed. Planning Application 2016/5016/P has not yet been determined.

Status of Policies and Guidance

The London Borough of Camden Local Development Framework was formally adopted on the 8th November 2010. The policies of relevance to the appeal scheme as expressed in the reasons for refusal are:

- CS1- Distribution of growth
- CS5 – Managing the impact of growth and development
- CS14 – Promoting high quality places and conserving our heritage
- DP24 – Securing high quality design
- DP25 – Conserving Camden’s heritage
- DP26 – Managing the impact of development on occupiers and neighbours
- DP28 – Noise and vibration

The Council also refers to supporting guidance documents. The Camden Planning Guidance (CPG) was adopted on 7 November 2011 for which CPG1 was revised in 2015. CPG 1 (*revised 2015*): Design (Chapter 11) provides guidance for building services equipment and CPG 6 (*2011*): Amenity (Chapter 4) provides guidance for noise and vibration.

Emerging replacement plan

It should be noted that Camden’s emerging replacement Local Plan is due to be adopted later in 2017. There are no material differences between the council’s policies adopted in 2010 and the emerging Camden Local Plan in relation to this appeal.. The submission draft is a material consideration in planning decisions, see para 3.6below. At this stage the Plan has weight in decision making and is a statement of the Council’s emerging thinking. Emerging policy is considered relevant to the subject appeal. The relevant policies in the emerging plan are Policy G1: Delivery and location of growth, Policy C1Improving and promoting Camden’s health and well-being, Policy A1 Managing the impact of development, Policy A2 Provision and enhance of open space, Policy A4 Noise and vibration, Policy D1 Design and Policy D2 Heritage.

NPPF

With reference to the National Planning Policy Framework 2012, policies and guidance contained within Camden’s LDF 2010 are up to date given that there are no material differences with emerging policies. The council’s policies therefore address paragraphs 214 – 216 (Annex 1) of the NPPF and should be given substantial weight in the decision of this appeal. In addition the NPPF states that development should be refused if the proposed development conflicts with the local plan unless other material considerations indicate otherwise. There are no material differences between the Council’s policies and the NPPF in relation to this appeal.

Weight to be given to the emerging local development plan

The emerging Camden Local Plan is reaching the final stages of its public examination. For information, the following sets out the timing of forthcoming stages and gives information on the weight to be given to the Plan as it progresses to adoption.

Consultation on proposed modifications to the Submission Draft Local Plan will take place from 30 January to 13 March 2017. The modifications have been proposed in response to Inspector's comments during the examination and seek to ensure that the Inspector can find the plan 'sound' subject to the modifications being made to the Plan.

The Local Plan should at this stage be a material consideration, with **limited weight** in decisions until the publication of the **Inspector's report** into the examination, which is expected in **early - mid April**. At this point the Local Plan policies should be given **substantial weight**.

Adoption of the Local Plan by the Council is anticipated in June or July 2017 (depending on Cabinet and Council meeting dates). At that point the Local Plan will become a formal part of Camden's development plan, fully superseding the Core Strategy and Development Policies, and having **full weight** in planning decisions.

Ground (a) Appeal:

Section 174(2)(a) : that planning permission should be granted for what is alleged in the notice.

The appellants' grounds of appeal can be summarised briefly as follows and are subsequently addressed in the paragraphs beneath.

Appellant's Case

The appellant states that 'the plant equipment installed at the premises does not have a detrimental impact on the visual appearance of the building and/or the amenity of the neighbouring occupiers.'

Council's response

The Council contests the view that the plant equipment does not have a detrimental impact on the visual appearance of the building.

Design

The units are positioned at the rear of the property, causing no impact to the principle elevation or character or appearance of the street scene. However, the large refrigeration unit is readily visible from the upper floor rear windows of no. 26 and neighbouring building to the southeast no. 24. These residential properties are single aspect; all of the windows are on the rear elevation and face onto the courtyard in which the refrigeration unit is located.

To the north-western side of the application site is no. 28 Cricklewood Broadway. As stated above, no. 28 has residential units at the rear, ground floor level, as well as on the upper floors. The properties existing rear outrigger has been extended at ground floor level. This extension has windows on its side elevation only, which look directly onto the refrigeration unit across a low party wall.

To the northeast of the application site is no. 1 Rondu Road which is in residential use. There are windows in this properties side elevation which look onto the rear courtyard in which the refrigeration unit is located.

Paragraph 24.18 of DP24 specifically relates to building services equipment. It states that building services equipment 'should be contained within the envelope of a building or be located in a visually inconspicuous position'. Similarly, paragraphs 11.5 and 11.7 of CPG1 – Design states that plant should not be a dominant feature and should not be visible from immediately adjacent buildings.

The situation is exacerbated by the size of the refrigeration unit (4.7 metres wide x 1.13 metres deep x 1.53 metres high) in comparison to the small courtyard. The impact would be worsened by the installation of an acoustic enclosure, necessary to mitigate the existing noise. The enclosure would add additional bulk and massing, exacerbating the existing harm. As such the proposal would prove harmful to the character and appearance of the host building. The refrigeration unit by reason of its size, scale, position and design adds clutter to the rear. As discussed above, it is an unsightly feature to numerous single aspect views for neighbouring properties

Although not specified as a reason for issuing the Enforcement Notice, the report notes that given the scale and inappropriate location of the unit, it partially blocks access to no. 26A Cricklewood Broadway, preventing a gate from opening fully. Should an acoustic enclosure be installed this would further inhibit access to the residential unit.

Amenity

The Council disagrees that the plant equipment does not have a detrimental impact on the amenity of the neighbouring properties..

At the time of serving the Enforcement Notice a plant noise assessment report had been undertaken by a member of the Council's Environmental Health Team to establish the minimum background noise level. The lowest background noise level measured during the survey was 49 dB during the daytime and 35 dB at night (the units would only operate between 07.00 – 23.00 seven days a week). Camden Council requires plant noise emission to be 5 dB below the minimum background noise level at 1m from the nearest noise sensitive receptor. Predicted noise levels of the equipment are expected to be 47dB during the daytime and 35dB at night at 1m from the nearest residential properties.

This plant noise assessment report had been undertaken to establish whether the condensing units would impact upon the nearest residential properties. The nearest residential windows are the first floor rear windows of the same building.

The units, as assessed by an officer from the Council's Environmental Health team, would not meet the noise criteria without additional mitigation measures. As such, the existing unauthorised plant would result in additional noise and disturbance that would be harmful to the amenities of neighbouring occupiers contrary to policies DP26, DP28 and CPG. Furthermore it is considered that the addition of further bulk to the existing units, given their size and position would result in further harm to the character and appearance of the host building

Conclusion:

On the basis of information available and having regard to the entirety of the Council's submissions, including the content of this letter, the Inspector is respectfully requested to dismiss the appeal and uphold the issuing of the Council's Enforcement Notice without variation.

If any further clarification of the appeal submissions is required please do not hesitate to contact Hardev Singh on the above direct dial number or email address.

Conditions

Should the Inspector be minded to allow the appeal:

1. All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP24 of the London Borough of Camden Local Development Framework Development Policies.

2. Within six weeks of the date of this permission noise mitigation measures must be installed in accordance with recommendations set out in Plant Noise Assessment.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies CS5 and CS7 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26, DP28 of the London Borough of Camden Local Development Framework Development Policies.

3. Noise levels at a point 1 metre external to sensitive facades shall be at least 5dB(A) less than the background measurement (LA90), expressed in dB(A) when all plant/equipment (or any part of it) is in operation unless the plant/equipment hereby permitted will have a noise that has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or if there are distinct impulses (bangs, clicks, clatters, thumps), then the noise levels from that piece of plant/equipment at any sensitive façade shall be at least 10dB(A) below the LA90, expressed in dB(A).

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 and DP28 of the London Borough of Camden Local Development Framework Development Policies.

If any further clarification of the appeal submissions is required please do not hesitate to contact me on the above direct dial number or email address.

Yours sincerely,

Hardev Singh

Planning officer

Appeals & Enforcement

Supporting Communities Directorate