

Application No:	Consultees Name:	Consultees Addr:	Received:	Comment:	Response:
2017/1261/L	Mr David Kaner	21 Mercer Street WC2H 9QR	10/05/2017 21:11:41	OBJ	<p>This application is for the renewal of Listed Building consent associated with a grant of flexible use for the buildings situated at 57- 59 Monmouth Street which is also 3-4 Ching Court London WC2H 9DG. The flexible use which was granted (despite objections) allows either Office or Residential use.</p> <p>The Planning Consent requires the “development” take place within 3 years, although the use granted can change between the use classes authorised for 10 years.</p> <p>I believe that the “Development” authorised by the grant of permission on 15/3/11 has NOT taken place as there has been no change to the building to allow the flexible use to be implemented. Therefore the full application needs to be reviewed as well as the Listed Building Consent which is the subject on this application.</p> <p>Since the application for a change of use and the associated Listed Building Consent was granted there has been a significant change. This is that the entire group of buildings surrounding the courtyard have been granted Listed Building Status by the Secretary of State. This includes a change in the listing description for 53-59 Monmouth Street which specifically refers to the contextual placemaking of the scheme.</p> <p>My view is that this places a greater emphasis on the points made by residents and the CGCA in their objections to the original applications for both planning and listed building consents - that the physical changes to these buildings to allow C3 use should be refused because of the impact of the use that it facilitates on the balance between the various uses in the space. These were important considerations in the contextual placemaking which is considered to make them worthy of listing.</p> <p>I wonder why the applicant has applied only for listed building consent given that the physical changes would also seem to require the planning permission to be renewed? Could it be because they believe that separating this into 2 separate applications will make it easier to have each considered as a small change and so pass through without question?</p> <p>My view is that the Listed Building Consent should be refused and that an application to renew the full Planning and Listed Building consent should be made in the context that the listing for the buildings, and indeed the whole of Ching Court, has been amended by the Secretary of State. This is a substantial change in the context of this application and means that it should be reviewed.</p> <p>I would like to be notified of the Committee which will hear this application.</p>

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2017/1261/L	Covent Garden Community Association (Elizabeth Bax, Chair of Planning Subcommittee)	42 Earlham Street London WC2H 9LA	10/05/2017 23:34:58	OBJNOT	These comments are being made by the Covent Garden Community Association (CGCA). CGCA is recognised by both Camden and Westminster as the Amenity Society for the Covent Garden area (defined as the area bounded by High Holborn, New Oxford Street, Charing Cross Road, St. Martin's Place, Northumberland Avenue, Victoria Embankment, Lancaster Place, Aldwych and Kingsway) and so represents the interests of those who live and work in this area. The CGCA's Planning Subcommittee is authorised by the Association to make comments on any Planning applications that the Subcommittee believes have, or may have, impact on the character of the area, on local residents or on other members of the community.

Our objection relates to three issues:

1. The proposals misrepresent the position as a 'renewal' of Listed building consent. However, the old consent expired in March 2014. This application therefore cannot be for a renewal, but must be a new application which is dated after the Listing was extensively updated in 2017.
2. The proposals misrepresent the position in relation to planning consent for change of use, which we understand also expired in 2014.
3. The proposals would damage elements protected by the Listing:
 - a) the protected fabric of the building;
 - b) the character of the Listed building and its context, which are together protected. The context is specifically described in the Listing.

1. Any application for Listed Building Consent must be de novo, taking into account the new Listing.

The applicant states that Listed Building Consent granted under 2010/6172/L expired in March 2014 - over 3 years ago. This fact alone indicates that any new application is not a renewal, but must be considered as a de novo application.

The point is particularly relevant in this case because, although the building was Listed at that time, that Listing carried no detail of the elements that were protected. In particular, it did not carry detail of the post-modern elements, the way in which these are integrated with the historic elements, and the relevance of the building as part of a mixed-use development. All the buildings within this development are now Listed, which was not the case then.

The applicant has acknowledged to us that the new Listing requires them to reconsider what

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they can do with the buildings. They are therefore fully aware that the new situation may justify refusal of Listed building consent now.

2. Any application for Listed building consent must be considered in the light of the planning consent for change of use having expired.

Planning consent was granted under 2010/6158/P dated 15/03/2011. This was for change of use from office (Class B1) to alternative uses as residential units (Class C3) or office (Class B1). The consent

Says that the "development hereby permitted must be begun not later than the end of three years from the date of this permission".

We have sought counsel's opinion in this matter and the legal position is that:

1. The development that is permitted is change of use, not use. A case cited to support this is the Court of Appeal decision in *Cynon Valley Borough Council v Secretary of State for Wales*, 1986.

2. Therefore, as the first use is in existence at the time of grant of the permission, the first change must occur within 3 years to comply with the 3 year commencement condition.

Should the local authority make a decision on the basis of ongoing permission, we would have to consider a legal challenge because the possibility of alternative or flexible uses being able to change after prolonged periods would have serious implications for our community - both residents and small businesses.

3. The proposals would damage:

- a) the fabric of the building at 3-4 Ching Court that is protected by Listing.
- b) the character and viability of buildings and their context as specifically protected by the new Listing.

The building is protected by List entry Number: 1322125 updated on 16/03/2017.

Reasons for Designation were given as follows (with highlighting to show relevant points of reference):

53-59 Monmouth Street, a terrace of C18 houses and C19 houses, restored and in part remodelled 1983-5 by the Terry Farrell Partnership as part of the regeneration of Comyn Ching Triangle, are Listed at Grade II for the following principal reasons:

* Architect: a significant, formative scheme by a leading British architect and exponent of

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					<p>postmodernism;</p> <p>* Architectural interest: C18 and C19 houses retained as part of a spatially powerful, mixed-use regenerative scheme, marked by bold form and detail, notable in Farrell's new rear entrances, based on an intellectual understanding of historic precedent, interpreted in a witty postmodern idiom;</p> <p>* Contextual placemaking: a masterly exercise in placemaking, eliding the old and new, that recognised the scale and patina of the original buildings and spaces in the creation of Ching Court;</p> <p>* Degree of survival: very little altered, retaining Farrell's restored facades and interiors, their detail, fixtures and fittings;</p> <p>* Historic interest: an early and exemplary project in urban contextualism, reflecting the emerging philosophy of conservation and regeneration.</p> <p>a) The proposals include changes that damage the fabric of the restored interiors as Listed.</p> <p>The walls between the two houses will be cut through afresh in the lobby to each flat,. Other doors will be blocked up, and mouldings will be hidden and cut into to make way for residential features such as bathrooms and wardrobes.</p> <p>This is unnecessary vandalism to a Listed building, which is very commercially viable under its current use.</p> <p>detracting from the historic layout of two distinct houses that have been joined with minimal interference in the Farrell scheme</p> <p>b) The proposals would seriously damage the exemplary 'mixed-use' character of the development, which is specifically protected by the new Listing.</p> <p>In addition to the Reasons for Designation, reproduced above, the Listing text also states:</p> <p>Phase 1 (on site June 1983, completed May 1985), entailed the restoration, conversion or part-reconstruction of 15 Listed C17-C19 houses and shopfronts; and the creation of Ching Court and new entrances within it to the upper floors of Shelton Street and Monmouth Street buildings. It encompassed 53-63 Monmouth Street, laid out as a mix of offices on three storeys above retail on the ground floor and basement levels; 11-19 Shelton Street, arranged as a mix of flats on three storeys above retail at ground floor and basement levels; and 21-27 Mercer Street, arranged as four houses, for private sale.</p>

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There are two points at issue here:

(i) If the change were made, then the 'mixed use' would be severely compromised because a substantial amount of the office use would disappear.

3-4 Ching Court are the most prominent buildings in the courtyard, at the centre of the main side of the Triangle, and make up one third of the 'office use' side of the Triangle. The Triangle would no longer be 'mixed-use', but 'residential-use with a few offices'.

And if consent were given to make these changes, the same rationale could be applied to convert the remaining two-thirds of office uses to residential, completely destroying the 'mixed-use' designation.

(ii) The changes would render far less viable the residential elements of the 'mixed use'. The residential elements make up the other two sides of the Triangle. The development was cleverly designed by Farrells to ensure that the commercial and residential uses could happily co-exist.

This was done by ensuring that night-time uses do not directly overlook other night-time uses. Offices look into dwellings, and vice versa, but dwellings do not look into other dwellings. These changes would mean dwellings looking straight into other dwellings at the back.

It was also done by ensuring that only daytime uses require entry into the Courtyard. The Courtyard is an echo-chamber and this was well recognised by the architects who did not place any residential entrances within the Courtyard. All dwellings are accessed from the street and the gates to the Courtyard are locked at night. There are rules requiring no noisy activity at night – rules which would be very hard to keep if residents and their guests had to unlock heavy steel gates and move through the courtyard where every sound is amplified and there is no ambient sound at night.

Where the viability of residential use has been compromised in other locations in Covent Garden, families and long-term residents have moved out and been replaced by short term tenants and even bed-and-breakfast style uses. This was not the intention of the 'mixed use' development.

It is worth noting that, prior to the updated Listing being agreed by DCMS, the Historic England Advice report to DCMS dated 27/02/2017 reported that the applicant "expressed concern at the level of detail given to describing interiors refurbished by Farrell, as opposed to historic C18 and C19 elements of the buildings, and the constraints this might impose on flexible use of the buildings".

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The response from Historic England was that “the amendments are intended to capture Farrell’s contribution to this important and early regenerative scheme, which has now come of age and is recognised in its own right ... The amended List entries highlight where Farrell’s interior schemes are most significant, whether for the retention of old fabric or introduction of new material in the vibrant post-modern interpretation that is characteristic of Comyn Ching Triangle.”

The applicant is therefore fully aware that the updates to the List entry will constrain changes of use.

We ask that you uphold these protective constraints by refusing the application.
