

**APPEAL BY MR S THAKKAR**

**AGAINST THE DECISION OF LONDON BOROUGH OF CAMDEN  
FULL PLANNING PERMISSION**

**Change of use of part of the basement (Class C3 Use) to storage facility (Class  
B8 Use)**

**64 Lincoln's Inn Fields, London, WC2A 3JX**

**PINS REF: TBC  
LPA APPLICATION REF: 2017/0870/P  
DATE OF DECISION: 06 October 2017**

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## **1.0 SITE & SURROUNDINGS**

- 1.1 In terms of context the appeal site is located within the administrative area of the London Borough of Camden, a Borough in north-west London (partly within inner London) divided into 18 three member wards. The appeal site forms a part of Lincoln's Inn Fields, the largest public square in London, which forms a part of the southern boundary of the borough of Camden bordering the city of Westminster.
- 1.2 The appeal site is located within the Bloomsbury Conservation Area on the west side of Lincoln's Inn Fields, close to the junction with Remnant Street and Gate Street. The host structure is Grade II\* listed and comprises an early 19<sup>th</sup> century four storey stucco front building with basement. The building is characterised by a square-headed doorway with fanlight and double panelled doors, corbels at the sides of the entrance below a stone first floor balcony with iron balustrade, recessed sash windows with segmental arches at ground floor and ionic pilasters through the first and second floors carrying entablature with dentil corning.
- 1.3 The building, as a result of historical planning applications, comprises nine residential units, the basement units of which have only recently been sold. The vaults beneath the front hardstanding area are partially used to house bicycles and plant and storage but are otherwise vacant.
- 1.4 The surroundings are largely characterised by mixed commercial and residential use. The Inns of Court of Lincoln's Inn and Gray's Inn have a unique character in the context of the area and London as a whole. This character is derived from the marked contrast and transition in scale and sense of enclosure experienced when moving through the interconnected spaces comprising landscaped squares, enclosed courtyards, and narrow passageways and lanes with a high volume of pedestrian activity. For over five hundred years the area has been a major centre for the legal profession and for the training of barristers.
- 1.5 Those activities as well as residential use are the two prevalent land uses in the immediate surroundings and thus contribute to the sense of place, highlighted by the large public square opposite.

## **2.0 THE APPLICATION**

- 2.1 The application was received and made valid by the Council on 26 June 2017. The application was assigned reference number 2017/0870/P.
- 2.2 The application sought full planning permission for the change of use of part of the basement (Class C3 Use) to storage facility (Class B8 Use).
- 2.3 The application was refused on 06 October 2017 for the following reasons:
1. *The proposed development, by reason of the commercial nature and access in close proximity of residential accommodation would harm the amenity of neighbouring residents contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration) of the Camden Local Plan 2017.*
  2. *The proposed cycle storage, by reason of its means of access, location and layout would fail to provide a secure, convenient and high quality facility for all types of bicycles, contrary to T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017.*
  3. *The proposed development, in the absence of a Service Management Plan, would harm the amenity of neighbouring residents contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration) of the Camden Local Plan 2017.*
- 2.4 The decision notice articulates reason for refusal 3 further with the inclusion of an informative note stating:
1. *You are advised that reasons for refusal 3 could be overcome by entering into a s106 agreement.*
- 2.5 It is noted that the reasons for refusal reference Local Plan policies in their entirety. Policy A1 has fourteen individual criteria and Policy T1 eleven criteria. Whilst, by deduction, the relevant criteria of those policies may be deduced, the reason for refusal is inadequately precise in terms of its policy reference.
- 2.6 Listed building consent for works associated with the change of use were granted on 6<sup>th</sup> October (Planning Ref: 2017/1496/L)

### **3.0 PLANNING HISTORY**

#### ***Appeal Site***

- 3.1 Full planning permission (**2013/7434/P**) was approved and listed building consent (**2013/7457/L**) granted on 23 January 2015 for the change of use of the building from offices (B1a) to residential use (C3) and the partial demolition, alteration and extension to create nine residential units. The applications were approved subject to conditions and a s106 legal agreement.
- 3.2 On 7 April 2015 conditions 5 (cycle storage) and 7 (landscaping) relating to planning application 2013/7434/P were discharged under application reference **2015/0989/P**.
- 3.3 On 23 June 2015 full planning permission (**2015/1794/P**) and listed building consent (**2015/2284/L**) was refused for the erection of a single storey mansard roof extension to provide 1 no. 2 bedroom flat. The applications were subsequently dismissed at appeal under references 3129639 and 3129640.
- 3.4 On 12 May 2017 an application to vary condition 5 (cycle storage) of application 2013/7434/P was refused under application reference 2017/1501/P for the following reason:
- 1. The proposed cycle storage, by reason of its design, location and layout would fail to provide a secure, convenient and high quality facility for all types of bicycles, contrary to policy CS11 (Promoting sustainable and efficient travel) of the London Borough of Camden Local Development Framework Core Strategy and policy DP17 (Walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies and policy T1 (Prioritising walking, cycling and public transport) of the Local Plan.*

#### 4.0 **NATIONAL PLANNING POLICY/LEGISLATION**

##### ***The National Planning Policy Framework (NPPF)***

4.1 The following paragraphs of the National Planning Policy Framework (hereafter referred to as the NPPF) should be considered in relation to this case:

##### ***The presumption in favour of sustainable development:***

4.2 Paragraphs 11-16 introduce a presumption in favour of sustainable development. Paragraphs 7, 8 & 14 are helpful in applying this presumption.

4.3 Paragraph 14 sets out how this is to be applied. It states that, “*for decision-taking, this means:*

- *Approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
  - *Any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or*
  - *Specific policies in the NPPF indicate development should be restricted.”*

*Unless material considerations indicate otherwise.”*

4.4 The NPPF introduces 3 dimensions to ‘Sustainable development’ (Economic, Environmental & Social - para 7), and advises that they are mutually dependent and should not be undertaken in isolation (para 8).

4.5 In applying this approach, firstly, development must be considered to be sustainable taking into account all three of the dimensions of sustainable development; a development that is sustainable in only one dimension would not be considered sustainable for the purposes of the presumption. The appellant considers that the development meets all three threads of sustainable development.

4.6 Secondly, the decision-taker is required to consider whether the development accords with the development plan – and if it does planning permission should be granted unless material considerations indicate otherwise. The appellant considers that the development accords with the development plan.

4.7 Thirdly, the decision-taker is required to determine whether the development plan is absent, silent or relevant policies are out-of-date. If any of these apply consent should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed with the NPPF policies as a whole;
  - specific policies of the NPPF indicate development should be restricted; or
  - material considerations indicate otherwise.
- 4.8 Section 1 relates to the building of a strong competitive economy and states at paragraph 18 that the *Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths*. It states further at paragraph 19 that the *Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth and that planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.* The appellant considers strongly that the development the subject of this appeal will support economic growth and should be supported.
- 4.9 Section 4 refers to transport. Paragraph 30 states that *encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. In preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport.*
- 4.10 Paragraph 38 states that *planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site*. Whilst the intention of this statement may be aimed at large scale residential developments in is nonetheless considered appropriate in the context of the dense and mixed urban setting of the appeal site.
- 4.11 Section 7 refers to design. Paragraph 58 states that *planning policies and decisions should aim to ensure that developments optimise the potential of the site to accommodate development and create and sustain an appropriate mix of uses*. It states further that *decisions should respond to local character and history*.
- 4.12 Paragraph 60 states that *planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles*.
- 4.13 Paragraph 61 states further that *planning policies and decisions should address the connections between people and places* and paragraph 64 states that *planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*. In this instance the scheme will make effective use of the appeal site, reflecting its historical use and the prevailing use of the surroundings and, by proxy, improve the way it functions. This would accord with the government's priority of building a strong competitive economy.

- 4.14 Section 8 refers to healthy communities. It states at paragraph 70 that *decisions should plan positively for the provision and use of shared space.*
- 4.15 Section 10 refers to climate change and states at paragraph 95 that *to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions.*
- 4.16 Section 12 refers to the historic environment and requires the decision maker to consider whether the proposal sustains and enhances the significance of the heritage asset, making a balanced judgement having regard to the scale of harm or loss and the significance of the heritage asset (paras 131-135).



## 5.0 **THE DEVELOPMENT PLAN**

### ***Camden Local Plan 2017***

- 5.1 The Camden Local Plan 2017, together with the Mayor's London Plan, forms the statutory development plan for the Borough. The Local Plan was adopted in June 2017 following examination by an independent planning inspector and covers the period from 2016-2031.
- 5.2 The reasons for refusal refer to Policies A1, A4 and T1 of the Local Plan.
- 5.3 The pre-amble to Policy A1 states that *Camden's Inner London location, the close proximity of various uses and the presence of major roads and railways means that amenity is a particularly important issue within the borough.* The policy is repeated verbatim below:

### ***Policy A1 Managing the impact of development***

*The Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity. We will:*

- a. seek to ensure that the amenity of communities, occupiers and neighbours is protected;*
- b. seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities;*
- c. resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network; and*
- d. require mitigation measures where necessary.*

*The factors we will consider include:*

- e. visual privacy, outlook;*
- f. sunlight, daylight and overshadowing;*
- g. artificial lighting levels;*
- h. transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;*
- i. impacts of the construction phase, including the use of Construction Management Plans;*
- j. noise and vibration levels;*
- k. odour, fumes and dust;*
- l. microclimate;*
- m. contaminated land; and*
- n. impact upon water and wastewater infrastructure.*

- 5.4 The policy states that *the Council will expect development to avoid harmful effects on the amenity of existing and future occupiers and nearby properties or, where this is not possible, to take appropriate measures to minimise potential negative impacts.*
- 5.5 Further, at paragraphs 6.19 and 6.20 of the Local Plan it states that Camden's high density and mixed-use nature means that disturbance from noise and vibration is a particularly important issue in the borough. The appellant contends that the proposed development is not a noise intense use and this is discussed further in section 6.
- 5.6 The pre-amble to Policy A4 begins at paragraph 6.84 of the Local Plan where it states that the policy seeks to ensure that noise and vibration is appropriately considered at the design stage and that noise sensitive uses are not negatively impacted by noise and vibration.
- 5.7 Paragraph 6.86 of the Local Plan sets out some useful context in stating that the main sources of noise and vibration in Camden are; road traffic, railways, industrial uses, plant and mechanical equipment, food, drink and entertainment uses, and building sites.
- 5.8 The policy is repeated verbatim below:

***Policy A4 Noise and vibration***

*The Council will seek to ensure that noise and vibration is controlled and managed.*

*Development should have regard to Camden's Noise and Vibration Thresholds (Appendix 3). We will not grant planning permission for:*

- a. development likely to generate unacceptable noise and vibration impacts;*  
*or*
- b. development sensitive to noise in locations which experience high levels of noise, unless appropriate attenuation measures can be provided and will not harm the continued operation of existing uses.*

*We will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity. We will also seek to minimise the impact on local amenity from deliveries and from the demolition and construction phases of development.*

- 5.9 To offer further context paragraph 6.91 states that *the Council will take into consideration the general character of the noise (whether noise is intermittent, has a distinct screech, bang, hiss) and where appropriate, the cumulative impacts of noise from one or more noise sources and will assess whether tighter noise restrictions, secured by planning condition, should be imposed.*

- 5.10 Paragraph 6.104 of the Local Plan states that *deliveries, collections and the loading and unloading of goods and refuse can be a source of disruption and cause noise nuisance to nearby residential properties, particularly when undertaken at night. Therefore, to manage potential noise issues from deliveries, conditions will usually be applied to require deliveries, collections and the loading and unloading of goods and refuse take place between the hours of 08:00 to 20:00.*
- 5.11 Paragraph 6.105 provides that *developments requiring deliveries outside of these times will be required to provide an acoustic report to demonstrate there will be no adverse impact on the acoustic environment with particular reference to residential occupiers as a result of these activities.*
- 5.12 The pre-amble to Policy T1 states at paragraphs 10.8 and 10.9 that *development should prioritise the needs of pedestrians and cyclists and ensure that sustainable transport will be the primary means of travel to and from the site.* It states further that walking is a zero carbon means of transport and provides significant benefits in terms of promoting healthy lifestyles and helping to create more vibrant streets and public spaces.
- 5.13 Paragraph 10.11 refers specifically to cycles and states that the council *will also expect cycle parking to be convenient and secure, so that users of a development are more likely to use bicycles to travel to and from a site.*
- 5.14 Policy T1 is repeated verbatim below:

***Policy T1 Prioritising walking, cycling and public transport***

*The Council will promote sustainable transport by prioritising walking, cycling and public transport in the borough.*

***Walking***

*In order to promote walking in the borough and improve the pedestrian environment, we will seek to ensure that developments:*

- a. improve the pedestrian environment by supporting high quality public realm improvement works;*
- b. make improvements to the pedestrian environment including the provision of high quality safe road crossings where needed, seating, signage and landscaping;*
- c. are easy and safe to walk through ('permeable');*
- d. are adequately lit;*
- e. provide high quality footpaths and pavements that are wide enough for the number of people expected to use them. Features should also be included to assist vulnerable road users where appropriate; and*
- f. contribute towards bridges and water crossings where appropriate.*

## **Cycling**

*In order to promote cycling in the borough and ensure a safe and accessible environment for cyclists, the Council will seek to ensure that development:*

- g. provides for and makes contributions towards connected, high quality, convenient and safe cycle routes, in line or exceeding London Cycle Design Standards, including the implementation of the Central London Grid, Quietways Network, Cycle Super Highways and;*
- h. provides for accessible, secure cycle parking facilities exceeding minimum standards outlined within the London Plan (Table 6.3) and design requirements outlined within our supplementary planning document Camden Planning Guidance on transport. Higher levels of provision may also be required in areas well served by cycle route infrastructure, taking into account the size and location of the development;*
- i. makes provision for high quality facilities that promote cycle usage including changing rooms, showers, dryers and lockers;*
- j. is easy and safe to cycle through ('permeable'); and*
- k. contribute towards bridges and water crossings suitable for cycle use where appropriate.*

## **Public Transport**

*In order to safeguard and promote the provision of public transport in the borough we will seek to ensure that development contributes towards improvements to bus network infrastructure including access to bus stops, shelters, passenger seating, waiting areas, signage and timetable information. Contributions will be sought where the demand for bus services generated by the development is likely to exceed existing capacity. Contributions may also be sought towards the improvement of other forms of public transport in major developments where appropriate.*

*Where appropriate, development will also be required to provide for interchanging between different modes of transport including facilities to make interchange easy and convenient for all users and maintain passenger comfort.*

- 5.15 In addition to the policies referred to in the reasons for refusal attention is drawn to Camden's overarching policy which relates to the delivery and location of growth, and is contained with Policy G1 of the Local Plan. The opening part of the policy states, *we will deliver growth by securing high quality development and promoting the most efficient use of land and buildings in Camden.*
- 5.16 In terms of how this is delivered, the policy states that this will be achieved by:-
  - a. Supporting development that makes full use of its site, taking into account quality of design, its surroundings, sustainability, amenity, heritage, transport accessibility and many other considerations relevant to the site;*
  - b. resisting development that makes inefficient use of Camden's limited land;*

- c. *expecting the provision of a mix of uses in suitable schemes, in particular in the most accessible parts of the borough, including an element of self contained housing where possible; and / or*
- d. *supporting a mix of uses either on site or across multiple sites as part of an agreed coordinated development approach, where it can be demonstrated that this contributes towards achieving the strategic objectives and delivers the greatest benefit to the key priorities of the Plan.*

5.17 The policy goes on to say that that Camden expect the most significant growth to be delivered through a concentration of development in the growth areas including the Central London area where the appeal site is located. Paragraphs 2.8 - 2.11 promote '*making the most of our limited land*', and generally seek to most efficient use of Camden's Land and buildings, in the most accessible parts of the borough, such as the Central London Area. Paragraphs 2.12 to 2.14 promote 'Mixed Use Developments', as this would contribute to future growth and making again making efficient use of its limited land. Policy E1 (Promoting a successful and inclusive Camden economy) supports new employment uses, and promotes opportunities for storage uses within the subtext 5.32 – 5.36.

### ***Supplementary Planning Documents***

#### ***Camden Planning Guidance 7: Transport (CPG7)***

- 5.18 Camden's Planning Guidance provides information on how planning policies are to be applied and CPG7 refers specifically to transport.
- 5.19 Section 9 refers to cycling facilities. It provides guidance on meeting cycle parking standards in an effective way, so that cycle parking is convenient and secure, and users of a development are more likely to use bicycles to travel to and from the site. Paragraph 9.8 states that security is a critical concern in the location, design, enclosure and surveillance of all cycle parking.

## 6.0 THE APPELLANTS CASE

***Reason for refusal 1: The proposed development, by reason of the commercial nature and access in close proximity of residential accommodation would harm the amenity of neighbouring residents contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration) of the Camden Local Plan 2017.***

6.1 The reason for refusal is clear in that it relates to the impact on neighbouring residential occupiers by virtue of the proximity of the commercial access to residential uses and the associated activity that will generate. The refusal is not entirely clear with regard to the residents the Council consider will be affected but the delegated officer report makes reasonably clear that it is the occupiers of the flats that compose no.64 Lincoln's Inn Fields that would be affected.

6.2 In order to understand and thus address the reason for refusal consideration must first be given to the site context and specifically the interrelationship between the residential and commercial uses. It is noted that the officer report offers some clarification in this regard. It states that:

6.3 *64 Lincolns Inn is wholly occupied by 9 residential dwellings, occupied at lower ground and ground floor level by units 1, 2, 3, 4, 5 and 6. Access can be made at ground floor level through the centrally located front door, or alternatively via the stairwell within the front lightwells to lower ground floor levels. The flats which face onto the lightwell include units 2 (bedroom), 4 (bedroom/main room of studio), 5 (bedroom/main room of studio) and 6 (bedroom/main room of studio).*

6.4 In the first instance this requires further clarification. The building wholly comprises 9 residential dwellings but is not currently occupied as such. The conversion is only recently complete and the lower ground floor units that face the lightwells have only recently sold, with only some currently occupied. The future occupiers of the units would therefore have been aware of the proposals prior to their purchase. For clarity, the units that, by deduction, the council consider will be affected, are units 2, 4, 5 and 6 as a result of their relationship to the lightwells and commercial access. These units are arranged as follows:

Unit 2: Located over two floors (lower ground/ground) with bedroom 2 facing the lightwell at lower ground level.

Unit 4: Located at the front of the building at lower ground level with the bedroom/main room of the studio facing the lightwell.

Unit 5: Located at the front of the building at ground floor level with the bedroom/main room of the studio facing the stairwell.

Unit 6: Located at the front of the building at ground floor level with the bedroom/main room of the studio facing the stairwell.

- 6.5 By deduction of the Councils comments, the other five units are not affected by the proposed development. This is validated by their habitable presence being located to the rear and central parts of the host building. Therefore, what can be established from the reason for refusal and the officer report is that the Council consider a total of four rooms to be affected by the appeal proposal. In addition, the Council also comment, through the officer report, that certain internal areas (presumably the vault) would be shared between residential and commercial use which they consider to be incompatible.
- 6.6 The appellant refutes that the appeal proposal will unacceptably harm residential amenity and in order to substantiate that view, further context, specifically relating to the operation of the premises, is required.
- 6.7 The appellant has committed to a number of management principles and is prepared to offer a unilateral undertaking in order to secure those principles. A signed unilateral undertaking is provided at **appendix 1** which outlines all mitigation measures in full but to briefly summarise in the context of the reason for refusal it is noted that:
- No staff would be on site, unless a customer of the storage facility has made a prior appointment. At this point a staff member would meet the customer at the premises;
  - Once an appointment is made the use will only operate between the hours of 9am – 7pm Weekdays and 10am – 4pm on Saturdays and will be closed on Sundays and bank/public holidays;
  - High security measures including alarms, digital entry systems, CCTV etc. and appropriate management of clients through photographic identification will be adopted;
  - Each unit will be individually alarmed with customers having unique entry codes. These codes will also be used to gain entry and exit to the premises via the security gates;
  - Security gates/doors at entry/exit points will be closed during out of office opening hours;
  - No vehicular access will be provided to the site;
  - No inappropriate goods such as perishables, living creatures, combustibles, firearms etc. will be permitted to be stored on site;
  - The room will not be used as offices, living accommodation or for any form of trading or as a home address;
  - No alterations to the storage room shall be carried out
  - No electrical appliances shall be connected to any power supply in the room
- 6.8 With regard to the above management principles it is worth noting that the restricted hours of operation will ensure the site is not visited at unsociable times. Further, the 'appointment only' mechanism will ensure that numbers of customers visiting the site will be restricted to reasonable and manageable levels. Congregations of people directly within or outside the

stairwells/lightwells will not occur as a result of the transient nature of the operation. This would be consolidated by the isolated and clearly defined space which would be completely removed/screened from the habitable parts of the residential use.

- 6.9 The appellant contends that these measures validate the low key nature of the commercial operation on site whereby the impact will be modest at most.
- 6.10 In terms of the relationship between residential and commercial uses it is first noted that the NPPF encourages the need to support economic growth through the planning system and identifies sustainable growth, through the country's inherent strengths as a key economic driver. The appeal site is surrounded by commercial activity embedded in the legal profession, a key local characteristic for hundreds of years. Dual residential and commercial activity is therefore the prevalent and overriding characteristic in the surroundings and such interrelationships therefore represent a sustainable form of development, particularly where the level of harm to residential occupiers is likely to be limited as a result of the low key nature of the commercial operation. This is considered to represent positive planning for the provision and use of shared space and would specifically accord with the principle of Policy A1 of the Local Plan which requires development to contribute towards strong and successful communities by balancing the needs of development with the needs and characteristics of the local area and community.
- 6.11 To further justify the sustainable nature of the dual relationship it is noted that paragraph 38 of the NPPF encourages a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site. This is consolidated by paragraph 58 of the NPPF which requires developments to optimise the potential of a site to accommodate development and create and sustain an appropriate mix of uses. It states further that decisions should respond to local character and history.
- 6.12 The appeal proposal achieves all of the above. It responds to local character and history and provides for a sustainable form of development that supports economic growth. More pertinently, in relation to the reason for refusal, this level of sustainable development is enhanced by the limited impact of the proposed development.
- 6.13 Camden have responded to government guidance by supporting mixed use development through policy G1 of their Local Plan. The opening part of the policy states; *we will deliver growth by securing high quality development and promoting the most efficient use of land and buildings in Camden.*
- 6.14 The policy further states that Camden expect the most significant growth to be delivered through a concentration of development in the growth areas including the Central London area where the application site is located. Paras 2.8 - 2.11 promote *'making the most of our limited land'*, and generally seek to most



efficient use of Camden's Land and buildings, in the most accessible parts of the borough, such as the Central London Area. Para's 2.12 to 2.14 promote 'Mixed Use Developments', as this would contribute to future growth and making again making efficient use of its limited land. Policy E1 (Promoting a successful and inclusive Camden economy) supports new employment uses, and promotes opportunities for storage uses within the subtext 5.32 – 5.36.

6.15 Paragraph 6.91 of the Local Plan, as the sub-text to Policy A4 states that *the Council will take into consideration the general character of the noise (whether noise is intermittent, has a distinct screech, bang, hiss) and where appropriate, the cumulative impacts of noise from one or more noise sources and will assess whether tighter noise restrictions, secured by planning condition, should be imposed.* It states further under paragraph 6.104 that *deliveries, collections and the loading and unloading of goods and refuse can be a source of disruption and cause noise nuisance to nearby residential properties, particularly when undertaken at night. Therefore, to manage potential noise issues from deliveries, conditions will usually be applied to require deliveries, collections and the loading and unloading of goods and refuse take place between the hours of 08:00 to 20:00.* With specific reference to this policy, which forms a part of the reason for refusal, it is noted that the general character of the noise that would be generated would not be either unusual or excessive. The noise would generally be characterised as would a 'collection' and, as per the requirement of the policy, that noise would not occur outside of the hours stated.

6.16 In concluding on these matters it is noted that the lower ground floor units of the building have only recently been purchased. The future occupiers will therefore have been aware of the potential relationship with the commercial activity and were therefore afforded the choice as to whether this represents an appropriate residential environment. Notwithstanding those circumstances, it is reasonable to conclude that the mixed use nature of the appeal proposal supports the government's objective of sustainable economic growth and the relationship between the two uses would be acceptable by virtue of the low key nature of the commercial use. In any case, appropriate mitigation measures will be adopted to address any potential impacts and these will be secured via a Unilateral Undertaking.

***Reason for refusal 2: The proposed cycle storage, by reason of its means of access, location and layout would fail to provide a secure, convenient and high quality facility for all types of bicycles, contrary to T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017.***

6.17 In isolation, the reason for refusal is not entirely clear and must be read in conjunction with the officer report to fully understand its meaning. The officer report states at paragraph 3.11:

*The proposal include the relocation and replacement of the approved cycle parking storage area to a series of Josta two tier stands, which is acceptable in principle. However, the submitted plan fails to show separate access from the residential cycle storage area to the commercial area. Therefore, the proposal would fail to re-provide a secure, convenient and high quality facility for all types of bicycles, contrary to policy.*

- 6.18 Based on these comments, the concern of the Council appears to be that the cycle storage for the residential development is inadequately separated from the commercial use the subject of this appeal and therefore inadequate cycle parking is provided, contrary to local and national planning policy.
- 6.19 In the first instance the appellant considers that the Council's interpretation of security and separation, as required by Policy T1 of the Local Plan and Camden Planning Guidance 7 is flawed. The submitted drawing shows two secure doors, one to the entrance of the vault and one to the cycle store. The entrance to the vault will of course be shared but beyond that, the cycle store will be secure and independently accessible to the occupiers of the residential units. The commercial activity associated with the appeal proposal will operate on an appointment only basis and the storage will be arranged in individual secure form. Should this not overcome this concern, the appellant would recommend a condition is included for the insertion of a wall or further suitable separation between the cycle storage area and the commercial storage area. In addition, the appellant is committed to these security arrangements for obvious commercial reasons and would be happy to accept any conditions in this regard should the Inspector be so inclined.
- 6.20 Camden's CPG7 identifies security as a critical concern in the location, design, enclosure and surveillance of cycle parking and the appellant considers that the dual function of the surrounding environment can infact represent a significant improvement on the previous cycle parking arrangement.
- 6.21 As previously discussed, the appellant wishes to secure the commercial site as far as possible. In the first instance this will incorporate primary and isolated security measures such as a secure building and thereafter secure lockers/cupboards. As a secondary and remote security measure the appellant intends to provide CCTV and alarms which will offer the dual function of surveillance for both uses, further consolidating the sustainable nature of mixed use in this location.
- 6.22 To conclude on this matter it is noted that the location of the cycle storage is no different to that which was previously approved by the Council. The difference is now a slight rearrangement and orientation of the type of cycle stands which the Council state no objection to in principle. More pertinently the Council raise concerns about the interaction with the commercial use the subject of this appeal. The appellant considers these concerns to be unfounded and unreasonable. The cycle store and the commercial use are located in separate rooms and whilst both rooms are initially accessed at the same point, the cycle

store nevertheless benefits from its own secure access and is thus independently accessible. Further, the security measures proposed by the appellant will act to serve both uses which will provide both physical and residual deterrents and those security measures will be secured via a unilateral undertaking.

***Reason for refusal 3: The proposed development, in the absence of a Service Management Plan, would harm the amenity of neighbouring residents contrary to policies A1 (Managing the impact of development) and A4 (Noise and vibration) of the Camden Local Plan 2017.***

- 6.23 Firstly, a Service Management Plan was submitted with the application the subject of this appeal, albeit under the title of an 'Operating and Management Statement'. Secondly, the informative note that accompanies the reason for refusal states that the reason for refusal could be overcome by entering into a S.106.
- 6.24 The wording of the reason for refusal and accompanying informative note therefore suggests that a Service Management Plan that can be secured will resolve reasons for refusal 1 and 3 as they essentially refer to the same matters.
- 6.25 In light of this, and to demonstrate the commitment of the appellant in providing a high quality mixed use scheme that responds to its surroundings, a S.106 Unilateral Undertaking is offered and a draft is attached at **appendix 1**. The merits of the Management Plan are discussed under reason for refusal 1 so for brevity will not be repeated here.
- 6.25 In the event that the Council considers any amendment to the draft S.106 is necessary, would they please send those through when responding to this Appeal Statement (or earlier) and they will be considered by the Appellant's team.

## **7.0 SUMMARY AND CONCLUSION**

- 7.1 As set out in this statement, the appeal proposal would provide for a mixed use development that responds to the site history and the prevailing characteristics of the surroundings and would thus support economic growth in an appropriate location, in accordance with both local and national planning policy guidance.
- 7.2 The low key nature of the proposed commercial use would ensure its impact on the neighbouring residential uses would be limited and the site would be managed to ensure the validity of the 'low key' assumption, all controlled through the secured management plan.
- 7.3 The residential cycle store would be rearranged as a result of the appeal proposal and the Council raise no objection in principle to the type and number of cycle stands. Its location in an independently accessible room is no different to that which was previously granted consent by the Council and it has been demonstrated that several benefits would accrue by virtue of the interrelationship between the commercial use and the residential cycle store. Specifically, the added security measures provided by the commercial use would serve a dual function of security mitigation across both uses, albeit the residential cycle store would nevertheless be independently accessible, in accordance with the principle of policy T1 of the Local Plan and CPG7.
- 7.4 In light of the comments made the Inspector is respectfully requested to allow the appeal.

**Appendix 1: Unilateral Undertaking**

DATED

201..

**James Taylor Homes (Lincolns Inn Freehold) Limited**

and

**Investec Bank PLC**

and

**Injazzat Real Estate Development Company**

To

**THE MAJOR AND BURGESSES OF THE LONDON BOROUGH CAMDEN**

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**Planning Obligation by way of Unilateral Undertaking in relation to  
appeal**

**APP/.....**

**made under**

**Section 106 of the Town and Country Planning Act 1990 (as amended)**

**relating to land known as**

**64 Lincoln's Inn Fields London WC2A 3JX**

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**THIS DEED BY WAY OF UNILATERAL UNDERTAKING** is given this                    day of  
201.. pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended)

**By**

1. **James Taylor Homes (Lincolns Inn Freehold) Limited** (Co. Registration Number 09265971) of James Taylor House, St Albans Road East, Hatfield AL10 OHE (“the **Owner**”)
2. **Investec Bank PLC** (Co. Registration Number 489604) of 2 Gresham Street London EC2V 7QP (“the **First Mortgagee**”)
3. **Injazzat Real Estate Development Company** of 1 London Bridge SE1 9BG (“the **Second Mortgagee**”)

**TO**

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CAMDEN** of Town Hall, Judd Street, London WC1H 9LP (“the **Council**”)

**WHEREAS**

1. The Council is the local planning authority for the purposes of the Act for the area within which the Property is situated and by which the obligations contained in this Undertaking are enforceable.
2. The Owner is the owner of the freehold interest in the Property as registered at the Land Registry under Title Number 328299 subject to a registered charge dated 29<sup>th</sup> January 2015 in favour of the First Mortgagee and a registered charge dated 29<sup>th</sup> January 2015 in favour of the Second Mortgagee
3. The Planning Application was submitted on behalf of the Owner in respect of the Application Area
4. The Planning Application was refused by the Council and the Appeal was submitted by the Owner.
5. The Council had indicated that had it been minded to grant planning permission pursuant to the Planning Application it would have sought as a pre-requisite the entry into a planning obligation pursuant to section 106 of the Act and it is so as to address such potential impacts of the Development that cannot appropriately be dealt with by a Condition on the Planning Permission that the Owner gives this Undertaking to the Council.

NOW THIS DEED WITNESSES the following:-

#### 1.1 INTERPRETATION

In this Deed the following words and expressions shall have the following meanings assigned to them:

“Act”	the Town and Country Planning Act 1990 (as amended).
“Appeal”	the appeal against refusal of the Planning Application submitted to the Secretary of State and referenced APP/.....
“Appeal Decision”	the formal decision letter issued by the Planning Inspectorate conveying the determination of the Appeal by the Inspector.
“Application Area”	that part of the Property at lower ground floor level thereof which was the subject of the Planning Application and as shown hatched on Plan 2
“Commencement”	<p>the carrying out of a material operation as defined in section 56(4) of the Town and Country Planning Act 1990 in respect of the Development at the Property save that for the purposes of this Deed only any single act or combination of the following shall not cause Commencement to occur and references to Commence and Commencement shall be construed accordingly:-</p> <ol style="list-style-type: none"> <li>1. demolition;</li> <li>2. site investigations or surveys;</li> <li>3. archaeological works;</li> <li>4. site decontamination;</li> <li>5. excavation works;</li> <li>6. clearance of the Property;</li> <li>7. erection of hoardings and fences;</li> <li>8. works connected with infilling;</li> </ol>

“Development”	pursuant to the Planning Permission the change of use of part of the Application Area (Class C3 Use) to storage facility (Class B8 Use).
“Occupation Date”	the date when any part of the Development is first occupied pursuant to the Planning Permission but does not include occupation for the purposes of construction, fitting out, marketing or provision of security and the phrases “Occupy” “Occupied” and “Occupation” shall be construed accordingly.
“Operating and Management Plan”	the document at Schedule 1 to this Deed and entitled Operating and Management Plan
“Planning Application”	the planning application for the Development as submitted to the Council and accorded reference 2017/0870/P
“Plan 1”	the drawing marked Plan 1 annexed to this Deed showing the Property edged by a thick black line and.
“Plan 2”	the floor plan marked Plan 2 annexed to this Deed showing hatched the Application Area.
“Planning Obligations Monitoring Officer”	a planning officer of the Council from time to time allocated to deal with all planning obligations pursuant to section 106 of the Act and to whom all notices must be sent as prescribed by this Deed.
“Planning Permission”	planning permission granted pursuant to the Appeal.
“Property”	64 Lincoln's Inn Fields London WC2A 3JX as shown on the Plan 1 annexed hereto



“Service Management Arrangements” the document at Schedule 2 to this Deed and entitled Service Management Arrangements

1.2 Words importing one gender shall be construed as importing another gender.

1.3 Words importing the singular shall be construed as importing the plural and vice versa.

1.4 Where any party comprises more than one person the obligations and liability of those persons under this Deed shall be joint and several obligations as shall any obligations given by more than one party.

1.5 The expression “Owner” shall (subject to the provisions of this Deed) include respective successors in title and assigns (or those otherwise deriving a legal interest in the Property) of each as shall any reference to any person company trust body or association.

1.6 Any reference to a statute (whether specifically named or not) shall include any amendment or re-enactment of such statute for the time being in force and all instruments thereunder.

## 2. LEGAL EFFECT

2.1 The Owner acknowledges that the obligations in clause 4 of this Deed are planning obligations made pursuant to section 106 of the Act and are enforceable as provided in clause 4 by the Council in accordance with the provisions of section 106(3) of the Act against the Owner as provided for by this Deed and (subject to as provided for by this Deed) successors in title and persons deriving title under each and shall bind the interests held by those persons in the Property.

2.2 This Deed is a Local Land Charge and shall be registered as such.

2.3 No person shall be liable for any breach of the obligations in clause 4 of this Deed or other provisions of this Deed after it shall have either parted with its entire interest in the Property or the part of the Property in respect of which such breach occurs but without prejudice to liability for any subsisting breach arising prior to parting with such interest.

2.4 If any payment due under the Deed is paid late the Owner shall pay Interest on such sum at the rate of 4% above the Base Rate from time to time in force of the National Westminster Bank Plc from the date the sum falls due to the date of actual payment.

2.5 Any sum referred to in the Deed shall be increased by an amount equivalent to the increase in the Index from the date of the Planning Permission until the date on which such sum is received.

2.6 This Deed shall not be enforceable against owners, occupiers or tenants of the such parts of the Property which do not include the Application Area

**3. CONDITIONAL ENTRY INTO FORCE**

With exception of this clause 3 hereof, none of the terms or provisions of this Deed will have operative effect unless and until the Appeal shall be upheld and the Planning Permission has been duly granted.

**4. OBLIGATIONS**

Subject to the Appeal having been upheld and Planning Permission having thereby been duly granted the Owner covenants with the Council as follows:-

4.1 To adhere (unless the Council shall have agreed otherwise in writing) to the Operating and Management Plan throughout operation of the Development pursuant to the Planning Permission

4.2 To adhere (unless the Council shall have agreed otherwise in writing) to the Service Management Arrangements throughout operation of the Development pursuant to the Planning Permission

**5. DECLARATION**

It is hereby declared as follows:

5.1 Nothing in this Deed shall prohibit or limit the right to develop any part of the Property in accordance with any planning permission (other than Planning Permission granted pursuant to the Appeal as provided for by this Deed) granted (whether or not on appeal) whether or not after the date of this Deed.

5.2 This Deed is a local land charge for the purposes of the Local Land Charges Act 1975 and the Developer shall provide an executed copy of it to the Council for the purpose of enabling the Council to register it as such.

5.3 If the Planning Permission shall at any time be revoked or quashed or cancelled or modified (other than at the request of or with the consent of the Owner) then this Deed shall then determine and cease to have effect.

5.4 In so far as any clause or clauses of this Deed are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforcement of the remaining provisions of this Deed.

5.5 The Owner shall give written notice to the Council prior to the Construction Phase beginning specifying that the date that the Construction Phase has taken or is about to take place.

5.6 The Owner shall give written notice to the Council prior to Commencement of the Development specifying the date that the Commencement of the Development has taken or is about to take place.

5.7 Within seven days following completion of the Development the Owner shall certify in writing to the Planning Obligation Monitoring Officer in the manner outlined at clause 5.8 hereof quoting planning reference S.106/2017/0870/P the date upon which the Development is scheduled to be ready for Occupation.

5.8 The provisions of Section 196 of the Law of Property Act 1925 (as amended) shall apply to any notice or approval or agreement to be served under or in connection with this Deed and any such notice or approval shall be in writing and shall specifically refer to the name, date and parties to the Deed and shall cite the clause of the Deed to which it relates and in the case of notice to the Council shall be addressed to the Planning Obligations Monitoring Officer quoting the planning reference number S.106/2017/0870/P

5.9 For the avoidance of doubt the provisions of this Deed (other than those contained in this sub-clause) shall not have any effect until this Deed has been dated.

5.10 The Owner shall act in good faith and shall co-operate with the Council to facilitate the discharge and performance of all obligations contained herein and the Owner shall comply with any reasonable requests of the Council to have access during the carrying out of the Development to any part of the Property upon reasonable notice.

5.11 This Deed is governed by and interpreted in accordance with the Law of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

## 6. **THIRD PARTIES**

A person (other than the Council and any successor in functions thereto of either) who is not a party to this Deed has no rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

## 7. **MORTGAGEES**

7.1 The First Mortgagee is party to this Deed for the purpose of consenting to the provision hereof binding the Property but for the avoidance of doubt the First Mortgagee nor any other mortgagee shall have any liability in respect of this Deed save if it has become a mortgagee in possession of the Property and For the Avoidance of Doubt the First Mortgagee shall only be liable for any breach of this Deed if it has itself caused the breach whilst in possession and it shall not be liable for any pre-existing breach.

7.2 The Second Mortgagee is party to this Deed for the purpose of consenting to the provision hereof binding the Property but for the avoidance of doubt the Second Mortgagee nor any other mortgagee shall have any liability in respect of this Deed save if it has become a mortgagee in possession of the Property and For the Avoidance of Doubt the Second Mortgagee shall only be liable for any breach of this Deed if it has itself caused the breach whilst in possession and it shall not be liable for any pre-existing breach.

7.3 No mortgagee shall have any liability under this Deed unless it takes

possession of the interest in the Property over which it has a charge in which case it too will be bound by the obligations as if it were a person deriving title from the mortgagor.

## **SCHEDULE 1**

### **Operating and Management Plan**

#### **1. GENERAL PRINCIPLES**

1. No staff would be on site, unless a customer of the storage facility made a prior appointment only. At this point a staff member would meet the customer at the premises.
2. Once appointment made use only operates between 9am – 7pm Weekdays and 10am -4pm Saturday and closed Sunday and bank/public holidays.

#### **2. SECURITY**

The premises are to be protected at all times from unauthorised access, damage, theft, dumping of waste and causing of nuisance. The following security arrangements are to be installed and professionally maintained:

1. Intruder alarm with offsite monitoring.
2. Digital entry system provided at entrances
3. Fire alarm with offsite monitoring
4. High resolution CCTV monitoring and recording 24hr
5. Each unit will be individually alarmed with customers having unique entry codes. These codes will also be used to gain entry and exit to the premises via the security gates.
6. Security gates / doors at entry/exit points closed out of office opening hours.

#### **3. VEHICLE ACCESS**

None will be permitted onto the site.

#### **4. CUSTOMER IDENTIFICATION AND MOVE-IN REQUIREMENTS**

1. A digital photograph will be taken of the customer at move-in.
2. The customer will need to present two forms of photographic identification and a recent utility bill or similar showing proof of address. Personal contact details are taken, including an email address, if available, in addition two alternative contact names, addresses and telephone numbers are taken. Should the operator be unable to reach the customer directly in the unlikely event of an emergency situation, these provide alternative contacts.

3. All customer goods must be insured and proof of insurance provided.

#### **5. SECURITY OF TENURE**

Customers secure their allocated storage rooms with their own lock provided by themselves or purchased from the operator, and the operator reserves the following rights:

1. To enter any storage room in the event of an emergency at any time.
2. The customer will be notified in all cases and whenever possible arrangements will be made for the customer to be present.
3. To move a customer's goods from one storage room to another at any time, usually for operational or safety reasons.

#### **6. GOODS IN STORE**

Customers are not permitted to store the following goods:

1. Food or perishable goods.
2. Birds, fish, animals or any other living creatures.
3. Combustible or flammable materials or liquids such as gas, paint, petrol, oil or cleaning solvents.
4. Firearms, explosives, weapons or ammunition.
5. Chemicals, radioactive materials, biological agents.
6. Toxic waste, asbestos or other materials of a potentially dangerous nature.
7. Any item which emits any fumes, smell or odour.
8. Any illegal substances, illegal items or goods illegally obtained.
9. Compressed gases.
10. Any item that we deem to be unlawful, illegal or harmful.

Customers must ensure that the fuel tanks of any items which require fuel (e.g. lawnmowers, motorbikes), are fully drained. Refrigeration equipment should be defrosted and dry, and the door left open to allow air circulation and to prevent mould.

#### **7. SURVEILLANCE**

Operational staff will be vigilant in observing customers and will question the contents of goods if any suspicion is aroused.

The operator will also offer the Police/Fire/Security Services and others the opportunity to use the premises for surveillance training purposes with sniffer dogs, etc. If adopted, this would be publicised and highlighted to customers at the time of application for a storage unit.

#### **8. CUSTOMER ACTIVITY**

The customer must not (and the customer must not allow any other person to):

1. Use the storage room or do anything on the site or in the storage room which may be a nuisance.
2. Use the storage room as offices, living accommodation or for any form of trading or as a home address.
3. Spray paint or do any mechanical work of any kind in the storage room.
4. Attach anything to the internal or external surfaces of the storage room or make any alterations to the storage room.
5. Connect any electrical appliances to any power supply in the storage room or on the site generally.
6. Allow any liquid, substance, smell or odour to escape from the storage room or any noise to be audible or vibration to be felt outside the storage room.
7. Cause any damage to the storage room or to the site or its facilities.

### **9. REPAIR AND MAINTENANCE**

The premises are to be maintained to a high standard at all times:

1. All drains, guttering and surface water run-offs to be kept clear at all times.
2. Any repairs to be made quickly and to a high standard to damaged or faulty areas.
3. Access to be provided for the maintenance of all neighbouring drains and conduits.
4. All plant and machinery shall be professionally maintained and serviced at appropriate intervals.

### **10. HEALTH AND SAFETY**

All statutory health and safety requirements to be followed at all times, including:

1. Annual health and safety review.
2. Appointment of a health and safety officer with appropriate training provided.
3. Appointment of a first aid officer and provision of essential materials. First aid training provided to staff.
4. Contractors to provide a health and safety policy, method statements, risk assessments, etc.
5. Potential hazards to safety must be identified and removed or an appropriate policy put in place to address the risks arising from it.

### **11. CLEANLINESS AND WASTE**

The premises must be kept clean and tidy at all times, including:

1. The manager will ensure that all customers take away their own waste packaging.
2. The entrance and circulation routes to be kept clear of any obstructions.
3. The storage area to be regularly cleaned.
4. All trolleys to be neatly placed in the allotted area.
5. Waste to be collected a minimum of once a week by an authorised contractor or the local authority.

**SCHEDULE 2**

**Service Management Arrangements**

**IN WITNESS** to the above Owner the First Mortgagee and the Second Mortgagee has each executed this Undertaking the day and year first above written

SIGNED as a DEED by )  
 )

Director )  
In presence of: )

.....

Signature of Witness

Name (in block capitals).....

Address.....

SIGNED as a DEED by )  
 )

Director )  
In presence of: )

.....

Signature of Witness

Name (in block capitals).....

Address.....

SIGNED as a DEED by )  
 )

Director )  
In presence of: )

.....

Signature of Witness

Name (in block capitals).....

Address.....

**Plan 1**

**Plan 2**