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Dear Mr Hill,

Appeal site: 20 Flaxman Terrace, London, WC1H 9AT

Appeal by: Salaft Properties Ltd.

Proposal: Erection of single storey roof extension at second floor level to provide 233sqm additional office space (Class B1a), with associated cycle parking and refuse storage

I refer to the above appeal against the Council's refusal to grant planning permission. The Council's case is largely set out in the Officer's delegated report. The report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

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.

1. Summary

- 1.1. The application site is 20 Flaxman Terrace, which is an office building comprising of two parts; the original 1900's warehouse building and a later front and side extension (1950's) which fronts onto Flaxman Terrace. The building is between 2 and 3 and a half storeys tall above ground level. There are basements within each separate element of the building. The part of the building which fronts onto Flaxman Terrace (the modern element) features yellow bricks, white render, Crittall windows and continuous glass block banding at street level to allow light into the lower floors. The application site is within the Bloomsbury Conservation Area. Neither part of the building is listed. Nearby listed buildings include 17 Duke's Road (Grade II) and Flaxman Lodge and attached railings (Grade II).

- 1.2. There were 5 reasons for refusal as set out on the decision notice. The 2 main reasons for refusal are summarised as follows:
- 1) the proposed roof extension to create additional office space would fail to meet the Council's policy requirements insofar as the proposed design is not of sufficiently high quality in relation to the conservation area and nearby listed buildings; and
 - 2) the proposal would not make sufficient steps towards minimising the effects of and adapting to climate change.
- 1.3. Furthermore, there were 3 matters summarised as follows relating to the absence of a satisfactory legal agreement to:
- 3) secure a contribution towards the supply of housing the proposal would fail to make adequate provision to the borough's affordable housing targets;
 - 4) secure a construction management plan - the proposal would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally; and
 - 5) secure employment and business support obligations - the proposal would fail to contribute towards maximising opportunities for local residents and businesses.

2. Update

- 2.1. Prior to the submission of the planning application to which this appeal relates, a similar planning application (LPA reference 2016/0788/P) was refused by the Council on 23/01/2017. An appeal relating to that particular application was dismissed on 20/07/2017 (PINS reference APP/X5210/W/17/3172166).
- 2.2. For clarification, the second application differs to the first insofar as it provides an additional 7sqm of floor space and the proposed roof extension would be constructed with glazing panels instead of brick.

3. Status of policies and guidance

- 3.1. In determining both abovementioned applications, the London Borough of Camden has had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.
- 3.2. Last summer, the Camden Local Plan was formally submitted to the government for public examination. Following the public hearings, the Council consulted on Main Modifications to the Local Plan. The Inspector's report on the Local Plan was published on 15th May 2017 and concluded that the plan was 'sound' subject to modifications being made to the Plan. The new Camden Local Plan was formally adopted by the Council on 3rd July 2017.
- 3.3. The appeal will need to be determined in accordance with the new Local Plan policies. The overall aims of the policies in the new Local Plan, insofar as they relate to this case, are considered to be broadly similar to those in the Council's existing Local Development Framework.

3.4. The following policies in the new Local Plan are considered to be relevant to the determination of the appeal:

G1 Delivery and location of growth
H1 Maximising housing supply
H2 Maximising the supply of self-contained housing from mixed-use schemes
H4 Maximising the supply of affordable housing
C5 Safety and security
C6 Access for all
E1 Economic development
E2 Employment premises and sites
A1 Managing the impact of development
A4 Noise and vibration
D1 Design
D2 Heritage
CC1 Climate change mitigation
CC2 Adapting to climate change
CC3 Water and flooding
CC4 Air quality
CC5 Waste
T1 Prioritising walking, cycling and public transport
T2 Parking and car-free development
T4 Sustainable movement of goods and materials

4. Comments on appellant's grounds of appeal

4.1. The appellant's grounds of appeal are summarised below and addressed beneath, as follows:

- Impact on the character and appearance of Designated Heritage Assets
- Sustainability
- Securing financial contributions towards off-site housing
- Securing a Construction Management Plan
- Securing employment and business support obligations

Impact on Designated Heritage Assets

4.2. The application site is located within the Bloomsbury Conservation Area, wherein the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area, in accordance with Section 72 of The Planning (Listed Buildings and Conservation Areas Act) 1990.

4.3. Nearby Grade II listed buildings include 17 Duke's Road and The Lodge and attached railings on Flaxman Terrace. The Council has a statutory duty, under Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving a listed building(s)

or its setting or any features of special architectural or historic interest which it possesses.

- 4.4. Policy D1 of the new Local Plan seeks to secure high quality design in all development and Policy D2, which relates specifically to heritage, notes that the Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas and listed buildings.
- 4.5. Policy D2 highlights that designated heritage assets include conservation areas and listed buildings and it notes that the Council will not permit the loss of or substantial harm to a designated heritage asset, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. The policy notes that, in order to maintain the character of Camden's conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas.
- 4.6. With regards to listed buildings, Policy D2 notes that the Council will resist development that would cause harm to significance of a listed building through an effect on its setting.
- 4.7. As noted in the Officer's delegated report, the Council considers the host building to be architecturally interesting by virtue of its horizontal emphasis, the Crittall windows, the bricks and render and its overall design. The building provides a typical example of 1950's architecture and it is considered that it fits in well with the "back-street" character of this part of the Bloomsbury Conservation Area.
- 4.8. The Appeal Inspector in the recent appeal (please see paragraph 2.1) also makes reference to the distinctive design of the host building, noting: *"(the building) comprises an early 1900's warehouse to the rear and a 1950's addition facing Flaxman Terrace. This element clearly reads as a later addition to the original warehouse, and has a strong horizontal emphasis. At pavement level the building features a plinth of glass blocks, above which are layers of white rendered panels and Crittall windows with projecting heads and cills. It is finished with a deeply projecting slender parapet which provides a defined 'top' to the building punctuated only by the striking central vertical projection housing the entrance and stairwell... Although the 1950's addition has a simple pared-back design it appears to take design references from the more ornate listed building, notably the emphatic plinth at street level, the use of white render, the horizontal emphasis of the string courses and overhanging eaves and the centrally positioned entrance with a gable feature rising above eaves level"*.
- 4.9. The appellant notes at paragraph 5.5 of their appeal statement that, *"the appeal site is not specifically identified as making a positive or negative impact toward the character and appearance of the (Bloomsbury) Conservation Area"*. However, once again, the Council would like to stress that this does not negate

the need for high quality design in any proposed development at the site. The fact the application site is within a designated conservation area means that any new development must be of a high standard and it must preserve or, where possible, enhance the character and appearance of the area.

- 4.10. The appellant goes on to note at paragraph 5.6 of their statement that, *“the building sits awkwardly within the streetscene owing to the existing warehouse roof above”*, and, *“In some respects the building already has the appearance of being extended at roof level but in an incoherent manner”*. The Council again disagrees on both these points. It is not considered that the existing building sits awkwardly in the street scene and neither is it considered that it appears that it has already been extended upwards. The 1950’s modern element of the building is clearly a later addition to an older building at the rear, and the overall scale and design of the overall building is appropriate to the street, which is a secondary street rather than a main thoroughfare.
- 4.11. The appellant also notes that the building appears *“stunted’ within the street scape, particularly the 1950’s element in comparison to its immediate neighbours* (para. 5.7); however, the Council also disagrees with this statement. The 1950’s modern element at the front of the building (facing Flaxman Terrace) has obviously been designed as a whole and just because the building is lower in height than its neighbours, does not mean it has the appearance of being stunted. Rather, the differing heights of buildings in the area could be said to contribute positively to the overall character and appearance of the area.
- 4.12. The Appeal Inspector in the recent appeal appears to agree with the Council’s stance. He also describes Flaxman Terrace as having a *“back-street”* character and he notes: *“Together, the group of buildings on the north-west side of Flaxman Terrace have a subservient appearance, providing a muted backdrop for the grander buildings on the south-east side of the street”*.
- 4.13. With regards to the design of the proposed roof extension, the appellant notes that the design would accord with officers’ advice insofar as it would be constructed with glazing, so as to appear *“light-weight”*. However, as clearly explained in the Council’s delegated report (and also at the time of the recent appeal), whilst the principle of extending upwards is acceptable, it is important to get the detailed design right so that the extension complements the existing building, and unifies the whole building, but at the same time allows the historical development of the building to be understood. The Council is of the opinion that the proposed extension would fail to sit comfortably above the existing ‘top’ of the building and that it would appear as an incongruous addition to the host building. This would be to the detriment of the character and appearance of the host building and also the wider area.
- 4.14. Furthermore, the Council has not specifically advocated the use of glazing. In fact, the original Officer’s report noted: *“The use of buff brick is preferable to the original proposal to use large amounts of glazing at the top of the building, and the fact the windows would now relate to the windows on the lower floors*

is welcomed; however, the overall detailed design of the extension is not considered to be of sufficiently high quality” (paragraph 6.11).

- 4.15. The appellant notes that “*the design approach is subservient to the existing building*” (para. 5.16); however, the Council considers, conversely, that the proposed extension, by virtue of its design, would visually dominate the host building and the increased height would detract from the horizontal emphasis of the building, which is considered to be important to its overall character and appearance.
- 4.16. As noted in the Officer’s Report, although the proposed glazing panels would align with the window openings below, it is not considered that this would be readily apparent in views of the resultant building and it is considered that the large amounts of glazing at the top of the building would detract significantly from the established character and appearance of the host building. The existing building features a mixture of different facing materials (brickwork, render, glass block banding), and it has a coherent overall design. It is not considered that the proposed extension above the existing building would relate well to the existing building and it is considered that the resultant building would lack the same coherence that it currently exhibits. This would be to the detriment of the character and appearance of the host building, the street scene along Flaxman Terrace and also the wider conservation area.
- 4.17. The appellant notes at paragraph 5.26 of their statement that, “*On the basis that the principle of a single storey extension has been supported, any impact on Listed Buildings must have been considered acceptable...*”; however, as noted at the time of the recent appeal, this is a very simplistic assertion. Due to the detailed design, the Council considers that the increased visual presence of the host building would adversely alter the existing relationship between the application building and nearby listed buildings, insofar as the resultant building would no longer appear as subservient in scale, character and appearance as it currently does. As noted above, the Appeal Inspector in the recent appeal highlighted the subservient character of the host building in the street scene and at the time of the previous appeal, the Inspector was of the opinion that the appeal proposal would not preserve the setting of The Lodge, a Grade II listed building. The Council considers this to be the case with this revised proposal also.
- 4.18. To conclude this section, the Council considers that the proposed roof extension, by virtue of its siting, size, detailed design and appearance, would cause harm to the character and appearance of the host building, the street scene along Flaxman Terrace and the Bloomsbury Conservation Area, as well as the setting of nearby listed buildings. The proposal is therefore contrary to Policies D1 and D2 of the Camden Local Plan and the Inspector is respectfully requested to dismiss the appeal for this reason.

Sustainability

- 4.19. The Council aims to tackle the causes of climate change in the borough by ensuring developments use less energy and assess the feasibility of

decentralised energy and renewable energy technologies. Policy CC1 of the new Local Plan requires all development to minimise the effects of climate change and encourages all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation. Policy CC2 requires development to be resilient to climate change by adopting climate change adaptation measures. Policy CC3 seeks to ensure that development does not increase flood risk and reduces the risk of flooding where possible. Policy CC4 seeks to ensure that the impact of development on air quality is mitigated and to reduce exposure to poor air quality in the borough.

- 4.20. The appellant notes that their scheme falls below the required thresholds to incorporate sustainability measures. However, the new Local Plan is clear that *all* new development in the borough needs to take measures to minimise the effects of, and adapt to, climate change. Furthermore, the Appeal Inspector for the recent appeal noted the following: *“LP Policy CC1 requires all development to minimise the effects of climate change, whilst LP Policy CC2 requires development to be resilient to climate change and adopt appropriate climate change adaptation measures. The extension would feature a sizeable flat roof and a number of vertical surfaces which have the potential to incorporate bio-diverse roofs, combination green and blue roofs and green walls. The Sustainability and Energy Strategy does not fully explore the feasibility of including such measures within the scheme, and I am not persuaded that the proposal incorporates adequate adaptation measures and sustainable development principles into the design. It would not be appropriate to deal with this matter by way of a condition because it would be likely to result in changes to the finished appearance of the development”*.
- 4.21. In line with the recent appeal decision, the Council still considers that the appellant has failed to satisfactorily demonstrate that the proposal would take sufficient measures to minimise the effects of, and adapt to, climate change. The Inspector is therefore respectfully requested to dismiss the appeal for this reason also.

S106 Housing contribution

- 4.22. Policy DP1 of the LDF (now superseded) required development in Central London which is creating more than 200sqm (gross) additional floor space to provide 50% of all floor space as residential floor space. Policy H2 of the new Local Plan maintains this requirement. The policy notes that, in all parts of the borough, the Council will encourage the inclusion of self-contained homes in non-residential development, and in the Central London Area, where development involves additional floor space of more than 200sqm (GIA), the Council will require 50% of all additional floor space to be self-contained housing, subject to specified criteria (a - e).
- 4.23. The Council normally requires any secondary uses to be provided on-site, particularly where 1000sqm (gross) of additional floor space or more is proposed. The appellant has failed to provide any comment on the provision of housing on-site, other than stating that the Council does not consider the

provision of a secondary use on site to be practical due to the difficulties of providing a separate access.

- 4.24. In cases where it is not feasible to provide the required residential floor space on-site, the Council will seek the provision of housing on an alternative site nearby, or exceptionally a payment-in-lieu, secured by means of a planning obligation. The appellant proposes a contribution of £101,941, as per paragraph 5.6 of the Officer's Report.
- 4.25. The appellant's appeal statement notes that a unilateral undertaking will be submitted. However, the unilateral undertaking referred to has not been provided yet and therefore the Council cannot comment on this. In the absence of the unilateral undertaking, a draft copy of a section 106 legal agreement will be sent to the appellant and The Planning Inspectorate. PINs will be updated on any progress at the final comments stage.

S106 Construction Management Plan

- 4.26. Policy T4, which seeks to promote the sustainable movement of goods and materials and to minimise the movement of goods and materials by road, refers to the need for Construction Management Plans (CMPs) in certain cases (albeit it is generally referring to larger schemes than this). Policy A1 also refers to the need for CMPs.
- 4.27. The sub-text to Policy A1 notes that disturbance from development can occur during the construction phase and measures to reduce the impact of demolition, excavation and construction works must be outlined in a CMP. A list of reasons why a CMP may be required is provided and it includes developments with poor or limited access on site; developments that are accessed via narrow residential streets; developments in areas with a high number of existing active construction sites; and, developments that could cause significant disturbance due to their location.
- 4.28. The Council considers that a CMP is necessary if the development is allowed and the appellant appears to be in agreement. However, as at the time of the previous appeal, the appellant has invited the Inspector to secure the CMP by planning condition as opposed to through a legal agreement. Whilst it is recognised that CPG6 notes that CMPs can sometimes be secured by condition, the sub-text to Policy A1 of the new Local Plan (which is a later document) notes that CMPs will usually be secured via planning obligations between the developer and the Council after an application is approved. This is because the details that the appellant proposes to cover in their CMP include measures that affect land outside of the red line site boundary (such as road closures and arrangements for deliveries) which could not be covered by condition. Furthermore, securing the CMP through a legal agreement would allow it to be a live document that could be continuously updated as required, which is more suited to its requirements.
- 4.29. As noted above, a draft copy of a section 106 legal agreement will be sent to the appellant and The Planning Inspectorate.

S106 Employment and Business Support

- 4.30. Policies E1 and E2 of the new Local Plan seek to secure a successful and inclusive economy in Camden by creating the conditions for economic growth and harnessing the benefits for local residents and businesses; and by encouraging the provision of employment premises and sites in the borough and protecting premises or sites that are suitable for continued business use, in particular premises for small businesses, businesses and services that provide employment for Camden residents and those that support the functioning of the Central Activities Zone (CAZ) or the local economy
- 4.31. In order to maximise the opportunities for local residents and businesses afforded by the proposal, the Council would expect to secure a number of employment and business support measures through a legal agreement (see paragraph 6.3 of the Officer's Report).
- 4.32. The appellant notes that they will prepare a unilateral undertaking which agrees to provide a percentage of construction jobs for local residents. However, such an agreement would not fulfil all of the requirements listed by the Council in the Officer's Report, which is not considered to be acceptable. On this basis, a draft copy of a section 106 legal agreement will be sent to the appellant and The Planning Inspectorate. The draft agreement will set out the Council's requirements in terms of employment and business support obligations.

Other matters

- 4.33. As at the time of the previous appeal, the appellant continues to refer in their appeal statement to the fact that the Council has indicated 'in principle' support for the scheme, but has refused permission. The Council would like to point out once again that, just because the principle of development is considered to be acceptable, this does not necessarily guarantee the granting of permission. An application must be considered acceptable in all planning matters and in this case the application was not considered to be acceptable in terms of the detailed design; the lack of climate change mitigation measures; the lack of a legal agreement to secure an appropriate contribution towards the supply of housing; the lack of a legal agreement to secure a CMP; and the lack of a legal agreement to secure employment and business support obligations.
- 4.34. It is recognised that paragraph 187 of the National Planning Policy Framework (NPPF) requires local planning authorities, "*to look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible*". In this case, however, the Council considers that the proposal would fail to meet the environmental role necessary to achieve sustainable development as prescribed by the NPPF (para. 7), insofar as the development would not contribute to protecting and enhancing our built and historic environment and neither would the proposal make sufficient steps towards adapting to and mitigating against climate change and moving towards a low carbon economy.

- 4.35. Paragraph 187 of the NPPF also notes that, “*Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area*”. The Council considers that it has worked proactively with the applicant to try and secure the development of the site, despite the fact it was not possible to reach a mutually acceptable outcome in the end. As previously noted, whilst it is true that the NPPF guides Councils to look for solutions rather than problems, it is also the case that the Council cannot design a scheme for an applicant and they can only be reactive to proposals that are put before them. Despite ongoing attempts to reach a mutually acceptable outcome, unfortunately no sufficiently high-quality designs were submitted to the Council to consider.
- 4.36. The Council would also like to comment that, after lodging an appeal against the previous refusal (planning application reference 2016/0788/P), the appellant would have benefited from waiting for the outcome of the appeal rather than submitting a subsequent planning application (and subsequent appeal). The comments made by the previous Appeal Inspector, particularly in relation to the character and appearance of the existing building and its place / role in the conservation area, provide a useful starting point to guide future design discussions.

Conclusion

- 4.37. Based on the information set out above, and having taken account of all the additional evidence and arguments made, the proposal remains unacceptable and is contrary to Policies H1 (Maximising housing supply) H2 (Maximising the supply of self-contained housing from mixed-use schemes), H4 (Maximising the supply of affordable housing), E1 (Economic development), E2 (Employment premises and sites), A1 (Managing the impact of development), D1 (Design), D2 (Heritage), CC1 (Climate change mitigation), CC2 (Adapting to climate change), CC3 (Water and flooding), CC4 (Air quality) and T4 (Sustainable movement of goods and materials) of the Camden Local Plan 2017.
- 4.38. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns. The proposal presents no benefits that would outweigh the harm identified.
- 4.39. For these reasons the Inspector is respectfully requested to dismiss the appeal. However, should the Inspector be minded to approve the appeal, suggested conditions are included in Appendix A. In addition suggested S106 matters are set out above under relevant headings and the inspector will be updated on progress with the appellants at the final comments stage.
- 4.40. If any further clarification of the appeal submission is required please do not hesitate to contact Kate Henry on the above direct dial number or email address.

Yours sincerely,

Kate Henry
Senior Planning Officer
Regeneration and Planning
Supporting Communities

APPENDIX A – Suggested planning conditions

1	<p>The development hereby permitted must be begun not later than the end of three years from the date of this permission.</p> <p>Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).</p>
2	<p>The development hereby permitted shall be carried out in accordance with the following approved plans: 1384-D1000-rev01; 1384-D1099-rev01; 1384-D1100-rev01; 1384-D1101rev01; 1384-D1102-rev01; 1384-D1103-rev01; 1384-D1710-rev00; 1384-D1711-rev00; 1384-D1712-rev00; 1384-D5099-rev00; 1384-D5100-rev00; 1384-D5101-rev00; 1384D5102-rev00;1384-D5104-rev00; 1384-D5520-rev00; 1384-D5521-rev00; 1384-D5710rev00; 1384-D5711-rev00; 1384-D5712-rev00; Heritage, Design and Access Statement (dated April 2017); Planning Statement (dated 31/03/17)</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>
3	<p>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.</p> <p>Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of Policies D1 and D2 of the Camden Local Plan 2017.</p>
4	<p>Before the development commences, details of secure and covered cycle storage for the following shall be submitted to and approved by the local planning authority:</p> <ul style="list-style-type: none">- 3 long-stay spaces- 1 short-stay space <p>The approved facilities shall thereafter be provided in their entirety prior to the first occupation of any of the new units, and permanently retained thereafter.</p> <p>Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of Policy T1 of the Camden Local Plan 2017.</p>

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Prior to the commencement of development, details of the proposed bin store shall be submitted to and approved in writing by the local planning authority.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of Policy D1 of the Camden Local Plan 2017.