

112A Great Russell Street, London WC1B 3NP Documents submitted under S106 Unilateral Undertaking

Commentary on behalf of the Bloomsbury Association to documents submitted under the Unilateral Undertaking relating to planning permission 2015/3605/P to satisfy Sections 13, 15 and 19

1.0 Introduction

- 1.01 I am instructed by the Bloomsbury Association in connection with the development proposed at 112A Great Russell Street for the conversion of below ground floors to an hotel complex.
- 1.02 This commentary has been produced for the Bloomsbury Association representing the many residents on Bedford Avenue and Adeline Place and in discussion with other interested relevant parties.
- 1.03 The commentary refers specifically to the following as submitted to Camden Council and made available to the Bloomsbury Association on 27 February 2019:
 - Hotel Framework Travel Plan (S106 section 15)
 - Hotel Management Plan (S106 section 13)
 - Servicing Management Plan (S106 section 19)
- 1.04 The technical submissions required from the s106 Unilateral Undertaking are all inter-related and these should be considered holistically in order to properly consider and comment on what has been submitted. These other submissions called for under the legal agreement should also be provided:
 - Sustainability Plan (S106 section 12)
 - Energy efficiency and renewable energy plan (S106 section 17)
- 1.05 The submissions are required by Camden Council as part of its strategic policy and also as a requirement of a Section 106 Unilateral Undertaking signed by the developer in connection with a planning permission (ref: 2015/3605/P) granted at appeal (ref: APP/X5210/W/16/3147078).
- 1.06 They relate to proposed works for an underground hotel complex at 112A Great Russell Street (formerly an underground public car park), beneath the St Giles Hotel in the block bounded by Tottenham Court Road, Great Russell Street, Adeline Place and Bedford Avenue.
- 1.07 The planning permission had a number of plans and drawings submitted which, under condition (2) of that permission, describe the only valid and approved design.

2.0 Planning permission, Section 106 Agreement (Unilateral Undertaking)

- 2.01 This was granted by the Inspector on 4 November 2016 (ref APP/X5210/W/16/3147078). It contained 13 conditions and was subject to a s106 agreement (Unilateral Undertaking) [UU] between the developer, Central London Investments Limited, Aviva Commercial Finance Limited and the London Borough of Camden that was completed after the Appeal but before the planning permission was issued. This document is referred to in the Inspector's decision notice.
- 2.02 The UU covers a wide range of topics including a Construction Management Plan, a Travel Plan, Hotel Management Plan, and financial obligations, among others. The UU does not detail those plans, but simply sets out their broad terms of reference and when they will be provided. They all require the Council's approval. That they relate to the proposal granted planning permission and not another, different proposal is a necessary prerequisite for the plans to be valid and capable of being assessed.

3.0 Hotel Framework Travel Plan (S106 section 15)

- 3.01 The Travel Plan (version 02, February 2019) describes a scheme that does not accord with the proposal granted planning permission. The planning permission had a number of plans and drawings submitted which, under condition (2) of that permission, are the only valid and approved design. This Travel Plan describes a different design that is materially different from the proposal granted planning permission by the Inspector on Appeal. No drawings of that proposal accompany the submission although there have been some inconsistent suggestions as to what might be intended in the application to discharge Conditions 5, 6, 7 and 10 of the planning permission and in the submission of details of the draft Construction Management Plan.
- 3.02 The Travel Plan bears no resemblance to the proposal described in the Transport Statement by TPP submitted with the planning application and considered by the Planning Inspector when reaching his decision on 4 November 2016.
- 3.03 From these two points alone, this departure would require a new planning application. A Travel Plan required by a UU should not be considered prior to that new planning application and any agreed UU having been determined.
- 3.04 The Travel Plan makes only selective reference to the context of the site. It makes no reference at all to the residential nature of its surroundings, the listed buildings and adjoining Conservation Area or the Council's West End Project currently under construction. Indeed, there are some references to a completely different site in Cambridge. It also makes no reference to coach parties, exclusion of which was a key determinant of the Inspectors decision.
- 3.05 The Travel Plan makes no mention of the fact that servicing of the entire building is restricted by the permission for development (dated 30 September 1975, reference P13/8/A/20545) granted under the Town and Country Planning Act 1971. Condition 5 of the permission states: "No loading or unloading of goods, including fuel, by vehicles arriving at or departing from the premises shall be carried out otherwise than within the curtilage of the building." The reasons for imposition of the condition are given as: "To avoid obstruction of the surrounding streets and to safeguard amenities to adjacent premises". This is as relevant now as it was then, indeed more so as on-street servicing has increased.
- 3.06 There is also no mention of Condition 4 of the planning permission granted by the Inspector on Appeal, which states: "Deliveries and collections (including waste collections) shall be taken at, or dispatched from the site only between 0900hrs and 2100hrs on any day." Indeed, para 3.5.1 of the Travel Plan undermines this.
- 3.07 There is no reference to the Council's clean air policy. Section 5.2 of the Travel Plan ignores it.
- 3.08 The bus services given in para 3.6.8 are incorrect, as are the bus stop locations.
- 3.09 It is noted that, according to the draft Construction Management Plan submitted to the Council for consideration under the Unilateral Undertaking, site works commenced on or about 15 October 2018. This is before Camden Council's approval of a Travel Plan and contrary to the terms of this obligation.
- 3.10 There is too much use of the expression 'could' or 'every effort' rather than the definitive 'should' or 'would' in relation to commitments made to Travel Plan measures. A measure that 'could' be implemented is meaningless. It is entirely at the discretion of the hotel operator. There is no positive commitment for it to ever happen and it is unenforceable. All proposed measures should be obligations to which the hotel operator is required to commit in order to meet, and not evade, the stated aims and objectives of the Plan.

4.0 Servicing Management Plan (S106 section 19)

- 4.01 Comments under items 3.01 - 3.05 and 3.10 above are equally applicable to the Servicing Management Plan (02, January 2019).

- 4.02 Item (a) in the Servicing Management Plan refers to on-street servicing bays. There are none at present but the Council has approved changes to on-street parking on Bedford Avenue specifically to provide an on-street servicing bay. It would seem counter to this policy if the Plan were to exclude it.
- 4.03 Item (b), specifically the service access ramp, is materially different to the servicing arrangement considered by the Inspector at Appeal and as described in the approved drawings. It also differs from the servicing arrangement described in Sections 3.1.15 - 3.1.23 of TPP's Transport Statement also considered by the Inspector.
- 4.04 Item (j) refers to 'a dedicated refuse storage area within the service ramp'. Again, this does not accord with the proposal for off-street refuse storage as set out in the granted planning permission nor with the proposal recently submitted to discharge Condition 5 of the planning permission (2019/0226/P). A submission to satisfy the requirement of a Unilateral Undertaking should not be improperly used as a means to obtain planning permission for a different proposal through the 'back door' and puts at risk the mitigation of damaging impacts that were so much discussed at the Appeal.
- 4.05 Item (j) also refers to refuse being "taken from the refuse area and placed on Adeline Place ready for collection" without explaining where. For a new development, bins should not be left on-street to obstruct either the roadway or the public footway, nor to encourage vermin or other scavengers, a factor acknowledged in TPP's Transport Statement. Section 153 of The Highways Act 1980 requires that any person who in any way willfully obstructs the free passage along a highway is guilty of an offence and liable to prosecution.
- 4.06 The amount of space to be allocated for waste storage needs to be quantified. Camden Planning Design Guidance CPG1 states: "*Planning for waste recycling and storage should ensure that developments accommodate:*
- Adequate space (designed) for the storage of waste and recyclables;
 - Safe location - accessible for all users and collectors and minimise nuisance to occupiers and neighbours (and their amenity space) e.g. noise, obstruction, odours, pests, etc;
 - Refuse collection for any waste contractor (and allow for reasonable changes to collection services in the future);
 - Containers should have designated storage areas; and
 - Sensitively designed/located, especially in conservation areas/or listed buildings."
- 4.07 CPG1 provides no specific design guidance on the standard of provision to be made for refuse storage and collection from hotels. BS 5906:2005 provides a Code of Practice for methods of storage, collection, segregation for recycling, recovery and on-site treatment of waste from buildings in various uses. It is applicable to new buildings, refurbishments and conversions of residential and non-residential buildings and is a standard source of reference for other local authorities in situations where specific policy or design guidance is lacking.
- 4.08 In determining the storage, containment and equipment requirements for effective waste management and that adequate space is provided, the BS provides guidance in respect of waste generation for commercial premises. For a 3-star hotel, as is proposed, 250 litres of waste arisings are assumed a week for each bedroom. A 166-bedroom hotel would therefore produce 41,500 litres of waste a week. This would require storage capacity for 38 x 1,100 litre bins if collected weekly and 6 x 1,100 bins if collected daily. Drawing 2897/P/11F, submitted with the original application indicates only 3 x 1,100 bins, which may be inadequate provision for the hotel. Capacity could be reduced by use of a compactor but there is no mention of this in the design proposal. There does not appear to be sufficient space to accommodate a compactor nor would it comply with Local Plan and CPG criteria to minimise noise and nuisance to occupiers and neighbours.
- 4.09 There appears to be no provision for recycling. The Servicing Management Plan makes passing reference to recyclable waste but provides no detail. This does not accord with Local Plan policy or CPG1 and it is not sufficient for something so fundamental as this to be resolved after planning permission has granted.

- 4.10 Item (l) gives frequencies and durations of delivery/servicing movements that are materially different from those given in Sections 3.1.12 - 3.1.14 of the Transport Statement considered by the Inspector at Appeal. The Inspector might have been misled by incorrect information and this should not be accepted through the approval process for the Servicing Management Plan without all impacts being considered.
- 4.11 It is noted that, according to the draft Construction Management Plan submitted to the Council for consideration under the Universal Undertaking, site works commenced on or about 15 October 2018. This is before Camden Council's approval of a Servicing Management Plan and contrary to the terms of this obligation.
- 5.0 Hotel Management Plan (S106 section 13)**
- 5.01 There has been no post-submission consultation with residents and local stakeholders, as reported in item 1.1 of the Hotel Management Plan (02, January 2019), so far as the Bloomsbury Association are aware. There has been no active or constructive consultation with any interested parties in the compilation of either this or any previous versions of the Hotel Management Plan, contrary to best practice required by Camden Council policy. The statement recorded under item 2.4 that "The HMP was prepared in consultation with local stakeholders" is therefore incorrect, other than having the opportunity to make these comments known.
- 5.02 The planning permission granted by the Inspector on Appeal does not provide for the inclusions of a new Cycle Hire Docking Station along Adeline Place as mentioned under items 1.1 and 7.1.3. A contribution towards its provision is required by Section 10 of the UU but a location is not specified.
- 5.03 The statement under 3.2.1 that "The concierge/security desk will be located within the main entrance located at street level" is vague and imprecise. The location described under item 6.1 accords with the planning permission but other recently submitted documents are inconsistent as to where the 'main entrance' is to be located. Clarity is required on this because, as acknowledged in items 6.5 - 6.7 of this Plan, there is concern about hours of operation and the potential for noise and general disturbance from an increased level of 24-hour activity at street level to impact adversely on residential amenity. The Plan does not convincingly set out measures to mitigate against this risk.
- 5.04 Under 7.1.4 of the Hotel Management Plan the booking of coach parties should be specifically excluded. It is not sufficient a level of control for it to be an eventuality that is "not anticipated".
- 5.05 The hotel is located in an area that is acknowledged to be one of London's foremost street markets for Class A drugs. It is also on the edge of the West End, the focus for London's late night economy, which includes the sex industry. Under item 7.1.5 there should be a minimum one-night's stay specified to prevent misuse of the hotels facilities. Hourly rentals should be specifically excluded.
- 5.06 There is an inconsistency between the number of cycle parking spaces described under 7.2.1, the number shown on the proposal granted planning permission, the current proposal submitted to discharge Condition 5 of the permission (2019/0226/P) and the Travel Plan submitted for approval under Section 15 of the UU. This is an unsound basis upon which to proceed.
- 5.07 Under 8.1 and 8.3 security measures should also include CCTV monitoring of all external areas associated with the hotel on Great Russell Street and Adeline Place.
- 5.08 Comments under Section 4 of this commentary above, relating to servicing, are equally applicable to Section 9 of the Hotel Management Plan.
- 5.09 Under item 11.1 the requirement for submission for approval of a Travel Plan is incorrectly stated. Section 15 of the Universal Undertaking requires this to be submitted and approved prior to the 'Implementation Date', not prior to occupation. It is noted that, according to the draft Construction Management Plan submitted to the Council for consideration under Section 8 of the Unilateral Undertaking, site works commenced on or about 15 October 2018. This is

before Camden Council's approval of a Hotel Management Plan and contrary to the terms of this obligation.

- 5.10 Condition 13 of the planning permission states that "group bookings for parties of more than 8 people" shall not be accepted. That is '8 people', not '8 rooms' as incorrectly stated under Appendix A to the Hotel Management Plan.

6.0 Conclusion

- 6.01 The Bloomsbury Association is concerned that there are a number of issues relating to these submissions under Sections 13, 15 and 19 of the UU. There is no consistency between the various submissions; details of such basic things as where the hotel entrance is located, amongst others, are at variance with or directly contrary to the planning permission and may be harmful to the general environment of the area and, in particular, to residential amenity.
- 6.02 All three submissions have so many shortcomings and errors they lack credibility. There are errors and omissions; proposals are either confused, contrary to the planning permission or poorly coordinated between the various disciplines, indeed a combination of all of these characteristics. They fail to satisfactorily demonstrate that the proposal granted planning permission can meet the objectives set in the UU.
- 6.03 While hotel accommodation may be a simple, repetitive fit-out, air quality issues, the ventilation system and how the life support system fits in at street level with all the other essentials of servicing on a tight, complex site with land ownership issues is a complication that does not seem to have been grasped. The technical submissions required from the s106 Unilateral Undertaking are all inter-related and these should be considered holistically by a coordinated design team, prior to planning decisions being made and construction commencing, in order for interested parties to properly consider and comment on what has been submitted. They also need to be consistent with the design proposal that has been granted planning permission, not other hypothetical proposals for which drawings to describe them are not provided, only confused and uncoordinated words.
- 6.04 At the time of the application and subsequent Appeal, the Bloomsbury Association was concerned that a design solution had been proposed that was unsound and could not be implemented. There was muted reception to those concerns and the Inspector, while mindful of them, eventually decided that they could be adequately controlled by conditions or the Unilateral Undertaking. What is now evident in these submissions is a product of a design solution that cannot be implemented. It undermines the grounds on which the Council refused the original application prior to its appeal and runs in the face of issues raised at the appeal on which the Inspector's decision hinged.
- 6.05 The departure from the scheme granted planning permission requires a complete reappraisal of the methodology and content of the submissions and a new planning application. To consider approval of these submissions under the Unilateral Undertaking at this stage would be an unsound and unenforceable basis upon which to proceed and may be unlawful. All these submissions are fundamentally flawed should be rejected.

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