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Dear Mr Farrant,

2019/1118/P (DRAINAGE) – 112A GREAT RUSSELL STREET

As you are aware, we act for the Applicant here. You provided us with the Bloomsbury Association's recent objection to the application, on 7th May 2019, and requested that we provide a point-by-point response. This is provided herewith.

Before getting into the substance of each point, it is important to reflect upon the relevant law in terms of how a planning permission must be construed, and its limitations. The leading authority is Keene J's synopsis in *R. v Ashford Borough Council ex parte Shepway District Council* [1999] PLCR 12. There he rehearsed that:

"(1) The general rule is that in construing a planning permission which is clear, unambiguous and valid on its face, regard may only be had to the planning permission itself, including the conditions (if any) on it and the express reasons for those conditions...

(2) This rule excludes reference to the planning application as well as to other extrinsic evidence, unless the planning permission incorporates the application by reference...The reason for normally not having regard to the application is that the public should be able to rely on a document which is plain on its face without having to consider whether there is any discrepancy between the permission and the application...

(3) For incorporation of the application in the permission to be achieved, more is required than a mere reference to the application on the face of the permission. While there is no magic formula, some words sufficient to inform a reasonable reader that the application forms part of the permission are needed, such as "...in accordance with the plans and application..."

The permission here is plain on its face. It is defined by the description of development and its conditions. Condition 2 explicitly defines the physical aspects of the development with reference to a list of plans to be adhered to. The Inspector decided, having heard evidence from all parties (including the Bloomsbury Association), that the following details are reserved by condition:

- Materials (including 'details of service ducts') – to be agreed before the relevant parts of the works are carried out (No.5)
- Cycle parking – to be agreed before the development commences (No.6)
- Drainage – to be agreed before the development commences (No.10)
- Servicing management – to be agreed before the development commences (s106)
- Hotel management – to be agreed before the development commences (s106)
- Travel planning – to be agreed before the development commences (s106).

In other words, the Inspector, in granting permission, was explicit that the development was not defined/controlled by any of the information associated with these details, submitted with the application. If he had felt that:

- a) planning permission could not be granted in the absence of such information then the appeal would have been dismissed, or
- b) if the proposed development needed to be in accordance with this information then he would have imposed a condition(s) as such.

In summary, the Inspector was content that he did not need to specify exactly the details surrounding cycle parking, building services, and delivery management – instead providing ‘*carte blanche*’ for the LPA to agree this with the developer.

Taking each of the Bloomsbury Association’s substantive points in turn:

3.03 *“The condition is derived from a representation made by Thames Water on 2 October 2015 concerning the principal planning application, 2015/3605/P. This is appended and includes other requirements that the proposed strategy does not address such as the submission of on and off-site drainage works for approval by the local planning authority in consultation with the sewerage undertaker. This wording has not been included in the decision notice in its entirety and, in such circumstances, Thames Water require the local planning authority to liaise with Thames Water Development Control “prior to the planning application approval”. It is not clear whether this has happened and, if not, the permission and this application may be unsound. There are other requirements relating to fat traps, petrol/oil interceptors, groundwater, refuse storage, air-conditioning condensate and basement infiltration that the proposed strategy should either address or discount.”*

Applicant response – the proposal would simply utilise the existing surface water drainage system, and given that the site does not consist of any external areas, surface water would be very minimal. The submitted Drainage Strategy therefore deals exclusively with foul water, and it confirms that the existing main runs and sewer connections would be utilised, with enhanced pumping infrastructure, and the introduction of back-up and warning systems in the event of a pump failure. It confirms that the discharge rate would be limited to 8l/s which is within Thames Water’s maximum allowance of 11l/s for this development, as confirmed in writing, in its letter dated 20th August 2018 (submitted in support of the application). The other requirements referred to are either irrelevant to this development (i.e. fat traps and petrol oil interceptors), or fall entirely outside of the scope of this condition (i.e. groundwater, refuse storage, and basement infiltration). The submitted strategy already deals with air-conditioning condensate. It should be noted that the Council’s Structures Manager – Shane Greig – has reviewed all the information, and confirmed by email on 30th April that he is happy with the proposed drainage strategy.

3.04 *“Thames Water also require “...a site drainage strategy that clearly indicates the existing and proposed foul and surface water connection points and peak flow rates in order to determine if this development will have an impact on the public sewer system.” This information is not provided with the application. Crucially, it should be clear that there would be no conflict with drainage for the other major uses existing on the same site such as the YMCA Central Club, with its swimming pool, and the St Giles Hotel.”*

Applicant response - the proposal would simply utilise the existing surface water drainage system, and given that the site does not consist of any external areas, surface water would be very minimal. The submitted Drainage Strategy therefore deals exclusively with foul water, and it confirms that the existing main runs and sewer connections would be utilised, with enhanced pumping infrastructure, and the introduction of back-up and warning systems in the event of a pump failure. It confirms that

the discharge rate would be limited to 8l/s which is within Thames Water's maximum allowance of 11l/s for this development, as confirmed in writing, in its letter dated 20th August 2018 (submitted in support of the application). The site's drainage system is entirely independent of those for the YMCA Central Club, its swimming pool and the St Giles Hotel. It should be noted that the Council's Structures Manager – Shane Greig – has reviewed all the information, and confirmed by email on 30th April that he is happy with the proposed drainage strategy.

3.05 *"The proposed drainage strategy is described as follows: "The hotel accommodation shall be provided with a new dedicated drainage system for waste water. The system shall be installed complete with a new utility connection located in Adeline Place into which the hotel waste water shall be pumped". This is a statement of ambition. It is not a design strategy that demonstrates the feasibility of satisfying that ambition. It provides no drawings of on and offsite drainage works, existing and proposed, and it provides little information on peak flow rates to demonstrate that the development will have an acceptable impact on the public sewer system. On this basis alone, the application should not have been registered as it is inadequate and in any event should now be refused."*

Applicant response – the submitted Drainage Strategy deals exclusively with foul water, and it confirms that the existing main runs and sewer connections would be utilised, with enhanced pumping infrastructure, and the introduction of back-up and warning systems in the event of a pump failure. It confirms that the discharge rate would be limited to 8l/s which is within Thames Water's maximum allowance of 11l/s for this development, as confirmed in writing, in its letter dated 20th August 2018 (submitted in support of the application). It should be noted that the Council's Structures Manager – Shane Greig – has reviewed all the information, and confirmed by email on 30th April that he is happy with the proposed drainage strategy. Indeed the condition does not specify that drawings are required, and in any event, this would be superfluous given that the strategy is to utilise the existing main runs and connections.

3.06 *"Furthermore, no information is submitted to demonstrate how the connection to the sewer on Adeline Place will be made from the underground sewage pumping stations. It is understood that there are existing smoke vents to below ground accommodation between the building line and the road and a services trench for above ground accommodation, running beneath the pavement, parallel to the building edge which might constrain any connection. The Adeline Place frontage also includes land that is believed not to be in the control of the applicant. It is understood that access over this land would not be allowed by its owner and therefore the strategy may not be achievable as described and therefore the condition may not be capable of being discharged."*

Applicant response – the existing main runs and sewer connections would be utilised. No new connections are required.

3.07 *"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 drainage strategy and contrary to the terms of this condition. Furthermore Section 4 of the application form states incorrectly that development has not already started."*

Applicant response – this is immaterial to the assessment of this application.

3.08 *"Section 8 of the application form states that assistance or prior advice has been sought from the local authority about this application but no details are given. It appears that the assistance or prior advice was given on 10 March 2015 as part of a pre-application discussion with planning officers in connection with application 2015/3605/P. It was not specific advice in connection with this application and the statement should therefore be regarded as either incorrect or misleading."*

Applicant response - this is immaterial to the assessment of this application.

3.09 *"The application is not accompanied by any detailed drawings to describe how the strategy will work, to identify pipe runs existing and proposed, proposed connection points and to indicate where the proposed sewage pumping stations will be located."*

Applicant response - It should be noted that the Council's Structures Manager – Shane Greig – has reviewed all the information, and confirmed by email on 30th April that he is happy with the proposed drainage strategy. Indeed the condition does not specify that drawings are required, and in any event, this would be superfluous given that the strategy is to utilise the existing main runs and connections.

3.10 *"The application is accompanied by a letter from Thames Water, dated 20 August 2018, addressed to BW Murray Consulting Engineers. Of significant concern is that this states the proposed development is for 225 hotel rooms. This is a materially different proposal to that considered by the Inspector at Appeal, which was for 166 rooms. With such a difference, the conclusions reached could be in doubt."*

Applicant response – the number of rooms cited to Thames Water in connection with this process was in error. In any event, the submitted drainage strategy confirms that the discharge rate would be limited to 8l/s which is within Thames Water's maximum allowance of 11l/s for this development, as confirmed in writing, in its letter dated 20th August 2018 (submitted in support of the application).

3.11 *"The proposed as submitted is unsound. It has inconsistencies; it omits consideration of elements fundamental to the operation of an underground hotel and to the continuity of operation of other uses on the site, and may be incapable of implementation."*

Applicant response – we disagree, and hope that this letter clarifies any perceived shortcomings.

3.12 *"At the time of the application and subsequent Appeal, the Bloomsbury Association were 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. As the Inspector commented in his decision: "Condition 10 requires submission of a drainage strategy to manage risks of pollution" (para 43). The proposed strategy does not adequately demonstrate that this risk can be managed, particularly as the existing basement has regularly flooded with sewage from the St Giles Hotel above and we understand has had to be pumped out three times during the course of current construction work."*

Applicant response – as the Bloomsbury Association note, the Inspector dismissed their previous concerns, and confirmed that certain details – including the drainage strategy – could be reserved for approval by condition. All of the information submitted to date, in connection with this application, including this letter, confirms that pollution risks would be adequately managed.

3.13 *"The discharge of conditions process requires further information, not incorrect or inconsistent information, and it needs to be in sufficient detail to in order to convincingly demonstrate that it can avoid adverse environmental impact. In summary, for all these reasons, the application for a discharge of Condition 10 is flawed in many respects and should be refused."*

Applicant response – we disagree for all the reasons given above. It appears to us that the Bloomsbury Association is seeking to unnecessarily frustrate the delivery of good development that has already been found to be acceptable by the Inspector, with the above spurious claims. Indeed the development will deliver much needed visitor accommodation in a very sustainable central location. It

should be noted that the Council's Structures Manager – Shane Greig – has reviewed all the information, and confirmed by email on 30th April that he is happy with the proposed drainage strategy.

Yours sincerely,

Luke Raistrick
Managing Director
Centro Planning Consultancy