

8 & 10 STUKELEY STREET, LONDON WC2 5LQ

PLANNING JUSTIFICATION

SECTION 73 APPLICATION TO REMOVE CONDITION 11 (BUILDING REGULATIONS PART M4(2):- ACCESS) OF PLANNING PERMISSION 2015/7028/P)

Introduction

This statement is prepared in support of a planning application under Section 73 of the Act to remove Condition 11 of ref 2015/7028/P dated 31 January 2017, which states:-

'Units A and B, as indicated on the plans hereby approved, shall be designed and constructed in accordance with Building Regulations Part M4(2). Evidence demonstrating compliance should be submitted to and approved by the Local Planning Authority prior to occupation.'

National Planning Policy Framework (NPPF) criteria

The issue of planning conditions is covered at paragraph 55 of the NPPF (2018) which states:-

'Conditions should be kept to a minimum and only imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise; and reasonable in all other respects'

The subject planning condition fails at least two of the above tests in that it can be shown to be both unnecessary and unreasonable; this case is set out below both in the context of the requirements of the Building Regulations themselves and the associated heritage sensitivities of the site.

Building Regulations

The project architect is in communication with the Building Inspector (Area Manager of Assent Building Control) who advises that given the scope of works of the development project (as an extension to both flats) the requirements under Part M of Schedule 1 to the Building Regulations 2010 do not apply. Rather, Part M4(2) is an optional requirement that applies to new build dwellings; the provisions do not apply to the extension of a dwelling. The approved document, under the 'Performance' section, states:-

*'In the Secretary of State's view, optional requirement M4(2) will be met where a **new dwelling** makes reasonable provision for most people to access the dwelling and incorporates features that make it potentially suitable for a range of occupants, including older people, those with reduced mobility and some wheelchair users. (Our emphasis in bold)*

The implication of applying Part M4(2) in this case would mean that the layout drawings as approved (and as listed in condition 2 of the planning permission) would need to be significantly and materially altered. For example, this part of the Regulations makes reference

to section 2.24 of the approved document; under these requirements there would need to be step free access between the living area, WC and Principal Entrance. These changes would clearly not be achievable within the approved layouts and would require a separate planning application (under Section 73).

In our opinion, it is wholly unreasonable to apply this optional requirement beyond its intended remit within the Building Regulations, which in itself would necessitate a new planning application to be submitted.

Heritage Issue

The approved scheme comprises a sympathetic; respectful and simplicity of design that fully maintains the character and scale of Stukeley Street within the wider context of the Seven Dials Conservation Area; this represents a designated heritage asset under the NPPF. It is noted that the subject site is identified as making a positive contribution to this Conservation Area.

The accompanying Heritage Statement by KM Heritage (Author:- Kevin Murphy B.Arch MUBC RIBA IHBC) explains under section 4.4 that the scheme simply amends the roof form of the buildings whilst only merely restoring the Ground Floor Façade of 8-10 Stukeley Street; a reduced scheme that was secured during the negotiation process with the Council. It states:-

'The proposal, as it affects the character and appearance of the conservation area, is now considerably reduced in its effect. The scheme is very straightforward. It simply replaces the existing and poor-designed mansard roof on 8 Stukeley Street with a new mansard roof that is more appropriately and accurately designed; it replaces the existing (and probably relatively modern) roof to 10 Stukeley Street with a matching mansard roof, and it restores the ground floor façade to both buildings. The scheme proposes a new extension to the rear of 10 Stukeley Street that is narrower than the existing extension'

The sensitivity of maintaining the existing facades is clearly evidenced by the terms of condition 6 of the planning permission which prevents any cleaning of the existing brickwork. Other planning conditions (Nos 3; external works; 4; sample panel; 5; detailed drawings) were similarly imposed for reasons of safeguarding the appearance of the premises and the character of the immediate area.

Any new works gaining access into the dwellings clearly could not comply with the principles of Part M4(2), as the maintained door openings are too narrow and contain existing steps with dimensions that are in the order of 80 – 100mm above the existing street level. This illustrates the fundamental tension between the requirements of Condition 11 and the heritage principles embedded into the approved scheme design.

Any such design changes to accommodate the terms of Condition 11 would involve harmful alterations to the building that would adversely impact upon the designated heritage asset and would be highly unlikely to be supported by the Council's Conservation Officer. Paragraph 193 of the NPPF (Chapter 16:- Conserving and enhancing the historic environment) is highlighted which stresses that, when considering the impact of a proposed development on

the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Moreover, there would be no wider public benefits involved in making the building Part M4(2) compliant that could possibly outweigh the harm that would be caused to the Conservation Area through the incongruous alterations to the frontage that would be required.

Conclusion

For all of the above reasons, we consider that Condition 11 is both unnecessary and unreasonable, and as such that it fails the statutory tests set out within the NPPF (para 55).

We would therefore urge Officers to support this application for its removal under Section 73 of the Act.

