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**Proof of Evidence for Covent Garden Community Association
re various points raised in its Statement of Case**

Document ref. no. 1.1

Appeal Refs:	APP/X5210/W/19/3243781 & APP/X5210/Y/19/3243782
Appellant:	Capitalstart Limited
Planning Authority:	London Borough of Camden
Application Refs:	2017/7051/P & 2018/0037/L
Site:	Odeon Cinema (former Saville Theatre site). 135-149 Shaftesbury Avenue, London WC2H 8AH.
Development:	Refurbishment of existing Grade II listed building with 2 storey roof extension and new basement level, providing a 94-bed hotel (Class C1) at part ground & 1 st to 6 th floors and associated terrace and bar (Class A4) at roof level, a new 4-screen cinema (Class D2) and spa at basement levels, and a restaurant/bar (Class A3/A4) at ground floor level.

Evidence provided by Amanda Rigby

Introduction

- 1.1 My name is Amanda Rigby. I have lived in Covent Garden for 27 years and I am Vice-Chair of the Covent Garden community Association, known as “CGCA”.
- 1.2 CGCA is the local amenity society for the area, which covers 100 acres of central London’s ‘West End’. It was founded in 1971 to resist plans to demolish the historic neighbourhood and replace it with high-rise concrete buildings and multi-lane highways. The plans seem inconceivable now, but the battle had to be taken to national government level and was won against great odds.

The Association has been working ever since for the protection and enhancement of Covent Garden for the benefit of people who live, work and visit the area. These include 7,000 long-term residents, for whom our aim is to maintain a liveable balance for family life. Our area is famous throughout the World, but the community here struggles under intense commercial pressures, and there are areas of deprivation that few people see.

The Association plays a strategic role in the future of our neighbourhood through work that includes planning, licensing, the public realm, traffic management, changes in legislation, policing / public safety, and the environment. We give a voice to local people, and work closely with our local councils, businesses and other service providers. The Association is a registered charity, consulted by both City of Westminster and London Borough of Camden on matters relating to the area. The work is mainly carried out by dedicated volunteers who generously donate their expertise, time and enthusiasm to the community.

- 1.3 Over the years the CGCA has instigated, fundraised and campaigned for many projects, some of which thrive to this day. Among them are award-winning social housing developments, housing co-ops, the

Seven Dials Club & Community Centre, the Covent Garden Area Trust, the Jubilee Hall Sports Centre, The Dragon Hall Trust and the Phoenix Community Garden which is a party in this case.

Summary

- 2.1 As outlined in our Statement of Case, we believe that the Local Planning Authority was correct to refuse consent for the development on the grounds stated. Indeed, we believe that there were further grounds for refusal that cumulatively make the decision even more justified. We explore some of these reasons in our evidence, although we submit that the reasons stated by the Local Planning Authority are sufficient. We believe that the appeal should therefore be dismissed.

Witnesses and Evidence

- 3.1 A list of witnesses and any related documents is shown in Appendix A.
- 3.2 In addition, I submit the following evidence myself in relation to various areas of the CGCA Statement of Case, which should be referred to alongside this document.

Harmful design

- 4.1 The LPA's first reason for refusal of the Appellant's proposals was that "The proposed rooftop extension, by reason of the proposed height, mass, detailed design and materials would compromise the form, architectural character and historic interest of the host listed building, and in combination with the change of its main use to a hotel, would result in less than substantial harm to the significance of the host listed building and nearby surrounding Seven Dials and Denmark Street Conservation Areas, contrary to policy D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017."

Our opinion is that the justification for refusal goes even further, and that the development would, in fact, inflict substantial harm on the building. This view is shared by The Conservation Area Advisory Committee who objected to the application at the outset.

- 4.2 Appendix B to my Proof of Evidence is a statement of support from Paul Velluet, an experienced specialist in the conservation and alteration of historic buildings. He cites evidence to support the view that the proposed extension would cause substantial harm to the overall significance of the building as a designated heritage asset.

His statement details other ways, too, in which CGCA is persuaded that the proposals would be harmful. These include harming the settings of the adjacent Seven Dials and Denmark Street Conservation Areas - precisely between which this building sits.

- 4.3 The Appellant's view, as given in paragraph 5.44 of his statement of Case, is that there would indeed be some harm caused by the extension, but that this is outweighed by the benefits that other elements of the development might bring.

The appellant's weighting of elements seems disproportionate, and comparisons are made in the CGCA Statement of Case. These are extracts from CGCA's Proof of Evidence document ref. 1.2, which illustrates the point that an entirely reasonable weighting was the one that the LPA applied.

Paragraph 5.45 of the Appellant's Statement of Case uses the term 'balanced judgement' as follows: "It is submitted that these works, when considered together as is appropriate, lead to a clear, balanced

judgement of enhancement of, rather than harm to, the significance of the designated asset.”

However, CGCA submits that the balance is determined entirely by the perceived effect and importance of each element and would say that "these works, when considered together as is appropriate, lead to a clear, balanced judgement of harm to, rather than enhancement of, the significance of the designated asset. "

- 4.4 The historic interest of the building that is currently the Odeon is by no means limited to its physical appearance. Built as a theatre, it was later famed for music performances in the 1960's. This cultural history informs the building's interest, which would be sustained by its continued use as a place of entertainment. The proposed change of use to a hotel and mixed uses, involving extensive remodelling of the building inside and out, would irreversibly break the link to this history and contribute yet more to the substantial harm wrought by the proposals.

CGCA's Proof of Evidence document ref. 1.4 develops this point.

Viability as a live performance venue

- 5.1 CGCA is aware of considerable interest from the theatre industry in reclaiming this last remaining gem for London's live performance West End.
- 5.2 Theatres Trust has covered extensively in their evidence this key point about the building's viability as theatre. CGCA has relationships with several theatre owners as part of our business community, and can confirm what Theatres Trust has submitted.

For example, we met with Trafalgar Entertainment in October 2019 to discuss the Odeon site. They spoke of their interest in bringing this building back to life, and they continue to have an interest despite the current economic situation because they take a long-term view. They have since expressed some disappointment that their approaches to the Appellant have not been responded to.

We regularly deal with Lloyd Webber Theatres who also take a long-term view, investing over £60 million in refurbishing the Theatre Royal, for example. The work is currently taking place and shows that the appetite is there for the right venue in the right location.

- 5.3 The current state of the Odeon building is rather sad. Although it serves a useful community service as a relatively low-price cinema, the business case for its continuation is doubtful. Feedback to CGCA from local people shows an overwhelming preference for it to be refurbished to something approaching its former glory, with minimal exterior alteration, and to return to theatre use under a responsible operator.

Harm to Residential Amenity

- 6.1 I submit that the upward extension of the Odeon building and its conversion to much more intensive mixed uses cannot fail to lead to serious loss of amenity for its immediate neighbours.
- 6.2 The Odeon building is just 13.8 metres from its residential neighbours at Pendrell House, 10.8 metres from the Phoenix community garden, and close to St. Giles churchyard park.

Pendrell House is a social housing block (managed by Soho Housing) on the corner of New Compton Street and St. Giles Passage. It consists of 25 flats and 2 maisonettes, mostly occupied by families.

The Odeon also overshadows 'The Alcazar', a residential building on the other side of Phoenix Garden, on corner of Stacey Street and Phoenix Street. This is a social housing block (managed by Soho Housing) where there are 8 flats and 4 family maisonettes.

The Odeon has a similar relationship with 1a Phoenix Street, next door to the Alcazar. This is a private housing block of 10 flats.

- 6.3 There are more residential properties along New Compton Street and Phoenix Street.
- 6.4 The streets around the back of the Odeon building are narrow and constitute a backwater in comparison to most of the West End of London. At the weekends and in the evenings, in particular, there is little ambient noise and every sound echoes.
- 6.5 In the LPA's decision notice, it was hoped that some amenity issues around noise and air quality caused by servicing and deliveries might be mitigated in the future by a Servicing Management Plan (SMP), but that in the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

However, I submit that no SMP could be contrived to prevent this nuisance, given the appellant's proposed scheme for the building. CGCA's Proof of Evidence document ref. 2.1 explains this in detail.

Further, even if the appellant's scheme were altered (for example, to create a large internal servicing bay) so as to enable different and more acceptable means of servicing and deliveries, there is still likely to be loss of amenity. CGCA's experience is that the LPA is unable to enforce the conditions of complex SMPs such as those required by hotels, and that neighbours suffer - sometimes for many years. CGCA's Proof of Evidence document ref. 2.2 gives more detail.

- 6.5 In the LPA officer's report for refusal, the issue of loss of light was discussed. It was acknowledged that residential neighbours in the buildings mentioned above already suffer poor levels of light and, in paragraph 3.12, that "it would be difficult to develop the site without resulting in some transgressions in BRE guidance".

Nevertheless, the report goes on to say that "the majority of the windows surveyed would meet the relevant BRE standards following completion of the proposed development and its neighbouring site of No.125 Shaftesbury Avenue. The impact of the proposal upon sunlight and daylight is therefore considered acceptable."

CGCA disagrees that the impact is acceptable and would see this as a further justification for refusal of consent. The impact on some of the windows not meeting BRE standards would be detrimental to family life in those flats, so we feel that the better experience of the majority is an unfair measure for those less fortunate. It is further noted that the development at 125 Shaftesbury Avenue has not been implemented, but the evidence given in CGCA's Proofs of Evidence takes account only of the Odeon extension.

- 6.6 In the LPA officer's report for refusal, the issue of overlooking was discussed. It was acknowledged that residential neighbours live very close to the Odeon building. The policy criterion to trigger refusal is a minimum distance of 18m between the windows of habitable rooms of different units that directly face each other. While the distances here are of that order, the buildings face each other at an angle. However, what angle is acceptable? And is this criterion applicable in the case where the 'unit' opposite the dwelling comprises hotel bedrooms occupied by different people every day, and a bar for over a hundred people looking down into your windows?

The report says that “outlook from the proposal site would afford extremely oblique views of Pendrell House but more direct views would be possible as the upper floor levels are more glazed and open. Within this context and given that no façade would directly face each other, it is unlikely that a harmful level of overlooking would result from this proposal, such as to warrant refusal on this ground.”

CGCA disagrees that the level of overlooking is acceptable and would see this as a further justification for refusal of consent. As can be seen in the Proofs of Evidence from nearby residents, it is a serious issue for them.

- 6.6 In the LPA officer’s report for refusal, the issue of noise from the operation of the hotel was discussed. It states that “the proposal would introduce a terrace at 7th floor level and would be located 15m away from Pendrell House. Where terraces associated with offices would be unlikely to be used for long periods or out of office hours, this would be associated with hotel and bar use and would therefore be used for long periods and in particularly evenings. To ensure amenity levels would not be harmed detrimentally, a condition could restrict use between the hours of 10:00 to 19:00 Monday to Sunday”.

The suggested hours of use would be helpful in lessening the harm, but they would not render the development acceptable to its neighbours in terms of noise and overlooking from the open bar. The bar could hold 200 people for a reception on a sunny Sunday afternoon or an early evening, for example, which would be very noisy in an environment where sounds reverberate.

- 6.7 In the LPA’s decision notice, it was hoped that some amenity issues around disruption, noise and air quality caused by the excavation and construction works might be mitigated by a Construction Management Plan (CMP), but that in the absence of an acceptable scheme (and hence no section 106 agreement) this becomes a reason for refusal.

However, I submit that the current draft CMP is unclear and does not offer solutions to prevent this nuisance. CGCA’s Proof of Evidence document ref. 2.1 explains this in detail.

Further, even if a revised CMP were proposed that seemed acceptable on paper, I submit that there is still likely to be significant loss of amenity during a prolonged works period. The works are likely to extend to around two years, which is a long time for children growing up a few metres away. CGCA’s experience is that the LPA is unable to enforce the conditions of CMPs, and that neighbours can suffer serious harm sometimes for the entire duration of the works. CGCA’s Proof of Evidence document ref. 2.3 gives more detail.

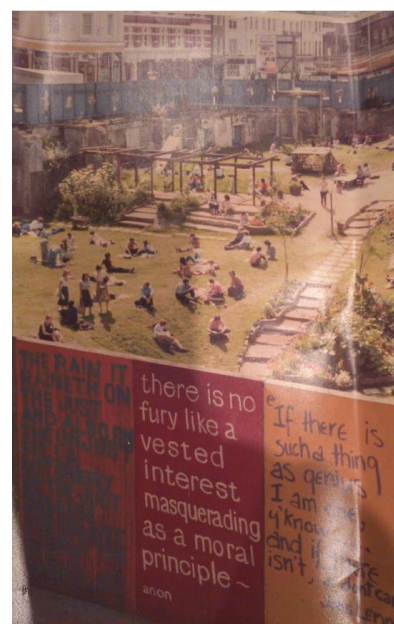
A performance bond might go some way to deter deviation from the CMP, but in this case it would not render the development acceptable to its neighbours.

Harm to green space & natural habitat

- 7.1 I submit that the upward extension of the Odeon building and its conversion to much more intensive mixed uses cannot fail to lead to serious loss of amenity for the wider community in relation to the local green spaces of Phoenix Garden and St. Giles Churchyard. The development offers nothing that even begins to balance out the lost benefit.
- 5.2 The Phoenix Garden has covered extensively in their evidence the key points about the negative impact on a community amenity, on natural habitat and on their own viability. CGCA supports what they have submitted.

- 7.2 The Phoenix Garden is precious to local people. A tiny minority of residents here have any outside space in their homes, so this garden and the neighbouring churchyard are the only nearby green spaces for residents and workers in St. Giles and in the Camden part of Covent Garden.
- 7.2 The Phoenix Garden has special significance as the last remaining community garden. When the wholesale fruit & vegetable market moved out of Covent Garden in 1972, sites in the area were earmarked for redevelopment. The battle to save the area from the bulldozers put things on hold, and local people turned the sites into elaborate gardens where children played and festivals were held.

These pictures show one of the gardens in the 1970's:



Eventually all the other sites were redeveloped - although in a way that was more sympathetic than originally planned. But the community made great efforts to hold onto The Phoenix and, through ups and downs, it does so to this day.

- 7.3 In the LPA officer's report for refusal, the issue of availability of sunlight to The Phoenix Garden was discussed. It states that "the proposal demonstrates the designated open space of Phoenix Community Garden would, given the nature of the site, its proximity to surrounding residential buildings, continue to receive at least 2 hours of direct sunlight over 52% which is considered acceptable."

Acceptable by whom? Certainly not to local people as can be seen in their Proofs of Evidence. And probably not to many plants and birds, either!

CGCA disagrees that this is acceptable in any way, for a garden that already holds on by the skin of its teeth in the shade of so many buildings.

It is not only the habitat that would suffer from so little sunlight, but the half of the garden getting less than 2 hours' daily sunlight includes the building and its external social area. This would harmfully impact the garden's viability to remain open, as it relies on rental income. Who would pay to hold a children's party outside in the shade, except in the height of an English Summer?

- 7.4 I also submit that the tranquillity for which the Garden is so valued would be destroyed by noise and traffic during the 2 year excavation & construction period, and thereafter by the servicing of the hotel every day of the week and by the operation of the rooftop bar.

Additional notes

- 8.1 Many of the Loss of Amenity issues are confirmed by local residents in the CGCA's Proof of Evidence documents ref. 3.1 to 3.5. The number of these was kept to a minimum to avoid repetition, but they are typical of the feedback that CGCA has gathered. CGCA has not yet found any residents in any of the buildings mentioned above who believe that the scheme should be approved.

- 8.2 I have asked residents what they would like to see happen to the Odeon instead. The feedback is unanimous that the building would benefit from renovation, but not extension nor change to any intensive use. A return to theatre use would be preferred as long as it is well-managed with respect to its neighbours.

APPENDIX A

List of witnesses who may be called by CGCA

<u>Witness name</u>	<u>Related documentation</u>
Amanda Rigby	Proofs of Evidence refs. 1.1 and 1.2
Paul Velluet	Statement of support ref. 1.1b (Appendix B to Proof of Evidence ref. 1.1)
Jane Palm-Gold	Proof of Evidence ref. 1.3
David Kaner	Proof of Evidence ref. 2.1
Elizabeth Bax	Proof of Evidence ref. 2.2
Ashtar Al Khirsan	Proof of Evidence ref. 2.3
Angel Daden	Proof of Evidence ref. 3.1
Nancy Hearn	Proof of Evidence ref. 3.2
Sanam Khan	Proof of Evidence ref. 3.3
Garrard Knowles	Proof of Evidence ref. 3.4
Chris Baker	Proof of Evidence ref. 3.5