

## **Proof of Evidence:**

### **Clr Sue Vincent on behalf of The Phoenix Garden**

*Appeal References:* APP/X5210/W/19/3243781 & APP/X5210/Y/19/3243782 (Linked Case)

*Site:* Odeon Cinemas, 135-149 Shaftesbury Avenue, London, WC2H 8AH

*Proposal:* The comprehensive refurbishment of the existing Grade II listed building and the provision of a new two storey roof extension and new basement level, providing a new four-screen cinema (Class D2) and spa (sui generis) at basement levels, a restaurant/bar (Class A3/A4) at ground floor level, a 94-bed hotel (Class C1) at part ground and first to sixth floors and associated terrace and bar (Class A4) at roof level, together with associated public realm and highways improvements.

*Appellant:* Capitalstart Limited

*Planning Authority:* London Borough of Camden

*Application Reference:* 2017/7051/P & 2018/0037/L

*Prepared by:* Leah Ashton-Hurst (Manager)  
The Phoenix Garden, 21 Stacey Street, London, WC2H 8DG

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### 1. *Introduction*

#### **The Scope of Evidence**

- 1.1 This Proof of Evidence covers matters pertinent to reason/s for refusal 1 and 9 (listed respectively below) of application references 2017/7051/P & 2018/0037/L and, in turn, the corresponding likely main issues identified by the Inspector following a pre-inquiry meeting held on the 28th of February 2020.

“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.”

“The proposed development, in the absence of a legal agreement to secure a construction management plan, community working group and an appropriate financial contribution towards implementation support, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies G1 (Delivery and location of growth), A1 (Managing the impact of development), T3 (Transport Infrastructure), T4 (Sustainable movement of goods and materials), DM1 (Delivery and monitoring), A4 (Noise and Vibration) and CC4 (Air quality) of the London Borough of Camden Local Plan 2017.”

- 1.2 The main issues for the inquiry, identified by the Inspector during the aforementioned pre-inquiry meeting are as follows:

*For both appeals:*

- a. The effect of the proposal on the provision of the cultural and leisure facilities.

*For appeal A (3243781 / 2017/7051/P) only:*

- b. The effect of the proposal on the provision of cultural and leisure facilities.

- c. The effect of the proposal on the occupiers of neighbouring properties and the users of The Phoenix Garden with particular regard to noise and disturbance, light, privacy and outlook.
  - d. The effect of the proposal on biodiversity within The Phoenix Garden.
  - e. Whether the proposal would make adequate provision to address effects on the local highway network, energy efficiency and climate change, and local employment, training and skills.
- 1.3 In summary, this Proof of Evidence will address the following points:
- a. The proposal would have a detrimental effect on The Phoenix Garden and its users. Particularly in relation to micro-climate, social impact and viability, along with noise, nuisance and overlooking.
  - b. The construction phase relative to the proposed redevelopment would be disruptive to The Phoenix Garden's community activities, volunteering sessions, and income-generating activities.
  - c. The proposed development would significantly and negatively affect biodiversity within The Phoenix Garden and, subsequently, cause a wider-ranging threat to the ecology in Holborn and Covent Garden, an area of open space deprivation.

### **Experience and Qualifications**

- 1.4 Cllr Sue Vincent has been an active member of the Holborn and Covent Garden community for nearly 30 years, and a local councillor since 2002. As former Deputy Leader at Camden, Sue has extensive experience in the fields of urban design and planning, having Chaired Camden Council's planning committee, led an England-wide training programme on behalf of MGCLG on the National Design Guide, and written The Councillor's Companion for Design in Planning.

## **2. About The Phoenix Garden**

- 2.1 The Phoenix Garden is a registered charity (287502), whose aims and objectives are;

*'To provide and maintain (or assist in the provision and maintenance of) public gardens, open spaces and a community building for the use and benefit of the inhabitants of Covent Garden, Soho and others, in the interest of social welfare and with the object of improving conditions of life for the said inhabitants and others and to create and maintain suitable habitats to support and encourage wildlife.'*

and

*'To promote the benefit of the inhabitants of Covent Garden and Soho (and the surrounding area) neighbourhood by associating together, the said inhabitants, local authorities, voluntary and other organisations in a common effort to advance education, and provide facilities in the interest of social welfare for recreational and leisure activities.'*

- 2.2 Founded in 1984, as one of seven open spaces in the 'Covent Garden Open Spaces

Association', The Phoenix Garden has provided a unique retreat from the stresses of urban life for the local inhabitants, visitors to the area and wildlife alike. It is the only remaining open space of its kind in the densely populated Covent Garden area.

2.3 The Phoenix Garden is situated in an area with extremely poor provision of 'green space'; approximately 1.3 square metres per capita. Approximately 2% of homes in the ward of Holborn and Covent Garden have 'access to nature', compared with the London-wide average of 74%. The Phoenix Garden tackles this deprivation by providing local residents with access to an 'oasis' amongst the urban landscape.

2.4 The Phoenix Garden is a recognised Site of Importance for Nature Conservation (SINC).

2.4.1 The Phoenix Garden has been given the SINC grade 'Site of Local Importance', which recognises it as being;

*"...of particular value to people nearby (such as residents or schools). These sites may already be used for nature study or be run by management committees mainly composed of local people. Local sites are particularly important in areas otherwise deficient in nearby wildlife sites.*

### **3. Objections**

#### **3.1 Overshadowing**

3.1.1 The 'Daylight and Sunlight Assessment' provided as evidence by the Appellant on 04/01/2018, shows a 15% reduction in Sun on Ground (SOG) hours to The Phoenix Garden, on March 21st- the Spring Equinox, if the proposed refurbishments were undertaken. Through this evidence, it was argued by Point 2 Surveyors Ltd, on behalf of the Appellant, that this would not cause significant impact to The Phoenix Garden's amenities as over 50% of the garden would receive over 2 hours of direct sunlight.

3.1.2 We argue, however, that the most significant impact of the reduction in SOG hours will be to the invertebrates that inhabit the garden. This has a great implication to our aims and objectives as a charity and, furthermore, to the habitat in the locality.

3.1.3 With the assistance of a third-party facilitator, The Phoenix Garden conducted a Community Consultation towards the latter end of 2019. Data was gained through primary surveys and several focus groups. The Phoenix Garden's staff were not present during data collection to ensure that respondents did not feel pressured into answering in a particular way. Data was also anonymised to add a secondary 'barrier' to biased answers. The aim of this project was to understand what The Phoenix Garden's users appreciate about the space, and what they might like to improve (if anything). For the purposes of this case, we will be discussing the former. The primary response relating to this topic was that visitors appreciate the ability to access nature that they would not otherwise have living in the local area if The Phoenix Garden did not exist in its current form, and the importance of the sense of peaceful seclusion that the garden provides, especially in supporting stress minimisation and in improving mental health.

3.1.4 Altering the SOG available throughout any point in the year, and even by a fraction, has serious ramifications to the species inhabiting The Phoenix Garden- especially Bee species (listed

below). The garden is a patchwork of shade and sun through the year as a result of the neighbouring buildings and we manage the garden to maximise on the areas of sunlight to provide habitat. The New Compton Street Southern end of the garden, the area to the front of the garden building, sees sun return to the garden in March and this powers the return of insect activity in Spring. These areas are key in the garden to provide the warm sunlit conditions at ground level necessary for many invertebrate species. These conditions are not available elsewhere in the garden due to tree cover and building shade.

3.1.5 The recently constructed community building was designed to provide both rooftop propagation area and brown-roof habitat to increase biodiversity. With the present elevation of the Odeon these facilities receive adequate sunlight and have worked as planned. With the proposed increase of 10 metres in height the building will be completely overshadowed except for a brief window in high summer. This will be detrimental to our long-term biodiversity aims and our viability.

3.1.6 Note: Bee Species

We have recorded over ten species of bee resident at the garden, these are;

Hairy-footed flower bee

Red Mason bee

Blue Mason bee

White-faced bee (*Hylaeus* sp.)

Tawny Mining bee

Wool Carder bee

Buff-Tailed Bumblebee

Tree Bumblebee

White-tailed Bumblebee

Nomada Bee

3.2 *Design and Change of Use*

3.2.1 We feel that there are elements of the design that are not in keeping with the locale.

3.2.2 The design & access statement implies that it will transform the area by increasing footfall and solving anti-social behaviour - this does not take into consideration that the back streets; New Compton Street/Stacey Street/Phoenix Street, are quiet residential village street and spaces for important yet informal community interaction. The proposed development brings little benefit to the local community.

3.2.3 As our Community Building, erected in 2017, is situated in the Denmark Street Conservation Area, we were challenged to use appropriate materials and to be in keeping with the character of the area. The proposed additional stories are materials alien to the existing building of stone and brick, the rear of the building has been designed with a front-of-house sensibility that is inappropriate. In particular, we feel the inappropriate metal-screening glass proposed enables overlooking and intrusion into the activities, both residential and commercial that take place in the garden and that contributes to the vitality and viability of our charity and open space.

3.3.3 We would note that the Access & Design statement notes that the design is stepped back as

neighbouring buildings. We do not believe this to be the case; the elevation views in the Daylight, Sunlight and Overshadowing Report: P1232/25 + P1232/31 show that any step-back is minimal compared to neighbouring buildings and the proposed development will be a dominant monolith towering above the garden. The reduction in sunlight and blocking of views to the south will radically alter the ambience of the garden, biodiversity and the sense of enclosure increased. For garden visitors, who describe the garden as a quiet oasis, and the benefit to the well-being of visitors of the perception of peacefulness provided by views of an open sky and quiet space is very apparent. That these views of an open sky will be blocked by the development is of great concern and impinge on the enjoyment of thousands of garden visitors.

3.3.4 Without any management plan in place, without restriction of hours of use or noise mitigation, this will adversely impact the garden and the surrounding neighbourhood.

### 3.3 *Construction Impacts*

3.3.1 We are concerned that the construction phase will be extremely detrimental to the garden's activities for the duration. We organise and manage a range of community events and activities throughout the year; volunteering, community events, and generate income to support the garden through commercial hires. We believe the construction phase will be detrimental to the community events and for the commercial activities necessary to maintain public access to the garden. The potential reduction of income for the two year build period will harm the viability of the garden. This will be especially damaging in the wake of the COVID-19 pandemic, when all of our income streams have ceased due to lockdown measures.

3.3.2 We are concerned that the increased traffic to New Compton Street will impact residential properties at ground floor, and pose a safety and health risk to local residents and garden visitors.

## 4. **Conclusion**

4.1 In conclusion, we believe that the negative impacts of this proposed development outweigh any potential gains. The area is already heavily saturated with amenities for visitors to the area, and this proposal does not consider the significant negative impact to the local community. The long-term impacts of this proposed development will harm the ecosystem, biodiversity and social conviviality in the area. The varied habitats which exist at The Phoenix Garden, and have taken many years to establish, would be seriously impacted by the proposal. Furthermore, this will directly impact the charity's aims, objectives and viability.