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18 January 2021

**With reference to Application No 2020/5647/P, at
7ABC Bayham Street London, NW1 OEY related to application ref: 2018/3647/P**

We **object** to the application and request that the planning application must be refused as set out below.

Planning reference 2020/5647/P seeks significant changes that are fundamental alterations beyond the imposed planning conditions of Application no 2018/3647/P as listed here:

1. A reduction of office space resulting in a loss of more than 150sqm,
2. Removal of daylight to the majority of office spaces,
3. Introduction of roof terraces and open external staircases with a 24-hour noise risk,
4. External changes with detrimental impact on outlook and overlooking to neighbouring properties, specifically with the introduction of an open staircase and new windows,
5. Change in hotel room numbers which will result in an increase,
6. Increased volume, massing, and height of the proposed building without a day light report therefore not clarifying any additional breaches of daylight to neighbouring properties,
7. Alterations to the size, design and appearance of the previously consented scheme,

These proposed alterations to the consented scheme are outside the consented planning conditions of Application no 2018/3647/P.

We request that this application is refused as this proposal is a misuse of the Section 73 process, which should allow alterations to planning conditions only and shall not make fundamental alterations to the consented scheme.

We refer you to the November 2019 court case whereby the Court of Appeal ruled (Finney v Welsh Ministers & Ors (2019)) that the use of 'Section 73' applications which vary the description of development from the original planning permission are unlawful and go beyond the powers allowed under Section 73 of the 1990 Town and Country Planning Act. This should offer your planning department some clarity as to exactly how far Section 73 of the Town and Country Planning Act powers can be stretched. As such, an application section 73 (2) says that the planning authority must 'consider only the question of conditions'.

The Court's decision clearly defined that Local Planning Authorities may only use Section 73 powers to amend, remove or add to the conditions attached to that permission and that fundamental alterations are not allowable through Section 73 of the Town and Country Planning Act.

The correct route to deal with a material change; as in this instance; is through a fresh planning application and that there should be no objection to this.

Undoubtedly there is an attempt to circumvent the planning process and we will seek to appeal if this application is granted or pursue a legal injunction and applying to the Courts to review such a decision.

Kind Regards

Murray Miel
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