



14<sup>th</sup> February 2021

Mr. Jonathan McCue  
Planning Department  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 8ND

Dear Sir

**100 AVENUE ROAD LONDON NW3 – APPLICATION NOS 2021/0025/P & 2021/0022/P**

I write regarding the above applications by Essential Living (Swiss Cottage) submitted by Savills to vary the planning conditions imposed by the Planning Inspector in his decision dated 2016 regarding the use of cladding materials in condition 18 and the provision of social housing in clause 3.2 the section 106 Agreement.

As the Planning Inspector clearly considered the provision of social housing to be one of the major benefits for the local community, it must follow that any departure from this would be detrimental to the social benefits aspect of this scheme as originally approved, and will not be compliant with paragraphs 61-64 of the NPPF requirement for “Delivering a sufficient supply of homes”.

The Inspector’s decision at paragraph 9 clearly gave great weight to the requirements of the NPPF.

The Inspector considered in details “Housing Issues” and the proposals for the provision of affordable housing at paragraphs 42-43 of his decision, and it is contended that the proposed changes to the provision for affordable housing to nil will totally undermine the Inspector’s findings in this part of the decision, and in effect will re-write it.

This will also represent a serious attack on the local community when such accommodation is in short supply, and all developers recognise that they have a duty to provide affordable housing.

The Applicants in fact on many occasions and at many past meetings remonstrated that objectors to their scheme were in effect attacking their proposed provision for much needed social housing in the local community. Now however, it appears that they now wish to renege from their previous commitment to the serious detriment of the local community and the council.

The Planning Inspector in his decision gave great weight to the provision of social housing in the proposed scheme, and it is clear from his decision that this factor was

a major factor in the decision to grant planning permission in the face of the most fervent of opposition from members of the local community.

As such, if the council were to grant the Applicant's request to vary this condition, they would in effect be overturning the whole basis of the Planning Inspector's decision. Such a decision would also undoubtedly be liable to be Judicially Reviewed in the High Court as mounting a collateral attack on the Planning Inspector's decision, apart from being perverse and "Wednesbury" unreasonable.

As the Planning Inspector clearly considered the original cladding building material to be of the highest quality, it must follow that any departure from this would be detrimental to the street scene and will not be compliant with paragraph 12 of the NPPF requirement for "Achieving well-designed places".

The Inspector considered in detail the scheme's "Character and Appearance" at paragraphs 25-28 of his decision, and it is contended that the proposed changes to the materials will considerably undermine the Inspector's findings in this part of the decision, and in effect will re-write it.

The Inspector also considered in detail the then proposed Section 106 Agreement at paragraphs 45-48, so again he had the requirements for the then proposed use of building materials in mind as an integral part of his decision making process.

Further, the Inspector at paragraph 49 of his decision stated that,

"In accordance with section 66(1) of the LBCA Act, the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess. In accordance with Section 72 of the LBCA Act the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of a conservation area."

The present proposals would further therefore undermine this important part of the Secretary of State's decision as stated by the Inspector.

In addition, the Applicant's scheme was put forward by the Applicant itself at the time as being a design of high quality modern architecture that would use the highest quality materials to give an imposing appearance to the scheme as possible. Now the Applicants propose reneging on one of the fundamental aspects of their originally proposed scheme.

I consider that the proposed change of materials in this particular case will have a very serious detrimental effect on even the original scheme, notwithstanding that I considered that to have been dreadful in the first place and the proposed design as being "totally without merit".

Putting aside however whatever one's views on the original scheme were, the Planning Inspector was clearly concerned that the principles of good design should be maintained, and any departure to cheaper materials would clearly undermine his original intention and the imposition of his original condition.

It must also be taken into account that the proposed building is being erected in an extremely prominent position at 100 Avenue Road, and will be able to be seen from several vantage points from the surrounding roads.

It is therefore essential that the building materials should be of the highest quality, especially in summer with the increased sunlight on the sides of the building.

The present proposed amendments to the approved building material will have a very detrimental appearance when viewed in strong sunlight during the summer months therefore.

These applications are in both substance and reality a completely new planning application with proposals different from those approved by the Planning Inspector.

As such, it is an abuse of the planning system to seek in effect by a side wind to circumvent the substantive conditions imposed by the Planning Inspector in this case.

The application should therefore be refused, and if the Applicants wish to pursue their scheme along the proposed amendment to the conditions, then they should be required to submit a completely fresh planning application, in which case the new proposals can be considered completely *de novo*.

They will then be able to make out their completely new case that their present scheme should be considered afresh in relation to the proposed change to the cladding materials and the now proposed lack of social housing.

This is especially so if as the Applicant maintains, their originally approved scheme is no longer financially viable in the present changed circumstances.

Unfortunately, a change of financial circumstances is not a valid planning reason for varying previously imposed planning conditions, and all of the arguments that they put forward to justify this here must not be taken into consideration by the council.

The Applicant ventured into the original scheme under the conditions prevailing at the time, and if they can no longer pursue the scheme along those lines, then they will have to withdraw and allow another developer to come along and submit a completely new costed scheme that will be both good design and financially viable for the site in accordance with the financial circumstances now prevailing.

The Applicants should clearly have thought more carefully at the time whether or not their scheme was financially viable with the conditions that were imposed, and someone in Essential Living (Swiss Cottage) has got their figures wrong.

However, they now have to bear the brunt of this and not the council and the local community. It may well turn out that they have been extremely badly advised by those advising them at the time regarding the viability of this scheme in the first place.

It will then be for the council to consider whether such a proposal is satisfactory, although they will again have to have regard to the previous imposition of the

planning conditions imposed in the original scheme, which were imposed as safeguards for both the council and the wider community.

Yours faithfully

A large black rectangular redaction box covering the signature of Terence Ewing.

**Terence Ewing**