

Barley Wood Planning Consultancy
39 Carne View Road, Probus,
Truro, Cornwall, TR2. 4HZ.
Telephone: 01726-882266 : Mobile: 07989-406538

Town and Country Planning Act 1990 (As Amended)
Section 78 appeal

107 Kings Cross Road
London
WC1X 9LR.

By
Mr HUSSEYN GUZEL.

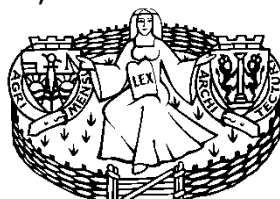
GROUND OF APPEAL/APPEAL STATEMENT

Re:

Refusal of the London Borough of Camden Council
to grant planning permission for "Erection of railings to the
front elevation, front stairs to the basement, opening of
lightwell to the front and inclusion glass glazing to the
basement. Change of Use of Office Storage (Class E) to
residential basement flat (C3) (Retrospective)," at the above
site.

Council Reference: 2021/3394/P
Planning Inspectorate Ref.:

Proprietor : D.G.Laverick, BTP. MRTPI. Chartered Town Planner



Contents

1. Introduction.
2. The Appeal site and its location.
3. Background to the submitted application and its planning history.
4. Reasons for refusal.
5. Grounds of appeal.
6. Whether the proposal complies with Council policy.
7. Conclusion.

Appendices

- Appendix 1: Copy of original planning application.
- Appendix 2: Site ownership certificate and ownership details.
- Appendix 3: Local Planning Authority's decision notice.
- Appendix 4: Location Plan.
- Appendix 5: Plans and elevations of proposed development.
- Appendix 6: Design & Access Statement.
- Appendix 7: Google Earth Street View photographs of Acton Street & Frederick Street.

1.0. INTRODUCTION

- 1.1 The Appellant's grounds of appeal have been prepared with reference to the Borough Council's reason for refusal.

2.0 THE APPEAL SITE AND ITS LOCATION

- 2.1 The Appeal premises comprise a three-storey mid-terraced property on the western side of Kings Cross Road, with mansard fourth storey and basement level. The front ground floor unit is in Class E use and currently occupied by a hairdressers. The floors above are in residential use. The basement level, subject of the appeal, was previously used as an office ancillary to the ground floor class E use. The location of the Appeal site is detailed in the small O.S. extract shown below.

The Appeal site



- 2.2 The Appeal property is located within Bloomsbury Conservation Area. The building is neither statutorily listed nor locally listed.

3.0. BACKGROUND TO THE SUBMITTED APPLICATION AND ITS PLANNING HISTORY

- 3.1 On 18th August 2021 Camden Borough Council acknowledged that they had registered a planning application for:

“RETAIN FRONT RAILS AND STAIRS TO BASEMENT,” made by Mr Husseyn Guzel, (the Appellant).”

- 3.2 The application was given the reference number 2021/3394/P and the description of development changed by the Local Planning Authority to read “Erection of railings to the front elevation, front stairs to the basement, opening of lightwell to the front and inclusion glass glazing to the basement. Change of Use of Office Storage (Class E) to residential basement flat (C3) (Retrospective).”

4.0 REASONS FOR REFUSAL

4.1 On 19th November 2021 the Borough of Camden's Planning Department refused Planning Permission for the development as described above in paragraph 3.2.

4.2 The Council gave the reasons for refusal as being:-

1 The loss of the office use, in the absence of sufficient justification demonstrating that the premises is no longer suitable for continued business use fails to support economic activity in Camden and result in the loss of employment opportunities within the Borough contrary to policy E2 (Employment Premises and Sites) of the Camden Local Plan (2017).

2 The railings, lightwell, stairs and alterations to the front elevation glazing, by reason of their design and location, would result in an incongruous and dominant addition to the existing site which would harm the character and appearance of the Bloomsbury Conservation Area, contrary to policy D1 (Design) and D2 (Heritage) of Camden's Local Plan (2017).

3 The residential studio unit, by reason of substandard outlook and daylight/sunlight results in substandard accommodation, harmful to the amenities of future occupiers, contrary to policy D1 (Design) of the Camden Local Plan (2017).

4 The residential studio unit, in the absence of a legal agreement to secure the development as car free, is likely to contribute unacceptably to parking stress and congestion in the surrounding area, contrary to policies T1 (Prioritising walking, cycling and public transport), T2 (Parking and Car Parking), A1 (Managing the impact of development) and DM1 (Delivery and monitoring) of the Camden Local Plan (2017).

4.3 It is against this refusal that this appeal has been lodged.

4.4 These 'reasons for refusal' raise the following issues.

1) Whether or not the proposed development would result in the loss of office use and, if so, whether or not this would constitute a materially serious loss in relation to the economic viability of the commercial unit in the immediate area.

Whether or not the railings ...etc. would result in an incongruous and dominant addition to the existing site which

would harm the character and appearance of the Bloomsbury Conservation Area.

Whether or not the residential studio would possess substandard outlook and daylight/sunlight and would thus provide substandard accommodation.

Whether or not the absence of a section 106 legal agreement is sufficient to justify refusal or whether a condition would have been sufficient to secure such agreement.

- 2) Whether the proposal is contrary to the stated Council policies.
- 3) Whether or not there are any mitigating circumstances that may support the case for approval.

5.0 GROUNDS OF APPEAL

- 5.1 The Appeal premises comprise a three-storey mid-terraced property on the western side of Kings Cross Road, with mansard fourth storey and basement level. The front ground floor unit is in Class E use and currently occupied by a hairdressers. The floors above are in residential use. The basement level, subject of this appeal submission was previously used as an office ancillary to the ground floor class E use.
- 5.2 The application site is located within the Bloomsbury Conservation Area but is neither a listed building nor locally listed structure.
- 5.3 The proposed development is for the erection of railings to the front elevation, front stairs to the basement, opening of lightwell to the front and inclusion glass glazing to the basement. Change of Use of Office Storage (Class E) to residential basement flat (C3) (Retrospective).
- 5.4 The Local Planning Authority is concerned that the appeal development would result in the loss of employment opportunities within the Borough. However the Appellant would respond by stating that the basement of the premises has been vacant for some considerable time since the work was undertaken for the erection of the railings to the front elevation with front stairs to the basement. This is a situation that after physical examination of the basement would appear to be effectively the re-installation of the physical access to the basement which appears to have existed in former years through physical evidence unearthed at basement level.
- 5.5 The architectural agent's Design and Access Statement includes the following historical notes:
- "1. Below the original front patio were concrete stairs to access the road from the basement. The space over the stairs was covered and used as front patio. However, the space below the patio was used to access the cellar under the public pavement and road was intact.
2. Further during the removal of the patio slabs iron bar stabs were found.
3. This indicates that rails existed sometimes ago and were cut off during the war.

4. On the same block there are basements now which are used for residential purposes and access from the pavement via concrete stairs. Safety is provided with iron rails.” (A copy of this Design and Access Statement is attached as Appendix 6 to this statement).

- 5.6 The physical evidence found within the basement would clearly seem to prove the existence of basement access stairs in past years and that the present development is really the reinstatement of structures that historically existed at the property. The Inspector is respectfully invited to assess the evidence when making the future appeal site visit to the property.
- 5.7 The case officer’s report states at paragraph 4.5 “The opening up of the front lightwell appears incongruous and is not a common feature along this part of Kings Cross Road where there are mostly retail units.”
- 5.8 However, this does not appear to be the case at all, as by just looking directly opposite the Appeal property on the opposite side of the road there is the building that is shown immediately below. The Inspector is respectfully requested to view this situation when he/she visits the premises in the future when undertaking the appeal site visit.



- 5.9 As may be clearly seen the suggestion that the ‘opening up of the front lightwell is not a common feature along this part of Kings Cross Road’ is totally ludicrous and made to look a complete fallacy. It would appear that the author of the statement had never been on site and looked at the closely neighbouring properties. However, due to the photographs contained within the case officer’s report it is clear to see that he has visited the premises.

- 5.10 Not only does Kings Cross Road have basements with access stairs but the feature of basement railings and access stairs is one that is common within the neighbouring roads adjoining Kings Cross Road, such as Acton Street and Frederick Street. A fact that the Inspector is respectfully invited to confirm whilst undertaking his/her future site inspection. (Google Earth Street View photographs of these two streets are shown within Appendix 7 attached to this statement).
- 5.11 The conservation team have raised concerns about the railings, lightwell, stairs and alterations to the front elevation, by reason of their design, however they have not prevented such visually deplorable railings as have been erected within the last 7-8 years at No's 4-6 Acton Street which can be seen immediately below.

No's 4-6 Acton Street erected 7-8 years ago.



- 5.12 Surely the design and detailing of the Appellant's development shown immediately over page is far superior to that which has been accepted by the conservation team in Acton Street shown immediately above.

The Appellants railings and stairs.

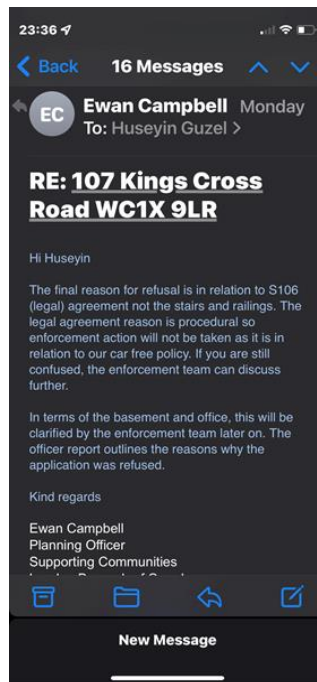


- 5.13 If the design is not considered acceptable, the Appellant is quite willing to provide a design to copy that of the development directly opposite on the other side of Kings Cross Road.
- 5.14 The Inspector is respectfully advised that if the appeal is not considered to be acceptable, then he is quite happy and willing to return the use of the basement back to commercial use, however, with the Covid 19 restrictions continuing to dictate present life on a day to day basis, it is unlikely that any one will want to take up the use as a small commercial unit. Obviously if the basement is returned to commercial use the staircase, railings and access to the basement has still to be provided.
- 5.15 The Local Planning Authority is concerned about outlook and daylight/sunlight. At a time when Central Government is seriously relaxing the Permitted Development legislation to make it easier to provide for residential accommodation within urban brown field environments by allowing certain commercial premises to be converted into residential accommodation without the need to receive planning permission, it would appear somewhat perverse for the LPA to refuse a proposed residential flat due to outlook reasons.
- 5.16 With regard to daylight/sunlight the Appellant has provided several photographs shown immediately over page which indicate the amount of light experienced within the basement.

The daylight/sunlight experienced within the basement



- 5.17 With regard to daylight/sunlight the Appellant would respond with the comments that surely such matters are the responsibility of the Council's Building Surveyors Department as it is they who make the decisions whether a specific residential property complies or not with the Building Regulations. It is not within the LPA's remit to pass such judgement as it is not within their professional expertise.
- 5.18 With regard to the lack of a Section 106 Legal Agreement the case officer has emailed the enclosed statement to the Appellant confirming as stated in the text below.



- 5.19 Notwithstanding whatever the procedural requirements may be with regard to the enforcement section of the Local Planning Authority, the Inspector is respectfully advised that the Appellant is extremely happy to agree to a Section 106 Agreement being drawn up as he has always been willing to comply with such agreement but with the impending service of an enforcement notice there has been insufficient time.
- 5.20 The case officer has also sent the Appellant an email confirming that the transport team had not objected to the proposal. A copy of this email is enclosed immediately below.



6.0 Whether the proposal complies with National, Regional & Local Council policy.

National Planning Policy Framework July 2021.

- 6.1 This document replaces the first National Planning Policy Framework published 27 March 2012 and the later versions of July 2018 and February 2019. Similar to the previous document it largely carries forward existing planning policies and protection in a significantly more streamlined and accessible form than previously available and continues the presumption in favour of sustainable development, and makes adjustments to some specific policies.
- 6.2 Sustainable means ensuring that better lives for ourselves doesn't mean worse lives for future generations.
- 6.3 This National Planning Policy Framework (NPPF) replaces over a thousand pages of previous national policy with just 76.
- 6.4 Paragraph 1 (within the Introduction), states that "The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced.
- 6.5 Paragraph 2 states "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Under the Section Achieving sustainable development it states:

- 6.6 "The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 6.7 Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that

opportunities can be taken to secure net gains across each of the different objectives):

- a) an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective - to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

6.8 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

6.9 Under the heading 'The presumption in favour of sustainable development'

Paragraph 11 states:

For plan-making this means that:

- a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Response: It is strongly contended by the Appellant that the Appeal development accords with the Policies and parameters contained therein of the National Planning Policy Framework and that the development does not materially detrimentally affect the interests of any acknowledged importance.

Response: This contention includes the response with regard to Section 12. Achieving well-designed places of the National Planning Policy Framework.

Camden Local Plan (2017).

6.10 Policy A1 Managing the impact of development states:

The Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity.

We will:

- a. seek to ensure that the amenity of communities, occupiers and neighbours is protected;
- b. seek to ensure development contributes towards strong and successful communities by balancing the needs of development with the needs and characteristics of local areas and communities;
- c. resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network; and
- d. require mitigation measures where necessary.

The factors we will consider include:

- e. visual privacy, outlook;
- f. sunlight, daylight and overshadowing;
- g. artificial lighting levels;
- h. transport impacts, including the use of Transport Assessments, Travel Plans and Delivery and Servicing Management Plans;
- i. impacts of the construction phase, including the use of Construction Management Plans;
- j. noise and vibration levels;
- k. odour, fumes and dust;
- l. microclimate;
- m. contaminated land; and
- n. impact upon water and wastewater infrastructure.

Response: It is strongly contended that the Appeal development accords with all of the above paragraphs of this policy and that the development does not materially detrimentally affect the interests of any acknowledged importance.

6.11 Policy DM1 Delivery and monitoring states:

The Council will deliver the vision, objectives and policies of the Local Plan by:

- a. working with a range of partners to ensure that opportunities for creating the conditions for growth and harnessing its benefits for the borough are fully explored;
- b. working with relevant providers to ensure that necessary infrastructure is secured to support Camden's growth and provide the facilities needed for the borough's communities. Information on key infrastructure programmes and projects in the borough up to 2031 are set out in Appendix 1;
- c. working proactively in its actions as a landowner and by facilitating land assembly where considered appropriate;
- d. using planning contributions where appropriate to;
 - i. support sustainable development;
 - ii. secure the infrastructure, facilities and services to meet the needs generated by development;
 - iii. mitigate the impact of development;
- e. secure appropriate scheme implementation (including multi-site developments) and control phasing where necessary;
- f. working with neighbouring boroughs to coordinate delivery across boundaries; and
- g. monitoring the implementation of the Local Plan policies and infrastructure provision on a regular basis.

Response: It is strongly contended that the Appeal development complies with all of the sections of the above policy and that the development does not materially detrimentally affect the interests of any acknowledged importance.

6.12 Policy D1 Design states:

The Council will seek to secure high quality design in development. The Council will require that development:

- a. respects local context and character;
- b. preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage;
- c. is sustainable in design and construction, incorporating best practice in resource management and climate change mitigation and adaptation;
- d. is of sustainable and durable construction and adaptable to different activities and land uses;
- e. comprises details and materials that are of high quality and complement the local character;
- f. integrates well with the surrounding streets and open spaces, improving movement through the site and wider area with direct, accessible and easily recognisable routes and contributes positively to the street frontage;
- g. is inclusive and accessible for all;
- h. promotes health;
- i. is secure and designed to minimise crime and antisocial behaviour;
- j. responds to natural features and preserves gardens and other open space;
- k. incorporates high quality landscape design (including public art, where appropriate) and maximises opportunities for greening for example through planting of trees and other soft landscaping,
- l. incorporates outdoor amenity space;
- m. preserves strategic and local views;
- n. for housing, provides a high standard of accommodation; and
- o. carefully integrates building services equipment.

The Council will resist development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Response: It is strongly contended that the Appeal development accords with all of the above paragraphs of this policy and that the development does not materially detrimentally affect the interests of any acknowledged importance.

6.13 Policy D2 Heritage states:

The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens and locally listed heritage assets.

Designated heritage assets

Designed heritage assets include conservation areas and listed buildings. The Council will not permit the loss of or substantial harm to a designated heritage asset, including conservation areas and Listed Buildings, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a. the nature of the heritage asset prevents all reasonable uses of the site;
- b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation;
- c. conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- d. the harm or loss is outweighed by the benefit of bringing the site back into use.

The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.

Conservation areas

Conservation areas are designated heritage assets and this section should be read in conjunction with the section above headed 'designated heritage assets'. In order to maintain the character of Camden's conservation areas, the Council will take account of conservation area statements, appraisals and management strategies when assessing applications within conservation areas.

The Council will:

- e. require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area;

- f. resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;
- g. resist development outside of a conservation area that causes harm to the character or appearance of that conservation area; and
- h. preserve trees and garden spaces which contribute to the character and appearance of a conservation area or which provide a setting for Camden's architectural heritage.

Response: It is strongly contended that the Appeal development accords with all of the above paragraphs of this policy and that the development does not materially detrimentally affect the interests of any acknowledged importance.

6.14 Policy E2 Employment premises and sites states:

The Council will encourage the provision of employment premises and sites in the borough. We will protect premises or sites that are suitable for continued business use, in particular premises for small businesses, businesses and services that provide employment for Camden residents and those that support the functioning of the Central Activities Zone (CAZ) or the local economy.

We will resist development of business premises and sites for non-business use unless it is demonstrated to the Council's satisfaction:

- a. the site or building is no longer suitable for its existing business use; and
- b. that the possibility of retaining, reusing or redeveloping the site or building for similar or alternative type and size of business use has been fully explored over an appropriate period of time.

We will consider higher intensity redevelopment of premises or sites that are suitable for continued business provided that:

- c. the level of employment floorspace is increased or at least maintained;
- d. the redevelopment retains existing businesses on the site as far as possible, and in particular industry, light industry, and warehouse/logistic uses that support the functioning of the CAZ or the local economy;
- e. it is demonstrated to the Council's satisfaction that any relocation of businesses supporting the CAZ or the local economy will not cause harm to CAZ functions or Camden's local economy and will be to a sustainable location;

- f. the proposed premises include floorspace suitable for start-ups, small and medium-sized enterprises, such as managed affordable workspace where viable;
- g. the scheme would increase employment opportunities for local residents, including training and apprenticeships;
- h. the scheme includes other priority uses, such as housing, affordable housing and open space, where relevant, and where this would not prejudice the continued operation of businesses on the site; and
- i. for larger employment sites, any redevelopment is part of a comprehensive scheme.

Response: It is strongly contended that the Appeal development accords with all of the above paragraphs of this policy and that the development does not materially detrimentally affect the interests of any acknowledged importance.

6.15 Policy T1 Prioritising walking, cycling and public transport states:

The Council will promote sustainable transport by prioritising walking, cycling and public transport in the borough.

Walking

In order to promote walking in the borough and improve the pedestrian environment, we will seek to ensure that developments:

- a. improve the pedestrian environment by supporting high quality public realm improvement works;
- b. make improvements to the pedestrian environment including the provision of high quality safe road crossings where needed, seating, signage and landscaping;
- c. are easy and safe to walk through ('permeable');
- d. are adequately lit;
- e. provide high quality footpaths and pavements that are wide enough for the number of people expected to use them. Features should also be included to assist vulnerable road users where appropriate; and
- f. contribute towards bridges and water crossings where appropriate.

Cycling

In order to promote cycling in the borough and ensure a safe and accessible environment for cyclists, the Council will seek to ensure that development:

- g. provides for and makes contributions towards connected, high quality, convenient and safe cycle routes, in line or exceeding London Cycle Design Standards, including the implementation of the Central London Grid, Quietways Network, Cycle Super Highways and;
- h. provides for accessible, secure cycle parking facilities exceeding minimum standards outlined within the London Plan (Table 6.3) and design requirements outlined within our supplementary planning document Camden Planning Guidance on transport. Higher levels of provision may also be required in areas well served by cycle route infrastructure, taking into account the size and location of the development;
- i. makes provision for high quality facilities that promote cycle usage including changing rooms, showers, dryers and lockers;
- j. is easy and safe to cycle through ('permeable'); and
- k. contribute towards bridges and water crossings suitable for cycle use where appropriate.

Public Transport

In order to safeguard and promote the provision of public transport in the borough we will seek to ensure that development contributes towards improvements to bus network infrastructure including access to bus stops, shelters, passenger seating, waiting areas, signage and timetable information. Contributions will be sought where the demand for bus services generated by the development is likely to exceed existing capacity. Contributions may also be sought towards the improvement of other forms of public transport in major developments where appropriate.

Where appropriate, development will also be required to provide for interchanging between different modes of transport including facilities to make interchange easy and convenient for all users and maintain passenger comfort.

Response: It is strongly contended that the Appeal development accords with all of the above paragraphs of this policy and that the development does not materially detrimentally affect the interests of any acknowledged importance.

6.16 Policy T2 Parking and car-free development states:

The Council will limit the availability of parking and require all new developments in the borough to be car-free.

We will:

- a. not issue on-street or on-site parking permits in connection with new developments and use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits;
- b. limit on-site parking to:
 - i. spaces designated for disabled people where necessary, and/or
 - ii. essential operational or servicing needs;
- c. support the redevelopment of existing car parks for alternative uses; and
- d. resist the development of boundary treatments and gardens to provide vehicle crossovers and on-site parking.

Response: It is strongly contended that the Appeal development accords with all of the above paragraphs of this policy and that the development does not materially detrimentally affect the interests of any acknowledged importance.

7.0 CONCLUSION

- 7.1 The appeal proposal, for the reasons stated above, would not cause harm to any interest of acknowledged importance.
- 7.2 In the light of the comments contained in the above statement the Inspector is respectfully requested to allow this appeal.