

Date: 17/10/2022
PINS Ref: APP/X5210/W/22/3302786
Our Ref: 2022/0265/P
Contact: Ewan Campbell
Direct Line: +44 20 7974 5458
Ewan.campbell@camden.gov.uk

Planning and Regeneration
Culture & Environment
Directorate
London Borough of Camden
2nd Floor, 5 Pancras Square
London
N1C 4AG

Tel: 020 7974 6751
www.camden.gov.uk/planning

Roxanne Gold
The Planning Inspectorate
3C Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Ms Gold,

Appeal site: 1-6 Speedy Place, WC1H
Appeal by: Mr Sami Almaqableh, ASP ARCHITECTS LONDON LTD

Proposal: Change of use of the existing commercial unit (Class E) to four residential units on the ground and first floors, and associated internal alterations. New windows, new entrance doors, cycle spaces and waste storage.

I refer to the above appeal against the Council's refusal to grant planning permission dated 7/7/22. The Council's case is set out in the Officer's delegated report. The report details the application site and surroundings, the site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

In addition to the information sent with the questionnaire, I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

1. Summary

- 1.1. This 2 storey building is currently in office use. The council's policies seek to protect commercial/employment use: unless there are certain extenuating criteria, planning permission would be refused for the loss. In addition, proposed new residential accommodation is required to be of satisfactory standards in terms of size and amenity.
- 1.2. The building occupies a back land location. It is a flat roofed 2 storey brick building situated to the rear of the buildings fronting Cromer Road (north side) and it has residential buildings on either side on Judd Street (west) and Tonbridge Road (east).
- 1.3. Speedy Place lies within Sub Area 13 of the Bloomsbury Conservation Area which is predominately residential in character. The adjacent buildings (Tonbridge House on Tonbridge Street and Jessel House on Judd Street) are noted as being positive contributors to the Bloomsbury Conservation Area Statement.

Planning history

- 1.4. On 7/12/21 permission for "prior approval" (2021/4826/P) was refused for change of use to 7 studio flats and associated façade treatment. The grounds for refusal are summarised as follows:
 1. It was not established that the building had been vacant for the required three month continuous period nor that it was in use for a specific purpose required by the GDPO
 2. The proposed units were smaller than the minimum 37m² required by the GPDO and did not comply with space standards
 3. No S106 regarding car free development
 4. No flood risk assessment
 5. No daylight/sunlight assessment
 6. Unacceptable external alterations in design and conservation terms
 7. No fire safety assessment

The prior approval procedure

- 1.5. Whilst the council's policies seek to protect commercial/employment uses per se, the above application was not refused on grounds of loss of the existing use given development permitted by the current GPDO.

A planning application assessment and process is different to that of a prior approval. The former is subject to the compliance of Local Authorities' Development Plan policies and Planning Guidance. With regard to prior

approval, the GPDO 2015 allows for the change of use of a building from a commercial use falling within Class E, to a dwelling use falling within Class C3 subject to certain criteria and pre requisites. The developer can apply to the council for determination that prior approval complies with the GPDO. If deemed to comply, the range of issues to be considered in prior approval is limited to the likely impact of the proposed use (eg highways) and mitigation. The process has no provision for the loss of the existing use itself to be a material consideration and subject to application of policies. This is amplified in the delegated report 2021/4826/P.

- 1.6. It was determined however that the proposal failed to meet the prior approval criteria because of the absence of GPDO pre requisites regarding the existing use and this is set out in reasons for refusal 1 and 2 . In addition the required information set out in reasons for refusal 3-7 had not been submitted. Therefore planning permission would be required for the development

The refused planning application subject of appeal

- 1.7. Subsequently the subject planning application for planning permission was submitted. The scheme was revised to provide 4 rather than 7 residential units and the external alterations were revised and reduced. The application was refused on 07/07/22 on grounds of loss of employment floor space, substandard units of accommodation and failing to agree s106 legal agreements in relation to affordable housing, car free housing, construction management plan and sustainability.

- 1.8. The detailed reasons for refusal of this appeal planning application are:

1. *The applicant has failed to demonstrate that the site is no longer suitable for business use and so the proposal would result in the loss of a business use contrary to policy E2 (Employment premises and sites) of the Camden Local Plan 2017*
2. *The proposed development would result in substandard units of accommodation, providing insufficient and unsuitable amenity space and secure cycle parking; undersized units; poor quality of light, outlook, natural ventilation; refuse storage location and significant lack of privacy and defensible space. The proposal would therefore be contrary to D1 (Design) and H6 (Housing Choice and Mix) of the Camden Local Plan 2017.*
3. *The proposed development, in the absence of a legal agreement securing an affordable housing contribution, would fail to maximise the supply of affordable to meet the needs of households unable to access market housing, contrary to policy H4 (Maximising the supply of affordable housing) of the Camden Local Plan 2017.*

4. *The proposed development, in the absence of a legal agreement securing car-free housing, would contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017*
5. *The proposed development, in the absence of a legal agreement securing a Construction Management Plan (CMP) and associated contributions to support the implementation of the CMP, 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 A1 (Managing the impact of development), T4 (Sustainable movement of goods and materials) and DM1 (Delivery and monitoring) of the Camden Local Plan 2017*
6. *The proposed development, in the absence of a legal agreement securing the carbon reduction targets of Part L1B of Building Regulations for retained thermal through the application of the energy hierarchy, would fail to ensure proper standards of sustainability in the development, contrary to policy CC1 (Climate change mitigation) of the Camden Local Plan 2017*

1.8 All 6 reasons for refusal are fully amplified in the delegated report and are not repeated here. The appellants grounds of appeal are addressed below.

2. Status of policies and guidance

- 2.1. In determining the abovementioned application, the London Borough of Camden had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.
- 2.2. The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on 3rd July 2017. The following policies in the Local Plan are considered to be relevant to the determination of the appeal:
 - Policy A1 Managing the impact of development
 - Policy A4 Noise and Vibration
 - Policy CC1 Climate change mitigation
 - Policy CC2 Adapting to climate change
 - Policy D1 Design
 - Policy D2 Heritage
 - Policy E2 Employment Premises and sites
 - Policy H1 Maximising house supply
 - Policy H4 Maximising the supply of affordable housing

- Policy H6 Housing choice and mix
- Policy H7 Large and Small Homes
- Policy T1 Prioritising walking, cycling and public transport
- Policy DM1 Delivery and Monitoring

2.3 The Council also refers to supporting guidance in Camden Planning Guidance (CPG) documents. The CPG documents most relevant to the proposal are as follows: The Camden Planning Guidance documents were subject to public consultation and were approved by the Council as indicated.

- Amenity CPG (January)
- Housing CPG (January 2021)
- Design CPG (January 2021)
- Employment site and business premises CPG (January 2021)
- Housing CPG (January 2021)
- Transport (January 2021)

2.4 The Bloomsbury Conservation Area statement was adopted in April 2011 and defines the special character of the conservation area and sets out the Council's approach for its preservation and enhancement.

2.5 The National Planning Policy Framework was published in April 2012 and revised in March 2021. It states that proposed development should be refused if it conflicts with the local plan unless other material considerations indicate otherwise. There are no material differences between the Council's adopted policies and the NPPF in relation to this appeal. The full text of the relevant adopted policies was sent with the questionnaire documents.

2.6 The Council's adopted policies are recent and up to date and should be accorded full weight in accordance with paragraphs 31 – 33 and 213 of the NPPF.

2.7 There are no material differences between the NPPF and the Council's adopted policies in relation to this appeal.

3. Comments on appellant's grounds of appeal

3.1 The appellant has put forward a statement of case which discusses various procedural points and issues that relate to an historic application, none of which are material considerations in relation to the decision to this application.

However concerns raised by the appellants regrading procedures are set out in four points and these are addressed beneath.

3.2 Issue A: Why was the planner officer still insisting to ask a confirmation of Extension of Time despite that he issued the response for refusal?

3.3 It is Council practice to seek an Extension of Time to allow an application to be decided within time when the eight week time scale is at risk. This bears no relation on the assessment or decision.

Issue B: How could it be possible to communicate a refusal response from the beginning without seeing or analysing the application?

3.4 The assertion that the application was recommended for refusal before it was fully assessed is false. Initially the Council contacted the architect notifying them that the Council had validated the application. This also confirmed that *The consultation process has begun and I will be in touch following an assessment.* (see appendix B). Following a full assessment, as shown in the officer report, the officer advised the architect the application does meet local plan policy and therefore would be refused, unless withdrawn. At no point was an assessment made before seeing the application

Issue C: Why do we have to make complaints to have correspondence with the planning department?

3.5 This issue is unclear; at no point was a formal complaint made during the application assessment time period and the Council provided timely updates throughout.

Issue D: How can the reasons of refusal be justified when is easily to find the answer in the application, design statement and drawings?

3.6 Again, this issue is unclear, the reasons for refusal are clearly listed on the decision notice and the officer report assessment.

Other issues: previous reasons for refusal were addressed by the appellant but were reused in the new scheme

3.7 Firstly simply addressing issues raised in the prior approval application does not mean planning permission would be forthcoming.

3.8 Secondly, the reasons for refusal for the appeal application are different to the prior approval application. The council confirms that all of the supporting documents were assessed.

- 3.9 Lastly, overall the application was of poor quality and the principle objection to this proposal reflected a scheme that was far below the minimum requirements of the Council's Local Plan policies.

4. S106 requirements and conditions

Compliance with CIL reg 122

- 4.1 The delegated report sets out justification for the following S106 matters. These issues cannot be overcome by conditions as the matters are either outside the scope of the site, complex and/or entail monetary contributions. The proposed restriction on the development being secured as :

- “car-free”,
- “affordable housing contribution” of £47,500,
- Construction Management Plan and Implementation Support Contribution of £3,920 and Impact Bond of £7,500,
- “Energy and Sustainability Plan”

These meet the requirements of the CIL Regulations in being: (i) necessary to make the development acceptable in planning terms as identified by the relevant development plan policies; (ii) directly related to the occupation of the residential units being part of the development; and (iii) fairly and reasonably related in scale and kind to the residential units. This supports key principle 9 of the National Planning Policy Framework: Promoting sustainable transport.

The Council is approaching the appellant with a draft legal agreement in the event that the Inspector is minded to allow the appeal. The council will notify the inspector regarding progress at the final comments stage.

Conditions

- 4.2 It is not considered that conditions would mitigate the impact of the development as set out above. The suggested conditions below would secure compliance with the proposal.

5 Conclusion

- 5.1.1 Based on the information set out above, and having taken account of all the appellant's arguments and additional information submitted, the Council maintains that the proposal is considered to be unacceptable for the reasons given.
- 5.2 The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns.

- 5.3 For these reasons the Inspector is respectfully requested to dismiss the appeal. However, should the Inspector be minded to approve the appeal, suggested conditions are included in Appendix A and a draft S106 is to follow.
- 5.4 If any further clarification of the appeal submission is required please do not hesitate to contact Ewan Campbell on the above direct dial number or email address.

Yours sincerely,

Ewan Campbell
Planning Officer
Regeneration and Planning
Supporting Communities

APPENDIX A – Suggested conditions

Conditions

1	<p>The development hereby permitted must be begun not later than the end of three years from the date of this permission.</p> <p>Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).</p>
2	<p>All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.</p> <p>Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017.</p>
3	<p>The development hereby permitted shall be carried out in accordance with the following approved plans:</p> <p>Site location plan, P50, P90, P100, P101, P102, P150, P151, P152, P200, P201, P210, P211, P210, P220, P250, P251, P252, P300 (Design Statement), P350 (3D Environmental Impact), P360 (Sustainable Drainage), P370 (Flood Risk Assessment), P380 (Fire Risk Assessment) and P390 (Daylight/Sunlight Report)</p> <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>

Informatives

1	<p>This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team London Borough of Camden 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444) . Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.</p>
---	--

2	<p>All works should be conducted in accordance with the Camden Minimum Requirements - a copy is available on the Council's website at https://beta.camden.gov.uk/documents/20142/1269042/Camden+Minimum+Requirements+%281%29.pdf/bb2cd0a2-88b1-aa6d-61f9-525ca0f71319 or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)</p> <p>Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.</p>
3	<p>Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).</p>

Appendix B:

