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The Planning Inspectorate  
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Bristol  
BS1 6PN

Dear Hazel Stanmore-Richards,

**Appeal by Vapiano Ltd.**

**Site: Centre Point Complex Development Site at 101-103 Unit R05 New Oxford Street, London, WC1A 1DD.**

**Appeal against refusal of planning permission dated 10 August 2022 for:**

**Proposal:** Change of use of land to create external seating area, including provision of removable 2no umbrellas, 7no tables and 19no chairs, together with planters and screens.

Permission was refused on the following grounds:

*The proposed screening and planters, by virtue of their siting, scale, design, form and cumulative impact, would add clutter which would be harmful to the open nature of the public realm, the setting of the Grade II listed Centre Point complex and the character and appearance of the wider area, and the Denmark Street Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.*

**1.0 Summary**

- 1.1 The application site is a ground floor unit of Centre Point House and fronts onto St Giles Square public plaza.
- 1.2 The building is within the Denmark Street conservation area and the wider Centre Point development in Grade II listed.
- 1.3 The Council's case is set out in detail in the attached Officer's Delegated Report (Appendix 1) and it will be relied on as the principal Statement of Case. 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 also take into account the following information and comments before deciding the appeal.

## **2.0 Status of Policies and Guidance**

2.1 The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on the 3 July 2017 as the basis for planning decisions and future development in the borough. The relevant Local Plan policies as they relate to the reason for refusal are:

D1 – Design  
D2 – Heritage

2.2 The Council also refers to supporting guidance documents. The Camden Planning Guidance (CPG) was adopted following the adoption of the Camden Local Plan in 2017. There have been no changes to the relevant policies since the application was refused.

## **3.0 Comments on grounds of appeal**

3.1 The appellant's statement is set out in 5 main points and these are addressed below:

1. The appellant submits that the principle of the external seating area is established via previous permissions and by the Council's Pre-application response.

Response to point 1: The Council does not object to the principle of having external outdoor seating within St Giles Plaza as stated within the pre-application response. It was however made clear at pre-app stage that introducing barriers, planters and screens would create a sense of enclosure and in effect a private space that would not be supported as outdoor seating should be open and integrated with the square to create a cohesive space with no visible barrier between the square and seating. The Council objects to the principle of creating a private space within a public square.

2. The appellant submits that the proposals are of a high quality that befit the context of the area including the listed building and the external area will marry with the existing contemporary fronted unit. The proposals will see Vapiano take ownership of their space, clearly defining to customers and other users the extent of their area and this will sit neatly alongside the modern shopfront. The barriers and planters will facilitate this definition and the barriers will be reduced in height when the weather is fair.

Response to point 2: The context and character of the area is an open public plaza. Although there is existing loose furniture, there are no existing barriers, planters or any other means of enclosure in this space. Taking ownership of the space and clearly physically defining it as being separate from the rest of the plaza is in principle unacceptable. Creating essentially a private space within a public square is, by definition, contrary to the character and purpose of a public space. This issue was clearly made in the pre-application process. Even if the barriers would be reduced in height during fair weather, the structures would still be in place and a sense of enclosure and demarcation would still be read. It is this principle that is considered to be unacceptable.

3. The Appellant states that during pre-application engagement, concerns were raised in relation to the planters and screens creating a sense of enclosure and following this feedback the proposals in the full planning application were amended including reducing the height of the perimeter walls to 1.5m.

Response to point 3: At pre-application stage, the proposals submitted as part of the pre-application discussions involved a perimeter wall at a height of 1.5m. The height of the walls and the resulting impact on the character and appearance of St Giles Plaza and wider Centre Point Complex was raised as a concern by the Council. Despite what is claimed by the appellant, the submitted scheme was not amended to address these concerns other than the ability for the height of part of the enclosure to be lowered if there is good weather. Notwithstanding, the principle of enclosure through the use of barriers and screens is considered to be unacceptable and any reduction in height of such barriers would not overcome this issue.

4. The Appellant submits that the strong wind conditions of the site means that enclosure is required for outdoor eating. The additional external seating is not a necessity for customer capacity due to the internal size of the restaurant (with approx. 400 covers) but is a preference for customers.

Response to point 4: It is considered that the weather conditions of the site is an issue that could be addressed in a more sensitive way without such solid and imposing interventions. Indeed, the appellant states that the barriers could be lowered during fair weather indicating that barriers are not even needed when the weather is good, and customers can enjoy external dining without the need for such enclosures. The appellant has also stated that external seating is not a requirement for the viability of the restaurant and is merely a preference. The proposed development is considered to be harmful to the conservation area and siting of the listed building. The additional seating would only seek to benefit the private interests of the restaurant and would not provide any demonstrable public benefits that would outweigh this harm.

5. The Appellant submits that the proposals are not permanent, and the external seating area can be dismantled within half a day or so and so would minimise the impact on the heritage asset and is reversible. The seating area is deemed to be a complimentary addition which will enhance the vibrancy and character of the heritage asset.

Response to point 5: The Appellant is referring to the ease of construction of the proposal which is not considered to be a material planning consideration. The 'reversible' nature of the works does not justify development that is considered harmful. If it takes half a day to erect or dismantle, it is evidently not practical to erect or remove the enclosure on a daily basis depending on the weather. The proposal would therefore have a permanent appearance and should be assessed as such. The proposal would not compliment the vibrancy and character of the area by creating an enclosed and private space clearly separated from the rest of the plaza and the wider Centre Point Complex.

#### **4. Conclusion**

- 4.1. The planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") Section 72(1) of the Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area when considering applications relating to land and buildings within that area. Section 66(1) of the Listed Buildings Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, the Council is required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 202 of the NPPF sets out that 'where a development proposal will lead to less than substantial harm to the significant of a designated heritage asset this harm should be weighed against the public benefits of the proposal'. The development will lead to less than substantial harm to the

Grade II listed building and wider conservation area. However as the proposals would only benefit proposed customers and could be achieved through less harmful methods, there is not considered to be any public benefit to outweigh the harm caused.

- 4.2 Based on the information set out above and having taken account of all the additional evidence and arguments made, it is considered that the proposal remains unacceptable for reasons set out within the original decision notice. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns.
- 4.3 The proposed screening and planters, by virtue of their siting, scale, design, form and cumulative impact, would add clutter which would be harmful to the open nature of the public realm, the setting of the Grade II listed Centre Point complex and the character and appearance of the wider area, and the Denmark Street Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.

**5. Suggested conditions should the appeal be allowed.**

- 5.1 The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan VAP-LON4-P1, VAP-LON4-P5, VAP-LON4-P3, VAP-LON4-P4, VAP-LON4-P2

Reason: For the avoidance of doubt and in the interest of proper planning.

If any further clarification of the appeal submissions is required please do not hesitate to contact Edward Hodgson on the above direct dial number or email address.

Yours sincerely,

Edward Hodgson  
Planning Officer  
Development Management  
London Borough of Camden