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London E8 1FB

Wednesday, 08 December 2021

Ref KH/GE/CT- 21/521
BY EMAIL to barry.coughlan@hackney.gov.uk

Dear Mr Coughlan

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 (AS AMENDED)
APPLICATION REFERENCE 2017/3511 – 49-50 EAGLE WHARF ROAD, LONDON N1 7ED
OBJECTION ON BEHALF OF HOLBORN STUDIOS

We write on behalf of our client, Holborn Studios to object to planning application reference 2017/3511 for development at 49-50 Eagle Wharf Road, London N1 7ED.

As officers are aware, the current application proposals represent a third attempt to evict the Studios on the grounds of development, the previous applications both being subject to Judicial Review (JR) by the Studios, the most recent planning determination being quashed in the High Court in June 2020. As such, these objections should be read in conjunction with previous objections made by Holborn Studios in relation to application 2017/3511.

Holborn Studios

Holborn Studio are the leasehold owners of the application site.

The Studios were established in 1979 and have been based at their current location at 49-50 Eagle Wharf Road for more than 35 years.

The Studios were responsible for the creation and restoration of the existing site from dereliction, the foundation, presence and commercial creation of the studios being fundamental to the area's quality, distinctiveness and attractiveness now recognised as being unique in London.

The Studios are Europe's largest photographic studio complex, evolving from plate cameras, sheet film and hand retouching, the business now comprising 18 Studios with cutting edge digital recording, archive storage, image manipulation and on-site lighting, providing a unique community and creative industry hub.

The Studios are internationally renowned and respected as a centre for photography, the arts, culture, and media, the Studios being at the forefront of training, skills, innovation and thought leadership in

its sector, creating thousands of jobs over decades, winning multiple awards, while continuing to attract and nurture local and international talent.

Some of the world's greatest photographers have worked with Holborn Studios from David Bailey to Annie Leibovitz. The Studios has 50 employees, supports around 350 jobs directly while making a wider and substantial contribution to the economic, creative and cultural capital of London through its connections to a wider creative ecosystem of photographers, models, stylists and equipment rental businesses. Its central location means it is accessible, and its size and location make it unique within London. It has been described as the Abbey Road Studios of the photography industry.

The current application proposals if granted would result in the removal of Holborn Studios from the site and the loss of the substantial contribution they have made over decades and continue to make in the locality.

Summary of objections

The current application proposals have no reasonable prospect of gaining planning permission, representing a substantial retrograde step, being even weaker than previous attempts when assessed against key matters of statutory process, law and policy. The proposals deliver no planning or public benefits to outweigh the harm caused or to mitigate against the conflicts with adopted policy.

We expand on our key points of objection further below.

The Re-submission

The current application proposals as consulted on by the council under ref 2017/3511 are not a proper and meaningful resubmission but are a re-hash of previously submitted material in relation to the previous quashed decision of the same reference.

The proposals are not a proper resubmission, but they should be. This is because the current application proposals are substantially different when compared to the previously quashed scheme with significant changes being made in relation to land use, culture, design, heritage assets and affordable housing. None of these key differences are highlighted within the covering letter accompanying the application, neither are they explained within the council's notification letter.

There have also been substantial changes to planning policy since the earlier decision was quashed, including an entirely different statutory development plan framework, including a new London Plan and new Hackney Local Plan, both introducing many material changes in policy and requirements for new information not reflected in the submission.

The documentation submitted in support of the application seeks to give the impression that the current proposals are 'just an update'. They are not. Major changes are proposed. An entirely new planning policy framework is in place. The changes proposed and the implications of the new policies on the changes proposed have not been made clear in the application submission. This is misleading to any interested person seeking to review or comment on the proposal and is especially pertinent as no public consultation or stakeholder engagement has been done with Holborn Studios or anyone else since the previous decision was quashed.

Stakeholder Engagement

Engagement with local stakeholders is a requirement of the Localism Act, The National Planning Policy Framework (NPPF), the London Borough of Hackney Statement of Community Involvement, the Royal Town Planning Institutes Good Practice Guide to Public Engagement on Development Schemes and other documents, establishing proper and meaningful consultation being a critical objective of contemporary policy, good planning and is particularly important in relation to major applications.

Our client was not consulted by the applicant at any stage in the evolution of the latest scheme, either at pre-application stage or following the submission of the application and has received no opportunity to comment or engage with the proposals since the public exhibition in relation to the first scheme which was now some 7 years ago. They have only received the Notice upon the lodging of the submission information with no information provided.

The failure of the applicant to engage at all with the Studios is disappointing given the substantial number of years since the last engagement, the significant changes to London and planning policy in the intervening period and of course the most recent changes to the scheme, which are substantial. This is especially surprising given our clients were responsible for successfully quashing both previous permissions and matters of concern included improper or inadequate consultation being undertaken by the applicant and local planning authority.

The submitted Statement of Community Involvement confirms that no further engagement has been undertaken since the previous planning decision was quashed. This is directly contrary to the requirements for major applications and conflicts with Localism Act, The National Planning Policy Framework (NPPF), the London Borough of Hackney Statement of Community Involvement and other relevant policy set out above.

As such, our clients object to the lack of any proper engagement undertaken regarding the proposals. The applicant should undertake meaningful engagement with all key relevant stakeholders, which should include Holborn Studios, with engagement being undertaken in a timely and appropriate manner and to a level of detail commensurate with a major application and the scale of changes proposed.

Public Consultation

The Notice relating to this information was received in the Spring but the first time our client was made aware of the validation of this latest submission was when they received the council's letter dated 29th October 2021 informing them that a planning application had been submitted with the same reference number as the previously quashed decision and that a consultation was occurring on the basis of "*Updated plans and documents*".

As stated above, it is considered that the "*Updated plans and documents*" reason for the consultation is misleading, does not accurately describe the extent and scale of the changes proposed, undermines the objectives of good planning based on clear consultation and may, as a consequence deter people from reviewing the scheme (a member of the public might decide that in the light of such 'minor amendments' they do not need to make comment), thus preventing consultees and all interested parties being able to fully review, assess and respond accordingly.

Similarly, the description of development as set out in the council's letter of 29th October 2021 adds to the confusion because it a) provides a different description of the development to that set out by the applicant in other submitted application documents and b) refers to "*B1 Use Class*" and "*A3 Use Class*" neither of which lawfully exist and which again give a misleading impression as to what is being proposed. Any use class description of the use should refer to not only the correct and relevant use classes(s) but also any sub classes within use for example Class E(i). It is critical that any person being asked to comment on the proposals is clear on what land use is proposed and for members of the public and consultees to have a reasonable expectation that letters received from the council are correct.

Furthermore, the consultation correspondence from the council is misleading as the council's letter of 29th October 2021 to second floor studio of Holborn Studios states in bold and italics: "***Please note that if you have already submitted comments following the initial consultations, these will still be fully taken into consideration when a decision is made***". That cannot be right in the light of the statement by the Council that it does not have access to consultation responses received in previous rounds of consultation (we understand this being due to a data hack on Hackney Council systems). The absence of that consultation material renders it unlawful to determine the present application. The Council is obliged to consider all of the representations which had been made since 2017. Much of what is said would still be applicable to the revised scheme, although much of it will not. If the

Council has lost the material, then it cannot meet its legal obligations. The only way around is for this application to be withdrawn or refused and a new planning application made, subject to a new statutory consultation.

Lastly, the description of development set out in the council's letter refers to "*partial demolition of existing buildings*", which we do not consider to be a fair or accurate description, the scope of demolition proposed being much more substantial and representing circa 80% of the locally listed buildings on site.

As such, we request that the council reconsult on the proposals, in a fresh planning application with a factually and legally correct description of development and which provides clear information on the changes to the scheme and the reasons for the council consultation.

In addition, and given the many objections to this controversial planning application, we would be grateful if the council could confirm that all previous objectors have been notified of the latest proposals and that all relevant statutory consultees, council departments and amenity groups have been reconsulted?

Loss of an important cultural use

London's culture and creativity is world-renowned and is the lifeblood of the city. Information from the Greater London Authority (GLA) indicates that the creative industries sector generates £47 billion per annum, accounts for 1 in 6 jobs and is the reason four out of five tourists visit the capital.

However, London's cultural infrastructure — from photography studios to grassroots music venues — faces a number of pressures, including rising rents and threats from development. The capital is set to lose a third of its artists' workspaces over the next few years and it is essential that creatives in London have access to a range of spaces to suit their diverse needs. At a time when London's cultural infrastructure is increasingly at risk, Holborn Studios' contribution is even more valuable and significant.

The Mayor of London is committed to protecting culture and cultural spaces so that the next generation of creatives are given the support they require to flourish. Planning protections for creative workspace including photography studios are clear in the adopted London Plan, Policy HC5 supporting culture and creative industries is a key policy but is not addressed at all within the applicants Planning Statement. The Mayors Cultural Strategy and Cultural Infrastructure Plan provides further detail and a city-wide evidence base of cultural infrastructure to inform planning and policy. The Mayor is seeking to establish Creative Enterprise Zones and is developing a Creative Land Trust to help London's creatives to access suitable workspace across the capital.

Culture is additionally important to the LB Hackney and rightly so. Indeed, the Planning Portfolio at the Council, led by Councillor Guy Nicholson is entitled the 'Department for Planning, Culture and Inclusive Economy', binding culture directly with good planning and economics.

Paragraph 6.9 of the Hackney Local Plan confirms that "*the contribution of arts, culture and entertainment is significant to Hackney's community needs, economic development, vitality and regeneration. There are a significant number of artists, designers and other creative professionals in the borough, and the creative industries contribute strongly to the local economy*".

The primary and principal spatial planning objective of the Hackney Local Plan seeks "*To deliver high quality urban neighbourhoods with distinctive architectural quality which respects Hackney's historic character whilst producing unique and innovative contemporary design that reflects Hackney's innovative and creative culture*" Policy LP10 is clear that "*Development involving the loss of arts, culture and entertainment facilities will be resisted, unless re-provided in accordance with other policy requirements*".

Put simply, the application proposals would result in the removal of the existing Holborn Studios use, destroying the culture and creative use of the site and undermining the cultural and creative industries of this part of the City Fringe.

The application proposals would result in the loss of a high-quality studio facility, regardless of who may operate it. The proposed basement space would not be suitable for a quality studio facility, or indeed much of a facility at all. The replacement commercial use is not an adequate replacement and further details are set out below.

Based on the above, the application proposals would be directly contrary to key planning policies set out in the adopted London Plan and Hackney Local Plan.

Employment Floorspace

The proposals would result in the loss of the existing commercial uses and business on site, including the Holborn Studios.

It would also result in the loss of affordable commercial floorspace given the rent paid by Holborn Studios and their sub-tenants.

Quantum of accommodation

The site is located in the Wenlock Priority Office Area (POA) and the Core Growth Area of the City Fringe Opportunity Area (CFOA). As such, it is one of the main locations in Hackney expected to deliver new employment floorspace over the next 25 years.

Based on the above, jobs, employment and employment floor space should be front and centre of the proposals. The proposals should be employment led. They are not.

The application proposes just 5,626 sqm of business floorspace. This is less than the 5,644 sqm original proposed. The application proposals are therefore worse in terms of employment quantum than the previously quashed decision and contrary to the priority office area policies of the development plan.

The scheme is effectively a replacement business floorspace scheme, the development providing just 842 sq m of additional business floorspace when compared to the existing buildings on site, a very small increase not reflective of and contrary to the planning policy status of the site as a key location for employment growth. The proposals do not optimise business floorspace and growth as they are required to do and as one would anticipate within a Priority Office Area. They instead seek to deliver a minimal additional amount as possible as a foil for the development of a huge number of residential units on top.

Affordable commercial space

The proposals would result in the loss of the existing commercial uses and business on site, including the Holborn Studios.

It would also result in the loss of affordable commercial floorspace given the rent paid by Holborn Studios and their sub-tenants.

Policy LP29 is clear that *“Major employment and mixed-use schemes involving the redevelopment of existing low cost employment floorspace must re-provide the maximum economically feasible amount of low cost employment floorspace in perpetuity (refer to Appendix 1), at equivalent rents and service charges, suitable for the existing or equivalent uses, subject to current lease arrangements and the desire of existing businesses to remain on-site”*.

The application proposals do not address this aspect of Policy LP29 and appear to propose a large reduction in affordable commercial floor space from 24% to 11.5% (alongside an even more substantial reduction in off-site affordable housing reduced from £757,076 to £170,000)

Practical utility of employment accommodation

The type and quality of employment accommodation is poor and reinforces the impression that the employment element of the scheme is a cover story to enable the delivery of luxury residential flats.

The critique of the employment floorspace has been set out on numerous occasions by Holborn Studios and the Studios wish to re-affirm their previous comments and criticisms in relation to the employment floorspace proposed as part of the consultation on this current application.

The space is substandard. It is not suitable for use as Studios or photography Studios. The floor to ceiling height is far too low. The proposed space has limited natural light (especially when compared with parts of the existing studio accommodation) and would generally be poorly lit, especially the basement which represents a significant amount of the proposed employment floor area but has limited commercial or practical utility and could only be used for storage space with no employment value.

With regard to the submitted application drawings, all of the columns (on page 3 basement floor plan) have been deleted. If they were accurately re-inserted (as shown on page 4 ground floor plan), it would re-affirm our client's concern that it would be impossible to shoot still or moving image photography within the space. Our client advises that if the building were built using these plans, then it would collapse and highlights our client's principal concern that the employment floorspace has not been fully considered or thought through and would have no practical utility as Studio space.

There is no route for any pedestrian access from the proposed site which is in the ownership of the Eagle Wharf Marina Ltd, who our clients advise have given no such permission. The proposed design encourages people to trespass, which is a criminal offence.

The access for people is poor, the access for people plus lighting, plus equipment plus plant, plus vehicles (all commonly required for Studio use) would be extremely challenging and is impractical as currently designed.

The Goods lift cannot be used as access for 200 people in an emergency and is impractical and dangerous.

Affordable housing

The application proposals put forward a substantial reduction in the off-site payment in lieu, affordable housing contribution being reduced from £757,076 to £170,000.

The affordable housing section of the planning statement fails to address Policy LP13(A), which states that "*New development must maximise opportunities to supply genuinely affordable housing on-site*". (*Our emphasis*) neither does it address London Plan Policy H4(B) which states "*Affordable housing should be provided on site. Affordable housing must only be provided off-site or as a cash in lieu contribution in exceptional circumstances.*" (*Our emphasis*)

Notwithstanding, any viability argument(s), which may or may not be made, the application is still required to demonstrate why affordable housing cannot first be provided on site if the objectives of LP13A and H4(B) are to be addressed, this challenge being especially pertinent as the proposals involve substantial demolition and new build elements where affordable housing could easily be incorporated as part of the design. The application approach has cascaded straight to a payment in lieu, assuming a reduced payment (based on a viability case) would automatically be acceptable without fully addressing why affordable housing cannot be first provided on site.

In addition, if it is the council's objective to maximise opportunities to supply genuinely affordable housing on site, the council should investigate to what extent any payment in lieu could be recycled or re-invested into the delivery of affordable housing on site and how much affordable housing such a payment (as may be agreed) could yield.

Viability

We understand that the council shall shortly be publishing some further information on viability, specifically the outcome of the Stretton's FVA review report 2020, which has only been summarised in the letter from Hackney Property Services and we look forward to the council's full publication of this document online for completeness.

The council shall be aware of the critical importance of transparency when it comes to the publication of viability information in the context of the Government's Planning Practice Guidance (PPG) and London Plan Policy H5.

The failure of the Council to make viability information publicly available could render any decision to grant planning permission unlawful -see the High Court in R (Holborn Studios Limited) v LB Hackney [2020] EWHC 1509 (Admin).

Heritage

Holborn Studios was added to the 'local list' in 2014 by the London Borough of Hackney and is also a defined 'Building of Townscape Merit' within the Regents Canal Conservation Area. In addition to the local designation, the Council have identified that the Studios make a positive contribution to the character and appearance of the Conservation Area. For the purposes of decision making, there are therefore two considerations, both direct effects, firstly on the character and appearance of the Regent's Canal Conservation Area (as a designated heritage asset) and secondly, on Holborn Studios (as a non-designated heritage asset).

Holborn Studios as a non-designated heritage asset

Government guidance defines non-designated heritage assets as being "*buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets*".

Holborn Studios was added to the local list in 2014 by the London Borough of Hackney and is a defined 'Building of Townscape Merit' as set out on page 62 of the Regents Canal Conservation Area Appraisal, Holborn Studios having therefore been "*identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions*".

The significance of Holborn Studios as a non-designated heritage asset is considered to be its quality and attractiveness as an original factory building and as one of the last remaining buildings in the locality, which retains its original role, character, function and relationship with the canal.

The Regents Canal Conservation Area Appraisal describes how many of the remaining factory buildings in the area form part of Holborn Studios and that "*The Commissary, a bar and restaurant with a large conservatory overlooking the canal and extensive outdoor seating is part of Holborn Studios and is an attractive and sensitive conversion of an industrial building*".

In addition, the use of Holborn Studios is also considered to have a degree of heritage significance. This is because the Studios incorporate a world leading, highly valued and important cultural use, which has occupied, and which has formed the life of the building for decades.

As such, it is considered that the heritage significance of Holborn Studios as a non-designated heritage asset is defined by both its physical fabric and appearance (being an original and attractive remaining factory building) and its use (as an important cultural use of longstanding).

Paragraph 203 of the NPPF states that "*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset*".

Planning Policy LP4 of the Hackney Local Plan states that: *“Development proposals affecting non-designated heritage assets should conserve or enhance and reveal the significance of the assets and their settings”*

The submitted application proposes the substantial demolition of the existing Holborn Studios and proposes to substantially change the use of the site. The application proposals have not taken any account of the significance of the non-designated heritage asset as described above. As such, the proposals do not comply with Paragraph 203 of the NPPF.

With regard to Policy LP4, the proposals would not conserve or enhance but would total destroy the heritage significance of the Holborn Studios in terms of both its physical fabric and its use as identified above. The proposal would therefore be contrary to Policy LP4.

The impact of the proposals on the character and appearance of the conservation area.

It is necessary to assess the impact of the demolition of the non-designated heritage asset (i.e., the Holborn Studios), on the designated heritage asset (i.e., the Regents Canal Conservation Area). This is because the substantial demolition of the Studios would have an impact on the character and appearance of the conservation area because the Studios are considered by the Council (in their relevant documents) to make a positive contribution to the conservation area.

The contribution the Studios is considered to make to the character and appearance of the conservation area is based on its external appearance being an attractive original building incorporating a sensitive use, its importance being increased by the fact that the Holborn Studios is one of the last remaining original factory buildings along the canal.

The Holborn Studios are also important to the conservation area as a key focal building, the Holborn Studios being a defined focal point in key local views, the Studios being identified as one of *“The most important buildings and views that act as focal points”* within the Regents Canal Conservation Area Appraisal. As such, the contribution the Studios make to the character and appearance of the conservation area is increased by virtue of its prominence as a key focal point and focal building in local views.

The application proposals would lead to less than substantial harm to the designated heritage asset being the Regents Canal conservation Area.

Paragraph 202 of the NPPF states *“where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use”*

It is considered that the current proposals deliver no planning or public benefits, being even weaker than previous applications. One example of the retrograde approach on public benefits being a substantial reduction in the off-site payment in lieu, affordable housing contribution being reduced from £757,076 to £170,000. Another example being the reduction in affordable commercial floor space from 24% to 11.5%.

Based on the above, the proposals deliver no planning or public benefits to outweigh the harm caused to the heritage assets or to mitigate against the conflicts with the NPPF and adopted policy.

Energy and sustainability

London has declared a climate emergency. The planning policy and statutory framework in relation to climate change both globally and locally has changed drastically since the previous planning decision. Proposals for development cannot do the same as what they may have done before, they need to grasp the environmental challenge and deliver meaningful contributions while future proofing against climate scenarios. The current proposals do not rise to this challenge.

As far as we can see, the application does not address Urban Greening or provide an Urban Greening Assessment or Urban Greening Score as required for major applications by London Plan Policy G5.

The application does not provide any justification for the environmental and embodied energy impact associated with the substantial demolition of the existing buildings, the embodied carbon within the existing building and its structure and the impact the demolition has on the overall ability of the scheme to comply with key policy standards in relation to reuse and carbon efficiency. An embodied carbon or Circular Economy assessment has not been undertaken to address this point.

There is an equivocal statement in the XCO2 report on the Carbon Offset payment being subject to viability. The GLA are clear that all new residential development must be zero Carbon.

The area of roof-top PV has not been maximised in accordance with policy (only one of several possible roofs has a proposed array).

There is no acoustic assessment for the impact of the new air source roof plant on the existing residents around Eagle Wharf Road.

The applicant's analysis shows that more than half the dwellings will overheat in DSY2 and DSY3 future weather scenarios, overheating of flats in anticipated warmer future climates being a key current issue as it has both a habitability and environmental implications.

Summary

A full and current analysis of the planning merits of the case should clearly lead the decision-maker to conclude that the scheme should be refused. There is insufficient justification for the scheme; the merits do not outweigh the significant harm and it will be detrimental to the Studios, detrimental to creative industries across London, detrimental to the heritage assets and detrimental to the Borough. A fresh analysis of the scheme against the current 2021 planning policy regime, which includes much more stringent sustainability and climate change objectives should conclude that planning permission should be refused as this scheme is unjustified and materially harmful with no overriding reasons to grant planning permission in these circumstances.

We trust these comments are helpful. Holborn Studios reserve their right to submit further representations at any time.

Please contact Kieron Hodgson or Gill Eaton of this office should you have any questions or wish to discuss any aspect.

Yours Faithfully,



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