

BY FAX AND POST

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Dear Sirs

Kings Cross

We act for the London Borough of Camden in relation to the proposed redevelopment of land at Kings Cross. We have been passed a copy of your letter of the 8th September.

Thank you for raising the issues that you have identified. It is always useful for Local Planning Authorities to be aware of, and be able to address where appropriate, matters that have caused concern, especially to local residents and groups. As you may know the Committee will soon be considering the detailed planning agreement in accordance with its resolution of the 9th March and will be made aware of the issues raised in your letter in an appropriate manner.

Your letter raises eight separate issues some of which have a number of parts. We will refer to each of the main headings either to provide a response, where possible, or to indicate the approach that the Council proposes to take in relation to the point raised.

Preliminary Point

You suggest that the Committee's decision needs to be reviewed in the light of the adoption of the RUDP. We believe that the Committee was fully aware of the status of the UDP and RUDP when the decision was taken and were aware that the RUDP would soon be adopted. However, the Committee will be reminded in the proposed Committee Report both of the adoption of the RUDP and that the policies that it contains have now become part of the development plan. To the extent necessary they will also be reminded of other material considerations that have changed.

1 Affordable Housing

Your concerns about the reporting of policy and the figures quoted are noted. Thank you for drawing attention to the figure of 30% in the written answer. That was a typographical error and, as the Officers' Report made clear, the figure should have been 35%.

DentonWildeSapte

We note your interpretation of the policy framework. We believe that the policies were properly identified and explained in the Officers Report and that the Committee was able to interpret them. The Committee was aware, through the Committee Report, of both the existing and the proposed revised affordable housing policies, as well as the percentages of each type of affordable housing tenure. In fact the percentage targets in the proposed and adopted RUDP are identical. As you appreciate the weight to be afforded to policy is for the Committee to determine provided that they do not act *Wednesbury* unreasonably in doing so.

The Committee will be reminded of these matters in the proposed further Committee Report. This will be presented in the context of the adoption of the RUDP.

2 *Heritage and Conservation Issue*

In the proposed report the Committee will be provided with and will consider the finalised planning agreement. They are already aware of the proposed conditions. As you will be aware the Committee has already considered whether they are satisfied, in the context of the application documents and the development that is proposed, whether the proposed demolition and other works are justified. That consideration necessarily took account of the relevant policies. It also took account of detailed conditions to be attached to the permission and consents, and the proposed obligations in the Heads of Terms, relating to heritage and conservation issues. As a result of the proposed further Committee Report, the Committee will be able to consider whether there is anything contained in the finalised planning agreement and conditions which requires further consideration of these issues.

Please see below in relation to whether there was an "impermissible flexibility" in the proposals or "inadequate information".

3 *Environmental Impact Assessment*

The Council considered the environmental information in front of them when resolving to grant planning permission and the associated consents. The development was clearly described. As you will be aware there are parameters that set the limits of the development in order to ensure that the likely significant environmental effects were capable of being considered. The Committee satisfied itself as to the likely significant effects. They also satisfied themselves as part of that exercise that they had sufficient information in front of them as to the nature of the scheme and the likely significant effects of the scheme to come to a proper determination.

As you will appreciate Officers were of the view that all likely significant effects had properly been considered and that there was sufficient information about the proposals for a proper analysis to be undertaken. English Heritage concurred with that view in relation to listed buildings and conservation areas. The analysis took account of the guidance in cases such as the *Gloucester Blackfriars* case. Where conditions were proposed they were to ensure that the detailed effects of the proposals could be properly controlled and not in order to defer consideration of a likely significant environmental effect.

4 *Strategic Environmental Assessment*

We believe that the wording of the RUDP is clear. We do not believe that there is any material conflict between the paragraph quoted, the approach adopted to the applications and the Committee's consideration of the applications.

We do not think that it can plausibly be maintained that the "*programme of development proposed by the developer*" (whatever that means) falls within the scope of Directive 2001/42/EC. In any event all likely significant environmental impacts were identified in the environmental assessment.

5 *Air Quality*

Your views and interpretation of the relevant policy guidance and Directives are noted. The Committee will be reminded of the relevant provisions in the proposed Report. Clearly the likely significant environmental impacts of the development on air quality was an issue identified in the environmental assessment.

DentonWildeSapte

For the avoidance of doubt we do not believe that it is correct, as a matter of law, that the Committee is under a "*clear and absolute legal obligation to take the necessary steps to prevent activities which would increase pollution levels above the permitted levels*" if, by this, you are implying that permission necessarily had to be refused.

6 *Blue Ribbon Network*

Your views and interpretation of the relevant policy guidance are noted. The Committee will be reminded of the relevant policies in the proposed Report.

7 *Critical Mass and Floorspace Limits*

We believe that the planning application and associated materials and the Officer's Report makes the position clear on the appropriate level of business and employment floorspace. The Committee will be reminded in the proposed Report of the levels of development and other relevant material.

8 *Ambiguity over Resolutions*

The Committee has ratified the minutes of the meeting of the 9th March 2006 which is the record of the resolution. We believe that the resolution is clear on its face and needs no further interpretation.

Officers have been working towards a final draft of the proposed detailed planning agreement. This will be referred back to Committee for final consideration alongside any other representations received which officers will also report and address. As part of the context the Committee will take account of all material consideration and, in the light of your letter, be reminded of the relevant legal, policy and factual context. It is likely that the detailed S106 agreement will be considered by the Development Control Committee in November. Officers intend making sure that all issues that need consideration are addressed.

Other Matters

In the first paragraph on page 2 of your letter you indicate that it sets out "*a number*" of the concerns. Please confirm that there are no concerns that have not been raised.

Given the stated intention to refer the agreement, and other issues, back to Committee please confirm that you will not seek permission to apply for judicial review until after that referral process.

For the avoidance of doubt we do not accept that alleged concerns "*vitiate*" the resolutions of the 9th March 2006.

Please acknowledge receipt of this letter.

Yours faithfully

Denton Wilde Sapte

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