

King's Cross—Think Again Campaign

contact details at the end

30 October 2006

Dear Councillor,

Why the planning decisions on King's Cross Central need to be re-opened

We are writing to every councillor to summarise the reasons why Camden should reconsider the outline planning permissions granted to Argent in March. We urge you to seek urgent modifications to the scheme in discussion, not just with the applicants but also the community.

The consent given in March is currently a provisional one. Camden has not yet given the final consent which would make this a 'done deal' because final approval can only be given after agreeing the s.106 benefits, due to come back to Development Control Committee on 16 November. It is within the Council's power to re-open consideration of the provisional decision. Indeed, it is the view of our lawyers that you risk acting unlawfully if you do not do so.

We have no desire to hold up redevelopment, which in any case cannot begin till the end of next year. Reopening consideration of the scheme now would in fact be a quicker process than the possible alternative of taking the case to judicial review. While the developers could appeal, such a planning appeal would also be long drawn out (and we do not believe Argent would wish to hold the scheme up themselves).

Our solicitors, EarthRights, acting on advice from barristers, have already written to Camden's solicitors, Messrs Denton, Wilde, Sapte, replying to Camden's response to our legal challenge of 8 September. But to make sense of that letter you really have to read the other two documents first. To help you understand what is at stake we have summarised the whole argument below. Copies of the three letters are available by clicking on the links at the end of this letter.

1. An outline permission would not be lawful.

We have long argued that it is quite wrong for a development this big, which will take 10-20 years to complete, to be decided on an outline consent—effectively a binding commitment that gives the developers a blank cheque within the immensely flexible range of options they put forward.

- It would mean the Council giving away its power and responsibility to regulate later stages of the development in the context of changing needs and policies, new environmental imperatives and the success or failure of the early phases.
- An outline application has made it impossible for the Council to judge properly whether to grant listed building and conservation area consents—

because they can't tell what the replacements would look like for buildings proposed for demolition, like Stanley Buildings North and Culross Buildings. Our lawyers advise that Camden would be acting unlawfully if they gave permission. The courts have already granted judicial review against similar applications.

- This outline application has also made it impossible for a full and proper Environmental Impact Statement to be prepared, and in this respect the Council would be acting unlawfully in granting an outline permission. A number of legal cases cited by our solicitors in their letter of 8 September reinforce this.
- Finally, only this month, the Secretary of State refused outline permission for a 'gateway' development at Cory's Wharf in Purfleet. Paragraph 63 of her decision declares that she 'does not consider that outline applications provide sufficient information to enable her to conclude that [the applications] would result in developments of an acceptable standard' and 'that there is a significant objection to the proposal on the basis that because the application is in outline, the design could not be carefully assessed at the application stage, as would be the case with a full application'. The points apply with full force to the present applications. In addition, paragraph 46 states that 'The Secretary of State agrees with the Inspector ... that tall building proposals should not be granted permission on the basis of outline applications.' Unlike King's Cross, Cory's Wharf is not a Conservation Area and contains no listed buildings.

2. Housing.

Like many local people, members of Development Control Committee made it clear in March that housing was a key issue for them. Unfortunately the advice given them on affordable housing was in several respects inadequate or misleading.

- The officers stated, in their report to the Committee in March, that they had 'not identified any material departure from policy.' The Revised Unitary Development Plan, was at that time in draft and there was no statutory obligation to decide the proposals in accordance with it. It requires 50% affordable housing on the site with a guideline of 70% of that to be social housing for rent. The RUDP was adopted as policy in June, and Camden must now decide on the scheme in accordance with this *new* policy. The current scheme proposes only 40–44% affordable housing.
- Despite this, officers gave inaccurate advice to members during the March meeting, implying policy targets were being achieved. Camden's solicitors agree with the point in our letter before action that members were wrongly advised at the time that the policy target was for 30% of affordable housing to be social rented housing, when it should have been 35%.
- We have also pointed out that not only were members wrongly advised of the target percentage for social rented housing, they were also wrongly advised of the actual levels put forward in the proposals. In fact, the proposed social rented housing (500 units) *at best* accounts for 29.4%, of

the total housing provision (including 74 units to replace those lost in Stanley and Culross Buildings) falling well short of the 35% target.

3. Heritage and conservation issues.

Demolition of listed buildings and buildings within a Conservation Area can only be justified by analysing the potential social and economic benefits of a replacement scheme. An outline scheme cannot provide enough information to make this assessment, as detailed proposals will only be made as 'reserved matters' applications.

Nor can the impact of the scheme be assessed on the remaining listed buildings and Conservation Area.

4. Air quality.

The area already has worse air pollution than the permitted level and, in such conditions, no local authority has power to approve a scheme which could make matters worse. The present proposals are acknowledged by Camden and by Argent as contributing to worse air quality and we contend that they must be modified in order to have a beneficial or neutral impact. There are many ways in which this could be done.

Our lawyers write 'To allow the development to proceed in its present form would not only be unlawful, it would also send out the clearest signal across the EU of Camden's contempt for pollution limits set at the highest level and of the widest application'.

5. The canal.

Development on and beside the Canal must conform to the London Plan's 'Blue Ribbon Network' policies which require that waterside planning should prioritise activities which need or benefit from such locations including 'water transport, recreation, wharves and flood defences'.

We are advised that the application fails to comply with this policy, and that the Development Control Committee was not properly advised of that in March. We urge you to consider carefully whether a scheme which does not conform to these important policies should be permitted.

6. How much business space is needed?

The applicants say that the amount of business/commercial (mainly office) space applied for is the minimum necessary to create a so-called 'critical mass' in the area. Your officers accept that analysis without any evidence to support it. Even if they were right, their advice to you was that the *maximum* space applied for supplied the necessary minimum floorspace. If the maximum amount applied for (over 400,000 m²) really were the necessary minimum, there would not be enough space in the scheme to build all the promised housing.

Our lawyers have pointed out the lack of evidence to support the office floorspace argument. Camden's solicitors reply simply that they believe the Officers' Report (for 8/9 March) made the position clear.

What next?

Camden's solicitors have replied to our challenges merely by promising to 'draw the attention' of Councillors to the various matters when the Development Control Committee returns to the matter. In our view you deserve better advice than this.

We have not begun this legal challenge lightly and we would far rather it did not have to go further—it would be costly of money and time for you and for us. Among the groups and individuals listed below are people who have campaigned for decades to make King's Cross a better place—because we care passionately about its future. Our top priority is to secure a scheme here which better serves Camden and Islington people, and the needs of London.

Planning law and policy as well as Camden's own policies require a better scheme than this:

- There needs to be more affordable housing, as required by your policies, and more of it needs to be the family-sized units we so urgently need locally.
- There should be a scheme that, as planning law requires, you know will be of sufficient quality to enhance the setting of the listed buildings not one that might or might not, depending on the whim of the developer.
- There should be no demolitions without certainty about what will replace them: that requires another look at keeping heritage buildings like Stanley North and Culross (Regent's Quarter sets a standard for imaginative conservation).
- There need to be changes so the scheme improves rather than harms air quality to comply with European law.
- There should be revisions to enhance 'blue ribbon' uses of the canal rather than detract from them.
- The development should not be dominated by office development simply because that maximises the developers' investment. It is important that a viable mix of employment opportunities are provided to benefit a range of employment / skills

The Council needs to reopen consideration of the whole scheme to deal with these issues. If it does, there will be other improvements you will be able to consider. But we will not have the chance to get a better scheme--the regeneration local people have wanted for so long--unless Camden decides to think again.

Signed

(Michael Edwards and Marian Larragy for) King's Cross Railway Lands Group

(Diana Shelley for) Cally Rail Group

(Del Brenner for) Regent's Network

(Ernest James for) King's Cross Conservation Area Advisory Committee

(Rob Inglis for) Cultural Interchange Partners

(Andrew Bosi for) The Islington Society

Sian Berry and other members of Camden Green Party

Miriam Harriot, Gillian Hall, Federica Ambrosini, Bob McMahon,..... and other individual residents

Download the documents referred to in this letter.

click on these links or copy-paste them into your browser:

8 September EarthRights letter to Camden:-

<http://www.kxrlg.org.uk/news/01a%20CamdenLBC.PDF>

29 September Camden's solicitors' reply:-

<http://www.kxrlg.org.uk/news/CamdenLBCDWSR060929.pdf>

16 October EarthRights response to Camden's solicitors:-

<http://www.kxrlg.org.uk/news/EarthRightstoDWS061016.pdf>

Press releases and other papers: <http://www.kxrlg.org.uk>

Sent by the King's Cross Railway Lands Group, acting as lead organisation for the King's Cross Think Again Campaign.

Any reply may be addressed to office@kxrlg.org.uk