



Appeal Decision

Inquiry Held on 30 January to 2 February 2024

Site visit made on 2 February 2024

by M S Wiltshire CEng, MICE

an Inspector appointed by the Secretary of State Of course

Decision date: 9th May 2024

Appeal Ref: APP/V5570/W/23/3326166

Archway Campus, 2-10 Highgate Hill, London, N19 5LP

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 on grounds of non-determination to grant full planning permission.
 - The appeal is made by Seven Capital (Highgate Hill) Ltd and SET against the London Borough of Islington.
 - The application Ref P2022/4011 /FUL, was dated 21 November 2022, the 13-week target date for a decision was 21 February 2023.
 - The development proposed is described as full application for temporary use of existing buildings for non-residential artists' studios and exhibition space (Sui Generis).
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Seven Capital (Highgate Hill) Ltd and SET against the London Borough of Islington for a partial award of costs in respect of the Community Infrastructure Levy (CIL) contributions issue. This application shall be subject of a separate Decision to follow.

Preliminary Matters

3. The agreed Statement of Common Ground (SoCG) between the parties states the following main changes to the proposed development:
 - a 2 year consent period instead of 5 years; and
 - providing a maximum of 220 artist studios/ exhibition space (a total of 8,588 sq.m) instead of 326 studios previously proposed.
4. The agreed Statement of Common Ground (SoCG) between the parties confirms that the issues which remained in dispute, based on the Council's putative reasons for refusal (RF), were:
 - Reason 1 - the need for artists' studios/exhibition space;
 - Reason 2 – the effects of the cessation of the temporary use (note: not pursued, see paragraph 5 below);
 - Reason 3 - whether or not the proposed development would accord with adopted residential-led development planning policy for the site;

- Reason 4 - the implications of the proposed development for future CIL contributions; and
 - Reason 7- whether or not the proposed development would achieve appropriate fire safety standards.
5. The Council's closing comments¹ stated [para. 94] that reason 2 is not pursued in light of evidence presented of meanwhile use users being able to move on to other facilities as supply increases.
6. Policy D5 relates to inclusive design, this matter was agreed by the parties before the inquiry and is therefore not considered further.
7. At the end of the Inquiry the parties provided an Addendum to Statement of Common Ground. This provided a list of the key policies the parties agreed are relevant to the appeal scheme as being:
- London Plan Policy D12 – Fire safety;
 - Strategic Development Management Policies Policy H1 – Thriving Communities;
 - Strategic Development Management Policies Policy R9 – Meanwhile/ temporary uses;
 - Strategic Development Management Policies Policy ST1 – Infrastructure Planning and Smarter City Approach;
 - Site Allocations DPD ARCH5 – Archway Campus, Highgate Hill.

Main Issues

8. In light of the foregoing, the main issues are:

Issue 1

Whether there is a need for the proposed meanwhile use having regard to its scale and any specific need for artists' studios/exhibition space identified by the Council in accordance with Policy HC5 of the London Plan and Local Plan Policy R9.

Issue 2

Whether the proposed meanwhile use, by reason of: (i) the period of use proposed; (ii) its proposed scale, (iii) extent of occupation across the site, and (iv) its timeframe for roll out, would impede the policy priority for the residential led redevelopment of the site and the urgent delivery of conventional housing, contrary to: (i) Site Allocation ARCH5 (2023); (ii) the urgent imperative to deliver conventional housing on the site reflected in the housing targets in Local Plan Policy H1; and (iii) Local Plan Policy R9.

Issue 3

Whether the CIL contributions from the residential development are a necessary material consideration under s.70(2)(b) and, if so, whether the proposed meanwhile use, which is expressly pending long term residential development of the site, would result in a substantial reduction of the projected CIL contributions

¹ Closing comments on behalf of the London Borough of Islington [ID8].

that residential development would generate resulting in a loss of necessary enhancements to services and the environment contrary to Local Plan Policy ST1.

Issue 4

Whether the proposal fails to provide sufficient detail to demonstrate that the operation of the proposed meanwhile use would achieve the highest standards of fire safety and ensure the safety of all building users, contrary to Policies D5 and D12 of the London Plan.

Reasons

9. Before dealing with the specifics of issues 1 and 2, the following deals with the policies to which these issues relate.
10. The Council contends that the proposed meanwhile use (MU) is of a far greater scale than the limited local need for artists' studios/exhibition space that has been identified by the Council. It is submitted that it is therefore contrary to Policy HC5 of the London Plan and Policy R9 part B of Islington's Local Plan: Strategic and Development Management Policies 2023.
11. The Council also submits that the proposed MU would impede the policy priority for the residential led redevelopment of the site and the urgent delivery of conventional housing. It is asserted that the proposal is therefore contrary to:
(i) Site Allocation ARCH5 (2023); (ii) the urgent imperative to deliver conventional housing on the site reflected in the housing targets in Local Plan: Strategic and Development Management Policies (2023) H1; and (iii) Policy R9 - Meanwhile/temporary uses.
12. The parties disagreed on the interpretation of the policies.
13. Policy HC5A of the London Plan supports growth of cultural facilities and states that development plans and development proposals should consider MUs for creating uses in town centres, cultural quarters and other areas. The recently adopted Local Plan does so in Policy R9 subject to criteria.
14. For sites planned for redevelopment, as here under Site Allocation ARCH5, Policy R9B is triggered, and MU will be appropriate where various criteria are met.
15. The Council emphasised the following criteria:
 - (i) not precluding permanent use [RF3];
 - (ii) the proposed use contributes to the function of the area or meets a specific need identified by the Council [RF1], the Council arguing that one or other has to be met, not both.

Issue 2: Accordance with residential-led redevelopment of the site [RF3]

16. The parties presented much conflicting evidence regarding estimated timescales concerning the MU and the permanent redevelopment, which I have carefully considered. The following paragraphs are a brief summary of the parties' conclusions.

17. The Council argued that there is likely to be at least a nine-month clash between the period sought for this MU and the implementation of the expected timeline for ARCH5, which is unacceptable to the Council, as it would potentially delay the permanent development. The Council pointed out that a MU is pending the development and not overlapping with it or preventing it. In addition, it submitted that no evidence was provided as to how the two uses could proceed concurrently. The Council submitted that to avoid the clash, it is necessary to restrict any MU permission to at most 15 months with consequences to the benefits. The Council's conclusion is that there is a breach of R9B(i), a consequent clash with the H1 housing delivery, and therefore a key relevant non-compliance with the development plan as a whole.
18. The Appellant's view on the impact on the permanent redevelopment of the site differed from the Council's. Its points of argument included: the much shorter 2-year temporary permission now sought; there would be a worst-case potential overlap between the commencement of the permanent permission and the temporary permission elapsing; phasing out certain buildings from the temporary use in order to start to carry out redevelopment works; there is no way of now meeting the ARCH5 deadline for completing the permanent scheme, the temporary scheme would not be the cause of failing to meet the deadline; and provision of evidence to support its 12-week timeframe of making the buildings on site ready for occupation.
19. Turning now to my considerations, Policy R9B(i) stipulates that any meanwhile use will be appropriate where '*the meanwhile/temporary use does not preclude permanent use of the site, particularly through the length of any temporary permission*'. Based upon the parties' submissions there are clear differences between them regarding the timescales for the MU and the potential overlap between that use and the permanent use and how that could be accommodated. I have had regard to the various points raised in relation to the potential clash between the MU and the permanent development, the potential delay to preparatory and demolition works for the permanent development, and how the two uses could proceed concurrently. However, I concur with the Council that there is likely to be at least a nine month clash between the period sought for the MU and the implementation of the expected timeline for ARCH5. Furthermore, I consider that there is insufficient evidence to show that the two uses could reasonably operate at the same time during any overlap period. I therefore consider that the 2-year length of this temporary permission would be likely to place further time pressure on and unacceptable delay to the achievement of the permanent use of the site. This is not a matter that I consider could be satisfactorily overcome by planning condition.
20. The Council argued that given its conclusion that there is a breach of R9B(i), R9 is breached. I agree with the Council that each criterion of R9B need to be met.
21. I therefore conclude that Policy R9 is not complied with and the policy priority for the residential led redevelopment of the site and the urgent delivery of conventional housing would be impeded. I accord this substantial weight against the proposal because of the potential delay to conventional housing through the length of the temporary planning permission.
22. For these reasons, therefore, the proposed MU would impede the policy priority for the residential led redevelopment of the site and the urgent delivery of

conventional housing, contrary to: (i) Site Allocation ARCH5 (2023); (ii) the urgent imperative to deliver conventional housing on the site reflected in the housing targets in Local Plan Policy H1; and (iii) Local Plan Policy R9.

Issue 1: Need for artists' studios/exhibition space [RF1]

23. Because of the Council's conclusion that R9B(i) is breached, it addresses R9B(ii) more shortly. The Council accepts that there is policy support for appropriate creative MUs in the London Plan HC5 and in R9, including in the Creative Enterprise Zone (CEZ). Addressing the function limb of R9B(ii) the Council argues that it is impossible to see how the proposal contributes to the function of this residential (and hospital) area beyond the town centre, and the CEZ. Regarding need for studios for a short period, the Council maintains there is no evidence of the short-term need.
24. The Council acknowledged benefits from providing cheap accommodation to a large number of artists, but maintained these have to be understood in the context of: the short period; scale of need; and the multiple changes to the proposals which have reduced their scale and the benefit they provide.
25. Regarding claimed benefits to the protection and security of the buildings the Council asserted these have to be understood in the light of: failure to protect the site to date; the very short remaining time period; easy steps that could be taken to achieve the same result; and the buildings are going to be demolished or only facades retained.
26. Regarding the need issue [RF1], the Appellant highlights the word "or" in R9B(ii), requiring that the developer shows either that the MU contributes to the function of the area or that it meets a specific need identified by the Council, maintaining that there are alternative ways of complying with B(ii).
27. The Appellant maintained that the Council had misinterpreted R9B(ii) in its RF1 by specifically alleging a breach on account only of need, with no mention of the alternative way of complying by showing that the proposal would contribute to the function of the area; I consider the Appellant's interpretation reasonable.
28. The Appellant highlighted that the site is right up against the boundary of Archway town centre, an area designated as a CEZ by the Mayor. It contended that locating temporary artistic uses right on the doorstep of a CEZ would make a contribution to the function of the area.
29. Archway town centre, which borders the site, is not predominantly residential, the site is not in residential use and never has been, and Whittington Hospital immediately west of the site is not residential either. My conclusion is the function of this area is not predominantly residential. The Mayor and the Council have jointly agreed, in establishing the CEZ, that they want to see more creative activity in Archway town centre. I consider that allowing artistic uses temporarily on land that is on the border of the town centre is going to contribute to this aim. I therefore prefer the Appellant's argument that the proposal would contribute to the function of the area.
30. The parties submitted conflicting evidence regarding specific need for artists' studios. The Appellant concluded that it was not plausible to suggest that a scheme of 195 temporary artists' workspaces (equating to an estimated 390 artists) would exceed the need for such workspaces when local need, need from neighbouring London Boroughs, and need from Greater London as a

whole are considered. The Council contended that there is no evidence demonstrating anything like this scale of need generally, never mind for such a short MU.

31. Taking the Appellant's evidence regarding numbers of estimated artists locally, from neighbouring boroughs, and from Greater London, I consider that there is a specific need for artists' workspaces.
32. In relation to the proposed MU contributing to the function of the area or meeting a specific need as required by policy R9B(ii), I consider in the light of the Appellant's evidence that the proposed MU would achieve that.
33. However, I have already concluded that each criterion of R9B need to be met, and as there is a breach of R9B(i), R9 as a whole is breached. Nevertheless, the provision of artists' studios to meet a demand is a benefit to be weighed in the overall planning balance.

Issue 3: Implications for future CIL contributions [RF 4].

34. The Council maintained that the proposed MU, which is expressly pending long term residential development of the site, would result in a substantial reduction of the projected CIL contributions that residential development would generate. It is argued by the Council that the CIL contributions from the residential development are a necessary material consideration. As such it is contended that the proposed change of use would result in a loss of enhancements to services and the environment necessary as a consequence of demands created by a residential redevelopment of the site, contrary to Local Plan: Strategic and Development Management Policies (2023) Policy ST1 on Infrastructure Planning and Smart City Approach.
35. The parties disagreed on whether the CIL contributions from the residential development are a necessary material consideration and made legal submissions in advance of the hearing [CD6.7 and CD7.7].
36. In closing the Council summarised its legal submissions which rely on what it terms the two *Newbury*² tests being met which were most recently applied by the *Supreme Court in R(Wright) v Resilient Energy Severndale Ltd [2019] UKSC 53*. The first *Newbury* question is whether the consideration (loss of CIL arising from the MU) serves a planning purpose, namely being "rationally related to land use issues". The Council presented evidence that a loss of CIL is related to land use issues in the area.
37. The second *Newbury* test is whether the consideration is "fairly and reasonably" related to the development for which permission is sought. The Council maintained "that the £7.8m offset when ARCH5 comes forward is the inevitable, direct, mandatory and automatic effect of *this application*, which would not arise *but for* this application and can only arise *because* of this application."³ The Council concludes that the CIL offset and its planning effects are fairly and reasonably related to this application.
38. The Council states that it is unnecessary to go further with this argument, but also contends that this is a "CIL mitigation scheme" which further

² *Newbury v SSE*.

³ Para 98: Closing comments on behalf of the London Borough of Islington.

demonstrates that the consideration is “fairly and reasonably” related to this application.

39. Regarding weight of this factor; the Council asserted that the £7.8m CIL offset is a significant proportion of the CIL receipts of the Council. It maintained that infrastructure plans would have to be scaled back or not delivered. It considered significant weight should be attached to this factor. It submitted that those impacts for the wider community outweigh the time-limited benefits arising from the MU for a short period.
40. The Appellant’s legal submissions expanded on its response to the Council’s fourth putative reason for refusal, arguing that it is unreasonable to refuse planning permission by reference to projected CIL contributions for a different development proposal that is not yet even the subject of a planning application; and the projected CIL contributions are not material to the application.
41. The Appellant cited case law in support of its position. It concluded that applying the framework identified in the *Mount Cook Land* case a financial obligation potentially attaching to future development proposal for the site is not a material consideration for the purposes of s.70(2) of the Town and Country Planning Act 1990. It further maintained that even if this is a material consideration it would be irrational to give it any or sufficient weight so as to defeat the application proposal.
42. On the question of the materiality of the potential CIL payments and the applicable legal principles, I prefer the approach of the Council and agree that the *Mount Cook* case is not directly on point and it is the *Newbury* tests that are most relevant to the particular circumstances of this case.
43. In relation to the first *Newbury* test, as a matter of principle, I consider that the payment of CIL and collection of CIL serves a planning purpose. The payment of CIL is triggered by the commencement of development permitted by a planning permission and the overall purpose of CIL is to ensure that costs incurred in providing infrastructure to support development of an area can be funded. The potential payment of CIL is a consideration related to land use which serves a planning purpose.
44. As regards the second *Newbury* test, in the light of the Council’s evidence on this topic, I am satisfied that the payment of CIL for the potential future residential use of the site is intrinsically linked to the proposed development and the CIL offset and its planning effects are fairly and reasonably related to the proposed development. I therefore conclude that this is a material consideration which may be taken into account.
45. I shall now turn to the second part of this issue, namely, whether the proposed MU would result in a substantial reduction of the projected CIL contributions that residential development would generate, and the implications of that in the light of Local Plan Policy ST1.
46. The Appellant asserted that there were additional policy matters relating to the Council’s collection and expenditure of CIL that needed to be considered. The main points include the Council’s ability to put forward proposals to revise the charging schedule; the Government’s relaxation of the vacancy test to extend

the original 12 month period to 3 years and the relationship between CIL and s106 obligations.

47. The Council put forward several reasons against the argument that the loss to public infrastructure could be avoided because the sums could instead be claimed through s106 obligations. It cited the Supplementary Planning Document (SPD) [CD8.8] explaining how ST1 is to be applied regarding CIL versus s106. It referenced paragraph 2.18 of the SPD that sets out that s106 requirements can be sought in relation to a list which does not include matters which it argued are funded by CIL. It concluded therefore, that were a developer to be asked to contribute by way of s106 to those matters they would be able to argue that they are to be provided by CIL.
48. With regard to the suggestion that the Council could make up any shortfall in contributions by changing its CIL rate, it asserted that CIL rates have been considered recently and the rates judged appropriate; that there is no evidence that higher rates would be viable.
49. It is not disputed by the parties that the proposed MU would result in a substantial reduction of the projected CIL contributions that residential development would generate.
50. However, the Appellant has argued that any shortfall in infrastructure funding could be made up either by revising the CIL charging schedule, or through seeking s106 obligations. The Council has refuted these arguments, and for the reasons given by the Council I am persuaded that there is uncertainty as to the scope for recovering the extent of the shortfall by these alternative mechanisms.
51. In conclusion, therefore the CIL contributions from the residential development are a necessary material consideration; and the proposed meanwhile use would be likely to result in a reduction of the projected CIL contributions that residential development would generate resulting in a loss of necessary enhancements to services and the environment contrary to Local Plan Policy ST1. Nevertheless, in this case there are a number of uncertainties including the extent of that reduction which affect the weight that can be attached to this consideration, as detailed by both parties in their evidence. Consequently, I attribute little weight to this in the planning balance.

Issue 4: Fire safety [RF7]

52. The Council contended that the proposal fails to provide sufficient detail to demonstrate that the operation of the proposed MU would achieve the highest standards of fire safety and ensure the safety of all building users. It is maintained that the proposal is therefore contrary to Policy D12 of the London Plan.
53. The parties agree that Policy D12 of the London Plan requires that "all development proposals must achieve the highest standards of fire safety", but do not agree on how this is achieved.
54. Policy D12B requires submission of a Fire Statement, prepared by a suitably qualified assessor, that details how the proposal will function in terms of six important aspects of fire safety. The parties disputed how the "highest

- standards of fire safety” will be achieved, and the level of detail required in the Fire Statement.
55. The London Plan Fire Statement was contained in the Appellant’s proof of evidence on fire safety matters [CD 6.5]; both original reports were considered not fit for purpose by both parties.
56. The Council maintain that the “highest standard of fire safety” test in D12B has not been addressed and applied; instead, an incorrect much lower test of “no more unsatisfactory”/“no worse than existing” taken from regulation 4(3) of The Building Regulations 2010 (BR2010) has been used as the test of acceptability.
57. Policy D12B states that the Fire Statement should detail how the proposal will function in terms of:
- 1) the building’s construction;
 - 2) means of escape for all building users;
 - 3) features which reduce the risk to life;
 - 4) access for fire service personnel and equipment; and
 - 5) how provision will be made within the curtilage of the site to enable fire appliances to gain access to the building.
58. The Council argued that matters that go to the heart of the D12 questions were being put off by the Appellant for later consideration under the BR2010 Fire Strategy. Its position is that the Appellant has to provide the material at this stage to demonstrate how the matters in Policy D12 will be delivered and how the functional requirements will be met.
59. The Council supported its argument regarding the level of detail to be provided now by citing the London Plan Guidance Fire Safety [CD 8.14] para. 5.3.1 which lists what a fire statement should address.
60. The Council listed the following outstanding site specific information which it considers should have guided the Fire Statement:
- measurement of widths of escape routes or stairs;
 - consideration of the existence, adequacy or need for firefighting shafts;
 - assessment of whether compartmentalisation is delivered; and
 - assessment of whether the necessary levels of fire resistance are in place.
61. The Appellant argued that Policy D12 does not set a higher standard of fire safety beyond the requirements of the Building Regulations 2010. It submitted that the tests of reasonableness and appropriateness that permeate Requirements B1-B5 of the Building Regulations 2010 must also be an inherent part of the assessment at the planning stage of whether the “highest standards of fire safety” are capable of being achieved. It contended that what is required to meet the “highest standards of fire safety” when building an entirely new, state-of-the-art building in 2024, will not necessarily be the same as that which is required when seeking to put an historic building back into meaningful use.

62. The Appellant maintained that there is nothing in the wording of Policy D12, or elsewhere in the London Plan, to suggest that Policy D12 is intended to replicate a detailed regime of building control at the planning application stage. It considered this essential when making a judgement on the extent of information that may reasonably be expected of a developer at the planning application stage.
63. The Appellant submitted that sufficient information has been provided to the inquiry to enable me to be satisfied that the proposal will be capable of complying with Requirements B1-B5 when, in due course, it is assessed for compliance in the building control regime.
64. Much inquiry time, and in the Appellant's closing submissions, concerned evidence regarding complying with Requirements B1-B5 as well as the policies in D12B. I have carefully considered the evidence presented to me by both parties in reaching my conclusions. It would not be constructive to replay much of it in this Decision; however, I do highlight below some significant items where the parties disagreed.
65. Internal fire spread (structure) (B3) (Policy D12.B(3)). Both parties' expert witnesses identified what they considered to be the periods of fire resistance that should be secured based on the guidance in Table B4 of Approved Document B [CD8.16]. The parties disagreed regarding the Holborn, Clerkenwell and Fournival buildings, the Council considered that it should be 90 minutes, the Appellant 60 minutes. The difference is explained by how they had measured the height of the top floor of these buildings above the ground for the purposes of applying Table B4, and whether or not the top floor was intended to be occupied.
66. On the point of internal fire spread the Council argued that retrofitting to achieve 90 minutes fire resistance would require major works; the Appellant contended that this was a matter of expert judgement for the building control regime.
67. Regarding internal fire spread the parties agreed on the need for a compartmentation survey, which could reveal the need to instal additional fire doors within the buildings. Again, the Appellant maintained that this survey, if required, is undertaken after planning permission is granted to inform discussions with the building control officer.
68. In relation to access and facilities for the fire service (B5) (Policy D12.B(4 and 5)), the Council highlighted requirements in B5 to provide "reasonable facilities to assist fire fighters in the protection of life", with provision for "internal fire facilities for firefighters to complete their tasks". B5 specifically recognises that "most firefighting is carried out within the building".
69. As to tender access, the Council pointed out that there is no tracking survey to show how provision will be made within the curtilage of the site to enable fire access. The Council pointed out that the perimeter standards in table 15.1 are not met for the Fournival, Holborn or Clerkenwell buildings, and the Fire Statement is silent on what is done instead to secure the functional requirement in respect of external fire access.
70. With regard to internal access the Council argued that the Holborn building must have at least two firefighting shafts, and that none of that is provided or

- apparently capable of being provided. For the Furnival building, the Council maintained that a firefighting shaft with lift is required but is not provided and no alternative way of providing equivalent safety for firefighters is set out.
71. The Appellant submitted that the test is ultimately one of reasonableness, and is the kind of question that the building control regime, not the planning system, is set up to resolve.
72. In its closing submission the Appellant summarised its detailed responses to the Council's evidence regarding vehicle access; fire mains; firefighting shafts; and basement ventilation. Regarding vehicle access the Appellant maintained that there are no insurmountable issues; the existing fire mains could be brought back into use if required; that it is very unlikely that the building control officer will require firefighting shafts to be installed in the Holborn, Clerkenwell and Furnival buildings for a 2 year use; and that a detailed ventilation survey would be done for building control purposes. However, notwithstanding all the evidence and level of detail presented by the Appellant on this topic, I am not persuaded that there are no insurmountable issues.
73. Without prejudice to the Council's fire safety case, Condition 7 has been drafted so that if the appeal is allowed, a revised updated Fire Statement is to be submitted and agreed by the Council before the use can commence.
74. The Council maintained that it was not acceptable to put off these matters until later; the Appellant submitted that the Council would be able to block the use from commencing until what it considered to be an acceptable Fire Statement has been provided.
75. In conclusion, I note the parties' agreement that Policy D12 of the London Plan requires that "all development proposals must achieve the highest standards of fire safety"; that D12 requires submission of a Fire Statement, but the parties disagree on the level of detail required in that statement. I also note the number of editions of the Fire Statement, the most recent being contained in the Appellant's proof of evidence on fire safety matters.
76. I consider that in order to demonstrate how the proposal will function in accordance with Policy D12B the site specific information listed by the Council should be included in the Fire Statement. Such matters go to the heart of compliance with that policy and should not be put off for future consideration. The Council's expert evidence that there would be major difficulties in delivering the highest standards of fire safety for the site reinforces my view on that point.
77. I accept that not all details of the development that will affect fire safety may be known at the time of the planning application, however, I consider that the lack of detail in the Fire Statement renders me unable to be satisfied that the proposals show how the highest standards of fire safety will be delivered. These include details that vehicle access, and firefighting shafts can be provided for the existing buildings to achieve the highest standards of fire safety. Condition 7 allowing a revised Fire Statement to be submitted and agreed before the use can commence, does not enable me to be satisfied now that the highest standards of fire safety will be delivered due to the absence of crucial information at this stage.

78. I consider there to be potential harm from the lack of detail provided in the Fire Statement which fails to show how the proposal would “function” in terms of fire safety. I do not believe that these fundamental concerns that go to the heart of compliance with D12 could be satisfactorily overcome by Condition 7.
79. For these reasons, I consider that the proposal fails to provide sufficient detail to demonstrate that the operation of the proposed MU would achieve the highest standards of fire safety and ensure the safety of all building users. Consequently, the proposal is contrary to Policy D12 of the London Plan. I consider that the appropriate weight to this harm is substantial because of the potential risk to life.

Planning balance and conclusions

80. In conclusion, the appeal scheme would bring harms in terms of delay to housing delivery and development plan conflict, potential issues with fire safety and the potential reduction of CIL contribution which together carry substantial weight against it.
81. Balanced against these harms, it is clear that the proposed MU would bring positive benefits in terms of economic and cultural activities resulting in additional employment and economic value. The occupation of buildings within a Conservation Area listed on the Historic England Heritage at Risk Register is a benefit. Nevertheless, the period would be limited with just the facades retained for permanent use. I also acknowledge that the provision of artists’ studios to meet a demand is a positive benefit. However, I attribute little weight to that benefit given the period of MU and the scale of need. These various identified short-term benefits taken together carry modest comparative weight in favour of the appeal proposal.
82. Consequently, the adverse impacts of the proposed development significantly and demonstrably outweigh the benefits. Furthermore, I concur with the Council that even ignoring the CIL issue the planning balance is decisively against permission being granted. On that basis, the appeal scheme is dismissed.

M S Wiltshire

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Name	Letters to be recorded after name	Organisation	Role
David Forsdick KC		Landmark Chambers	Leading Counsel
Edward Ebedian		Landmark Chambers	Junior Counsel
John G Streets	BEng (hons)	10 Ability Ltd	Expert Witness – Fire Safety
Jonathan Gibb	BA(Hons) MA MRTPI	London Borough of Islington	Expert Witness – Planning Policy
Gerard Coll	BSc (Hons), MSc	London Borough of Islington	Expert Witness – CIL
Stefan Kukula	BSc (Hons) MA	London Borough of Islington	Expert Witness – Planning

FOR THE APPELLANT:

Name	Letters to be recorded after name	Organisation	Role
Mr Gwion Lewis	KC	Landmark Chambers	Leading Counsel for the Appellant
Mr Stephen Dickson		Hydrock	Expert Witness – Fire Safety
Mr Tim Lowe	CEng MIFireE PMSFPE	Lowe Group	Expert Witness – Need and Operational Matters
Mr Jonathan Bainbridge	MRTPI	Bidwells	Expert Witness – Planning

INTERESTED PERSONS:

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