

DANCE SQUARE RESIDENTS ASSOCIATION
43 Pear Tree Street
Clerkenwell
London ec1v 3sb

6 May, 2021

Daniel Jeffries
Development Management Service
Planning and Development
PO Box 3333
222 Upper Street
London
N1 1YA

By email to: planning@islington.gov.uk

Dear Mr Jeffries,

Re: Planning Application ref. P2020/3206/FUL – 44 Pear Tree Street, London EC1V 3SB

Dance Square Residents' Association (DSRA) was formed in 2012 and currently represents over 180 residents within the development. We are writing in connection with the above planning application to express our views, as invited in the recent re-consultation planning notification letter.

It should be noted that this letter is intended to represent the views of those members of the DSRA whose opinions we have canvassed and should be read in conjunction with any separate letters of objection or support that individual residents may submit.

As we have noted in our previous correspondence regarding this planning application (DSRA letter dated 10 February, 2021), whilst we are supportive, in principle, of the redevelopment of the existing building for the uses proposed (E(g) office), we still have very real concerns about certain aspects of the proposed replacement building and the minimal amends by Iceni to the plans in the re-consultation notice dated 12 April, 21. These concerns are expressed as formal objections below.

We have restricted our comments to those aspects of the proposal which impact upon the Dance Square and The Orchard residences and have not commented upon the full impact of this application on immediately adjoining residential properties, namely Pietra Lara, Bastwick Street and IQ Student Living.

However, we will make the general comment that the proposed scheme still fails to respect the amenity of the surrounding area which is predominantly residential in that the immediately adjoining residential properties on Pear Tree Street (PTS) and Bastwick Street will suffer excessive loss of privacy, light and suffer from overlooking as will properties sited directly opposite the site in Dance Square & The Orchard residential developments. No doubt these matters will be raised as strong objections by residents directly affected but, for the record in our opinion, the scheme is still unacceptable as presented.

As such we will comment on the new aspects of the application and include issues from our original letter which were not addressed by the applicant.

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Consultation Process

We note again that despite most residents being new to the area, in the last 10-12 years, we have formed strong connections with residents within our own developments and regularly meet with residents of other buildings in the street and our local community. We are a very connected group of neighbours who want to see the best for the small street in which we live and have collectively and successfully lobbied LBI on planning issues and for regeneration in the past.

As we noted before, it is disappointing that the applicant has made no effort to connect with the local residential neighbours and wider PTS community, who would welcome the opportunity for consultation. We respectfully requested this in our previous correspondence, it is therefore disappointing that the applicant has still not made any attempt to connect with us, especially as they now have had the opportunity to be aware of our views in the numerous letters to LBI Planning Department commenting and objecting to some of the proposals for the site.

The refurbished and extended building will be at the heart of a street which is predominantly residential and, after many years of intensive development, is densely populated. 44 PTS will be the only wholly commercial building in Pear Tree Street (PTS) other than Laser House at the western end of the street, all other buildings being residential from the first floor upwards. The Class use of the newly refurbished wholly commercial building (including its basement and ground floor levels) must be limited to those which are unlikely to cause detriment to the amenity of this predominantly residential area. This is consistent with the Applicant's own stated development objectives, which include "protect[ing] the amenity of surrounding land uses, in particular adjoining residential uses" (paragraph 4.3 of the Planning Statement).

Class E use:

- The applicant has made an amendment to the original application for Class usage from fully flexible "E" Class, to E (g) for the upper floors and E(a) for the basement & ground floors.
- We reiterate that we consider that Class E(g) is the only acceptable use for the entire building, in order ensure the Class usage does not have an adverse effect on the neighbouring residential community.

We consider that the use Class should be strictly restricted to E(g), i.e., uses which can be carried out in a residential area without detriment to its amenity. For the reason, that that the amenity of residents is not adversely affected in accordance with policy 7.15 of the London Plan 2011, and policy DM2.1 of Islington's Development Management Policies 2013.

The applicant now asks for Class E (a) use at Basement and Ground floors, with E (g) on upper floors, so that it can respond to "market needs and demands over time", whilst ignoring the needs of the residents in this predominantly residential street. This is a dangerous precedent to set, as it will be surely marketed from the outset with the fully "intended" uses.

The use of the proposed "E" Classes other than E(g), could cause excessive noise and disturbance and have a serious adverse effect on the amenity of the occupiers of the adjoining and surrounding residential properties, resulting in a cumulative negative impact, contrary to the policy DM2.1 of Islington's Development Management Policies 2013. Specifically, in this instance the policy notes that for a development to be acceptable it is required to:

- "... provide a good level of amenity including consideration of noise and the impact of disturbance, hours of operation, vibration, pollution, fumes between and within developments, overshadowing, overlooking, privacy, direct sunlight and daylight, over-dominance, sense of enclosure and outlook."

As noted above building will be at the heart of a street which is predominantly residential, it is sited directly opposite a courtyard surrounded by over 180 residential apartments of the Dance Square/The Orchard residential developments with a high number of families with young children in residence. It is directly adjoining the residential Pietra Lara Building and adjacent to approximately 50 + small studio bed / living rooms units (studio rooms) of the IQ Living student accommodation being both on the ground and basement levels and it backs on to the residential properties in Bastwick street. In these circumstances, it is critical that the Class use of the newly refurbished building (including its basement and ground floor levels) is limited to that which are unlikely to cause detriment to the amenity of this predominantly residential area, namely Class E (g).

Granting Class use of E(g) only, is absolutely essential given the densely residential nature of Pear Tree Street. Permitting use of E (a) subclass at the basement and ground floor levels will not protect residential amenity, furthermore, Class E (g), is consistent with the use class of existing commercial property on the street.

It should be noted that Pear Tree Street residents already suffer from reduced amenity due to the cumulative impact of excessive density due to overdevelopment of the street. The height of the buildings creates an echo effect so that one person on a phone in the street can be easily heard though double glazing several floors up.

Mass of the building, Outlook, Daylight & Sunlight Assessment:

The proposed site is significantly larger in mass and taller than, not only the existing and adjacent building to which it will be connected, but it is also larger than the extant application, it does not “bridge the gap” or create a transition of scale between the existing buildings.

Outlook, & Daylight/Sunlight reports have now been supplied for the adjacent properties and the buildings opposite in Dance Square and The Orchard to the north of the site. Given that these reports are almost incomprehensible to anyone other than those with specific expertise in this area, we would expect that any impact of the loss of daylight and sunlight on residential properties will be carefully considered by the Planning Department and relevant Planning Committee Councillors against the Building Research Establishment criteria.

The height of the proposed building and its integration within the urban context is clearly out of scale and proportion to its neighbouring buildings. It fails to respect the scale of the buildings along Pear Tree Street and, we would suggest, is a minimum 1.5 storeys too high.

The excessive height breaches the Finsbury Local Plan, Section 4 (Kings Square and St. Luke’s Policy BC1), which states that new, high quality buildings and structures should be based on a human scale and reflect the predominant building height.

External areas:

- Roof terrace
- Balconies
- Proposed Showroom on ground floor & basement

In our opinion, the balconies and the roof terrace are completely unnecessary and should not be included in the plans. Offices do not need private amenity space. Office employees will inevitably use it for smoking and any social gatherings will cause disturbance to residents whose properties are opposite or immediately adjoin.

Due to issues surrounding hours of usage raised by LBI's Environmental Health Officer, the applicant has reduced the hours of use and now requested that they be allowed usage from 8am to 8pm, this has referred only to the usage of the Roof Terrace and not the balconies on the front (north aspect) of the building. However, we feel that this is unacceptable in this densely populated residential neighbourhood and is not consistent with normal office hours in the area which are typically 9am-6pm, as claimed by Icení. We suggest as before, that if these outdoor areas (both roof terrace and balconies) are approved that Planning Approval Conditions should require strictly restricted to use between normal business hours of 9am – 6pm Monday to Friday only, with no audible music at any time and limits agreed on the number of people allowed during these times. No events with either internal staff or with external guests should be permitted.

Icení's application notes that they do not intend for the Roof Terrace to be rented out to external users, however, this does not preclude the possibility of internal functions or events with or without invited guests.

Should permission be given for the Roof Terrace and Balconies to be incorporated into the building design, then the Commercial occupants are to be notified under lease & planning rules, via Section 106 Agreement, of the agreed usage hours (9am-6pm) and that the use of these spaces and the site generally, at any time, should always be with quiet consideration to the surrounding residential properties. It should not become incumbent on local residents to police the hours of use, number of guests, nor for building management to decide whether our complaint/s are valid or not.

We have concerns about the proposal for ground floor & basement areas use as a showroom or other Class E(a) use, due to the potential use for events (internal or external), and subsequent use of street for overspill, loitering and noisy arrival and departures of attendees at such events.

Residents' experience has shown that showrooms in the area (including in PTS itself) are frequently used in a manner akin to entertainment venues, with staff holding social functions with and without clients - inside and outside of their buildings late into the evening, causing significant noise and nuisance to the occupiers of the surrounding residential properties.

We note that we consider that Class E(a) is not appropriate for this residential area, however if use is to be permitted, for a showroom at ground floor and basement levels, we would respectfully submit that it should be appropriately restricted to business hours 9am – 6pm Mon-Friday only.

By way of reminder, the Applicant's previous attempt to justify the unrestricted provision of the outdoor amenity spaces by reference to that available within other developments in the area (such as 26 Bastwick Street, the Pietra Lara building & Dance Square) is entirely misplaced: these are exclusively residential developments, their residential occupiers are subject to onerous covenants as leaseholders to hours of use and noise such as music.

The modest use that may be made of the available outdoor amenity space by individual flat occupiers in these developments is of a wholly different nature and order to that which would be the case where a commercial occupant was using such areas to host social events.

Management of site post construction:

- Hours of use of proposed external balconies & roof terrace
- Hours of use of commercial units
- Lighting
- Management of site & resident contacts
- Refuse collections
- Security and alarms

With reference to DM2.1 of Islington's Development Management Policies 2013. The policy notes that for a development to be acceptable it is required to:

“.... provide a good level of amenity including consideration of noise and the impact of disturbance, hours of operation, vibration, pollution, fumes between and within developments, overshadowing, overlooking, privacy, direct sunlight and daylight, over-dominance, sense of enclosure and outlook....”

With this in mind we note the following:

Management of site & resident contacts

- Lease rules to be submitted to LBI for approval and with local PTS residents' involvement and approval, this should be done before Planning Approval and become part of the Planning Section 106 Approval Conditions.
- 24/7 contact to be provided to residents in the event of issues with the management of the building once occupied.

Hours of use of proposed external balconies, roof terrace & ground floor:

- External areas should be strictly restricted to use between normal business hours of 9am – 6pm Monday to Friday only, with no audible music. Commercial occupants to be requested to note that use these spaces during these times should always be with quiet consideration to the surrounding residential properties.
- External footpath area loitering by staff, this should be strictly limited to 2 individuals at any one time. Council have enforced planning precedents for other commercial buildings in this regard, see approval for Grangers Restaurant on Sekforde St, which isn't situated in as dense residential pocket as 44 PTS.
- Note that the new Laser House development has a balcony that runs the full length of the building, which has been agreed not to be used by the occupants under planning conditions, due to concerns with issues of overlooking and noise for the local residents P2018/1578/FUL.

Hours of use of commercial units:

As this is a commercial building with intended E(g) use we request that council imposes strict hours of use: 9am – 6pm Monday to Friday only, consistent with other commercial properties in the street and immediate area. Any internal or external refurbishment work post the build completion should also be restricted to these hours to protect the residential amenity.

Lighting:

Given that the newly refurbished and extended building will be exclusively commercial and will sit at the heart of a predominantly residential and heavily populated area in a narrow street with buildings close together, we raised concerns regarding light pollution from commercial style lighting.

Iceni's Additional Information Submission refers only to the potential for light pollution emanating from the windows of the south-eastern flank of the development and making no mention of the obvious impact on the properties in The Orchard and Dance Square developments which sit opposite the four-storey frontage that forms the northerly face of the proposed development.

A four-storey office building with extensive floor to ceiling windows, roof lights (skylights) and commercial style lighting will inevitably create significant light pollution for the neighbouring properties in the Dance Square and The Orchard residences to the north of the proposed development.

We noted that it should be a condition of any planning approval that light diffusing blinds be installed on the north aspect of the building and in the roof lights (skylights) and that these be drawn automatically every day by 6pm at the latest and in addition no neon or similar lighting be used for any signage on the frontage of the building. This is an entirely reasonable and proportionate request in circumstances where a large, four storey commercial property is being placed at the heart of an otherwise predominantly residential area.

Refuse collection:

Given the predominantly residential setting and prior experience of certain service providers undertaking collections at 11pm or in the early hours of the morning, we consider that it should be a condition of any planning approval that refuse, and recycling collections take place during normal business hours to avoid undue disturbance to residents.

Security & Alarms:

We assume that when the building is unoccupied, evenings and weekends there will be a security company in charge, who will attend site promptly in case of an issue, such as an alarm activation. Can residents be assured that security alarms be on a timer, to auto switch off after a short period, should they go off and will not be left to ring throughout the night and all weekend.

Management of site during construction:

It is of concern that the applicant has made no commitment to any of the following terms & conditions for operations during construction, which have been reasonably requested by nearly all residents who have responded to the first application.

We respectfully request that LBI Planning Department engage with Iceni and the local residential community, prior to the submission for approval to agree a suitable building management agreement.

We reiterate here our original concerns which have not been addressed, other than an acknowledgement by Iceni to connect with the local community post planning approval.

Given that much of the agreement regarding use conditions and construction hours is incorporated within the Section 106 Planning agreement, proposed consultation by Iceni after approval is too late and residents will be left with a fait accompli from Iceni, which we do not feel confident of finding a mutually agreeable solution outside of planning approval conditions.

We respectfully remind LBI Planning Dept, LBI's Environmental Health Officer and Iceni that the site is at the heart of a predominantly residential and heavily populated area in a narrow street with buildings close together, therefore consistent with the approach taken with other recent and ongoing construction projects in Pear Tree Street (e.g. Laser House) and the penthouse builds on Dance Square and The Orchard developments, we would expect that the Applicant should be required to issue a clear Construction Management Plan prior to Planning Approval and be asked as a courtesy to consult with local residents prior to planning approval and again in advance of any building work commencing.

The applicant claims in the Additional Information Submission that as the proposed development is retaining the existing building "the overall disruption during construction works shall be significantly lower than compared to a mixed-use consent".

We assume by “mixed use consent” Icení mean a completely new build, however, our experience of this in PTS is that a completely new build or a significant redevelopment of an existing building poses much of the same noise issues and this does not diminish our concerns regarding disturbance due to the building process. Residents have video evidence of previous “internal” refurbishment work at 44 PTS, involving contractors lobbing large concrete blocks into an empty skip at 7am on a Saturday morning, each worker endeavouring to compete with the others for the loudest crashing sound.

The impact of the construction work regardless of type will still be very significant in terms of the noise, dust and debris generated, including the interruption to residents’ access to and use of Pear Tree Street on foot, by bicycle and by car, and the damage to the road, pavements, street furniture and planting. We are very much aware of the impact of refurbishments as well as new builds as we seen with the long-running refurbishment of Laser House and other substantial build sites in PTS such as the IQ Student Accommodation & the Comice/Cadent developments.

The retention of the existing building will in some respects exacerbate disruption to neighbouring residents (again, as seen with other PTS developments) as there will be very little room on-site throughout the build for unloading of deliveries and storage of plant and materials, meaning that other residents’ use of the surrounding road and footpaths is likely to be even more compromised than if a wholly new development was being constructed.

In particular, we consider that:

- Construction hours should be strictly limited to 8am to 6pm Monday to Friday only;
- Noisy work should be restricted to the following hours: 8am to 10am, 12pm to 2pm and 4pm to 6pm, as has been agreed with the current construction on the Laser House site, corner PTS and Goswell Roads.
- Proper health and safety management code for site vehicles using the narrow street, given the potential danger to residents and local pedestrians. Covering issues of reversing, parking and engine idling.
- Regular weekly / monthly updates should be provided to local residents during the build and prior notification given of any particularly noisy or disruptive work, road closures, parking suspensions etc.
- Contact details for the main contractors should be provided to local residents for use in the event that issues arise; with the option of residents being able to meet with contractors (via Zoom if necessary), should there be any issues related to the build.
- A clear understanding of the regulations as to construction days, hours and noise should be conveyed to all contractors without exception, by the lead construction company (including in respect of plant, supplies and workers arriving early in the morning and congregating outside of the site).
- There should be no loss of parking bay facilities to local residents during the build.
- There should be no storage of building materials or plant and machinery on the footpath or in the street.
- The street should be kept clean of mud and construction detritus.
- Dust and noise limiting devices should be used at all times.

Reinstatement works & Ringfencing of the Community Infrastructure Levy
(previously Section 106 funds) for use in Pear Tree Street:

- The footpath outside and to either side of the building (including in front of the Pietra Lara building to the east and the Pure City student accommodation to the west) should be fully reinstated following completion of the build; and
- An appropriate proportion of any monies received by LBI from the Applicant in connection with the development should be ring-fenced for street improvements, landscaping and tree planting in Pear Tree Street.

In Conclusion:

LBI Planning Department, the Environmental Health Officer and Councillors are respectfully requested to reject this application by Icení until they can respond regarding the issues raised and to ensure that the applicant amends its proposals for Class E (a), hours of use, lighting, management both during the build and subsequent occupation of the building and other issues noted above.

We strongly recommend, as we previously requested, that the applicant Icení takes the time to connect and engage in a meaningful way with local residents prior to the Planning Meeting, to hear our concerns about their proposal and how we might come to a mutually acceptable resolution.

We restate that we are not averse to the new development but have many concerns about the proposal as currently submitted.

Thank you for the opportunity to comment on this Planning Application and for your consideration of our concerns. Kindly keep us informed of any information, meetings, amends to these, or subsequent plans for this site.

Yours sincerely,

Committee on behalf of
Dance Square Residents Association