

SMPlanning

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31/05/2023

Sent via email only:

FAO Obote Hope

Dear Mr Hope,

Application address: 32 Willoughby Road, London, NW3 1RU

Application reference: 2023/1671/P

Proposal: Demolition of existing two storey outrigger and replacement with an enlarged outrigger; addition of a two-storey partial extension to the rear elevation; green roof; construction of basement extension under the existing dwelling and part of rear garden with wine cellar and front lightwell; addition of side gate and fence; addition of side windows and rear roof lights and replacement sash windows.

I am writing on behalf of my client in objection to the above planning application. My client owns and occupies the adjacent property at No.34 Willoughby Road and would be both directly and detrimentally affected by the proposed development.

Summary of objection

This letter details objections based on the following material planning considerations:-

- i. Procedural
- ii. Residential amenity
- iii. Structural stability
- iv. Arboricultural impact

Legislation/Planning Policy

Planning (Listed buildings and Conservation Areas) Act 1990

Section 72 of the Planning (Listed buildings and Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The requirement to give 'special regard' is not merely a matter of procedure. It requires considerable importance and weight to be given to heritage harm. Case law sets out that, where there is harm to a designated heritage asset, it is not sufficient simply to balance that harm as another material consideration with the benefits of the proposal. It requires more.

These requirements are echoed in national and local planning policy guidance. The NPPF requires the decision maker to consider whether the proposal sustains and enhances the significance of the heritage asset, making a balanced judgement having regard to the scale of harm or loss and significance of the heritage asset. Decision makers are required to give great weight to any harm to the significance of a heritage asset.

Planning and Compulsory Purchase Act 2004

Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

National Planning Policy Framework (2021)

Section 12 of the National Planning Policy Framework (NPPF) refers to well-designed places. Paragraph 130 (c) states that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

Section 16 refers to the historic environment and requires the decision maker to consider whether the proposal sustains and enhances the significance of heritage assets, making a balanced judgement having regard to the scale of harm or loss and the significance of the heritage asset (paragraphs 199-202). Paragraph 202 states that where a development proposal leads 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.

Local Planning Policy

The adopted Development Plan for the London Borough of Camden comprises of the London Plan (2021), the Local Plan (2017), the Hampstead Neighbourhood Plan (2018) and the Camden Planning Documents and Guidance.

Detailed Objections

- i. Procedural

While it is reasonable to seek to develop and improve a residential plot in an efficient manner, it is equally important to ensure that the resulting development would neither cause unacceptable harm to the amenity of the occupiers of neighbouring properties nor have negative impacts on visual amenity or importantly, the structural integrity of neighbouring buildings.

Disappointingly, the Applicant failed to engage with the local community at the key pre-submission stage, then lodging this planning application without allowing for any meaningful input from the community into the design evolution and formulation process.

A collaborative and participatory approach by the Applicant early in the design process (as advocated by the planning system) would have encouraged and supported good neighbourliness which would have helped to guide the modelling of the proposals.

The proposed drawings provided, DRWG No. 2104-01_PL_201 show details of the retaining walls for the basement and this shows the retaining wall extending over the boundary with No.30 Willoughby Road.

The application form confirms that Certificate A was completed when the application was submitted. However, on the basis that the proposed works (the retaining wall for the basement) extends outside the red line area of the application site, Certificate B should have been completed and notice served on this neighbouring occupier. As such, the application is considered to be invalid on this basis.

ii. Amenity

CLP Policy A1 seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered. It seeks to ensure that development protects the quality of life of occupiers and neighbours by only granting permission for development that would not harm the amenity of neighbouring residents. Further guidance is provided in CPG Amenity which sets specific standards of development with regard to amenity.

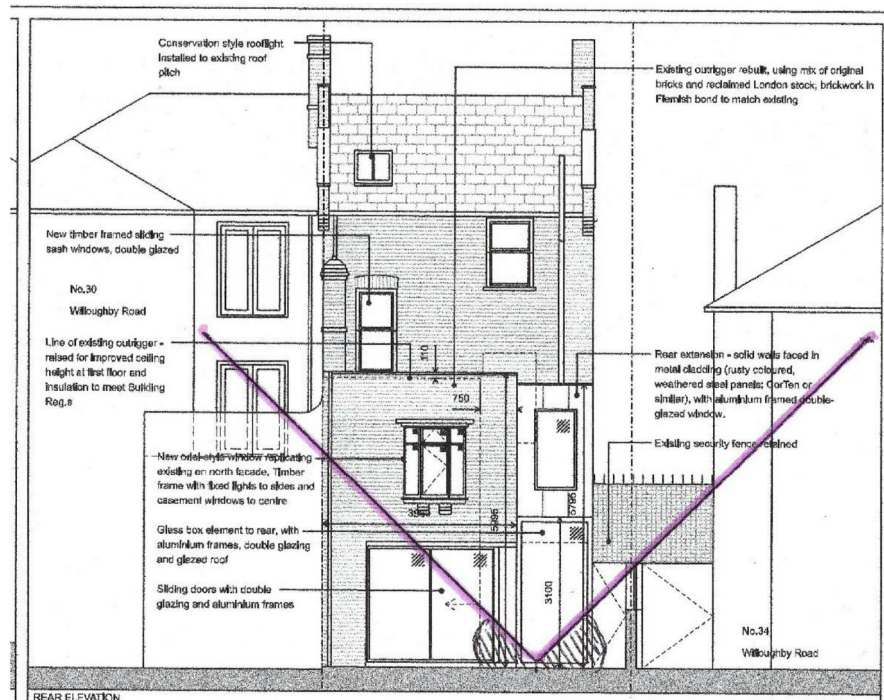
The proposed basement will introduce a new dining, living and kitchen area which will be used as the primary living space for the proposed dwelling. The subterranean nature of this development restricts the amount of sunlight and daylight available to the main living space of the dwelling. A walk on roof light is proposed to the northeast of the proposed extension and the stairway will be double height. Although these are intended to provide sunlight and daylight to the basement accommodation, due to their positing both in relation to the habitable space at basement level and their orientation within the site itself, they will result in only modest daylight/sunlight gains.

The site has an east facing garden. The sunrise in the morning would likely be restricted by the 5-storey property at 34 Carlingford Road. At midday the sun will sit south and the openings will likely to be shadowed by the proposed, two storey outrigger. Similarly, the openings will likely be shadowed by the evening sun to the west by the main mass of the property.

Secondly, any sunlight and daylight that does manage to reach these concealed locations will likely only benefit the living accommodation marginally. The skylight will only benefit the kitchen area, likely

to be used least of the main rooms and the proposed stairwell will have limited sunlight and daylight benefits in relation to the proposed sitting area given its two-storey height and depth ingress required. The proposed dining area is unlikely to receive any natural sunlight or daylight.

The Camden Amenity CPG states that BRE guidance should be applied such as the 45 degree and 25 degree test to make an initial judgement on the impact of a proposal. As shown below, the proposed development fails to achieve the 45 degree test and therefore fails to consider key principles of sunlight and daylight tests as well as policy A1 of the local plan.



This deficiency in natural light will have a negative impact on health and wellbeing as well as increase the need for artificial light and heating which will also have a negative impact on the energy efficiency of the property. This matter has not been addressed in the design and access statement nor is the application supported by a sunlight and daylight assessment and therefore a decision cannot be made until it is confirmed that the main habitable spaces will achieve acceptable levels of daylight/sunlight.

iii. Structural stability

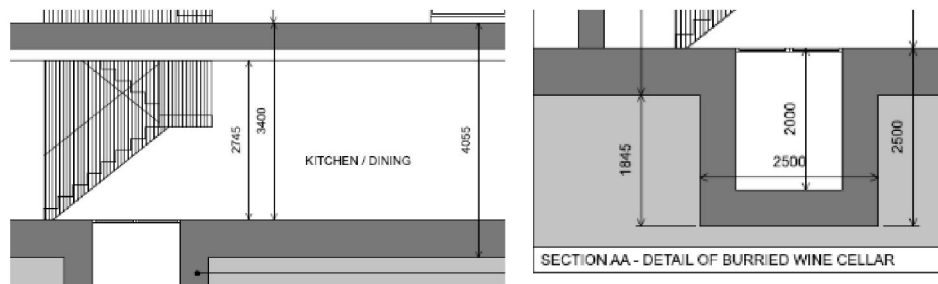
Camden Local Plan (CLP) Policy A5 states that the Council will only permit basement development where it is demonstrated that the proposal would not cause harm to neighbouring properties; the structural, ground, or water conditions of the area; the character and amenity of the area; and the significance of heritage assets. It advises that in determining proposals for basements and other

underground development, the Council will require an assessment of the scheme's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment.

Camden's adopted Planning Guidance on basements (CPG Basements) provides further detail on the application of that policy. Policy BA1 of the Hampstead Neighbourhood Plan (HNP) requires all basement developments to be accompanied by a Basement Impact Assessment whilst HNP Policy BA2 further advises that a Basement Construction Plan should be submitted when demonstrated as necessary by the BIA for a basement proposal.

Policy A5 (f) states that basement development must not comprise of more than one storey. Camden's Basement CPG states that the council consider a single storey for a basement to be approximately 3-4 metres in height and that storeys should be **no more** than 3-4 metres total depth.

Proposed section AA and detailed section AA shows that the proposed development will have a maximum depth of 5.9m (3400mm + 2500mm). This depth is 47.5% greater than allowed within Camden's basement guidance. The local plan allows for a 'small' allowance for swimming pools. The proposed development does not include a swimming pool and therefore should not be granted any allowance for greater depth and the depth of an additional 2.5m is excessive and therefore fails to align with Policy A5 of the Local Plan.



This objection letter is also supported by an independent review of the basement impact assessment provided by LGHGEO. This concludes that the submitted BIA is seriously flawed and that the development as proposed cannot be safely undertaken. The approval of this application would present significant risk in cracking movement and or collapse of the building at the proposed site as well as neighbouring properties. The proposed development may also raise adverse impact on any groundwater flows beneath the site. Please refer to the supporting objection for greater detail.

iv. Arboricultural impact

CLP Policy A3 states that the Council will resist the loss of trees and vegetation of significant amenity, historic, cultural or ecological value. It further requires trees and vegetation which are to be retained to be satisfactorily protected during the demolition and construction phase of development. This is

echoed in the guidance contained in the Trees CPG. HNP Policy NE2 further seeks development to protect trees that are important to local character, streetscape, biodiversity and the environment.

As demonstrated by the supporting independent review of the BIA, the proposed works will inevitably impact on the root protection and therefore, the future growth of several trees in and surrounding the site. These trees are protected by virtue of their location within a designated conservation area and any impacts on their integrity needs to be carefully considered. In this case, the impact would be irreversible and the loss of established trees would adversely affect the character and appearance of the area, contrary to the development plan and national planning policy guidance.

Summary

For the reasons outlined above, the proposed development is considered to conflict with the adopted development plan. It has been demonstrated that the proposed works; will have an unacceptable impact on amenity of the proposed dwelling and fail to provide evidence that the basement development can be carried out in a way that does not compromise the structural stability of adjoining properties. There are no material planning considerations that outweigh the identified conflicts with the adopted development plan. In addition, it is considered that the incorrect notice has been served within the application and therefore, the application is procedurally invalid.

The council are therefore respectfully requested to reject the application. If there are any questions or required points of clarification, please contact me as soon as possible.

We reserve the right to expand upon this objection letter in response, as necessary, to any further submissions made by the Applicant.

Yours sincerely

Louis Brewer
Planner
SM Planning