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Our Ref: 57536.4/DF

Your Ref:

London | Cambridge | Oxford | Singapore

Matthew Dempsey
Camden Council
Development Management
Camden Town Hall
Judd Street
WC1H 9JE

23 June 2023

ALSO BY EMAIL: PLANNING@CAMDEN.GOV.UK

Dear Mr Dempsey

**Objection - 13 Belsize Crescent, London NW3 5QY
Planning Application: 2023/0692/P**

We are instructed on behalf of the neighbour living 11 Belsize Crescent to comment on the above planning application. We have reviewed the application with our client and make the objections below to the detail of scheme. However before engaging with his detail there is a more fundamental procedural issue.

The description of the development for this application is as follows:

"Basement excavation, installation of external platform lift, reconfiguration of external staircase, reinstatement of stair balustrade and front boundary treatment to match original, replacement windows, installation of bi folding doors, hard and soft landscaping and associated works."

There is no reference in that description to a subterranean swimming pool, nor is it clear that this involves the creation of a **new** basement rather than the enlargement of an existing one. Many individuals with whom my client has personally spoken to were not aware of the extent or nature of the basement and swimming pool proposed as part of this application. Many were shocked that this information was not provided in the notice or description and considered that it made a significant difference to their views on the proposal.

We consider that it is plain, both from a simple document construction point of view and from our client's actual experience of the differences that there is a significant real risk that members of the public have been misled or mistaken about the nature of the application and a consequent clear risk that individuals who were not lucky enough to be contacted by our client, may have been denied the opportunity to make the representations they would have made had the true nature of the proposal been clear.

[REDACTED]

We consider it essential for the integrity of the application process that the description of development be amended and further consultation be undertaken. It would not be reasonable to rely on my client's discussions to properly inform all stakeholders of the nature of the scheme.

Matters not objected to

Our client is keen to make clear that he is not against all forms of development at the property. In particular he has raised no objection to application 2023/0693/P for the "*Remodelling of dormer, fenestration alterations, replacement windows, installation of roof lights, automatic opening vents, solar panels, air source heat pumps and associated works*". Nor are the following elements of this development objectionable:

1. reinstatement of stair balustrade and front boundary treatment to match original,
2. replacement windows,
3. installation of bi folding doors,
4. hard and soft landscaping and associated works

And subject to interaction with the basement proposal, has no in principle objection to the external platform lift and reconfiguration of staircase.

As can be surmised therefore the principal concern relates to the basement and swimming pool proposal. It should be noted however that the basement proposal is entirely severable from the remaining elements of this proposal. The delivery of accessible lower ground access for instance is not a benefit which should be weighed against the disadvantages of the basement work.

Traffic

Our client's main concern relates to traffic management for the development. As is well known, significant basement development generate a disproportionately large number of vehicle movements compared with other similar scale projects. Belsize crescent is unsuitable for that density of vehicle movements and a decrease in frequency of movements would only result in an unacceptable lengthening of an already intrusive and unreasonable build programme.

Belsize crescent is not a one-way street. It is however subject to car parking which reduces its width to that of a single car. Deliveries to properties in the general run of life are already problematic in the crescent, let alone a major project involving vehicle movements for over a year.

Attached to this objection is a series of photographs showing a single incident generated by a lorry unloading on Belsize Crescent. Incidents such as this are already a frequent occurrence and would become daily occurrences during the build period.

The suspension of parking bays is not a sensible solution for a project of this length. As the council will be well aware, demand for on-street parking in this location already exceeds supply and it is an unreasonable impact on locals for an extended period of time.

The applicant's experts largely dismiss this concern as one to be managed through a CTMP. As you are aware, the council cannot impose a condition requiring approval of a document without being satisfied that such condition has a realistic prospect of being satisfied. We consider that any casual inspection of the road demonstrates that there is a significant risk that no acceptable CTMPO could be found. It is a disservice to the stakeholder *and* the applicant to allow permission to be granted without some assessment that some form of realistic CTMP can be created. No such assessment has been made.

Errors, discrepancies and outstanding issues with the BIA

Having reviewed the BIA document, this is clearly reported as a best-case scenario but fails to properly address a number of issues:

1. Whilst accepting that the property does not slope at more than 7°, the report states that the slope has a gradient of less than 4 degrees. Our client's architect has performed their own measurements and considers that the slope of the road is around 4° rather than less than it BUT crucially that there is also slope from the front to the back of the house of 5°. Whilst not meeting the threshold for major stability concern, the minimisation of this slope and the fact that the site is in fact sloping in two directions *is* of concern and the application should be required to review the stability assessment in light of this discrepancy.
2. The checklist on page 8 states that trees are being felled as part of the development. This is patently incorrect as shown by the Arboricultural report which shows a group of semi-mature trees (G1) within the footprint of the proposed basement. Whilst not expressly acknowledged, trees 1 and 2 are also NOT shown on the proposed lower ground plan and it must be presumed that they are intended to be removed. Again this questions the stability assessment undertaken.
3. On the same page of the checklist, the basement is indicated as **not** being within 5 m of a highway. Again this is clearly in error given the proposed rooflight in the lightwell.
4. The same checklist also states twice that the amount of hardstanding would not be increased. While there is no change in coverage of the lower ground floor, the landscaping shown on the proposed plans extends the area of hard landscaping in the garden significantly from that in the existing. This should be assessed or removed from the scheme. The basement also extends even beyond that area and there remains serious doubt if sufficient room has been left above the swimming pool roof to accommodate soil and proper surface water attenuation. While 1000mm is marked on proposed section B, the

construction of the roof of the swimming pool area is not detailed and its thickness cannot be ascertained.

5. Whilst the report concludes that there is very low chance of surface water flooding, this is not accepted by our client. This is a serious consideration because 11 Belsize crescent is located at a visibly lower level than number 13. Attached to this objection are a series of photographs showing how surface water drainage at 13 Belsize Crescent causes wetness in the retaining wall in the garden. It is unrealistic to suggest that creation of a basement and the alteration and extension of the hardstanding area in the rear garden can simply be assumed to not maintain or exacerbate this situation.
6. The stability assessment does not appear to assess the impact of the removal of a significant number of internal walls as part of the development. Our client's own structural engineer considers that these walls do contribute to stability of the building and was unable to identify any compensatory support following their removal. This element needs to be reassessed with this issue in mind.
7. Related to that is the note on the proposal plans that "columns may be recessed into the party walls by forming a chase of 100mm". The depth and strength of the party walls to accommodate this without structural damage is not assessed. It cannot simply be assumed that there is scope to cut 10cm depth into the brickwork without consequence. Especially given point 10 below.
8. Also related, the thickness of the party walls at lower ground level has not been assessed. This should have been done prior to submission. This will affect the thickness of the underpins and therefore the impact of the build in terms of both programme and amenity impact of the works.
9. There is no methodology dealing with prevention of casting concrete beyond the party wall face.
10. Our client is aware from personal knowledge, but the writers of the report seem unaware, that the bricks of which these properties are constructed are not particularly strong and, as our client described it, have a tendency to "fritter away" and "turn to dust" when interfered with. This has a serious impact on the stability assessment and has been overlooked and must be reviewed. This goes potentially to the structural safety of the terrace.

Some of the above might be argued by the applicant to be minor and/or to be dealt with through later submissions. As noted above, the council must establish that the development can be undertaken in an acceptable manner before imposing such conditions. If it is not satisfied that there is a solution, it must insist on more information at this stage so as to become satisfied.

Other elements are not minor and cannot be dealt with later and must be reviewed before the application can be considered. We trust that you and Campbell Reith who we believe assess this document on your behalf, insist on appropriate changes,

corrections and further work which should be further consulted upon before any decision is taken.

Light and odour

The plans show a skylight in the roof of the basement in the front light well and also possibly in the back garden. Unlike the creation of a light well, such glass ceilings create light pollution going vertically up. No assessment of the impact so this have been undertaken.

Basement guidance states at 2.6 that a skylight "will not usually be acceptable".

In addition vents are proposed within the landscaping. Given the swimming pool, we presume this is from plant (though unusually no allowance for plan is shown on the drawings) and likely to be warm air with "chemical" smells. This is likely to have a negative impact on our client's residential amenity and enjoyment of their garden. No assessment of this, mitigation or even consideration of plant generally seems to have been undertaken.

Trees and landscape

The garden is a mature garden containing a number of trees. Our client rejects the classification of all living trees in the garden as category C. They are not considered to be "unremarkable trees of very limited merit" but perfectly fine specimens. Whilst they might be described as making little visual contribution to the wider locality due to their rear- garden location, such a description would place them in category B. It is unfair to the trees to suggest that they have low and certainly they do not have transient or temporary landscape value.

No assessment has been made of the potential impact on trees in adjacent gardens.

Even if strictly compliant with BS 5837:2012, the trees and landscaping of the rear garden, its loss and the more limited potential for planting following the creation of the basement and swimming pool remains a material planning consideration against development.

Policy Assessment

Clearly basement policy A5 is the most relevant here. As it currently stands the BIA is not in our view sufficient or accurate enough to reasonably satisfy the council of those matters required to discharge criteria a-e nor n-u and as such the basement element of the proposal is contrary to policy.

The plans as drawn do not show the depth of the pool. This is a bizarre omission given the single-story policy. While the policy does allow some allowance to be made for swimming pools, the exact depth is currently unshown but appears to take the storey well above 4m. No credit can be sought for the lowering of the ceiling over part of the swimming pool where it projects under the garden – this is still adding a significant volume of extraction which the policy was designed to protect local residents from.

The swimming pool is an unnecessary additional impact that can be simply avoided. Adding a swimming pool increased depth of basement is not a right but is allowed "where appropriate" (see paragraph 6.131 of the local plan). Given the immense traffic constraints in this location, this cannot be said that an increased allowance for basement is "appropriate".

As pointed out by the Conservation Area Committee, the Conservation Area Statement states that:

"The Council will normally only permit (excavation works) if the building will be restored by the action to its original condition, or if it will contribute to the established character of the street scene".

No part of the basement element of this scheme meets either limb of this test. The proposal causes **harm** to the conservation area and is unsupported by the specific area policy and not outweighed by any contrary material planning considerations and should therefore be refused.

Lack of neighbour engagement

The applicant started discussions with our client and the neighbour on the other side ahead of the planning application and reassured both that no application would be submitted pending discussion on various matters and engagement in the party wall process. Without warning the applicant then reneged on those discussions and submitted this application.

Clearly the above does not constitute a reason for refusal of the planning application. It **does** however mean that where there are issues which could have been resolved by discussion had the Applicant not "jumped the gun", the balance of convenience lies more heavily on the side of ensuring that proper steps and assessments are undertaken now. If this causes delay for the Applicant to re-do work or correct something that they could have got right in the first place with proper engagement, then that inconvenience to the Applicant is unfortunate but is to an extent self-inflicted and should be accorded extremely limited weight when considering whether or not to require further steps.

Conclusion

The application should be reconsulted on due to a misleading and downplayed description of development leading to a real risk of relevant comments not being received.

There are a significant number of issues with content on the application, both in terms of assessment and in terms of the nature of the works. You may wish the Applicant to revisit those before the necessary re-consultation takes place.

In any event as can be seen from the nature and range of the objections, the basement element of this scheme is unacceptable. It fails to meet basement policy requirements and its amenity impacts, both during the construction phase, particularly in relation to

unrecoverable traffic issues, and long term including surface water, odour and light pollution. In any event therefore we consider that the application should be refused.

Response requested

The first point in this letter and in the conclusion is so serious and so goes to the heart of any decision on the application, that we request a formal reply confirming the steps the council is going to take in relation to it. We understand that an objection to a planning application does not give rise to an automatic right to a response or notification of decision or other key dates, this point does need an answer in departure from that standard position.

In addition, and in light of the number of crucial documents which are likely to be conditioned for later approval if the permission is granted, we would request a formal confirmation from your council that the owners of 11 and 15 will be consulted on the submission of any later management plan, transport plan or surface water treatments. Without a legitimate expectation of such consultation, my client cannot be reasonably expected to accept that these matters can properly take his views into account nor can the Applicant be relied upon, given past behaviour, to properly consult on their submission. Without such therefore our client's position is that even if it is possible that such mitigation is lawfully possible such that the council believes permission could be granted and conditions imposed, the grant of such a permission does not safely protect his position.

In light of that we look forward to hearing from you on both points as a matter of urgency.

Yours faithfully

[REDACTED]
Mishcon de Reya LLP

13 Belsize Crescent planning application

Photos of garden retaining walls and of trees.

Walls

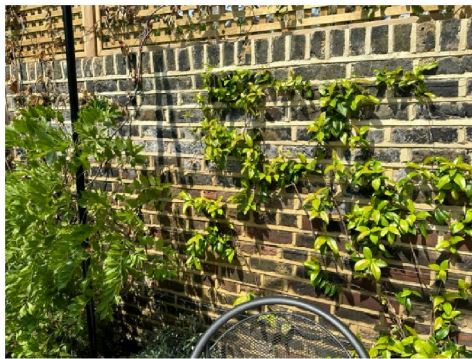
Unlike the brick party wall in the garden between 9 & 11 Belsize Crescent which is constantly dry, the brick party wall in the garden between 11 & 13 Belsize Crescent is constantly wet which points to an existing drainage issue (also linked to the sloping of the area). Based on the plans submitted, there is a reasonable expectation the issue would worsen with the loss of natural drainage (increasing the risk not only for the garden itself but for the lower ground floor which is at the same level)

17 June 2023 (following a week long heatwave without rain)

- Left 11 & 13 Belsize Crescent – WET GARDEN WALL
- Right 9 & 11 Belsize Crescent – DRY GARDEN WALL



17 June 2023 (close up showing waterlogged party wall)



31 May 2023

- Left 11 & 13 Belsize Crescent – WET GARDEN WALL
- Right 9 & 11 Belsize Crescent – DRY GARDEN WALL



23 May 2023

- Left 11 & 13 Belsize Crescent – WET GARDEN WALL
- Right 9 & 11 Belsize Crescent – DRY GARDEN WALL



16 May 2023

- Left 11 & 13 Belsize Crescent – WET GARDEN WALL
- Right 9 & 11 Belsize Crescent – DRY GARDEN WALL



30 April 2023

- Left 11 & 13 Belsize Crescent – WET GARDEN WALL
- Right 9 & 11 Belsize Crescent – DRY GARDEN WALL



Views of trees 1 and 2 from garden of 11 Besize Crescent.





