

Application ref: 2022/1085/P  
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**Development Management**  
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TJR Planning  
Suite 3 The Mansion  
Wall Hall Drive  
Aldenham  
WD25 8BZ

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990 (as amended)

### **Variation or Removal of Condition(s) Granted Subject to a Section 106 Legal Agreement**

Address:

**35 Elsworthy Road  
London  
NW3 3BT**

Proposal:

Variation to condition 3 (approved plans) of planning permission 2014/5463/P dated 14/01/2015 for conversion from 2 flats into a single family dwelling house, excavation under footprint of house and rear garden with side and rear lightwells, erection of 2 storey curved bay to rear to replace existing 1-storey angled bay and demolition of side addition NAMELY to remove 2 lightwells and associated grilles, relocate rear garden access stair, amend the size and depth of the basement, changes to the flank wall fenestration, amendments to rear dormers and central windows, omission of rooflights and correction to plans including to amend north sign.

Drawing Nos: Existing plans:

FEV\_001; FEV\_002; FEV-008; FEV-009; FEV-010; FEV-011; FEV-012; FEV-013;  
FEV-015; FEV-016; FEV-017; FEV-018; FEV-019; FEV-020; FEV-021; FEV-022; FEV-023; FEV-024; FEV-025.

Proposed plans:

FEV-100/101 rev 2022; FEV-102 rev 2022; FEV-103 rev 2022; FEV-104 2022 - A;  
FEV-105 rev 2022 - A; FEV-108/109 rev 2022; FEV-109 rev 2022; FEV-110 rev 2022;  
FEV-111 rev 2022; FEV-112 rev 2022; FEV-113 rev 2022; FEV-116 rev 2022; FEV-117 rev 2022; FEV-118 rev 2022 - A; FEV-119 rev 2022; FEV-120 rev 2022.

Supporting documents:

Section 73 - Supporting Document rev A prepared by Spink; Update of Tree Schedule and Tree Protection Arrangements prepared by Tree Projects dated 21st July 2022.

The Council has considered your application and decided to grant permission subject to the following condition(s):

Condition(s) and Reason(s):

- 1 The development hereby permitted must be begun not later than the end of three years from the date of the original planning permission ref 2014/5463/P dated 14/01/2015.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.

- 3 For the purposes of this decision, condition no 3 of planning permission 2014/5463/P dated 14/01/2015 shall be replaced with the following condition:

#### REPLACEMENT CONDITION 3

The development hereby permitted shall be carried out in accordance with the following approved plans-

Existing plans:

FEV\_001; FEV\_002; FEV-008; FEV-009; FEV-010; FEV-011; FEV-012; FEV-013; FEV-015; FEV-016; FEV-017; FEV-018; FEV-019; FEV-020; FEV-021; FEV-022; FEV-023; FEV-024; FEV-025.

Proposed plans:

FEV-100/101 rev 2022; FEV-102 rev 2022; FEV-103 rev 2022; FEV-104 2022 - A; FEV-105 rev 2022 - A; FEV-108/109 rev 2022; FEV-109 rev 2022; FEV-110 rev 2022; FEV-111 rev 2022; FEV-112 rev 2022; FEV-113 rev 2022; FEV-116 rev 2022; FEV-117 rev 2022; FEV-118 rev 2022 - A; FEV-119 rev 2022; FEV-120 rev 2022.

Supporting documents:

Section 73 - Supporting Document rev A prepared by Spink; Update of Tree Schedule and Tree Protection Arrangements prepared by Tree Projects dated 21st July 2022.

Reason: For the avoidance of doubt and in the interest of proper planning.

- 4 The use of the roof as a terrace shall not commence until the screen, as shown

on the approved drawings, has been constructed. The screen shall be permanently retained thereafter.

Reason: In order to prevent unreasonable overlooking of neighbouring premises in accordance with the requirements of policies A1 and D1 of the London Borough of Camden Local Plan 2017.

- 5 The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the typical existing background noise level by at least 10dBA, or by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.

Reason: To safeguard the amenities of the adjoining premises and the area generally in accordance with the requirements of policies A1 and A4 of the London Borough of Camden Local Plan 2017.

- 6 All hard and soft landscaping works shall be carried out in accordance with the approved landscape details in accordance with approval of details ref 2017/4179/P by not later than the end of the planting season following completion of the development or any phase of the development. Any trees or areas of planting (including trees existing at the outset of the development other than those indicated to be removed) which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, A5, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 7 Prior to the end of the next available planting season, replacement tree planting shall be carried out in accordance with details of replanting species, position, date and size, where applicable, in accordance with the details approved under reference 2017/4179/P.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area, in accordance with the requirements of policies A2, A3, D1 and D2 of the London Borough of Camden Local Plan 2017.

- 8 All lighting within the staircase access to the basement hereby approved shall be fitted with automatic light sensors and shall be retained and maintained thereafter,

Reason: In order to prevent unreasonable lightspill to neighbouring premises in accordance with the requirements of policies A1 and D1 of the London Borough of Camden Local Plan 2017.

- 9 The trees to be retained on site shall be protected during construction work in accordance with Update of Tree Schedule and Tree Protection Arrangements prepared by Tree Projects dated 21st July 2022.. Such details shall follow guidelines and standards set out in BS5837:2012 "Trees in Relation to Construction". All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage in accordance with the approved protection details.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the London Borough of Camden Local Plan 2017.

Informative(s):

- 1 Reasons for granting permission:

Various alterations are proposed to the planning permission for basement works and extensions to convert the property to a single family dwelling that was approved in 2014 (ref 2014/5463/P). The 2014 permission has been lawfully implemented (ref 2018/2010/P) but not substantially completed.

Basement works

Overall the footprint of the approved basement has been reduced in size by 11 sq. m, the associated lightwells in the garden and two lightwells in the sides would be removed. Due to the change in the use of the rooms at basement level (originally staff bedroom and now plant and music room) there is no requirement for these non-habitable spaces to receive natural light, by means such as lightwells. The proposed basement would continue to be set away from the boundaries with the neighbouring properties. The approved basement floor level was more stepped whereas the revised basement floor level would be more consistent in terms of its depth across the site. The pool pit would be repositioned but would remain at a similar depth to the approved scheme. Given that the house is detached and would be set away from the shared boundaries with neighbouring properties it is considered that the basement works would not have a harmful impact on stability of neighbouring properties. The applicant has confirmed that the proposed amendments would not result in a change to the methodology or sequence of construction (both temporary or permanent works) so an updated basement impact assessment was not required. Taking this into consideration as well as the fact that basement footprint would be reduced in overall size, the works would be considered acceptable. A condition was attached to the original permission requiring the appointment of a suitably qualified engineer and this condition would continue to be required as part of this permission.

Other works

The internal stair would be relocated which would result in the relocation of flank windows from the north west side elevation of the building to the northeast side elevation at ground, first and second floor levels. The windows

would be appropriate in terms of size, proportions and detailed design and would be considered acceptable. The approved scheme included a terrace at second floor level. This would be omitted as part of the proposal and the approved dormer would be enlarged and extended out to the same depth as the second dormer in the roof. Although wider, the dormer would be set in from the eaves and ridge of the roof and would be considered subordinate within the roof. The design of the dormers would be amended to traditional dormer windows rather than angled dormer windows at this floor level. The dormer window in the northeast side elevation would be modestly increased in width but would be set lower within the roof slope. The proposed dormers would continue to be subordinate within the roof and would not significantly alter the character or appearance of the building and would be considered acceptable. All other proposed changes including removal of 2 roof lights are considered acceptable in terms of design and appearance within the building. The north direction on all the proposed drawings has been corrected from what was shown on the approved plans.

Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area under s72 of the Planning (Listed Buildings and Conservation Areas Act) 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

## 2 Amenity

The proposed basement works would not have a harmful impact on the amenity of the neighbouring occupiers in terms of outlook, overlooking and privacy. The windows in the northeast side elevation would be relocated however the number of window openings would not increase and the relationship with the neighbouring property in terms of overlooking would remain the same as the approved scheme. The modified dormer windows would not introduce any further harmful overlooking than the approved dormer windows. The Elsworthy Residents Association raised comments on the lighting to the staircase access to the basement and the need for a condition to install automatic sensor lighting to ensure there would be no harmful light pollution to neighbouring occupiers. A condition would be attached to ensure that this is installed.

Conditions relating to screening of the roof terrace and requirement for plant to meet minimum noise standards were secured as part of the original permission and are still relevant to this permission.

### Trees and landscaping

Condition 6 and 7 of 2014 scheme required hard and soft landscaping and tree planting details. These were discharged in September 2017 (re 2017/4179/P). The original scheme included a topsoil depth of 1.1m. As part of the revised scheme a topsoil depth of 1.2m would be provided on top of the basement under the existing garden to ensure the successful establishment of garden planting and to help mitigate the effect on infiltration capacity which complies with the guidance in CPG Basement. The Council's Tree officer has reviewed the arboricultural report and is satisfied with its findings. Compliance conditions would be attached to ensure that the works are carried out in line with these approved details and an additional condition would be attached to

ensure that the works are carried out in line with the tree survey documents submitted as part of this proposal.

#### Transport

The previous permission secured 2 heads of terms (i) car capped agreement and (ii) construction management plan (CMP). Policy T2 (Parking and car-free development) is relevant to the assessment for car free development and is supported by CPG Transport (2021). The approved scheme included the change of use from 2 flats to a single family dwelling and required a car-capped head of term as part of the legal agreement. The single family dwelling results in the reduction in the number of units therefore reducing the demand for parking permits. The aims of the policy would be met as the development itself would reduce the use of private motor vehicles and pressure for on-street parking. The head of term requiring car capped housing would therefore not be required as part of this permission.

As the majority of the construction works are still to be completed on site the need for a CMP and associated implementation support contribution of £3,920 would be required as well as a CMP impact bond of £7,500. These would be secured by s106 legal agreement.

A letter of objection has been received from a neighbouring occupier relating to the assessment of the trees in the neighbouring garden. This has been addressed in the accompanying consultation summary. No other objections have been received prior to making this decision. The planning history of the site and surrounding terrace has been taken into account when coming to this decision.

As such, the proposed development is in general accordance with policies A1, A2, A3, A5, D1, D2, CC1, CC2, CC3, T1, T2 and T4 of the Camden Local Plan 2017. The proposed development also accords with the London Plan 2021 and the National Planning Policy Framework 2021.

- 3 This approval does not authorise the use of the public highway. Any requirement to use the public highway, such as for hoardings, temporary road closures and suspension of parking bays, will be subject to approval of relevant licence from the Council's Streetworks Authorisations & Compliance Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No 020 7974 4444). Licences and authorisations need to be sought in advance of proposed works. Where development is subject to a Construction Management Plan (through a requirement in a S106 agreement), no licence or authorisation will be granted until the Construction Management Plan is approved by the Council.
- 4 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts that cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Judd St, Kings Cross, London NW1 2QS (tel: 020-7974 6941).
- 5 All works should be conducted in accordance with the Camden Minimum

Requirements - a copy is available on the Council's website (search for 'Camden Minimum Requirements' at [www.camden.gov.uk](http://www.camden.gov.uk)) or contact the Council's Noise and Licensing Enforcement Team, 5 Pancras Square c/o Town Hall, Judd Street London WC1H 9JE (Tel. No. 020 7974 4444)

Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You must secure the approval of the Council's Noise and Licensing Enforcement Team prior to undertaking such activities outside these hours.

- 6 This approval under Section 73 of the 1990 Act effectively varying the relevant condition of the previous planning permission is subject otherwise to the same terms, drawings, conditions (and obligations where applicable) as attached to the previous planning permission. This includes condition 1 providing for a 3 year time period for implementation which for the avoidance of doubt commences with the date of the original decision (and not this variation).

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2021.

You can find advice about your rights of appeal at:

<https://www.gov.uk/appeal-planning-decision>.

If you submit an appeal against this decision you are now eligible to use the new [submission form](#) (Before you start - Appeal a planning decision - GOV.UK).

Yours faithfully



Daniel Pope  
Chief Planning Officer