



Phillips Planning Services Ltd.

Town Planning and Development Consultants

19 December 2023

Mr Ewan Campbell
London Borough of Camden
Planning Department
2nd Floor, 5 Pancras Square
London
WC1H 9JE

By Email ewan.campbell@camden.gov.uk

Dear Ewan,

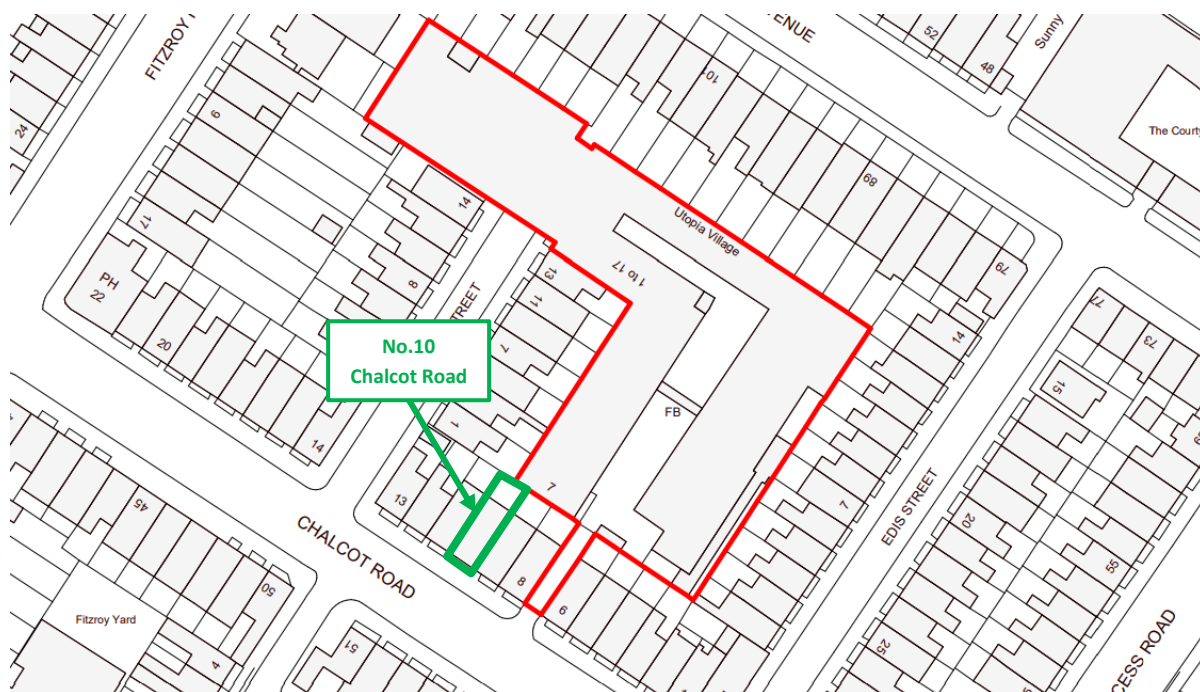
Planning Application reference 2023/4757/P

Utopia Village, 7 Chalcot Road, London NW1 8LH

Demolition of existing lean-to structures along the eastern boundary and erection of infill extension, alterations to the exterior of the building including replacement and alteration of windows and doors, removal of external services and plant, improvement of some external finishes, replacement of sections of roof, re clad external stair case, install vents and over clad plant room and refurbishment of bridge structure, installation of air intake/exhaust features associated with ventilation, heating and cooling systems, external courtyard landscaping works and replacement of entrance gates

We are instructed on behalf of Ms Hadley Freeman, the owner and occupier of the residential property No.10 Chalcot Road.

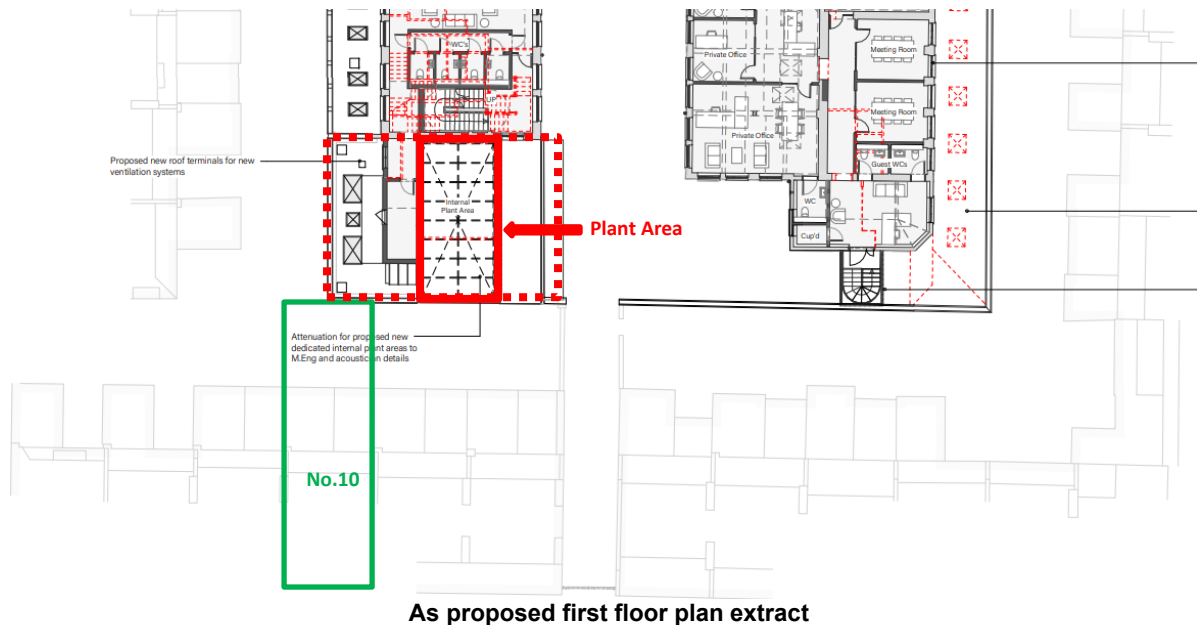
As shown on the site location plan extract below the rear garden of No.10 directly adjoins the south western boundary of the application site. The rear windows of the property face north east toward the site.



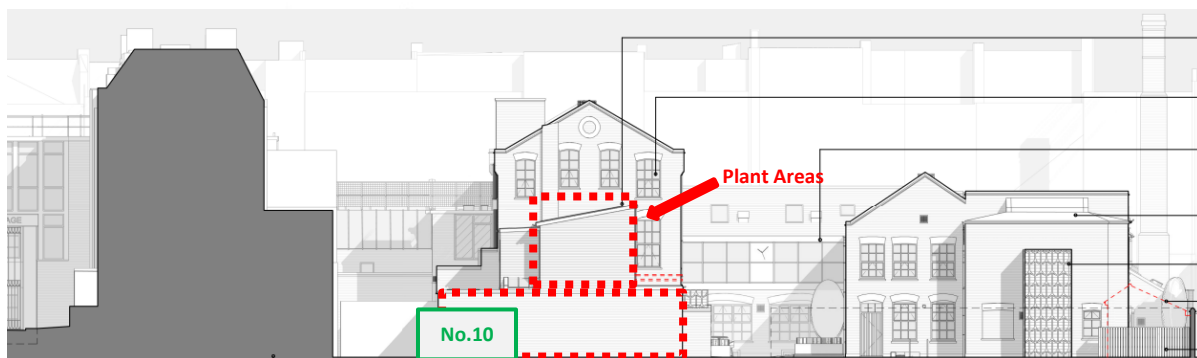
Site location plan extract with No.10 Chalcot Road highlighted for clarity

The application proposes to demolish and replace an existing first floor structure close to the boundary with No.10. The replacement would house a new plant room labelled as Plant Area 1 within the submitted documentation.

As shown below the proposed plant room would be located approximately 6 metres from the rear ground floor windows at No.10 and approximately 9.5 metres from the upper windows within the property.



As proposed first floor plan extract



As proposed south west elevation (view from the rear of No.10)

Having considered the application and the submitted acoustic reports our client holds concerns in terms of the impact of this proposal in terms of noise and disturbance and so a reduction in the residential amenity currently enjoyed.

Relevant Planning Policy Context

As you are aware, planning applications should be determined in accordance with relevant policies of the development plan and having regard to any other material considerations. The Camden Local Plan includes a directly relevant Policy A1 'Managing the Impact of New Development. This states:

*"The Council will **seek to protect the quality of life of occupiers and neighbours.** We will grant permission for development **unless this causes unacceptable harm to amenity.** We will:*

a. seek to ensure that the amenity of communities, occupiers and neighbours is protected;

The factors we will consider include:

i. noise and vibration levels;”

The supporting text to policy explains that:

6.3 Protecting amenity is a key part of successfully managing Camden’s growth and ensuring its benefits are properly harnessed. **The Council will expect development to avoid harmful effects on the amenity of existing and future occupiers and nearby properties or, where this is not possible, to take appropriate measures to minimise potential negative impacts.**

6.19 **Noise and vibration can have a major effect on amenity.** The World Health Organisation (WHO) for example states that excessive noise can seriously harm human health, disturb sleep and have cardiovascular and behavioural effects. Camden’s high density and mixed-use nature means that disturbance from noise and vibration is **a particularly important issue in the borough.**

6.20 Where uses sensitive to noise are proposed close to an existing source of noise or when development that is likely to generate noise is proposed, the Council will require an acoustic report to accompany the application.....”

In addition, the Council has prepared helpful supplementary guidance (Camden Planning Guidance CPG) to assist in the application and interpretation of the policies. Camden Planning Guidance on ‘Amenity’ notes that:

6.11 In instances where noise mitigation is necessary, **proposals will be expected to include appropriate attenuation** to alleviate or mitigate the impact of noise and vibrations to an acceptable level. Where noise mitigation has not been proposed adequately, but is considered necessary, the Council will **consider** the use of planning conditions or a legal agreement.

Objection to this Application

Approach

As a general overarching point, it is noted within the submitted Design and Access Statement that the extent of new plant proposed is required because “*the owner’s businesses work in digital media and animation, so robust technology infrastructure is required.*” (page 17).

It is also explained that consultation feedback and previous unsuccessful applications has led the applicant to move away from roof level plant as this may have a greater visual impact.

On page 18 of the Design and Access Statement it is stated that a further factor guiding the proposals is a desire to balance “*functionality, use of lettable area and impact on neighbouring properties*”.

In summary the key drivers in the development of the proposal appear to have been:

- The owners business requirements;
- A desire not to have units visible externally on roof areas; and
- A balance between functionality and use of lettable space an impact upon neighbours.

Whilst it is understandable that the applicant would wish to accommodate his business and look to minimise the impact of the new plant on lettable areas, this should not be at the expense of residential amenity.

As summarised above Council policy makes clear that the impact of noise (including plant / mechanical noise) upon the amenity of residential properties is a very important consideration in the determination of planning applications. Where noise is deemed to have harmful impacts or the application fails to demonstrate that acknowledged harmful impacts can be sufficiently mitigated planning permission will be refused. An applicants need for plant and / or desire to minimise the loss of lettable space does not override amenity considerations.

The Council's associated guidance notes that in situations where insufficient information has been provided the Council may consider whether a condition can be used to seek further information post decision. The guidance makes clear that whether a condition can reasonably be used to secure additional information would be a matter for review in each case i.e. it is not simply 'a given' that this would be an appropriate approach.

In this regard, as the Council is aware any condition applied must meet the relevant tests set out in the NPPF. The two we highlight in this case are the test of reasonableness and enforceability. In brief, if a condition were to be used the Council would need to be confident that it could be properly complied with and enforced if necessary. I return to this below.

Technical Concerns with Acoustic Information Provided:

In assessing the noise impacts of the proposed development on our clients property at No. 10 Chalcot Road, acoustic expert Mr Rupert Thornley-Taylor has been instructed to review the submitted acoustic reports. A letter prepared by Mr Thornley-Taylor setting out his concerns is attached at Appendix 1. We ask that the content is considered as part of the assessment of the application. I highlight the following key aspects:

1. The Local Plan requires that the "rating level" used in the assessments of the noise impacts from new development is set at 10 dB below the background level, or 15 dB below if the noise contains audible tonal elements. The submitted assessment assumes a 10 dB level without any detailed consideration of whether the noise is likely to be tonal and so attract a requirement for a further 5 dB reduction. The submission is deficient in this regard.
2. That aside the report concludes (paragraph 3.3.2) that due to the significant scale of plant and proximity to the nearest property (which adjoins our clients property), there is a requirement to mitigate the modelled noise level by some 50 dBA.
3. Mr Thornley-Taylor describes this as an "extreme requirement" which may not be achievable due to flanking transmission (sound transmitted along the structure of the attenuator rather than through its airways) or self-generated noise (aerodynamic noise due to flow through the attenuator).
4. Mr Thornley-Taylor also notes that such attenuation would require the provision of acoustic splitters and linings of great thickness and length resulting in a very large attenuator which is not shown on any of the submitted drawings. He raises doubt as to whether it is in fact capable to accommodate the necessary attenuation within the space available.

Mr Thornley-Taylor's assessment concludes:

“The principal conclusion to be drawn from the report is that without extreme amounts of noise attenuation the proposals will exceed the limiting noise levels that are required by Camden Council by a substantial margin. While recommendations are made about how this might be addressed, implementing the recommendations necessitates detailed design work, which has not been carried out. Furthermore, not all the plant referred to in the application has been included in the assessment at each assessment location. Consequently, the planning authority has not been provided with information from which it can be concluded that compliance with required noise standards will be achieved. It will not be sufficient to rely on the imposition of specific noise limits in a planning condition, because it is not demonstrated that achievement of appropriate limit can practicably be achieved or accommodated within the space available. It is essential that sufficient engineering detail is provided at the application stage to provide reasonable assurance that the required noise levels will be achieved, and that subsequent enforcement will not be required. That detail has not been provided and planning permission ought not to be granted in its absence.”

In simple terms, it is considered that the report includes deficiencies as outlined but even if those deficiencies are ignored and the conclusions taken at face value, the application acknowledges the need for significant / extreme levels of mitigation if the Camden noise standards are to be met.

It has not been demonstrated that such levels of mitigation can be achieved.

As a result it would not be appropriate to allow this application to proceed with a conditional requirement to provide further information at a later stage. Such a condition would not meet the relevant tests as there is significant doubt as to whether such a condition could be complied with.

This would leave the Council in a position whereby a consent would have been granted including a condition which it may not be possible for the applicant to comply with. This would then mean enforcing the condition would be extremely difficult and ultimately for these reasons the Council could be judged ultra-vires and so fall away.

This would in turn leave residents in the unpalatable position whereby a consent for an extremely noisy plant has been granted without an enforceable mitigation mechanism.

Impact upon gardens / amenity area

No specific consideration is given to the noise levels within the garden areas of the houses.

At No.10 for example the rear garden adjoins the proposed plant area and people using the garden would be within only a few metres of the noise source i.e. closer than the nearest affected windows.

It is normal practice to consider the impact of such development on amenity areas as well as internal habitable rooms.

Conclusions

Given the above it is respectfully our submission that one of two courses of action should be followed.

Firstly the Council could raise these issues with the applicant now and request that appropriate detailed design work is undertaken to clearly demonstrate that the extreme mitigation measures clearly acknowledged to be required in the applicants own report can in fact be provided within the spaces available on site.

However, if this work demonstrates that the mitigation cannot be delivered as required the application would need to be amended or withdrawn and reconsidered.

If the Council does not seek further information regarding the required mitigation it is our submission that this application should be refused as being contrary to Policy A1 (a and j) and the Camden Planning Guidance on noise and amenity as it fails to provide sufficient comfort that the noise impacts upon neighbouring residents can be mitigated to an appropriate and reasonable level.

Thank you for taking the time to consider these points.

Yours faithfully,

Paul Watson
PHILLIPS PLANNING SERVICES

Appendix 1 – Acoustic Assessment Rupert Thornley-Taylor