

planning@camden.gov.uk

Planning Application:PA20245203P – 31 Willoughby Road, London NW3 1RT

Dear Mr. Yueng

I object to this planning application that is yet another iteration of the refused basement plans [see PA 2020/0927/P Refusal date 02 February 2023]. The previous reasons for the refusal listed by Camden in both the refusal of 2 February and the later LPA Statement Written Representations document date 20 October 2023 [see attached document] still stand and have not been properly mitigated by this new application- even despite the reduced size of the basement area. There are also additional reasons for concerns that inform my objection to this current application.

Please see below my list of objections:

- 1- Risk of surface water flooding and drainage still stands and has not been safely resolved. See the attached analysis by the expert Dr Phil Smith of CGC who has reviewed the CGL technical data and BIA documents for us, the residents at listed Willow Cottages. Dr Smith clearly shows that [a] damage from these proposed works will still occur to the abutting heritage structures, and, [b] that the reasons for such damage remains as defined in the 2 February 2023 refusal scheme – irrespective of the smaller basement. See attached CGC Report date 16 December 2024 date.
- 2- And in contravention of Camden Local Plan Policies A5.
- 3- Risk of harm to heritage assets remains, in contravention of:
 - a. NPPF Section 16 government policy for protection of heritage assets,
 - b. Camden Local Plan 2017 policies A5 (Basements) and D2 (Heritage),
 - c. Hampstead Neighbourhood Plan 2018 Policy BA2
- 4- The existing concerns for the structural issues relating to the heritage wall have not been delt effectively by the new BIA.
- 5- The suggested design of the basement is also of grave concern. There are no windows for natural light nor any natural ventilation. The design as it stands, does not provide habitable accommodation. Either:
 - a. There will be round the clock air filtering with the resulting unacceptable constant noise,
 - b. Or this plan will be used as a steppingstone to further encroachment by way of another planning application for a bigger basement.
- 6- NPPF section 16 'Conserving and enhancing the historic environment' items 199, 200,201 and 202 must be complied with. This application offers no benefit to the public domain as is required under NPPF policy, and the application should again be refused.
- 7- The proposed works will cause damage to the heritage assets of Willow Cottages including the fragile listed rear retaining wall. Experts have acknowledged the analytical shortcomings of Burland Scale as it does not fully recognise nor calculate the full extent of damage as the method is designed for assessing modern construction and modern materials, not fragile heritage materials and heritage structures.
- 8- The proposed works will also cause much damage to neighbouring properties 33 and 29 Willoughby Road which the Burland Scale does not fully recognise as the Burland Scale was designed for assessing modern construction and modern materials.

9- These proposed works will also cause unacceptable levels of noise, disruption and traffic from construction trucks.

In summary, 31 Willoughby Road has already been extensively developed. Further development with a basement going significantly below Willow Cottages, a group of listed cottages with no foundation and poor condition of the listed rear boundary retaining wall crumbling under the pressure of the raised garden of 31 Willoughby Road, will cause potential damage to the listed cottages, the wall as well as adjacent properties. All in contravention of the existing planning policies as listed above. This application should be refused.

Farideh Bromfield
39 Willow Road
NW3 1TN

Application ref: 2020/0927/P
Contact: Nora-Andreea Constantinescu
Tel:
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Date: 2 February 2023

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Dear Sir/Madam

DECISION

Town and Country Planning Act 1990 (as amended)

Householder Application Refused

Address:

**31 Willoughby Road
London
NW3 1RT**

Proposal:

Excavation of basement with rear lightwell below dwellinghouse (Class C3), demolition and reconstruction of single storey side extension

Drawing Nos: 109_F_LOCATION; 109_PLA_EX_SP Rev. B; 109_PLA_EX_BP Rev. B; 109_PLA_EX_GFP Rev. C; 109_PLA_EX_FFP Rev. C; 109_PLA_EX_SEC_AA Rev. C; 109_PLA_EX_SEC_BB Rev. B; 109_PLA_EX_SEC_CC Rev. E; 109_PLA_EX_ELE_F Rev. B; 109_PLA_EX_ELE_R Rev. C; 109_PLA_EX_ELE_S Rev. C; 109_PLA_SP Rev. D; 109_PLA_BFP Rev. E; 109_PLA_GFP Rev. E; 109_PLA_FFP Rev. C; 109_PLA_ELE_F Rev. B; 109_PLA_ELE_R Rev. F; 109_PLA_ELE_R_01; 109_PLA_ELE_S Rev. D; 109_PLA_SEC_AA Rev. D; 109_PLA_SEC_BB Rev. B; 109_PLA_SEC_CC Rev. G; Design, Access, Heritage and Planning Statement, Ref. 34624, dated February 2020 by Nexus Planning; Arboricultural Tree Report, Ref. PS 1037, dated February 2020, by Phelps Associates; Letter (ref: 34624) to LBC dated 1st March 2021 by Nexus Planning; Basement Impact Assessment for a Proposed Basement Extension of 31 Willoughby Road London NW3 1RT, Ref. G1808-RP-01-E4, dated October 2020 by Eldred Geotechnics Ltd; BIA G1808-RP-01-E4 Supplementary Note G1808-SN-01-E1 dated February 2021 by Eldred Geotechnics Ltd; Technical Note G1808-TN-01-E1 dated February 2021 by Eldred Geotechnics Ltd; Letter from Eldred Geotechnics Ltd G1808/22B01/CPA1 dated February 2022; Construction management Plan draft pro-forma.

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):

Reason(s) for Refusal

- 1 In the absence of adequate surface water drainage mitigation the proposed basement excavation would result in an unacceptable risk to surface water flooding, contrary to policies A5 (Basements) and CC3 (Water and flooding) of London Borough of Camden Local Plan 2017.
- 2 The proposed basement excavation, by virtue of the extent, depth and proximity to neighbouring listed buildings and the complexity of the construction sequence is considered to result in the potential for harm to Willow Cottages a heritage asset contrary to policies A5 (Basements) and D2 (Heritage) of London Borough of Camden Local Plan 2017 and BA2 of Hampstead Neighbourhood Plan 2018.

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-householder-planning-decision>.

Yours faithfully

Daniel Pope
Chief Planning Officer

**Advice and Consultation
Planning and public protection**
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Dear Melanie Pugh,

**Town and Country Planning Acts 1990 (as amended)
Planning Appeal Statement (Authority)
Appellant: Manuela Eleuteri
Site: 31 Willoughby Road, London, NW3 1RT**

I write in connection with the above appeal against the Council's refusal to grant planning permission for the excavation of a basement with rear lightwell below an existing dwellinghouse (Class C3), demolition and reconstruction of single-storey side extension.

The application was a member's overturn. The background to the application is set out primarily in the Member's Briefing Report (ref: 2020/0927/P) that has already been sent with the questionnaire along with the Committee minutes. The following is the principal Statement of Case. Copies of relevant policies from the Camden Local Plan (adopted July 2017) and accompanying guidance were also sent with the appeal questionnaire.

The Council would be grateful if the Inspector would consider the contents of this letter which includes confirmation of the status of policy and guidance, comments on the Appellant's grounds of appeal and further matters that the Council respectfully requests be considered without prejudice if the Inspector is minded to grant permission.

1. Summary of the Case

- 1.1. The appeal relates to a three-storey single-family terraced building with rooms in the attic, located on the western side of Willoughby Road, in close proximity to the junction with Willow Road.
- 1.2. The appeal site is located within the Hampstead Conservation Area. Part of the side boundary of the application site is shared with the Willow Cottages on Willow Road, which are Grade II Listed.

1.3. Planning permission for the excavation of a basement and reconstruction of a single-storey side extension was refused on 02/02/2023.

1.4. The planning application was refused on the grounds that:

- In the absence of adequate surface water drainage mitigation the proposed basement excavation would result in an unacceptable risk to surface water flooding, contrary to policies A5 (Basements) and CC3 (Water and flooding) of London Borough of Camden Local Plan 2017.
- The proposed basement excavation, by virtue of the extent, depth and proximity to neighbouring listed buildings and the complexity of the construction sequence is considered to result in the potential for harm to Willow Cottages a heritage asset contrary to policies A5 (Basements) and D2 (Heritage) of London Borough of Camden Local Plan 2017 and BA2 of Hampstead Neighbourhood Plan 2018.

2. Relevant History

2016/7146/P – Excavation of basement with rear lightwell below dwellinghouse (C3); demolition and reconstruction of single storey side extension – **Withdrawn 12/04/2018**

2016/7151/P - Re-positioning of the existing rooflights to front and rear roof slopes of dwellinghouse – **Granted 17/03/2017**

9260057 – Partial demolition of existing rear conservatory – **Granted 29/05/1992**

3. Status of Policies and Guidance

Adopted Policies

3.1. The Camden Local Plan was adopted on 3 July 2017. The policies cited below are of relevance to the applications.

Camden Local Plan 2017

- D1 Design
- D2 Heritage
- A1 Managing the impact of development
- A3 Biodiversity
- A4 Noise and vibration
- A5 Basements
- T1 Prioritising walking, cycling and public transport
- T2 Parking and car-free development
- T3 Transport infrastructure
- CC1 Climate change mitigation
- CC2 Adapting to climate change
- CC3 Water and flooding

Hampstead Neighbourhood Plan 2018-2033

3.2. In refusing the application, the Council also refers to supporting documentation in the Hampstead Neighbourhood Plan. The specific clauses most relevant to the proposal are as follows:

- Policy DH1 Design
- Policy DH2 Conservation areas and listed buildings
- Policy NE2 Trees
- Policy BA1 Local requirements for Basement Impact Assessments
- Policy BA2 Basement Construction Plans
- Policy BA4 Construction Management Plans
- Policy TT1 Traffic volumes and vehicle size

Camden Planning Guidance (2021)

3.3. In refusing the application, the Council also refers to supporting documentation in Camden Planning Guidance. The specific clauses most relevant to the proposal are as follows:

- CPG Basements
- CPG Design
- CPG Amenity
- CPG Home Improvements
- CPG Transport
- CPG Trees
- CPG Developer Contributions

3.4. The Hampstead Conservation Area Appraisal and Management Strategy was adopted in 2002 and defines the special character of a conservation area and sets out the Council's approach for its preservation and enhancement.

London Plan (2021)

3.5. The London Plan is the statutory Spatial Development Strategy for Greater London prepared by the Mayor of London. The current London Plan was recently adopted in March 2021.

NPPF (2023)

3.6. The National Planning Policy Framework (NPPF) was published in April 2012 and revised most recently in September 2023 since the application was determined. It states that proposed development should be refused if it conflicts with the local plan unless other material considerations indicate otherwise. Of particular relevance to this appeal is the NPPF 2021 update under para. 134 which states that:

'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.'

As outlined in the decision notice, the development is contrary to CPG guidance and policies A5, D2, and CC3 of the Camden Local Plan, and policy BA2 of the Hampstead Neighbourhood Plan. Therefore, it is also considered contrary to para 134 of the NPPF 2021.

3.7. The Council's adopted policies are recent and up to date and should be accorded due weight in accordance with paragraph 219 of the NPPF. There are no material differences between the Council's adopted policies and the NPPF in relation to this appeal. The full text of the relevant adopted policies was sent with the questionnaire documents.

4. Reasons for Refusal

4.1. The LPA's reasons for refusal are outlined and addressed below, further expanding on the concerns the LPA has with the proposed basement and the impact on the adjacent heritage asset.

Reason for refusal no.1 (Basement Impact Assessment)

In the absence of adequate surface water drainage mitigation, the proposed basement excavation would result in an unacceptable risk to surface water flooding, contrary to policies A5 (Basements) and CC3 (Water and flooding) of London Borough of Camden Local Plan 2017.

4.2. Matters considered to be in doubt within the Basement Impact Assessment (BIA) were as follows:

(a) Not enough was known about ground and groundwater conditions for the design of the basement, for site specific assessment of subsidence risk and for protection of neighbouring property and the boundary retaining wall.

(b) The potential for the risk of groundwater flood affecting other property to be increased by the basement construction.

Underground River

4.3. The earlier versions of the BIA described a 19th century map of the subject site and immediate area, with an annotated overlay showing the principal water features in the region. The presence of a tributary of the River Fleet running beneath or very close to the site is incontrovertible. The possible presence of any residual pipes or a culvert located beneath the proposed building area does not appear to have been considered. The mapping indicates that Willow Cottages may originally have been specifically oriented to

have water closets located over the stream. Nevertheless, it is clear that once a sewer was established underneath Willow Road, new drains were laid beneath the rear yards of Willow Cottages to replace the original system and convey the sewerage to the new sewer.

- 4.4. The BIA outlined that the main flow of the River Fleet tributary was diverted into the sewer system as part of the development of Gayton Road by GW Potter. This includes an anecdotal recollection from GW Potter noting the presence of an underground stream concealed beneath the valley floor. No further details of this recollection have been presented and therefore remains some considerable uncertainty about what water flows have or have not been diverted, and how the present natural and artificial drainage systems now operate. There is therefore significant uncertainty surrounding what type of flooding may result in future significant rain events.
- 4.5. The diversion of a watercourse into a sewer does not necessarily capture all the flow associated with the watercourse. In this case, there were several springs located on the hillside below Flask Walk. Even if the main flow from one or several springs were diverted into pipes, there would inevitably have been residual sub-surface flow that was not captured and would follow any available permeable pathway along the original stream, including underneath the subject site.

Flood Risk

- 4.6. To determine the flood risk of the site, the lidar modelling published by the Environment Agency was utilised in identifying areas of surface water flood risk. The lidar modelling confirmed the line of the original stream as a low point. Therefore, despite being referred to the Environmental Agency mapping that identifies Willow Cottages as being at 1:100 risk of surface water flooding, the BIA refers to the risk being ten times lower and notes that the flood risk would not increase as a result of the development.
- 4.7. The Feb 2021 BIA Supplementary Note acknowledges the discrepancy but worryingly describes the tenfold difference in risk as being “immaterial”. This comment does not seem to have considered the special circumstances of Willow Cottages.
- 4.8. The guidance accompanying Policy CC3 explains that “*development can have an impact on the water environment beyond the site where it takes place by altering the flow of water both above and below ground and changing where water is absorbed or rises to the surface. Changing water movements can alter soil conditions in the wider area*”. The application did not include a Flood Risk Assessment (FRA) prepared in accordance with the national guidance for flood risk. This would require a detailed assessment of the potential for the development to increase flood risk elsewhere, in addition to assessing the site vulnerability to flooding. It is not clear why a new FRA was not commissioned following the criticism of the original FRA under the previous 2016 application.
- 4.9. The BIA asserts that the assessment of flood risk is summarised in Section 8; however, the section appears to be devoted solely to ground and groundwater and does not assess flood risk. Sections 4 to 7 of the BIA appear to be focused on the need for an FRA rather than constituting an actual FRA. The BIA further recognises that the potential for “*an increase of groundwater flood risk in the low-level access between the dwellings and the boundary retaining walls*” but, after numerical modelling, concludes that neither the

groundwater flood risk or the surface water flood risk will increase. It is considered that the robustness and clarity of the groundwater modelling contained in Appendix E of the BIA are questionable.

Ground Conditions

- 4.10. Differences are noted between the various borehole logs that have been prepared; however, upon review the key issue is that the new basement is expected to seal into essentially impermeable clay. There has been discussion about the porosity and permeability of the overlying soils; the fact that groundwater has been detected within these soils demonstrates that there is some degree of permeability. However, the assessment of ground conditions at 31 Willoughby Road starts with the understanding that the site consists of made ground that cannot be expected to be uniform or to lend itself well to any necessary presumption of uniformity for modelling purposes.
- 4.11. Analytical soil mechanics are difficult to apply to heterogeneous natural deposits such as it can be almost meaningless in made ground. Thus, a wide variety of theoretical assumptions need to be tested simply to provide a range of possible behaviours and the consequent level of uncertainty concerning any prediction of the behaviour of a basement foundation dug into made ground is under underestimated.

Groundwater

- 4.12. As described above, the surface water flood risk to Willow Cottages may increase as a result of the development obstructing a pipe, culvert, or former stream course or associated subsurface flow through more permeable alluvial deposits in the immediate vicinity of the stream course. The present FRA has relied on numerical modelling the ground behaviour as a material with relatively uniform engineering properties; this may not reflect the true ground water regime.
- 4.13. The initial proposal to install diversionary water mitigation measures around the basement were omitted following subsequent additional modelling; however, the proposal included some form of dewatering to prevent or limit unacceptable groundwater flows into the basement excavation. This implies an expectation that there will be possible encounters with more permeable natural or man-made water conduits than have previously been modelled. A large degree of reliance has been placed on this modelling, but it has not been made clear whether its robustness is at all limited in the face of extremely variable, non-uniform made ground that may be subject to intermittent saturation and contain conduits that have not been contemplated. There does not appear to have been a specific sensitivity analysis conducted of the modelling input assumption.
- 4.14. The Camden Local Plan 2017 (para 8.6) states that “*The most common form of groundwater flooding in Camden is from ‘perched’ groundwater, water that becomes lodged between the top layer and the impermeable London clay layer*” and acknowledges that “*this type of flooding is difficult to model*”.

Dewatering

- 4.15. The BIA initially considered temporarily lowering the groundwater table by some means. Following omission of the originally proposed permanent arrangement for external drainage below the structure, the construction method statement was subsequently amended to state that “*sub-formation collector drains and filtered sump pumps will be required to manage groundwater and prevent instability of formation*” and envisaged discharge of the collected water to the TW sewer. Groundwater controls were introduced into the modelling but it is understood that the model indicated that it would take approximately 2000 years to fully equilibrate. It is considered this may not be realistic.

Willow Cottages Construction

- 4.16. There has been uncertainty concerning the construction of Willow Cottages. No material evidence has been provided to support the contention that the cottages were built within a large excavation that involved substantial earthworks. It seems unlikely that a row of workers cottages built on a budget would have warranted the cost of such excavations.
- 4.17. The account of GW Potter mentioned above reports a 30ft deep valley containing the River Fleet tributary system. The mapping shown, and the prior existence of a route leading down what became Willow Road, would likely suggest that the cottages were constructed just above the stream level and aligned with the stream for the purposes of incorporating this feature into their sanitary design. The cottage yard levels stand at +83.10m OD and the stream bed seems to have been less than 1m below this.
- 4.18. Given the account of substantial filling of the valley above the site, it may be conjectured that the Willow Cottages were set on the natural hillside and that the higher ground seen around them, including Willoughby Road, has resulted from subsequently upfilling to suit subsequent development. This then suggests that the listed rear boundary walls of the cottage yards may not necessarily have been built as full earth retaining structures, a feature that may add to their fragility.

Analytical Method

- 4.19. Despite the analysis presented in the BIA, the Planning Committee did not consider the BIA to have sufficiently demonstrated that the proposed basement would not result in harm to the listed Willow Cottages. The BIA considered the scale of potential damage to both Willow Cottages and the rear retaining wall only by means of reporting the ground movements predicted by numerical modelling. In practice, although the outputs from numerical modelling need to be taken into consideration, all numerical modelling tools have limitations to their applicability and their output must therefore be subjected to reality and sensitivity checks. This type of analysis was challenged by Campbell Reith as it did not account for the possibility of ground movements caused during the installation of the basement underpinning.
- 4.20. The Willow Cottages have likely been subject to damaging past historic movements; however, the extent to which they or the rear retaining wall may suffer as a result of the development have been based on modelling the soil if it were to behave in a defined manner according to a set mode. There are therefore substantial uncertainties associated with this concept.

Consensus on Technical Matters

- 4.21. There does not seem to be a consensus on the technical matters resulting in a lack of clarity in presentation of the modelling, the limitations of the modelling techniques, and the interpretation of the assessment results. While Campbell Reith permitted the application to proceed on the basis of the collective information provided in the BIA Rev 4 (Oct 20) (doc F) plus subsequent supplementary notes (Feb 21) (docs I, J), it is the position of the Committee that a larger confidence gap existed between the technical experts.
- 4.22. The refusal decision can therefore be taken as a message that the Committee was not satisfied that the BIA, despite its impressive modelling and analytics, has sufficiently demonstrated the flood risk to the neighbouring heritage asset. Further, it is appreciated that a higher standard of review and confidence in a proposal is required in circumstances where there may be a perceived threat to a heritage asset, and that the benefit of a development would need to be demonstrated to outweigh any potential harm done to that asset.

Reason for refusal no.2 (Impact on Heritage Asset)

The proposed basement excavation, by virtue of the extent, depth and proximity to neighbouring listed building and the complexity of the construction sequence is considered to result in the potential for harm to Willow Cottages a heritage asset, contrary to policies A5 (Basements) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and policy BA2 of the Hampstead Neighbourhood Plan 2018.

Grade II Listed Willow Cottages

- 4.23. The Grade II heritage assets in question are located on the south side of Willow Road, known as Willow Cottages. The Historic England listing description is as follows:

“Terrace of 9 cottages. c1866. Stucco with rusticated quoins and 1st floor bands. Slated roofs. 2 storeys and semi-basements. 2 windows each. Square-headed doorways with splayed jambs, fanlights and panelled doors; Nos 33-37 with C20 Neo-Georgian doorcases and doors with arched heads. Entrances approached by stone steps with cast-iron railings. Round-arched recessed sashes with splayed jambs; ground floors with margin glazing. Shaped plaque inscribed “Willow Cottages” between 1st floor windows of Nos 37 and 38. INTERIORS: not inspected. HISTORICAL NOTE: built on the site of earlier almshouses.)”

- 4.24. The subject site at 31 Willoughby Road is located to the south of Willow Cottages and shares a boundary wall with multiple of the cottages. The boundary wall, which is also listed, can be described as a red-brick retaining wall abutting the flank and gardens of nos. 31 and 33 Willoughby Road. The retaining wall is under stress and has already been reinforced with steelwork.

Harm to Heritage Asset

- 4.25. It is considered that harm could occur to the boundary retaining wall as a result of the adjacent basement works. Inevitably, there will be movement associated with removing

the lateral support of this wall. Although the construction methodology has been described as relieving pressures that might presently be disturbing the wall, there does not appear to have been recognition that the wall must be withstanding lateral forces.

- 4.26. Both the boundary retaining wall and cottages themselves are undoubtedly frail structures and the foundations of each can be expected to shift merely as a result of changes in soil moisture levels, let alone by any potential hydrostatic effects or the consequences of flooding.
- 4.27. It is considered that the development is not of a routine nature in its complexity and potential impact on neighbouring properties. Therefore, the appellant was required to demonstrate, with a higher degree of confidence established through a BIA that the scheme would not present a potential risk of harm to the local residents.
- 4.28. Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. If the retaining wall described above were to fail due to the basement works in question, the consequences for the listed buildings could be catastrophic.
- 4.29. The BIA has not satisfactorily demonstrated that the proposal will not cause underground disturbance such that harm may befall the listed buildings as a consequence. Paragraph 202 of the NPPF states that where a development proposal will lead 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 including, where appropriate, securing its optimum viable use.
- 4.30. Given that it cannot be guaranteed that the proposal will not lead to harm to the designated heritage asset and there is no public benefit, if the works are undertaken the listed buildings will be put at risk, contrary to policy D2 of the London Borough of Camden Local Plan 2017 and the NPPF.

Conclusion

- 4.31. The appellant considers that the development proposals would have no effect on surface water flooding and would therefore cause no harm to the heritage assets adjacent to the site. The Council considers that the proposal contains technical complexities, so much so that there are substantial uncertainties surrounding the existing and future ground and groundwater conditions. Further uncertainties include the history of the subject site and Willow Cottages with regards to their historic drainage, upfilling, and construction.
- 4.32. It is the Council's position that the Committee was correct to assess the proposals beyond the opinion of the planning officers and the BIA auditor and place greater weight than usual upon the need to prove there would be no unacceptable risk of damage to the heritage assets. They identified substantial uncertainties that could not be ignored, as the acceptability of potential impacts of the proposed works could not be identified until the present, pre-development risk levels have been suitably established. Assumptions that might in other circumstances be acceptably made in terms of configuration of the ground, hydrology, and below ground conduits and structure cannot be safely established where unusual past construction and drainage demand a correspondingly cautious approach.

5. Comments on the appellant's grounds of appeal

- 5.1. The appellant's statement of case is set out in multiple sections, with the main arguments being made in Section 6.0 The Main Issues in the Appeal (paragraphs 6.12 to 6.32).
- 5.2. The argument made in paragraphs 6.12 through to 6.19 regarding surface water are addressed in paragraphs 4.2 through to 4.22 above.
- 5.3. The argument made in paragraphs 6.20 through to 6.32 regarding the impact on the heritage assets are addressed in paragraphs 4.23 through to 4.30 above. It is worth noting that the Council considers the basement works could cause less than substantial harm to the listed Grade II cottages and associated rear retaining wall.
- 5.4. The appellant disagrees with the decision of the Committee, arguing that despite the recommendations of the Planning officers and independent advisors that they chose to discard it with no legitimate or justifiable reason thus constituting unreasonable behaviour. The Council disagrees with this statement, as the Committee has the unenviable task of forming a majority view in choosing between opposing technical submissions put forward by engineering professions of repute. While the Committee will have placed weight upon the technical advice provided by each of the three specialists (Eldred, Campbell Reith, GCG) they ultimately had to make a decision based both upon their own judgement using the criteria available to them. This is included technical information provided by local residents which supports the Committee and Council's position, demonstrating there were outstanding concerns which the appellant had not addressed.
- 5.5. The appellant has argued that the Council has behaved unreasonably in its decision to refuse the application. The Council does not agree with this position and considers it has followed its due process in the assessment of the planning application. The planning officer's recommendation were considered at a public meeting of the Planning Committee. The Council considered the application based on all the available including the officers report, internal consultees and third parties including expert witness. Members had reasonable concerns about the proposal to justify its decision. In cases where councillors overturn the advice of officers, the LGA/PAS guide to probity in planning for councillors and officers suggests that councillors should be ready to explain why they have not accepted the officer's recommendation. The reasons for refusal are backed up by planning policies and have been substantiated. The appellant needs to address these concerns and this appeal could not therefore have been avoided.

6. Conclusion

- 6.1. Based on the information set out above and having taken account of all the additional evidence and arguments made, the proposal is considered contrary to the Council's adopted policies.
- 6.2. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns. For these reasons the proposal fails to meet the requirements of policy and therefore the Inspector is respectfully requested to dismiss the appeal.

7. Conditions

7.1. Should the inspector be minded to allow the appeal, it would be requested that conditions listed in Appendix A are attached the decision.

8. **S106 Legal Agreement:** should the inspector be minded to allow the appeal it would be requested that the attached Section 106 Legal Agreement is secured including the following head of terms:

- Approval in Principle
- Basement Construction Plan
- Construction Impact Bond
- Construction Management Plan
- Highways Contribution

The justification for these S.106 terms is included in the officer report, a copy of which has been provided with the questionnaire. It is also included as Appendix B in this document.

Should any further clarification or submissions be required, please do not hesitate to contact myself by the direct dial telephone number or email address quoted in this letter.

Yours faithfully,

Daren Zuk

Senior Planner
Supporting Communities Directorate

Appendix A

Recommended Conditions: 2020/0927/P

1. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

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 policies D1 and D2 of the London Borough of Camden Local Plan 2017.

3. Prior to the commencement of the Prior to the commencement of works on site, tree protection measures shall be installed and working practices adopted in accordance with the Tree Survey Arboricultural Implications Assessment and Method Statement by Phelps Associates ref. PS 1037 dated 28th February 2019. 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 BS5837:2012 and with the approved protection details. The works shall be undertaken under the supervision of the project arboriculturalist in line with the approved arboricultural report.

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 Camden Local Plan.

4. The development hereby approved shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor the critical elements of both permanent and temporary basement construction works throughout their duration to ensure compliance with the design which has been checked and approved by a building control body. Details of the appointment and the appointee's responsibilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. Any subsequent change or reappointment shall be confirmed forthwith for the duration of the construction works.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policies D1, D2 and A5 of the London Borough of Camden Local Plan 2017.

5. The development hereby approved shall be carried out strictly in accordance with the BIA (and other supporting documents) compiled by Eldred Geotechnics Ltd as well as the recommendations in the Basement Impact Assessment Audit Report (Rev F) prepared by Campbell Reith, dated June 2021.

Reason: To safeguard the appearance and structural stability of neighbouring buildings and the character of the immediate area in accordance with the requirements of policy A5 of the Camden Local Plan 2017.

6. Prior to commencement of the relevant works, full details of hard and soft landscaping including details of any planters along the boundary with Willow Cottages, shall be submitted to and approved by the local planning authority in writing. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

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, A5, D1, and D2 of the London Borough of Camden Local Plan 2017.



By Email only

16 December 2024

Dear Glen,

31 WILLOUGHBY ROAD

Further to your email to me of 25th November, I have downloaded from the London Borough of Camden's online planning portal the documentation associated with planning application 2024/5203/P, for 31 Willoughby Road, London, NW3 1RT.

I have read through the '31 Willoughby Road, London, Basement Impact Assessment', dated June 2024, produced by CGL, on behalf of Cranbrook Basement Design and Construction Limited ("the BIA"), with particular reference to the two 'Reason(s) for Refusal' given in London Borough of Camden's Decision notice dated 2 February 2023 (in reference to application 2020/0927/P).

The document confirms that some attempt has been made to revise the basement development proposals for the site of 31 Willoughby Road in light of the Reasons for Refusal.

However, in my opinion, the current application does not differ materially sufficiently from the previous scheme for the previous reasons to be invalidated. In fact, the BIA actually confirms that one of the reasons for refusal was more soundly based than might have been realised at the time.

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The two reasons for refusal were:

Reason(s) for Refusal:

1. In the absence of adequate surface water drainage mitigation the proposed basement excavation would result in an unacceptable risk to surface water flooding, contrary to policies A5 (Basements) and CC3 (Water and flooding) of London Borough of Camden Local Plan 2017.
2. The proposed basement excavation, by virtue of the extent, depth and proximity to neighbouring listed buildings and the complexity of the construction sequence is considered to result in the potential for harm to Willow Cottages a heritage asset contrary to policies A5 (Basements) and D2 (Heritage) of London Borough of Camden Local Plan 2017 and BA2 of Hampstead Neighbourhood Plan 2018

Addressing the second of these points to start with, the potential for harm to neighbouring buildings and other structures was assessed to be too great; I raised particular concerns about the likely impact on the retaining wall behind Willow Cottages – a listed structure already in a poor state of structural repair.

The current proposal includes a basement structure that is somewhat smaller than in the previously submitted application, and as such, the distance between basement structure and the Willow Cottages retaining wall has been increased. This is a positive within the application.

However, the application is still deficient.

In the BIA, CGL assess vertical deflections of the wall along its length, and state that they conservatively assumed a lateral movement of the same magnitude. This is a reasonable start. However, they then calculate a strain in the wall and apply the 'Burland Scale' to assess possible building damage.

This is the error that was being made previously: the wall is being treated as just another structure, which is assumed to be in good structural condition.

This is unacceptable and fails to address the Reason for Refusal #2.

The wall is a listed structure, of heritage value. Simply applying a damage scale that provides an indication of ease of repair (which is what the Burland Scale is) is to ignore the heritage aspect of the structure.

Moreover, the calculation is unsafe: it assesses damage based on the strain cause by the basement construction, and implicitly assumes that the structure is currently in a good state of repair, with no existing strain having developed within it. This assumption is manifestly wrong – it is known that the wall is in a poor state of repair and shows signs of existing movement and structural distress.



While the small extent of strain identified by CGL may be correct according to their calculation, it is additional to the ‘strain history’ that the wall has experienced – i.e., it is cumulative.

CGL have failed to make any assessment of this cumulative effect – they do not even discuss to what extent the wall may be out of true, vertically, and what extent of additional tilt may result from the ground movements, for example.

Considering now Reason for Refusal #1.

The CGL report appears to provide a quite comprehensive assessment of topography and hydrology.

Plate 8 shows that the site sits in a valley feature that is quite pronounced.

Plate 12 shows that a minor river / water course, the Fleet Brook, ran along this valley, flowing approximately eastwards.

CGL in Table 4, question 6, confirm that the proposed basement excavation level will be 1.5m below the historic water course level.

In section 5.4, CGL note that a borehole on the site identified organic matter “possibly from stream bed”.

The anticipated geology on site is the Claygate Member: a Secondary A Aquifer (and thus a stratum within which groundwater flow can occur), over (at shallow depth) the London Clay Formation (non-productive; very low permeability, so no significant flow within this stratum).

The site specific investigations confirm that made ground, Claygate and possibly head deposits are present, overlying London Clay, and thus soil conditions exist to permit lateral groundwater flow above the top of the London Clay.

The proposed basement is to extend into the London Clay, and therefore will act to ‘dam’ any such flow.

CGL suggest (“it is considered probable”) that groundwater flow is not west to east, as indicated by the topography and former Fleet Brook, but will instead be south to north, on the grounds that the access path behind Willow Cottages is a low point. This is logical, but if correct, it would be expected that the path would be permanently wet, with water continuously seeping through the wall: In Plate 19, CGL show that measured groundwater is approximately at the level or slightly higher than the rear access way, so if the access passage were acting effectively as a sump, there should be near permanent water across its surface, which, as far as I am aware, is not the case.



Moreover, if the groundwater behind the wall is approximately at the level of the path, there is in practice very little gradient to induce flow, and below the level of the Willow Cottages passage, groundwater flow would most likely continue to follow its natural course – namely, to the east.

Since the proposed development still features a full width basement extending into the London Clay, this natural flow route will be blocked over the width of number 31 Willoughby Road: in effect, a dam will have been built to block groundwater flow.

It is predictable that this will then lead to a rise in groundwater level behind the basement/dam. This is then likely to generate exactly the flow that CGL allege is already occurring – south to north flow through the retaining wall, into the rear passageway to Willow Cottages, creating an increased risk of flooding on the property of Willow Cottages.

At this point, it should be noted that any increase in water level behind the retaining wall would also impose an additional hydraulic load on the wall, so has the potential to destabilise the wall, so the effect of groundwater rise may not just be increased food risk, but significant structural damage.

The CGL report includes a surface water flooding map in the ‘Groundsure’ Appendix (Section 8 of the Groundsure report, page 52) which in fact repeats factual details that were presented in opposition to the previous scheme, and which I believe were viewed as materially relevant in the refusal.

It can be seen that Willow Cottages are already shown to have a high risk (1 in 30 return period) of flooding. The proposed basement scheme will increase this risk to some degree.

It might also be noted that there is a similar 1 in 30 risk of flooding affecting Gayton Road, up-valley of 31 Willoughby Road, and with the area with the flood risk straddling the mapped course of the Fleet Brook. While it seems unlikely that the basement impact would extend back that far, it cannot be simply dismissed.

It is clear that the proposed basement will impact on sub-surface groundwater flow that currently follows the natural topography and historic hydrology of the site.

This will impair drainage from areas that already have a raised flood risk, and in doing so, worsen the flood risk by some degree.

This was the basis for the previous Reason for Refusal #2, and in my opinion, the current proposal does not address this at all.

In reading the CGL report, I note an additional cause for concern that was not previously identified.

In section 2.3 and Plate 9, CGL discuss vertical ground movements recorded by InSAR, and note that they indicate minor seasonal vertical movements, indicating heave and settlement.



This appears to be true, but the InSAR data plot also appears to show a steady long term trend of settlement, with something like a 4mm drop between 2018 and 2022. CGL provide no explanation or discussion of this. However, it is clearly of material importance in assessing the proposed scheme, since it may indicate slope instability, for example, which might be made worse by the proposed construction.

In summary, while the current proposals for a basement development at 31 Willoughby Road are of a smaller scale than previously submitted, in my opinion, they are not materially different, when viewed against the Reasons for Refusal that applied to the previous scheme.

Thus, I consider that the Reasons for Refusal are still applicable.

If you have any questions or comments, please feel free to contact me.

For the avoidance of doubt, please feel free to share this opinion with your neighbours and other interested parties, as you see fit.

Yours sincerely,

For Geotechnical Consulting Group,

Dr Phil Smith

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Ministry of Housing,
Communities &
Local Government

National Planning Policy Framework

16. Conserving and enhancing the historic environment

189. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value⁶⁶. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations⁶⁷.
190. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:
- a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
 - b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
 - c) the desirability of new development making a positive contribution to local character and distinctiveness; and
 - d) opportunities to draw on the contribution made by the historic environment to the character of a place.
191. When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.
192. Local planning authorities should maintain or have access to a historic environment record. This should contain up-to-date evidence about the historic environment in their area and be used to:
- a) assess the significance of heritage assets and the contribution they make to their environment; and
 - b) predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.

⁶⁶ Some World Heritage Sites are inscribed by UNESCO to be of natural significance rather than cultural significance; and in some cases they are inscribed for both their natural and cultural significance.

⁶⁷ The policies set out in this chapter relate, as applicable, to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-making.

193. Local planning authorities should make information about the historic environment, gathered as part of policy-making or development management, publicly accessible.

Proposals affecting heritage assets

194. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
195. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
196. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
197. In determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
198. In considering any applications to remove or alter a historic statue, plaque, memorial or monument (whether listed or not), local planning authorities should have regard to the importance of their retention in situ and, where appropriate, of explaining their historic and social context rather than removal.

Considering potential impacts

199. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
200. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:
- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
 - b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional⁶⁸.
201. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
 - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - d) the harm or loss is outweighed by the benefit of bringing the site back into use.
202. Where a development proposal will lead 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 including, where appropriate, securing its optimum viable use.
203. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing

⁶⁸ Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

204. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
205. Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible⁶⁹. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.
206. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
207. Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 201 or less than substantial harm under paragraph 202, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.
208. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

⁶⁹ Copies of evidence should be deposited with the relevant historic environment record, and any archives with a local museum or other public depository.