

**DISCLAIMER**

Decision route to be decided by nominated members on Monday 19<sup>th</sup> April 2010. For further information see

<http://www.camden.gov.uk/ccm/navigation/environment/planning-and-built-environment/planning-applications/development-control-members-briefing/>

<b>Delegated Report (Members Briefing)</b>		<b>Analysis sheet</b>	<b>Expiry Date:</b>	19/04/2010
		N/A / attached	<b>Consultation Expiry Date:</b>	19/03/2010
<b>Officer</b>			<b>Application Number(s)</b>	
Elaine Quigley			2010/0861/P	
<b>Application Address</b>			<b>Drawing Numbers</b>	
The Garden House 1 Ellerdale Road London NW3 6BA			N/A	
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>	
<b>Proposal(s)</b>				
Renewal of planning permission granted on 23/08/2005 (ref: 2005/1168/P) for the erection of a new single-storey dwellinghouse on land behind the rear garden of No. 81 Fitzjohn's Avenue, with access off Ellerdale Road.				
<b>Recommendation(s):</b>		Grant planning permission subject to s106 agreement legal agreement		
<b>Application Type:</b>		Renewal of Full Planning Permission		

<b>Conditions or Reasons for Refusal:</b>	Refer to Draft Decision Notice					
<b>Informatives:</b>						
<b>Consultations</b>						
<b>Adjoining Occupiers:</b>	No. notified	<b>40</b>	No. of responses	<b>06</b>	No. of objections	<b>06</b>
			No. Electronic	<b>05</b>		
<b>Summary of consultation responses:</b>	<p>4 letters of objection have been received from neighbouring properties in Ellerdale Road and Fitzjohn's Avenue raising the following concerns:</p> <ul style="list-style-type: none"> <li>• Potential loss of light to 87a Fitzjohn's Avenue</li> <li>• Difficult access through narrow passageway into the site</li> <li>• Removal of trees within and adjacent to the site despite condition of planning permission shall be protected</li> <li>• No consultation on removal of trees in garden of application site and 83 Fitzjohn's Avenue</li> <li>• New building will occupy whole site leaving no space for amenities</li> <li>• Loss of privacy to side windows of flat in 1 Ellerdale Road through the use of the passageway as access into the site and possible use of roof of the new dwelling as external seating area</li> <li>• Permission sets a precedent for further development in back gardens of 83 and 85 Fitzjohn's Avenue</li> <li>• Insertion of new windows or doors into the elevation of the new house that fronts onto 81 Fitzjohn's Avenue would result in additional overlooking. Although PD rights removed as part of original application this work may be considered de-minimus</li> <li>• If the building is incorrectly drawn the roof may be higher than what is considered acceptable resulting in impact on outlook and increased overshadowing of amenity space of property in 81 Fitzjohn's Avenue</li> <li>• Excavation would cause major disruption</li> </ul>					
<b>CAAC/Local groups* comments:</b> <small>*Please Specify</small>	<b>The Heath and Hampstead Society</b> – comments and object No drawings submitted as renewal with outcome already determined. Surely this is incorrect – why else do permissions have limited life? Objection submitted to original scheme and therefore probably object on same grounds again					

## Site Description

The site is located on the southern side of Ellerdale Road and comprises the north eastern side garden of no.1 Ellerdale Road and part of the rear garden of no. 81 Fitzjohn's Avenue. The site is vacant, with pedestrian access only off Ellerdale Road. The site is generally not visible from the public realm, by virtue of its backland location and predominantly enclosed orientation – being thickly screened by nos. 83, 85 and 87 Fitzjohn's Avenue, including fences, garages and/or walls and Arthur Westhouse building (residential accommodation) to the south.

The site is located within the Fitzjohns/Netherhall Conservation Area (CA). 1 Ellerdale Road is not a listed building.

## Relevant History

Planning permission was granted 23/08/2005 for the erection of a new single-storey dwellinghouse on land behind the rear garden of No. 81 Fitzjohn's Avenue, with access off Ellerdale Road. The expiry date of the permission is 23/08/2010 and is therefore extant.

2010/0172/T - LAND TO THE REAR 1 Ellerdale Road: 1 x Sycamore - Fell to ground level and grub out stump (no objections to works 26/01/2010).

### 83 Fitzjohn's Avenue

2004/5170/T - REAR GARDEN 1 x Ash - remove north easterly stem to original pollard point, thin remaining crown by 25%, draw in laterals (no objection raised to works 24/12/2004).

2004/5200/T - REAR GARDEN 1 x London Plane – fell; 1 x Ash - reduce height by 1.5m, reduce lowest lateral back to upground growth, remove second lowest lateral and crown clean; 1 x Lime - reduce height by 3m (no objections raised to works 12/01/2005).

2008/5477/T - (TPO Ref: C594) REAR GARDEN, CLOSER TO BOUNDARY WITH NO 85 FITZJOHNS AVENUE: 1 x Ash - Remove long lateral branch back to trunk (Approve works 18/12/2008).

## Relevant policies

### Replacement Unitary Development Plan (2006)

SD1 (Quality of life)  
SD6 (Amenity for occupiers and neighbours)  
SD9 (Sustainable Design)  
B1 (General design principles)  
B7 (Conservation areas)  
N5 (Biodiversity)  
N8 (Ancient woodland and trees)  
T9B (Impact of off-street parking)  
H1 (New housing)  
H7 (Lifetime homes).

Camden Planning Guidance (2006)  
Fitzjohns/Netherhall Conservation Area Statement (CAS)

### LDF Core Strategy and Development Policies

*As the draft LDF Core Strategy and Development Policies documents have now been published, they are material planning considerations. However, as a matter of law, limited weight should be attached to them at this stage.*

*The following policies in the draft LDF Core Strategy and Development Policies documents have been taken into consideration:*

CS5 – Managing the impact of growth and development  
CS6 – Providing quality homes  
CS13 – Tackling climate change through promoting higher environmental standards  
CS14 - Promoting high quality places and conserving our heritage  
CS15 - Protecting and improving our parks and open spaces & encouraging biodiversity  
CS16 - Improving Camden's health and well-being  
CS17 – Dealing with our waste and encouraging recycling

DP19 - Managing the impact of parking  
DP22 - Promoting sustainable design and construction  
DP23 - Water  
DP24 - Securing high quality design  
DP25 - Conserving Camden's heritage  
DP26 - Managing the impact of development on occupiers and neighbours  
DP29 - Improving access  
DP32 – Air quality and Camden's Clear Zone

The London Plan (Consolidated with Alterations since 2004) 2008  
Policy 2A.1 (Sustainability criteria)

Policy Statement 1 (PPS1) Delivering sustainable development

## Assessment

### Proposal

Renewal of planning permission is sought for the erection of a single-storey 1-bedroom dwelling with a courtyard, with access (pedestrian only) off Ellerdale Road. The site would be partly excavated and the building would have a minimalist design approach, characterised by simple, clean lines and contemporary detailing. The external facing materials include natural oak boarding, green sedum roof, and York stone paving for the courtyard.

The application is for a renewal of the above planning permission. This application is valid because the development has not commenced, and the permission was granted before 01/10/2009 and is still extant. The proposal is identical to the previously approved scheme on 23/08/2005.

Communities and Local Government Guidance for extensions to the time limits for implementing planning permission advises that the development proposed in an application for extension will, by definition, have been judged to be acceptable at an earlier date. Therefore the planning authority should only focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission.

The original application was assessed under the superseded Unitary Development Plan that was adopted in 2000 and the supplementary planning guidance 2002. There has been a material change in policy since the approval of the previous scheme. The Replacement Unitary Development Plan was adopted in June 2006 and the Camden Planning Guidance was adopted in 2006. Although the UDP policies have now changed they still cover the same broad aspects regarding amenity, design and conservation issues and these are not considered to be significantly different from the previous UDP policies. It must be noted that the previously approved scheme was assessed against the policies in the adopted UDP 2000 and the revised deposit draft UDP policies (May 2004). These revised policies have been adopted as part of the current replacement UDP 2006.

### Lifetime Homes Standards

Policy H7 of the UDP states that all new housing should be built to 'Lifetime Homes' standards. The Camden Planning Guidance concedes that it may not always be possible to meet lifetime homes standards but states that all 16 standards should be achieved in new build schemes. The applicants have not submitted a Lifetime Homes assessment as this is an application for a renewal of planning permission.

The new house would comply with 12 of 16 lifetime home standards. Of these 16 standards 4 are not applicable. The standards that are not applicable and those that cannot be complied with together with the reasons why have been listed below:

- Standards 1 and 2 - would not apply as there is no car parking proposed
- Standard 3 – does not comply as access is only possible into the site by an existing side entrance that is stepped. The agent has advised however that the applicant is in the process of purchasing a piece of land that will enable level access into the site and consequently the approach to the house will be level and will comply with this standard
- Standard 4 – complies
- Standard 5 – does not apply as one house not flats
- Standard 6 – 16 complies (excluding standard 9 see below)
- Standard 9 – does not apply as the house is single storey

Of the 16 standards only one of the applicable standards would not be complied with relating to level access to the site. This is not currently possible as access to the site is via an existing side entrance that is stepped and shared with a resident of 1 Ellerdale Road. The agent has advised that the applicant is in the process of buying a piece of land that will enable level access into the site and consequently the approach to the house would be level in the near future. Taking this into consideration the proposal would be considered acceptable in terms of policy H7. If this was not possible or was not pursued by the applicant, the proposal would still be considered acceptable in terms of policy H7 given the fact that only one standard would not be reached and the fact that the physical restrictions of the gradient of the land. It must also be noted that construction works could commence immediately to implement the 2005 permission which is identical to this proposal.

An informative would be attached advising the applicant that the proposal should incorporate design features to meet lifetime homes standards.

### **Construction Management Plan (CMP)**

In the time that has passed since the granting of planning permission in 2005, Camden has changed the way it deals with construction impacts and the Council are now much more acutely aware of the impacts and how to manage them, particularly in the Hampstead area. Further supplementary planning guidance was issued in 2006 detailing that sites within a conservation area require a CMP (Part 11.16). As this site is within a conservation area a CMP should be required. In addition, policy DP20 of the draft LDF (Movement of goods and materials) talks about (para (g)) seeking opportunities to minimise disruption for local communities through effective management. This clearly shows where the Council is now heading in terms of construction management and the need to secure CMPs for certain types of development. Given the narrow pedestrian access into the site and the fact that the building footprint covers almost the entire site a CMP would be required to be submitted through a S106 agreement.

The Fitzohns/Netherhall CAS remains unchanged since the previously approved scheme.

A site inspection has revealed that there have been no significant material changes on or adjacent to the site since the granting of the original permission which would affect the positive determination of the application.

### **Impact on Neighbouring Amenity**

The previously approved scheme was considered acceptable in terms of its impact on the amenity of the surrounding residential properties subject to conditions being attached to remove the permitted development rights of the property. Given that the current proposal has not changed from the previously approved scheme in 2005, the proposal would still be considered acceptable in terms of its impact on the amenity of the adjoining residents. The same condition would be attached removing the permitted development rights to continue to protect the amenity of the adjoining residents.

### **Trees**

Concern has been raised by neighbouring occupiers that trees have been removed from within the site following the 2005 permission without the benefit of any consent. Several tree applications have been submitted in 2004, 2008 and 2009 for works to trees in the garden of 83 Fitzjohn's Avenue. Consultation letters were sent to neighbouring properties advising of the submission of the tree applications including properties in 1 Ellerdale Road.

### **Conditions**

As there are no material considerations that have changed significantly and no pre-commencement conditions have been discharged, the original conditions will be retained.

### **Section 106 Legal Agreement**

The original legal agreement included only one head of term that was to secure the development as car free.

This will be retained. However a CMP will also be required to be submitted and agreed by the Council and will form an additional head of term to the S106 agreement.

**Recommendation**

Grant Planning Permission subject to a Section 106 Agreement