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|---|----------------------------|----------------------------|-------------------------------------|----------------------------------|------------|
| <b>Delegated Report</b>   |                            | <b>Analysis sheet</b>      |                                     | <b>Expiry Date:</b>              | 26/03/2014 |
|   |                            | N/A                        |                                     | <b>Consultation Expiry Date:</b> | 27/02/2014 |
| <b>Officer</b>  |                            |                            | <b>Application Number(s)</b>        |                                  |            |
| Christopher Heather   |                            |                            | 2014/0586/P                         |                                  |            |
| <b>Application Address</b>  |                            |                            | <b>Drawing Numbers</b>              |                                  |            |
| Land to rear of 100a & 102 Fellows Road,<br>Kings College Road,<br>London<br>NW3                      |                            |                            | See draft decision notice           |                                  |            |
| <b>PO 3/4</b>   | <b>Area Team Signature</b> | <b>C&amp;UD</b>            | <b>Authorised Officer Signature</b> |                                  |            |
|   |                            |                            |                                     |                                  |            |
| <b>Proposal(s)</b>  |                            |                            |                                     |                                  |            |
| Erection of building comprising basement, ground and first floor for use as a single-family dwelling. |                            |                            |                                     |                                  |            |
| <b>Recommendation(s):</b>   |                            | Refuse planning permission |                                     |                                  |            |
| <b>Application Type:</b>  |                            | Full Planning Permission   |                                     |                                  |            |

|                                    |  |    |                  |    |                   |    |
|------------------------------------|--|----|------------------|----|-------------------|----|
| Conditions or Reasons for Refusal: | Refer to Draft Decision Notice   |    |                  |    |                   |    |
| Informatives:                      |  |    |                  |    |                   |    |
| Consultations                      |  |    |                  |    |                   |    |
| Adjoining Occupiers:               | No. notified   | 25 | No. of responses | 16 | No. of objections | 14 |
|                                    |  |    | No. electronic   | 14 |                   |    |
| Summary of consultation responses: | <i>Land use</i> <ul style="list-style-type: none"><li>• Support for the principle of new affordable family housing being provided.</li><li>• Concern about the suitability of a family dwelling within such a compact area.</li><li>• Support for the principle of building a new dwelling on the site, but consider the previous planning permission (2010/3972/P) to be most appropriate.</li></ul>  |    |                  |    |                   |    |
|                                    | <i>Conservation and Design</i> <ul style="list-style-type: none"><li>• The height should be no greater than the building being constructed next door.</li><li>• The proposal is an overdevelopment of a small and narrow site, and is in appropriate for it and the surrounding area</li><li>• Support for the design</li><li>• Concern that the building would be larger than what was granted planning permission in 2012.</li><li>• The proposal would cause considerable clutter between Fellows Road and Eton Avenue.</li><li>• Concern about the scale and massing.</li><li>• The current long, green view will be further obstructed. The views from private flats are important as well as those from the public highway.</li><li>• The building does not need to use the full width and majority of the length of the site on 3 levels to be considered an efficient use of the site.</li><li>• Concern about the 'lack of building free spaces' and that it is becoming 'ghetto like'.</li></ul> |    |                  |    |                   |    |
|                                    | <i>Neighbouring Amenity</i> <ul style="list-style-type: none"><li>• Concern about disruption from construction work, especially given the construction that is underway on the adjacent site.</li><li>• Concern about loss of light and general inconvenience.</li><li>• No consideration has been given to the adjacent dwelling in the daylight assessment document.</li><li>• Concern that any windows in the north wall of the building, or if balconies/roof terraces to the east of the property are used, then overlooking will result.</li></ul>   |    |                  |    |                   |    |
|                                    | <i>Highways and Transportation</i> <ul style="list-style-type: none"><li>• Will be an impact on the levels of traffic along Merton Rise, which is a bottle neck, and more strain will be placed on the existing parking bays.</li><li>• The applicant already has a doctor's car parking space and off-site space.</li><li>• There has been rubble left on the road from previous works carried out by the applicant.</li></ul>  |    |                  |    |                   |    |
|                                    | <i>Trees and landscaping</i> <ul style="list-style-type: none"><li>• Concern about trees on the site and in adjoining garden, and it is important that they are protected as they provide screening between properties on Fellows Road and Eton Avenue.</li><li>• The courtyard as part of the development will not benefit the wider area, and more landscaping around the dwelling would be more beneficial.</li></ul>   |    |                  |    |                   |    |

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|------|---|
|      | <p><i>Basement</i></p> <ul style="list-style-type: none"> <li>• Concern about possible structural issues</li> <li>• Dangers of increased instability if HS2 is constructed.</li> <li>• Concern about the depth of the basement and its close proximity to neighbouring gardens, and that a thorough assessment of the geological impact is required.</li> <li>• Concern that the use of the previous basement impact assessment is inappropriate as this is a different development.</li> </ul> <p><i>Sustainability</i></p> <ul style="list-style-type: none"> <li>• Support for the building's eco credentials</li> <li>• Support for the green roof</li> </ul> <p><i>Other matters</i></p> <ul style="list-style-type: none"> <li>• Concern about the applicant having shown serial disregard to the planning system, and does not use a reputable building company.</li> <li>• Concern that the street view photo montage is not accurate.</li> </ul> <p>It is important to note that one of the two responses in support of the proposal is from the applicant citing a number of issues, which are summarised below:</p> <ul style="list-style-type: none"> <li>• The land is used by everyone as a rubbish tip at present.</li> <li>• Excellent contemporary design</li> <li>• Eco-friendly</li> <li>• High quality finish</li> <li>• Thought has gone into the impact on neighbours</li> <li>• The application is supported with a number of reports</li> <li>• The design is an improvement on the previous planning permission</li> <li>• There is access for disabled persons</li> <li>• London desperately needs more quality housing</li> <li>• The house will make 102, 100A and 100 more secure</li> </ul> |
| CAAC | <p>Belsize</p> <ul style="list-style-type: none"> <li>• Object in principle to the design, and to the double basement because of the impact of the construction period, in particular to traffic and noise to surrounding properties.</li> </ul>  |

## Site Description

The site is on eastern side of King's College Road. It is currently undeveloped and has an access way onto the road. It is a long, infill site which is essentially part of a rear garden, as is the site immediately to the north. This is currently being developed with a dwellinghouse being substantially completed. The area is predominantly residential.

Fellows Road and Eton Avenue are long parallel roads, lined with large closely set properties with spacious gardens. These roads are bisected by Kings College Road to the west, and Merton Rise to the east. Two modest buildings are located on the west side of Kings College Road. These appear on the 1894 Ordnance Survey map and are likely to have been ancillary/service structures for the adjacent large houses. The immediate area is characterised by a profusion of large trees, both on the street and in the back gardens of Eton Avenue and Fellows Road.

## Relevant History

**September 2009:** Planning application (Ref: 2009/3557/P) withdrawn for "Erection of 2 storey over basement single family dwelling house (Class C3) fronting King's College Road".

**December 2011:** Planning permission (Ref: 2010/3972/P) refused for "Erection of a basement, ground and first floor single dwelling house (Class C3) fronting King's College Road". This was subsequently appealed, and the appeal was allowed in **July 2012**. An appeal was subsequently lodged, which was allowed in **July 2012**.

**November 2013:** Pre-application response (Ref: ENQ/01539) issued.

In addition, the following planning history at the adjacent site (land to the rear of 53 Eton Avenue) is considered relevant:

**January 2010:** Planning permission (Ref: 2009/5483/P) granted for "Erection of a two storey residential dwelling house (Class C3) comprising upper and lower ground floors, to the rear of 53 Eton Avenue".

**March 2011:** Planning permission (Ref: 2011/0203/P) granted for "Variation to condition 7 of planning permission ref: 2009/5483/P granted (subject to S106) on 03/06/2010 for (Erection of a two storey residential dwelling house (Class C3) comprising upper and lower ground floors, to the rear of 53 Eton Avenue) as a minor material amendment for creation of new lightwell to lower ground floor level".

**March 2013:** Planning permission (Ref: 2012/5729/P) granted for "Erection of building comprising basement, ground and first floor for use as a single-family dwellinghouse (Class C3)".

## Relevant policies

### CORE STRATEGY

CS1 (Distribution of growth)  
CS4 (Areas of more limited change)  
CS5 (Managing the impact of growth and development)  
CS6 (Providing quality homes)  
CS10 (Supporting community facilities and services)  
CS11 (Promoting sustainable and efficient travel)  
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 and encouraging Biodiversity)  
CS17 (Making Camden a safer place)  
CS18 (Dealing with our waste and encouraging recycling)  
CS19 (Delivering and monitoring the Core Strategy)

### DEVELOPMENT POLICIES

DP2 (Making full use of Camden's capacity for housing)

DP5 (Homes of different sizes)  
DP6 (Lifetime homes and wheelchair homes)  
DP16 (The transport implications of development)  
DP17 (Walking, cycling and public transport)  
DP18 (Parking standards and limiting the availability of car parking)  
DP19 (Managing the impact of parking)  
DP21 (Development connecting to the highway network)  
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)  
DP27 (Basements and lightwells)  
DP28 (Noise and vibration)  
DP29 (Improving access)  
DP31 (Provision of, and improvements to, open space, sport and recreation)

### **Camden Planning Guidance**

CPG 1 Design  
CPG 2 Housing  
CPG 3 Sustainability  
CPG 4 Basements and lightwells  
CPG 6 Amenity  
CPG 7 Transport  
CPG 8 Planning obligations

### **Conservation Area Statement for the Belsize Conservation Area**

### **London Plan 2011**

### **National Planning Policy Framework (NPPF)**

## **Assessment**

### **Proposal**

The proposal is for a property with 4 bedrooms and a number of other facilities and features. At 'lower lower ground floor' there would be a plant room and storage area to the rear of the site. Above this would be a floor which would be the full width of the site and extend for most of its length. It would be a large play area with a gym and utility area to the front. Access to a garden area and courtyard would be to the rear. There would be a courtyard in the middle of the building to provide light to the front part of this floor.

Above this would be the ground floor area where the main living accommodation is found. This sits below the level of the street. There would be a small bicycle store and bin store to the front accessed from a landing area. The entrance to the unit is in this location, and opens into a kitchen, dining and living area. The courtyard also extends up to this floor, but is larger, and the rear opens on to a terrace area with stairs down to the garden.

The upper ground floor is slightly above pavement level. There is a front garden area and another entrance into the property where 4 en-suite bedrooms are found. The courtyard extends up to this floor. This floor is partly set-back from the floors below.

At its highest point the building itself would be 1.16m below the neighbouring property, and 3.67m above the pavement level. It would be predominantly constructed of concrete with steel frame windows. There would be a long-slatted semi-translucent wood and glass screen facing properties on Fellows Road, with the northern elevation being concrete. The front and rear would contain more glass.

### **Background**

What has already been granted planning permission is a material consideration. The dwelling approved under planning permission 2010/3972/P which was granted on appeal is extant until 17 July 2015. The inspector's

reasoning for granting planning permission is important to the assessment now undertaken. The proposal was also discussed at the pre-application stage.

### **Land Use**

The proposal would provide for a single dwellinghouse. Given that permission has already been granted for a smaller single dwellinghouse, and that there was never an objection to the principle of such a development the same applies now, although the specific details of the development are assessed later. Although there was support expressed for 'affordable' family housing the proposed unit would be a market unit.

### **Conservation and design**

Policies CS14, DP24 and DP25 are of most relevance. They are supplemented by CPG *Design* and the Conservation Area Statement for the Belsize Conservation Area.

An application for a 2 storey + basement single family dwellinghouse was refused in December 2011. The siting and envelope of the proposed building had been carefully negotiated so that the building was a modest addition to the streetscene and would avoid harm to the openness and green character of this part of the conservation area. Consequently there was no reason for refusal relating to this. The applicant appealed the refusal and this was allowed by the Inspectorate.

Following this the applicant initiated pre application discussions with the Council. Whilst the principle of development on the site had been agreed earlier the applicant sought a revised design in order to address some of the deficiencies in the approved scheme. There is not an in principle objection to the development of the site, or to a contemporary design, but several design concerns were raised during this pre application process and unfortunately no definitive agreement could be reached in terms of a building which had an acceptable height, envelope and position.

The submitted proposal remains contemporary in its approach, with a flat roofed structure utilising a similar palette of materials – glass and timber privacy screens. The footprint of the building has been increased, extending further back into the site and projecting further forward across approximately half of its width. Three storeys of principle accommodation remain proposed however the overall height of the building will increase. The floor plan is designed around a central courtyard with a tree planted in the centre. To the rear of the site is a very large and wide lightwell which allows increased light into the lower floors. The proposed building is now wider than previously permitted on its uppermost floor, and the setback from the boundary with the garden of 102 Fellows Road has been lost.

This is a very restricted backland site, with a complex series of relationships with neighbouring properties. The design of the approved scheme was reached after a long period of negotiation which sought to minimise the building's visual impact on the garden setting of the buildings on Fellows Road and Eton Avenue and in views from Kings College Road. It is appreciated that the proposed scheme has some advantages over the approved proposals, but the same constraints and considerations remain in terms of the impact of the building on the surrounding area and its proximity to adjacent properties.

It is important to note that the site to the north is different, and the development which is now substantially completed on the site reflects this. The adjacent site is larger than the application site, and is more regularly shaped as opposed to being long and narrow as the current site is. The relationship it has with buildings to the north on Eton Avenue is different to the application site's relationship with buildings to the south on Fellows Road. These differences include the historic character of these streets, the distances and levels involved, the building lines, and presence of trees and vegetation.

### **Height**

The proposed building has increased in height over and above the approved scheme. The key consideration is that the height is now creeping close to the eaves level of the adjacent two storey bay of no.102 Fellows Road. The building does however remain below the building height of the amended approved scheme to the rear of 53 Eton Avenue and retains the sense of stepping down to match the gradient of Kings College Road, which copped down from Eton Avenue. Furthermore, the building still appears as essentially a single visible storey above pavement level, rising above the existing brick boundary wall. There are still reservations about the overall height in the context of the building that is being proposed, even if a building of this height is something that, on balance, *could* be accepted in this location. The comments below on the front building line

are also relevant as they combine with the height to accentuate the impact.

#### *Front building line*

This has moved significantly forward from the scheme allowed at appeal, now projecting beyond the line of the two storey bay to 102 Fellows Road. The building line established by this bay was a key consideration when negotiating the original scheme. The building previously approved was pulled back so as to respect the primacy of no.102 within the streetscene along Kings College Road and to ensure it remained subordinate. By pushing the proposed building forward it becomes unduly prominent, particularly given the overall increase in height, which would harm the character and appearance of the conservation area. In order to secure officer support it was considered that the front building line must be pulled back once again so as to sit comfortably in relation to the staggered building line created by no.102 and the approved scheme to the rear of 53 Eton Avenue. In reaching this conclusion reference has been had to the buildings on the opposite side of Kings College Road. However, whilst a small part of one of the buildings projects forward the bulk is predominantly to the rear and respects the overall building line from Eton Avenue to Fellows Road. Finally, it is also important to note that the appeal decision concerned whether planting could be provided to the front. The concerns about the building line are not related to this, and are purely concerned with the direct impact of the position of the building.

#### *Materials/detailed design*

The general palette of materials is considered acceptable. Clarification was sought at pre application stage as to the nature of the framing to the west elevation and to the plain panels shown on the north elevation. The north elevation is now annotated 'concrete' and the design and access statement clarifies that the front and rear elevations will be of a black coated steel frame with glazed panels. However, although the materials are broadly acceptable, this is not considered sufficient to address the concerns.

#### *Proximity to boundary with garden of 102 Fellows Road*

There are concerns about this relationship. The approved scheme was negotiated to include a modulated profile so as to reduce its bulk on the boundary and the potential for it to appear overbearing. The proposed scheme now fills the entire width of the site at all floor levels, however this is only critical in relation to the uppermost storey. A timber slatted privacy screen is proposed for this elevation, and this material/approach has the potential 'in principle' to provide an elegant and high quality solution to the constraints of the site. Nonetheless, the height and extent of the privacy screen that would be visible from the rear garden of no.102 would be significantly more dominant than the approved scheme – this is a result of the projecting front building line, the extension of the footprint of the building further back into the site and the increase in the overall height of the development. The proposed south elevation drawings appear to show a taller boundary wall with the garden of no.102 however there does not appear to be an explicit reference to this in the application. The proposed development would rise 2.8m above this wall. The combination of the increased height, scale and bulk of the development, its proximity to the boundary and the falling gradient of the garden towards no.102 would have an unacceptable overbearing impact. The applicant considers that the distance between the dwelling to the north and the building beyond on Eton Avenue is less than the distance between the proposal and the properties on Fellows Road. However, the slope down from north to south would accentuate the impact of the proposal and is a significant factor. This impact is not considered to be mitigated by the materials used on this elevation to the extent that the issue is overcome.

#### *Summary*

It is the Council's view that there is potential for modest development of this site. There are concerns about the front building line of the proposal and its relationship with the side elevation of no.102, its failure to respond to the existing staggered building line, and the consequent impact on views from Kings College Road. Concerns also remain about the impact of the building in views from the rear garden of 102 Fellows Road. The consequent bulk and massing is of concern, which is a function of a number of factors including the height. As a result the proposal is considered to harm the character and appearance of the Belsize Conservation Area.

#### **Quality of the resulting residential accommodation (including housing mix and Lifetime Homes)**

Policies CS6, DP5, DP6, and DP28 are of relevance, as is CPG2. The proposed unit would have 4 bedrooms at upper ground floor level. Three of the bedrooms would be large double bedrooms. The fourth would be smaller, but is shown on the drawing as having a double bed. Therefore, the unit would be an 8 person unit. The London Plan 2011 does not include a standard for a 4 bedroom 8 person (4b8p) unit. However, it does indicate that for units larger than 6 persons or bedspaces that an extra 10sqm of space should be provided. This would suggest that 20sqm should be provided on top of the standard for a 4b6p (99sqm) or 3b6p (95sqm)

unit. In each case the proposal exceeds this. CPG2 has a similar standard of 93sqm for a 6 person unit, with 10sqm added for each additional person. Similarly, the proposal exceeds this and does provide for a large amount of floorspace on a very small site.

The appeal decision for the previous planning application is relevant for this issue. Although there are often reservations about the quality of accommodation on constrained sites, there do appear to be some improvements when compared to the previous scheme allowed on appeal. The use of the central courtyard to provide light would improve the internal environment generally compared to the extant planning permission on site, even if outlook is not extensive. The rooms to the rear of the property would look out onto the rear garden. Therefore, the overall internal environment is not considered ideal but on balance is considered acceptable.

Four bedroom market units are of medium priority, which is the same as three bedroom units, less than 2 bedroom units (very high) and higher than 1 bedroom/studio units (lower). There is no objection to this in principle. There is some concern about the amount of outdoor amenity space for a unit of this size. There is a rear garden and terrace to the rear, and there is access to the internal courtyard at ground floor level. There is also a front area which has some value as amenity space but is not large, which does limit its value. Therefore, there is some variety of space but it would have to support up to 8 persons. On balance, this is considered acceptable although it is symptomatic of the size of the unit on such a small and constrained site.

There is dedicated space at the front of the site at ground floor level for refuse storage and cycle storage. It is small and with there being space for only 2 cycle spaces for a large unit. With there being a front area at upper ground floor then there is potential for further informal storage here. Therefore, on balance this is considered acceptable, albeit that (and similar to the amenity space above) it represents a further compromise which is symptomatic of the size of the unit on a small site.

All new residential units are required to meet the standards of lifetime homes. Following an amendment to the proposal the unit is considered to achieve this.

Overall, there are a number of concerns but having regard to what was approved previously there are some improvements and therefore the quality of accommodation is, on balance, acceptable.

### **Neighbouring amenity**

Policies CS5 and DP26 are of relevance. As noted above there is no objection to the principle of introducing another residential unit into a predominantly residential area. Although there are many differences between the appeal scheme and the current proposal, the impact on neighbours to the north, east and on the other side of King's College Road is similar. It is also important to note that the dwelling which has now been constructed on the adjacent site is different to that which had planning permission when 2010/3972/P was granted, but that the basic relationship is similar. The position of windows within is broadly the same. The increased depth of the proposed building would result in a larger building being visible from the north. However, it would sit behind the neighbouring building when viewed from properties on Eton Avenue and would be viewed on a similar level from that new property itself. Therefore, the impact is considered acceptable and there is not considered to be a change in circumstances significant enough to suggest a different approach now.

The inspector previously noted the change in level between the site and 102 Fellows Road to the south. The impact of this proposal would be greater than for the extant planning permission, both to the building and the rear garden. This is due to the replacement of the setback wall with a vertical wall, and the consequent increased impact which has been commented upon in the *Conservation and Design* section above. It is also due to the length of the building being greater. Having visited the rear garden at 102 Fellows Road there is not expected to be an unacceptable decrease in the amount of light received. A separate issue is whether the proposed building would appear overbearing when viewed from the property to the south. Concerns were raised previously about this at the pre-application stage and unfortunately it is not considered that the proposal has moved on to the extent that the proposal is acceptable. The development would result in a long wall along the boundary with two properties to the south, with a third being less affected. The gardens and lowest floor of which are both below the level of the street and ground floor of the proposed building. The previous planning permission was set-back at street level (upper ground floor level on the drawings) which lessened the impact considerably. This is not the case in the current proposal where the impact would be much greater. Therefore, in the context of the impact on neighbours to the south the proposal is considered unacceptable. In reaching this conclusion the applicant's extent of ownership has been acknowledged, but this has not altered the



conclusion.

Given the close relationship between the site and its neighbours, and that there is a basement proposed, the construction phase is likely to cause disruption to neighbouring properties. Therefore, a Construction Management Plan (CMP) is considered necessary to minimise and mitigate these impacts. This could be secured through a section 106 agreement, as it was for the previous planning permission on site. However, in the absence of an otherwise acceptable scheme this becomes a reason for refusal.

### **Highways and transportation**

Space for two cycles that is covered and secure is proposed, and this is considered acceptable alongside the potential for informal storage mentioned above.

The section 106 agreement for the extant planning permission required for a highway contribution and this approach would similarly apply for this application as it was endorsed by the previous planning inspector and there has been no change in material considerations which would suggest a different approach now. This becomes a reason for refusal in the absence of an acceptable scheme.

The applicant wishes for the unit to be able to obtain an on-street parking permit and has suggested that re-assigning his dedicated parking space provided due to him being a doctor from his current property at 100A Fellows Road to the proposed unit. The starting point is that there should be no net increase in the number of cars which can park on the street. Car parking permits are issued on the basis of the number of adults at a property. Therefore, the existing situation is that one person (the applicant) can use the dedicated doctor's space, and that other adults living at 100a Fellows Road are also able to apply for permits. If the doctor's space were re-assigned but the occupiers of the proposed development were able to apply for parking permits there would be a net increase in those able to park on the street, especially as it is potentially an 8 person unit. The residents of 100a Fellows Road would still be able to apply for parking permits. This would be contrary to policies CS11, DP16 and DP18, and in the absence of a section 106 agreement to secure a car-free development this becomes a reason for refusal.

### **Basement**

Policy DP27 is the principal policy concerning basements, and the guidance within CPG4 is crucial to its interpretation. However, a key aspect of this is that permission has already been granted for a basement on the site, albeit that it was not as large as that now proposed. Therefore, it is the difference between the two which is the key concern. The 'lower ground floor' would extend further to the rear by approximately 3.2m, with a sunken courtyard then beyond this. The 'lower lower ground floor' itself containing the storage and plant room would be at the very end of the plot but is only relatively small. It is nevertheless the deepest part of the excavation, and collectively the excavation would cover the entire site.

The applicant has provided a Basement Impact Assessment (BIA) with the planning application, and this follows on from the one provided for the previous planning application. Since this original planning application a change in approach has been introduced which results in most BIAs being independently assessed. This has not occurred in this instance due to the presence of the fallback position, which reduced considerably the extent of the basement which can be assessed in a meaningful way. However, the BIA has been prepared on the basis of the whole basement which is a logical approach. The report has been prepared by chartered engineers (the same who produced the last BIA). A site investigation was carried out previously, and there is no reason to conclude that anything has changed since then which would invalidate the conclusions.

Unsurprisingly much of the assessment is the same as that done previously. For the groundwater part of the assessment it was identified that the site is above an outer source protection zone, that the basement would extend beneath the water table surface, that there is a subsurface watercourse to the east of the site, and that there would be an increase in the permeable area. In response to these the BIA identifies that there is a low likelihood of significant groundwater given the low permeability of the soil, but that this would be monitored going forward. The nearby watercourse is culverted so is unlikely to be affected by the proposal. The London clay underneath the site is an unproductive strata so it is unlikely that the development would pose any risk to the nearby water source.

In terms of stability there is an existing slope on the site of greater than 7 degrees, and the site is near to the public highway. There is a potential impact of shrink swell subsidence. The impact on the adjoining

watercourse and the differential depth of the foundations relative to the adjoining garden wall are also identified. Ground movements have been estimated and have been used to estimate that the potential damage to neighbouring properties would be negligible (ie. A category 0 on the Burland scale). To alleviate potential slope instability it is proposed to construct a basement box and terracing to the rear. Shrink swell subsidence was highlighted but the site investigations found no evidence of soil dessication, and the level of the basement would be beneath the level likely to be affected by shrink swell action anyway. The watercourse is unlikely to have an impact, or be impacted on by the development similar to above. There is potential for ground movements to affect the existing garden wall, and this would be monitored with the option of underpinning it still open to consideration. Regarding proximity to the public highway, care is to be taken to understand the position of services running within them.

In terms of surface flow and flooding the main issue identified was the increase in the impermeable area and how this could impact on the rate of surface water received by the combined sewer. It is proposed to use SUDS measures to mitigate this. Specifically, the use of lined permeable paving to external hard landscaping. The applicant has advised that soft landscaping will be maintained wherever possible to reduce surface run-off and rainwater will be collected from the roof and stored. However, it is not clear that this is possible given how much of the site would be excavated and the amount of soil above the basement (see *Trees and landscaping*).

The conclusions reached follow those reached previously. Whilst the extent of the basement now proposed is greater the updated conclusions appear still to apply. An objection notes the impact of HS2 going ahead. This has not been confirmed and if it does go ahead it will be some distance from the site. Therefore, it is not considered possible to give weight to this issue.

The proposal is considered to accord with policy DP27 in regards to those issues referred to. The section below *Trees and landscaping* is relevant and refers to additional impacts of the basement.

### **Trees and landscaping**

Policies DP23, DP24, DP27 are of relevance. The applicant has provided an updated report into the impact of the proposal on trees. It is very similar to the report which was submitted previously for the extant planning permission. The extent of the basement is now greater than it was, and so there is the need to consider the proposal afresh whilst noting what they already have planning permission for. The introduction of the 'lower lower ground floor' and the enlarged 'lower ground floor' mean that the whole site is subject to excavation to a significant extent. CPG4 includes advice on this, noting that a basement which covers the whole front and rear garden is very unlikely to be acceptable. Margins should be left to enable natural processes to occur and for vegetation to grow naturally. The guidance continues that an appropriate proportion of planted material should be provided to allow for rain water to be absorbed and to compensate for the loss of biodiversity caused by the development. A minimum of 0.5m of soil should be provided above the basement, with 1m encouraged. SUDS will also be required.

The proposal would not leave the margins that CPG4 notes, and the depth of soil would be approximately 0.3m so considerably less than the minimum suggested. The tree report suggests that the impact on neighbouring trees would be acceptable, which was the conclusion reached when the inspector allowed the appeal. A condition could ensure that protection is provided. However, there is concern that there would be no opportunities for future planting. It is important to note that the extant planning permission did include a water storage tank beneath the garden, which in itself would involve excavation, although the purpose of it was to collect rainwater run-off and waste water, so mitigating the impact of the development. This is not proposed now. A green roof is proposed but this in itself is not considered sufficient mitigation for the development. Whilst the rear area would not be visible from public areas private areas are still considered important within the conservation area. Therefore, the proposal is contrary to those policies referred to above.

Reference is required to the appeal decision on the site as one of the issues was whether adequate provision was made for planting at the front of the site, and the consequent impact on the conservation area. The inspector made a number of comments. It was noted that the appeal scheme was full width and extended to the front. The same now applies and so this is not something that is being reconsidered now. It was also noted that there is no significant planting on the site at the moment which is visible from the street. The exact location of the tank proposed in the rear garden was considered to be something which could be left to a condition.

In light of these comments the issue is whether there are material considerations to outweigh the proposal

being contrary to policy. The inspector was primarily considering the impact on the conservation area, and whilst the concern about planting applies to the whole borough and not just conservation areas the impact on the wider area is still relevant. The appeal scheme had a significant area to the rear where the basement did not extend, and the water tank suggests that rainwater collection was an important factor. Therefore, there is not considered to be sufficient justification for the entire site being excavated, and the inspector's comments do not imply that this would be acceptable. Whilst the conclusion is that the neighbouring trees would not be affected to a significant extent the lack of potential for future planting on the rear of the site is not considered acceptable.

### **Sustainability**

Policies CS13 and DP22 are of relevance, as is CPG3 which supplements these policies. DP22 specifically requires that new build housing achieve Code for Sustainable Homes Level 4. The applicant has submitted a document to address this, which demonstrates that the development would achieve a score of 72.17%, and so greater than the 68% required to achieve level 4. Within this, the scores for *Water* and *Materials* are greater than 60%, but for *Energy* it is slightly less at 58.1%. This is disappointing, but as the overall score is in excess of 68% and because the discrepancy is small this is on balance considered acceptable. This would be secured through a section 106 agreement, but in the absence of an otherwise acceptable scheme this becomes a further reason for refusal.

The applicant has proposed a green roof, and this is supported. A condition would be imposed seeking further details of this.

### **Planning obligations / Section 106**

In addition to those obligations referred to above there are no additional issues which need to be mitigated through a section 106 agreement. For a single unit such as this there is no requirement for the applicant to make a contribution to open space, education or other obligations.

### **Other matters**

The site does not have the capacity to provide any more than a single unit and so there is no requirement for affordable housing. There is no suggestion that the site is contaminated or has any archaeological potential.

The applicant suggests that the development would make the rears of 100, 100a and 102 more secure. There is a logic to this in that the option to enter the site and walk to the rear would be removed. However, access to the rears could still be obtained from King's College Road if someone was intent on doing so. Therefore, this is a very minor positive aspect of the development.

Although an objection raises the behaviour of the applicant as an issue this has not been considered material to this application. Enforcement powers exist to address development which does not have planning permission, and they can be used where necessary. The applicant himself has noted that the site is used by everyone as a rubbish tip. This was not the case when the site visits took place, but that aside the applicant does have a responsibility to ensure it is kept tidy. An objection raised suggests that the photo montage is not accurate. Having visited the site and reviewed the information, it is considered that there is sufficient information to allow for a thorough assessment of the development.

### **Conclusion**

The principle of developing the site for a residential unit has been established, but it is the detail which is of concern. The impact on the conservation area is not considered acceptable: the resulting building would have unacceptable bulk and mass with the front building line being unduly prominent, and the proximity to 102 Fellows Road is also unacceptable. The quality of the accommodation is not ideal, but consideration of what the extant planning permission allows suggests that it is on balance acceptable. The increased impact on neighbouring properties to the south due to it being full width on all floors and extending further to the rear of the site is also of concern. The larger basement is largely acceptable, although by extending across the full site there would be no opportunities for planting and this is not acceptable. In terms of sustainability the proposal does not strictly meet all of the criteria, but is near enough as to be acceptable even though it forms a reason for refusal due to there being no section 106 agreement in place. For the same reason other reasons for refusal relating to car free housing, CMP, and a contribution towards highways repair are also necessary.

**Recommendation:** Refuse planning permission

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