

Ms Rachel Miller  
Planning Officer  
Development Management,  
Regeneration and Planning,  
Culture and Environment Directorate,  
London Borough of Camden, Town Hall Extension,  
Argyle Street, London  
WC1H 8ND

Barbara Thorndick &  
Mike & Diana Eatherley  
22 & 26 Quadrant Grove  
London NW5 4JN

21<sup>st</sup> May 2014

Email: Rachel.Miller@camden.gov.uk

**Letter of objection against application no. 2014/2070/P in respect of 24 Quadrant Grove NW5 4JN**

Dear Rachel Miller

We wish to object to an application by Mr James Ireland of 24 Quadrant Grove London NW5 (2014/2070/P dated 01/04/2014), for permission to develop a basement under his house, pursuant to the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended in October 2008 ("GPDO 1995"). Although we are the authors of this letter, we ask you to note that our objections are shared by almost all the residents in this street.

In summary, our objections are as follows:

1. The scale and extent of the excavation works required to build out the proposed basement constitutes an "engineering operation" which falls outside the terms of the permitted right of "enlargement, improvement or other alteration of a dwelling house". This proposal therefore fails to qualify as permitted development under Schedule 2, Part 1, Class A of the relevant 1995 Order. Similar restrictions are to be found in Camden's Planning Guidance *CPG4*, and Development Policy *DP27*
2. The proposed construction (where the eventual construction of a lightwell is foreseeable) would, if permitted, breach Government guidelines, namely the "Planning Portal" provisions of "Permitted Development for Householders" published by the Department for Communities and Local Government.
3. This application is simply an attempt to utilise a fast track procedure in order to overcome problems identified in a previous (and potentially unsuccessful) planning application. In the circumstances of this case, the provisions of the 1995 Order, if applicable, should not be permitted by the Council to override and defeat the controls to be found in more stringent planning rules and procedures.

We deal below with each of our objections in greater detail.

**The scale and extent of the excavation works required to build out the proposed basement constitutes an "engineering operation" which falls outside the terms of the**

**permitted right of "enlargement, improvement or other alteration of a dwelling house". This proposal therefore fails to qualify as permitted development under Schedule 2, Part 1, Class A of the relevant 1995 Order.**

1.1 The proposed basement will involve major work, since to our knowledge, there are no cellars in the street and the construction will have a very substantial impact on immediate neighbours, and the street as a whole.

1.2 Whilst there may be circumstances in which a General Permitted Development Order might be used to permit construction of a basement (e.g. for a detached house which is at least say three metres from a cartilage) the same cannot be said for a terraced house like 24 Quadrant Grove, where part of the "engineering works" will take place under neighbours' property i.e. their half of each party wall. We believe that constructing a new basement under an old terrace house like 24 Quadrant Grove, which involves:

- underpinning the party walls,
- excavating 180 cubic metres of soil,
- carting the material away in bulked form,
- introducing reinforced concrete walls and floor etc,

can only be classified as "engineering operations". This suggests that "Permitted Development Rights" must be removed.

1.3 In relation to this objection and other matters, we have sought the Opinion of Counsel Mr Gwion Lewis, a leading member of the Planning Bar, for his views as to whether this proposal qualifies as a permitted development under Schedule 2, Part 1, Class A of the relevant 1995 Order. Counsel has concluded it does not qualify because, as a matter of fact and degree, the extent of excavation works required to build out the basement constitutes an "engineering operation" which is not within the terms of the permitted right of "enlargement, improvement or other alteration of a dwelling house". He points out that although the "permitted right" covers building operations, it cannot properly be interpreted as including any other types of operations. He points out that other types of operations envisaged by s. 55(1) of the Town and Country Planning Act 1990 ("TCPA 1990") are defined as "engineering, mining or other" operations which require a separate grant of planning permission unless they benefit from a permitted development right. We attach a copy of his Opinion, should you wish to see it.

1.4. Our view, fortified by Counsel's Opinion, is that the substantial nature of the excavation works involved in this basement development project, coupled with the traffic movements required to take the excavated material away from the site, constitutes a separate "engineering operation".

1.5 Counsel also takes the view that whilst section 55(2) of the TCPA 1990 excludes certain "operations" that involve "the maintenance, improvement or other alteration of any

building of works" from the scope of "development" within the meaning of the Act, the "engineering operation" involved in our case would not "affect only the interior of the building". Nor, as he points out, could it be said here that the operation would "not materially affect the external appearance of the building", bearing in mind the considerable impact it would have given on the local road network and the way it would affect the external appearance of the building whilst the works were ongoing.

1.6 The restrictions on "engineering operations" set out in section 55(2) of the TCPA 1990, are further reflected in Camden's widely published Planning Guidance CPG4, and Development Policy DP27. Section 2.4 of CPG4 deals with circumstances in which Permitted Development Rights for basement can be granted and refused. It states:

'This guidance applies to all developments in Camden that propose a new basement development, or an extension to existing basement accommodation where planning permission is required. Permitted development rights mean that some basements will not require planning permission.

'Permitted development is governed by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) which permits "the enlargement, improvement, or other alteration of a dwelling house" within the limits laid down for extensions.

'In certain situations such 'Permitted Development' rights **are removed**, such as for works classified as 'engineering operations'.

1.7 The applicant appears to misunderstand the true extent of the restriction contained in CPG 4, which he misquotes in section 7 of the "Grounds for Application". He states:

"Under Permitted Development Rights (1995) and LB Camden CPG4, Basement extension is allowed where no special engineering works are involved *such as a lightwell* and where the property is not within a Conservation or where Article 4 is removed"

1.8 In fact, CPG4 does not specify that the construction of a lightwell would constitute "special engineering works" or, more importantly, that the construction of a basement without a lightwell would not constitute "special engineering work". CPG4 simply and more broadly states that permitted development does not apply where there are "engineering works". As already stated above, we believe that what is proposed in fact constitutes "engineering works" with or without the lightwell.

1.9 As to the implied suggestion by the applicant that the proposed basement development would not involve the construction of a lightwell, see paragraphs 2.1 -2.3 below.

**The proposed construction (where the eventual construction of a lightwell is foreseeable) if permitted, would constitute a breach of Government guidelines, namely the "Planning Portal" provisions of "Permitted Development for Householders" published by the Department for Communities and Local Government.**

2.1 In November 2013 an application was made to Camden Council by Mr Ireland for planning permission to build a single story basement under 24 Quadrant Grove, with a lightwell in his front garden. The stated purpose of the basement was to provide space for a playroom/cinema. Although it appears that the planning application has now been abandoned or adjourned in favour of an Application for Permitted Development pursuant to the 1995 Order, Mr Ireland clearly intends to create an additional living space, which is highly likely to require a lightwell at some stage.

2.2 As will be seen from a document published by the Department of for Communities and Local Government and updated in October 2013, entitled **"Permitted Development for Householders"**, excavating to create a new basement which involves major works would not ordinarily be permitted under a General Permitted Development Order ("GPDO"). It also clearly states that a basement construction, which creates a separate unit of accommodation and/or alters the external appearance of the house, *such as adding a lightwell* (our emphasis), is likely to require planning permission, and would not ordinarily be permitted under the scheme.

2.3 If the application is granted, the applicant, in order to comply with GPDO requirements, will very likely exercise his right to construct the basement without a lightwell. It is not fanciful to suppose however, given the terms of the original planning application, that once the GPDO has been granted, the applicant will add a lightwell, for which retrospective planning permission will then be sought. The applicant, rightly or wrongly, may well be anticipating Camden's rather liberal record on enforcement. It would be highly regrettable if Camden, aware of the potential for abuse, was seen to permit a development of this sort under the GPD scheme.

**This application is simply an attempt to utilise a fast track procedure in order to overcome problems identified in a previous (and potentially unsuccessful) planning application. In the circumstances of this case, the provisions of the 1995 Order, if applicable, should not be permitted by the Council to override and defeat more stringent planning rules and procedures.**

#### History of the application for General Permitted Development

3.1 Quadrant Grove is a small street of small terraced houses in Kentish Town constructed in the mid nineteenth century. Each house has a small garden and the front elevations of the houses largely original. It is one of the few streets of this kind left in the neighbourhood. Indeed, we have asked the Council to consider restricting any permitted development rights through an Article 4 designation, and they are looking at doing so

3.2 In November 2013, as we have already stated at paragraph 2.1 above, an application was made to the Council by Mr Ireland for planning permission to build a single story basement under his house, with a lightwell in their front garden. The stated purpose of the basement is to provide space for a playroom/cinema.

3.3 The application was met with a large number of objections from almost all the residents in the street and most particularly by neighbours living on either side of and immediately opposite the house in question, including us. The objections included detailed criticism of both the technical parts of the application and general objections based on the contravention of a number of Camden's development policies.

3.4 Mr Ireland's application was supported by a Basement Impact Assessment Report from Green Structural Engineering Ltd ("GSE") dated October 2013.

3.5 As a consequence,, the Council sought an independent assessment from Card Geotechnics Ltd ("CGL"). GCL's report, dated 7<sup>th</sup> March 2014, questioned the qualifications of the authors of the GSE report and concurred with many of the detailed criticisms relating to the technical parts of the application.

3.6 In March 2014 Mr Ireland, no doubt in an attempt to overcome the obstacles that had arisen, abandoned or adjourned his planning application, and instead applied to the Council for a fast-track "Certificate of Lawfulness" for the construction of the basement, excluding the lightwell, as a "Permitted Development" under Section 2 Class A Town and Country (General Permitted Development) Order 1995 as amended ("GPDO").

3.7 We submit that it would be wholly wrong for the applicant to attempt to utilise the fast track GPDO procedure in order to overcome problems identified in a previous (and potentially unsuccessful) planning application. Furthermore, the Council should not grant permission if the consequence of so doing would be to override and defeat more stringent planning rules and procedures.

Yours sincerely,

Michael Eatherley MICE MStructE 26 Quadrant Grove

Diana Eatherley 26 Quadrant Grove

Barbara Thorndick OBE 22 Quadrant Grove

Christopher Sallon QC 27 Quadrant Grove

