

ELSWORTH RESIDENTS ASSOCIATION

Mr Obote Hope

August 17 2014

Planning Officer

Camden Town Hall Extension

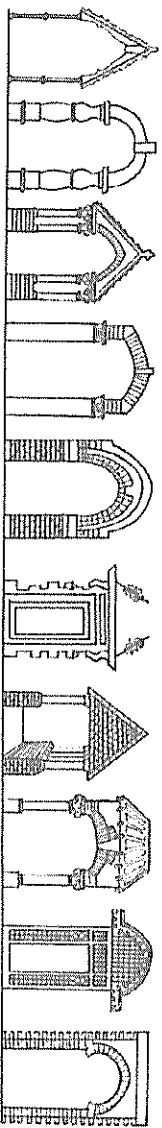
Argyle Street

London WC1H 8ND

Dear Mr Hope,

6 Elsworth Terrace NW3 3DR - 2014/4187/P

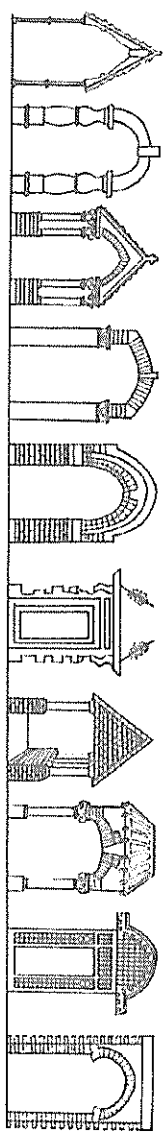
1. This letter is submitted by the Elsworth Residents Association (ERA), to bring to your attention our very serious concerns about the proposed development by the owner of 6 Elsworth Terrace, a cul-de-sac off Elsworth Road providing pedestrian access into Primrose Hill. The proposal is alleged to be within the scope of permitted development and therefore not to require planning permission, but only a certificate of lawful development.
2. The proposed works include:
 - A sub-basement covering the footprint of the original house
 - A garden 'pavilion' covering half the garden, abutting the boundary walls on three sides (Approximately 45 sq. m) There is no specification for materials for this structure.
 - Three roof lights, two in the rear and one at the front of the house
3. This is the first time that such a major proposal in the Elsworth Conservation Area has been submitted within the scope of permitted development and alleged therefore not to require planning permission, but only a certificate of lawful development.
4. **In the view of ERA, it is wrong for Camden Council to allow a development of this scale, in a Conservation Area, without requiring full planning permission. We are advised that the current application cannot lawfully be granted. Approving it by way of certificate of lawfulness would undermine the Council's own development policies, in particular DP 27, on basements and lightwells, and Camden's detailed planning guidance in CPG 4. If the Council deemed it appropriate, an Article 4 Directive could be made to restrict the scope of permitted development rights in this CA.**
5. It is difficult to see how a sub-basement can be habitable without some natural light and ventilation provided by a lightwell which would have damaged the character of the Terrace and be subject to objections. It is most likely that an amendment would follow to provide the lightwell which precludes it initially from coming under 'permitted development'.
6. The relevant Technical Guidance on "permitted development" of the Department for Communities and Local Government (April 2014) makes no reference to basement developments, and the current application clearly would require certain operations,



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- notably “engineering operations”, to be conducted at the site that are of a scale and extent that fall outside the terms of permitted development and require a separate grant of planning permission. We are advised that Class A permitted development rights (on which the current application critically depends) do not include significant elements of the proposed scheme, including the extensive excavation and removal of a substantial volume of ground and soil from the site that would be required for the proposed sub-basement. Such works would clearly not be *de minimis*, nor could the works be said to involve only the interior of the building.
7. Moreover, it does not seem to us possible to excavate soil for this scheme without consequent ground movement that will damage the party walls and adjacent structures. New retaining walls will surely need to be constructed under the party walls, which clearly means that the proposal is for a construction that extends beyond the footprint of the applicant’s house. This is clearly not something to be resolved by party wall surveyors. Therefore, a certificate of lawfulness based on the Town and Country Act of 1990 (TCPA) and the Town and Country (General Permitted Development) Order 1995 as amended (GDPO) clearly cannot be issued in this case.
8. Allowing such a development to proceed without full planning approval is, we believe, unprecedented. ERA is deeply concerned that unless the Council requires full planning permission for this proposed development, this scheme could prove highly damaging. If the works proceed without the protections offered by the full planning procedures, likely consequences may include:
- Risk of flooding due to the run off from Primrose Hill which the Royal Parks have told us has had no drainage works on the relevant side.
 - Subsequent risk to ground stability due to unknown water drainage
 - Adverse effects on structural stability of neighbouring properties
 - Harm to amenity of neighbours and park users
 - Harm to appearance of the property and therefore to the Terrace and the character of the surrounding area
9. ERA’s position is strongly supported by residents who, in addition to the above planning concerns, are also worried about other consequences:
- Serious disruption and danger to home owners and park users in the cul-de-sac of Elsworth Terrace during construction
 - Reduction in parking possibilities, already problematic for infirm and disabled
 - Impairment of the views through to Primrose Hill from Elsworth Road and from the rear of the houses in the Terrace caused by the ‘pavilion’ structure
 - Threat to trees, both in gardens and the large planes in the street outside 6 and 7
 - Potential light pollution from the roof lights on the ‘pavilion’
 - Fear that emergency vehicles will no longer have access during construction
10. Camden Council has a well-established policy with regard to basement developments, reflected in DP 27 and CPG 4.
- DP 27 provides:

In determining proposals for basement and other underground development, the Council will require an assessment of the scheme’s impact on drainage, flooding, groundwater conditions and structural stability, where appropriate. The Council



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will only permit basement and other underground development that does not cause harm to the built and natural environment and local amenity and does not result in flooding or ground instability. We will require developers to demonstrate by methodologies appropriate to the site that schemes:

- a) maintain the structural stability of the building and neighbouring properties;*
 - b) avoid adversely affecting drainage and run-off or causing other damage to the water environment;*
 - c) avoid cumulative impacts upon structural stability or the water environment in the local area;*
 - and we consider whether schemes:*
 - d) harm the amenity of neighbours;*
 - e) lead to the loss of open space or trees of townscape or amenity value;*
 - f) provide satisfactory landscaping, including adequate soil depth;*
 - g) harm the appearance or setting of the property or the established character of the surrounding area; and*
 - h) protect important archaeological remains.*
- The Council will not permit basement schemes which include habitable rooms and other sensitive uses in areas prone to flooding.*

11. ERA strongly urges the Council to take critical steps to endure that this proposed basement development is consistent with DP 27 and CPG 4, Cl 2, notably that this scheme does not:

- Cause harm to the built and natural environment and local amenity
- Result in flooding
- Lead to ground instability

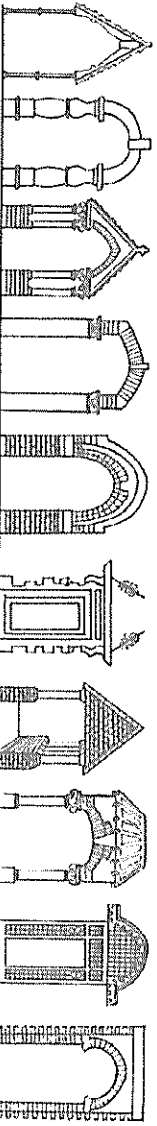
Without expert knowledge of the subsoil and the extent of the Primrose Hill drainage, there is serious concern regarding the introduction of the proposed sub-basement in Elsworth Terrace and its impact on the existing water course. Flash floods are becoming more common and the neighbouring garden flats could all be at risk.

Thames Water are carrying out seven months of major works in Elsworth Road at present to mitigate the the flooding that has occurred to basements and pools that have been introduced, particularly at nos 37 and 41 and properties in Avenue Road. The original sewers were not constructed to withstand the extra pressure of that these put on the system.

The experience of the collapse of 8 Elsworth Road, and the repercussions for the neighbours that continues, causes us to be particularly nervous.

12. ERA requests that the Council require the applicant to submit information relating to the points set out in Cl. 2 of CPG 4 within a Basement Impact Assessment (BIA) which is specific to the site and the proposed development. In this regard, ERA strongly urges the Council to require and independent verification of the BIA, funded by the applicant, as contemplated by CPG 4.

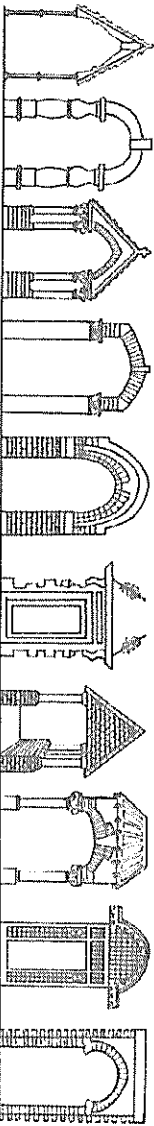
13. ERA requests the Council to require the applicant to provide evidence that the structural stability of adjoining or neighbouring properties is not put at risk, taking due account of the provisions of Cl. 2.39 of CPG 4. As noted in Cl. 2.48 of CPG 4, regarding impacts to neighbours from demolition and construction, some of the worst



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problems affecting amenity are experienced during the demolition and construction phases of a development and this is particularly so for basement development, which although temporary, tends to create noise, vibration, dust, air and light pollution, and can last for lengthy periods of time. This problem is particularly acute in the case of the proposed development, which is in the middle of a terrace of Victorian properties located in an extremely congested cul-de-sac providing pedestrian access into Primrose Hill, with only one entrance/exit into Elsworthly Road and with a mix of residents' parking and pay and display on both sides of the Terrace.

14. ERA requests the Council to ensure that full care and consideration be given to neighbouring properties, in particular by requiring that all construction and demolition processes for this development meet the standards set out in Cl 2.49 of CPG 4.
15. As this proposed development is in a Conservation Area, ERA request the Council seek the submission of a management plan for demolition and construction, as contemplated in Cl 2.50 of CPG 4.
16. ERA requests the Council to ensure respect for Cl 2.53 of CPG 4, so that planning and design considerations are adequate to ensure that this basement scheme:
 - Does not cause undue harm to the amenity of neighbouring properties;
 - Does not have a detrimental impact on the groundwater environment;
 - Does not have any effects on surface water run-off or ground permeability;
 - Does not harm the recognised architectural character of buildings and surrounding areas, including gardens and nearby trees, and that conservation area character is preserved or enhanced;
 - Conserves the biodiversity value of the site;
 - Achieves sustainable development; and
 - Does not place occupiers at risk or have any effects on the stability or bearing capacity of adjacent land generally.
17. ERA request the Council to require other mitigation measures including:
 - Submission of a detailed drainage plan;
 - Submission of a construction management plan;
 - Requiring that contractors adopt the practices outlined within the Demolition Protocol and the Considerate Constructors Scheme.
18. The proposed 'garden pavilion' with a total gross external area of 45 m² is shown on the plan to take up half of the remaining soft landscaping in the rear garden and to be substantially higher than the boundary garden walls. No details of the design or materials are given other than an indication of a flat roof with roof lights. This will be a major intrusion when viewed from the rear of the other houses in the Terrace and will also be visible above the walls from both Primrose Hill and Elsworthly Road. A modest stained timber structure with a pitched roof as at no. 4 Elsworthly Terrace would be less obtrusive for all the houses that overlook the rear gardens and would not necessitate the roof lights that cause light pollution. The Council should insist that the design and materials are harmonious and do not obstruct the views to and from Primrose Hill and do not impact on the amenity of other residents in the Terrace.
19. The Council should take the necessary steps to ensure that there is no impact on any trees on or adjoining the site. This point is not addressed in the applicant's submission.



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20. ERA urges the Council to consider these concerns and in particular to ensure that all relevant Council development policies, including DP27 and CPG 4 are fully respected in the case of this scheme.

21. Legal Advice and Opinions and Certificates of Lawful Development:

ERA requests the Council to confirm as soon as possible whether or not the Council has sought or received written or legal advice or opinions relating to the scope of permitted development and certificates of lawful development in regard to any proposed residential developments. If the Council has sought or received any such advice or opinions, please provide copies thereof (or, if they are oral, please provide summaries), or if the Council will not comply with this request, please provide your legal justification for not doing so. Please also provide us with details of any previously granted certificates of lawful development where basements were involved, particularly in Conservation Areas.

22. Finally, please keep ERA informed of all actions taken in respect of this application, 204/4187P – 6 Elsworth Terrace, NW3 3DR

Yours faithfully,



Françoise Findlay

Chairman

1 Lower Merton Rise

London NW3 3RA