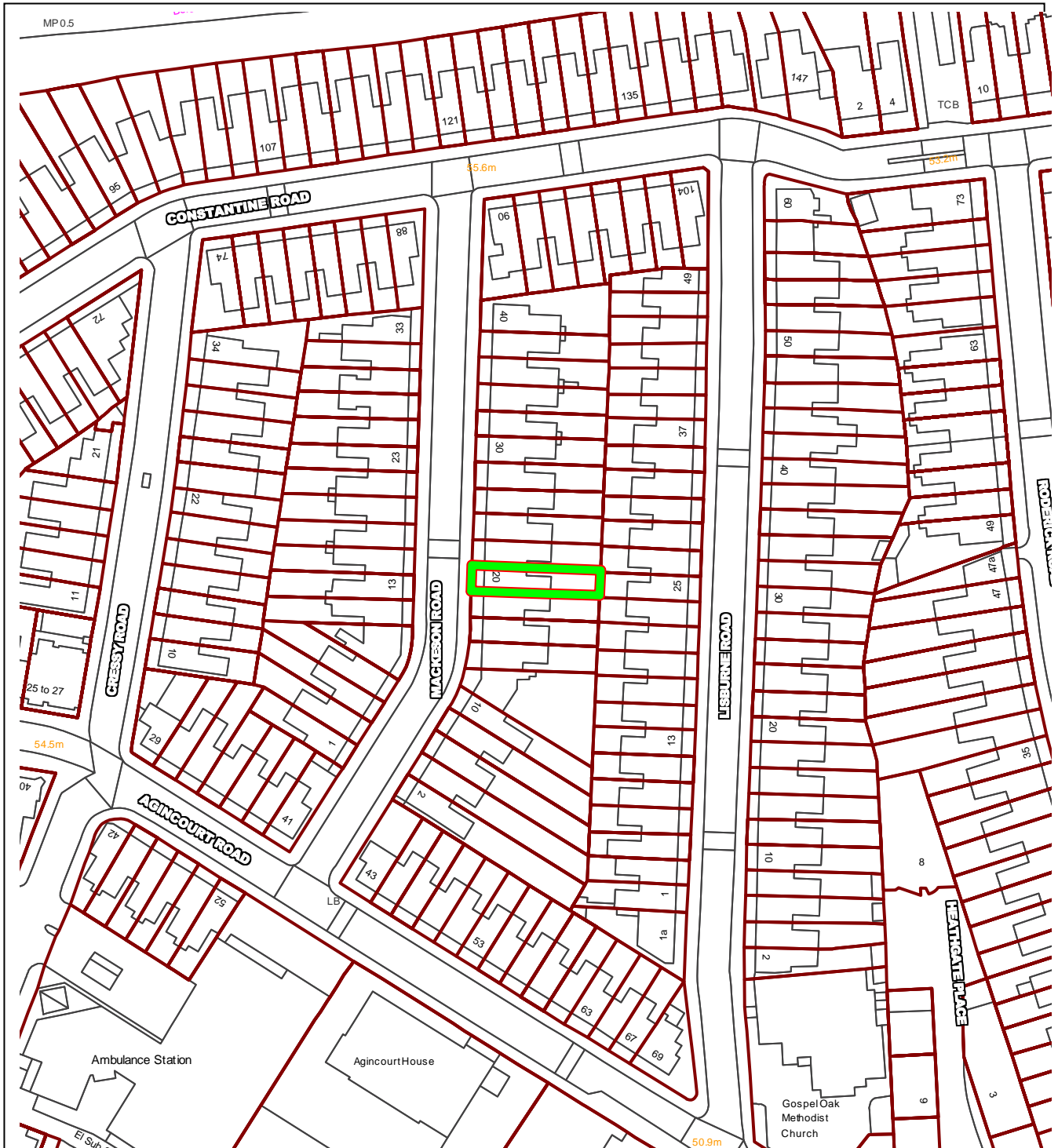


20 Mackeson Road



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Delegated Report (Members Briefing)		Analysis sheet		Expiry Date:		25/08/2014	
		N/A / attached		Consultation Expiry Date:		24/07/2014	
Officer				Application Number(s)			
Obote Hope				2014/4172/P			
Application Address				Drawing Numbers			
20 Mackeson Road London NW3 2LT				Refer to draft decision notice			
PO 3/4		Area Team Signature		C&UD		Authorised Officer Signature	
Proposal(s)							
Excavation of basement to provide additional accommodation for single dwellinghouse (Class C3).							
Recommendation(s):		Grant certificate					
Application Type:		Certificate of Lawfulness (Proposed)					
Conditions or Reasons for Refusal:		Refer to Draft Decision Notice					
Informatives:							
Consultations							
Adjoining Occupiers:		No. notified	03	No. of responses	13	No. of objections	13
				No. Electronic	00		
Summary of consultation responses:		<p>NOTE- Given the level of interest in the proposed basement extension (see summary of the objections below), it was considered wise to fully with a press and site notice, even though the application is not a normal planning application and is can only have a legal determination of its lawfulness (see policy section below).</p> <p>A site notice was erected on 03/07/2014, expiring on 24/07/2014 and a press notice published on 04/07/2014.</p> <p>The 2 x objections on behalf of the occupiers of 5 Mackeson Road, are summarised as follows:</p> <p>a) The proposed basement forms part of a Victorian Terrace house and not a</p>					

large detached property. Therefore, the potential impact is of great concern due to the houses being built on London Clay; **(Please refer to Paragraphs 1.1 – 2.3)**

- b) The proposed site is within close proximity to underground river fleet; **(Please refer to Paragraphs 1.1 – 2.3)**
- c) The proposal would have adverse effect on the conservation area and the associated works would cause massive disruption in terms of noise and excess water should be taken into account and further research undertaken on these potential impacts prior to determining of the planning application. **(Please refer to Paragraphs 1.1 – 2.3)**

The 2 x objections on behalf of the occupiers of 16 Mackeson Road, are summarised as follows:

- a) The proposed works would lead to damp that was a problem 2 years ago has now worsen; **(Please see officers comments below)**
- b) The terrace is old and in need of maintenance any significant extension/construction would have negative impact to the building. **Please see officers comments in 1.0 – 2.3 below)**
- c) The proposed underpinning would cause subsidence eventually to all the properties on the entire road; **(Please see officers comments in 1.0 – 2.3 below)**
- d) The proposed noise and disruption due to the proposed works would be prolonged and horrendous; **(Please refer to Paragraphs 2.5 – 2.8)**
- e) The houses on Mackeson Road haven't got proper foundations and are built on Clay. Therefore, if the house is underpinned by concrete then the rest would move away eventually; **Please see officers comments in 1.0 – 2.3 below)**

The 2 x Objections submitted on behalf of the occupiers of 18A Mackeson Road, are summarised in two parts as follows:

- a) The houses are built together, and as such, any significant work done to one would affect the others right done the line; **(Please refer to Paragraph 2.1 – 2.3)**
- b) Subsidence is caused when the concrete box surround to the basement stabilizes the house, all the other houses keep moving at a constant rate and so they break up, causing subsidence; **(Please see officers comments in below)**
- c) These houses are old--114 years--they have no foundations, they are built on CLAY, they are in the path of the flood site predicted by Atkins for the City of London if the ponds overflow. Mackeson is a named road; **(Please see officers comments in below)**
- d) My home also has patches of damp. These have been repaired. I fear the damp will spread more easily if the clay and mud are churned up; **(Please see officers comments in below)**
- e) These houses too will be affected by any subsidence that results here. So in effect, if Camden gives permission for this basement excavation, they will be causing themselves expense if their property is affected; **(Please see officers comments in below)**
- f) Twenty-three years ago, subsidence set in on Roderick and all but one house on the west side of the street had massive and expensive repairs, these houses fates are TIED TOGETHER. They are not single, detached dwellings. They are unsuitable for basements; **(Please see officers comments in below)**

2nd Objection

- a) In the first place, Camden Council did not write to me directly about the

proposed plans for 20 Mackeson; I understand they are obliged to do so, but I never received this letter and there were no mention of the planned basement; **(Please refer to Paragraphs 2.2)**

- g) The officer in charge of this project advised that Camden Council does not require that the planning document mention a basement, that they have the right to go down one storey if their upper plans are approved. This strikes me and others as a short-sighted policy; **(Please refer to Paragraphs 1.0 – 3.0)**
- b) I and others believe that this and any similar project in this neighbourhood represents a risk to life and limb. You may be familiar with The City of London's project to raise the dams on Hampstead Heath, This is because their engineering consultants Atkins has indicated that in the case of a torrential and catastrophic downpour, the present dams will burst their banks, flooding all the streets below the Heath, INCLUDING MACKESON ROAD; ; **(Please refer to Paragraphs 2.0 – 3.0)**
- c) The Fleet River, now a subterranean sewer, splits into two branches just above Mackeson Road, and a major flood occurred in the neighbourhood below the Heath in 1975, caused by the sewers overflowing. One and a half blocks to the west and one and a half blocks to the east, the separate branches of the Fleet River flow. Are these sewers now secured.; **(Please refer to Paragraphs 2.8)**

Objections submitted on behalf of the occupiers of 18 Mackeson Road, are summarised as follows:

- a) The plans include extensive structural sub-level work, including the creation of a new foundation and steel braces on the walls. This will invariably cause stress on both adjacent property shared walls of 18 and 22 Mackeson Road; **(Please refer to Paragraphs 2.0 – 2.8)**
- b) The steel work to be introduced into the walls of the basement is very likely to transmit sound and vibration into the shared walls. This issue has already been noted by a neighbour on Constantine, who is suffering from a much higher level of noise transmitted through the walls; **(Please refer to Paragraphs 2.5 – 2.8)**
- c) There are issues with the shared wall of 20 Mackeson Road. On the top floor there are extensive cracks in the back bedroom; **(Please refer to paragraph 2.8)**
- d) We already have some issues with subsidence at 18 Mackeson Road, with cracks on our first floor back kitchen, both inside, and on the outside going up from the back door, and also above the downstairs neighbour's ground floor kitchen; **(Please refer to paragraph 2.8)**
- e) I am very concerned that the website of the basement planning application does not show the vertical drawings, which clearly show the full wall to wall additional floor that is to be introduced with a full height new story added: **(Please refer to paragraph 2.0-3.0)**
- f) The proposal deliberately did NOT make any mention of a basement what so ever, nor was there any mention of a based from the neighbours themselves. It is quite distressing to then be told by the planning official Hope Obote that the application is now approved; The application was not approved following discussions with the objector as the application was not allocated to an officer at the time **(Please refer to paragraph 2.0-3.0)**

Objections submitted by an unknown address are summarised as follows:

- a) I am opposed to this application on a number of grounds. The nature of these works will require far more excavations than the supporting documents shown: **(Please refer to paragraph 2.0-3.0)**

- b) They will also need to excavate much further down to form the foundations to support the existing house and this will seriously undermine the neighbouring properties; **(Please refer to paragraph 2.0-3.0)**
- c) There is also no information on how they intend to deal with ground water; **(Please refer to paragraph 2.8)**
- d) The construction of a basement will affect the movement of this ground water in the local area and could potentially affect the surrounding buildings; **(Please refer to paragraph 2.8-3.0)**
- e) The proposed basement extension would set a precedent on the construction of basements in the local area as there could be a risk of structural damage to buildings especially in an area of terraced housing; **(Please refer to paragraph 2.8-3.2)**
- a) Basement excavation should be subject to a planning application so that any extensions can be properly considered, avoiding adverse impacts on amenity and property; **(Please refer to paragraph 2.0-3.0)**
- b) Proposed basement extends beyond a wall forming a side elevation of the original dwellinghouse (Part A.2b) given single storey extensions on the north-west side of the building were not part of the original building and instead built at a later date. Thus any basement in this area would not constitute permitted development; **(Please refer to paragraph 2.0-3.0)**
- c) Insufficient information provided is seriously inadequate... not sufficient to satisfy a reasonable authority that a certificate should be issued". This is owing to the plans not showing the necessary light for the basement to become living accommodation "light wells will be required and yet none are shown", meaning "this is not an adequately detailed or realistic proposal. Lightwells constitute engineering operations (falling outside permitted development). **(Please refer to paragraph 2.0-3.0)**

Objection/ petition was submitted from 32 Mackeson Road on behalf of 25 other residence are summarised as follows:

Objection

- a) Very concerned about a basement conversion planned by new residents in Mackeson Road. They have permission and work starts in July approximately 2 weeks away; **(Please refer to paragraph 3.1)**
- b) Advised by a surveyor that it would be a bad idea; the houses being built on clay and being so close to the heath and with the Fleet River running underneath; **(Please refer to paragraph 2.0-3.0)**
- c) Similar basement conversation in Constantine Road has had problems with flooding, the houses in Parliament Hill have cracks in their foundations and the houses in Roderick are full of cracks too. **(Please refer to paragraph 2.8-3.0)**
- d) I particularly feel for the immediate neighbours, but everyone in Mackeson could all be affected. **(Please refer to paragraph 2.8)**

Petition

- a) Understands the local terrain and building issues, advice obtained from a builder suggest that the proposed works would lead to between 18 months and 2 years of significant, sometimes total, disruption in our street in regards to noise and movement of vehicles with heavy equipment's; **(Please refer to paragraph 2.0-2.9)**
- b) This development could also set a precedent, meaning other houses are dug out causing further damage and disruption to our street: **(Please refer to paragraph 2.0-2.9)**
- c) Apparently there was an article in the Hampstead & Highgate Express / CNJ 3/4 weeks ago, announcing that Camden was not going to allow these excavations because of the very disruptive nature of the work; **(Please refer**

to paragraph 2.0-2.9)

1 x Objection and a petition that were submitted from 36 Mackeson Road are summarised as follows:

- a) The proposed works would be disruptive to the neighbouring residence due to excavation works; **(Please refer to paragraph 2.0-2.9)**
- b) the movement of vehicles and the noise associated with the proposed works; **(Please refer to paragraph 2.0-2.9)**
- c) The proposed works would set a precedent, the prospect of an epidemic of basement building is daunting and particularly unwelcome in a conservation area; **(Please refer to paragraph 2.0-2.9)**
- d) Our views are shared by many in the locality as exemplified by the message sent to our local Councillor **(Please refer to paragraph 2.0-2.9)**

Two objections that were submitted from Unknown Address, these objections are similar to to the petition from 32 Makeson Road;

Objections were submitted from an unknown address are summarised below;

- a) The sole argument for the position is based on a narrow interpretation of a version of the Town and Country Planning (General Permitted development) (Amendment) (No2) (England) Order 2008 (“GPDO”), with proposed works is considered against Class A. This is wrong:
- b) as this act can not be used in isolation; it refers back to the Town and Country Planning Act 1990 in which some of the important terms distinguishing between “building operations” and “engineering operations” are set out. Under section 55, the language specifically excludes the providing of additional space under an existing building:
- c) properly be interpreted as including any other types of operations. Looking at the paragraphs in Class A as a whole, the various exclusions and conditions can only sensibly be applied in relation to proposals to add more built development, or to improve or alter existing built development. It cannot sensibly be applied to other major engineering operation, such as the excavation of a new basement, and the structural changes to neighbours walls:
- d) We have seen legal advice stating the permitted development right granted by Class A of Town and Country Planning (General Permitted Development)
- e) (Amendment) (No2) (England) Order 2008 (“GPDO”), (“the enlargement, improvement or other alteration of a dwellinghouse”), is apt to cover “building operations”, as defined by section 55 (1A) of the Town and Country Planning Act 1990; but cannot properly be interpreted as including any other types of operations:
- f) This notion is supported by section 55 (1A) (d), which state development is “normally undertaken by a person carrying on business as a builder.” Legal advice we have seen notes that underground development that requires the instructions of a specialist structural engineer is not “normally undertaken by a person carrying on business as a builder.” That is why section 55(1) distinguishes between “building operations” and “engineering operations.”
- g) In summary, the legal notion that the entire planning application 014/4172/P for a basement at 20 Mackeson Road can only be assessed against the relevant planning legislation which is the Town and Country Planning Act 1990 and more specifically, the Town and Country Planning (General permitted Development)(Amendment)(No2)(England) Order 2008 (“GPDO”); we feel is legally unsound:
- h) Furthermore the current development plans breach the property boundaries of 20 Mackeson Road, directly impact the internal structural walls of three

	<p>properties, and violate the notion of development within a dwellinghouse</p> <p>Objections were submitted from an unknown address are summarised below;</p> <ul style="list-style-type: none"> a) I am however concerned that basement extensions might undermine the structural integrity of adjoining buildings: b) I know these are matters that are more appropriate for the building inspectors than town planners but in view of the underground watercourses in this area: c) I believe that it is vital to monitor the works and ensure that the contractors, architects etc all have huge indemnity insurance and that the construction is executed in a manner that accommodates these external physical issues: d) To be frank it would be wonderful if a large area of the road had to be redeveloped with trophy high rise as a result of such structural problems since that might result in a comprehensive redevelopment of the surrounding area: e) To be frank it would be wonderful if a large area of the road had to be redeveloped with trophy high rise as a result of such structural problems since that might result in a comprehensive redevelopment of the surrounding area: <p>Officer comments: Please see the relevant policies section below; including paragraphs 2.1 and 2.6 for a more detailed assessment; It is acknowledged that the proposal does not include any lightwells. However, a basement does not have to include such a feature – it could be that the basement would provide accommodation which does not require access to natural light, such as a cellar, games room or study for example. The application must be determined based on the information submitted. If a lightwell were to be proposed, it would need to form part of a separate planning application.</p>
<p>CAAC/Local groups* comments: *Please Specify</p>	

Site Description

No 22 is a 3-storey terraced property situated on the east side of Mackeson Rd, north of the junction with Agincourt Rd & south of the junction with Constantine Rd. The characteristic of the properties in the area are 3-storey rear closet and roof terraces plus railings. The proposed site is within the Mansfield Conservation Area and is not listed.

Within the conservation area statement the application site is identified as making a positive contribution to the character and appearance of the conservation area. The first houses to be built on the Earl of Mansfield's estates were those along Mansfield Road and Roderick Road. Here the trustees of the St Pancras Church Lands had, on June 7 1876, exchanged their four-acre field further to the north, occupied by Mr Thomas Jolley, for meadow land fronting Mansfield Road. This estate was let on 99-year building leases. Adjacent to the Hampstead boundary, the trustees set aside a small area of half an acre for commercial purposes, initially used as a brickfield.

House building started in 1879 and by 1882 the whole of the north side of Mansfield Road, including 10 shops and Shirlock and Roderick roads had been completed. Rona, Courthope, Estelle and Savernake roads followed, the last named being completed in 1899.

Relevant History

2014/2292/P – Planning permission granted for: The erection of a single storey infill extension at rear, replacement of windows with timber double glazed sash windows and alterations to rear boundary walls. **Granted 11/06/2014.**

8501218 – Planning permission granted 02/10/1985 for: Change of use and works of conversion to form three self-contained flats as shown on drawing No.0143/1B.

8500782 - Application for Certificate of Established Use of the property as three separate non self-contained flats.*(No plans submitted). Withdrawn

Relevant policies

The scheme can only be assessed against the relevant planning legislation which is the Town and Country Planning Act 1990 and the Town and Country Planning (General Permitted Development)(Amendment)(No2)(England) Order 2008 (“GPDO”).

This is to determine whether it is permitted development and hence can go ahead without the specific grant of planning permission from the local planning authority. An assessment of its planning merits as to its acceptability under current policies is therefore not relevant or possible here, as it is purely a legal determination.

Assessment

1. Introduction

1.1 A certificate of lawfulness for proposed works has been submitted for consideration by the Council. The proposed works relates to a single dwelling house with “permitted development rights” (PD) for which, a Lawful Development Certificate is sought for the excavation of a basement beneath the footprint of the existing dwellinghouse. The proposed length of the basement (front to back of house) would be no more than 4.2m; with the width (side to side of the house) a maximum of 5.3m and the overall ancillary floorspace being created is 22.68sqm. A single internal staircase is proposed to link the existing ground floor with the proposed basement. **To clarify, the proposed basement does not include any lightwells or associated works which would allow natural light to this space. As this is the case the proposed certificate would only assess whether the proposed works are Lawful not requiring full planning consent.**

2. Assessment

2.1 The determination of the application can only be made by assessing whether the scheme is lawful as defined by the criteria set out in the Town and Country Planning (General Permitted Development) (Amendment) (No2) (England) Order 2008 (“GPDO”) and whether the proposal constitutes “development” under S55 of the TCPA 1990 which sets out the meaning of “development”. Given the nature of the proposed works the part of the GPDO that the proposed works are considered against are Class A, which involves the enlargement, improvement or other alteration of a dwellinghouse within the curtilage of a dwellinghouse.

2.2 It is emphasised that this is a legal determination; no account can be taken of policy or advice within the Council’s LDF or the planning merits of the scheme in terms of issues such as its impact on hydrogeology, neighbour amenity, noise or pollution, the potential impact on character of the conservation area character or transport conditions for example.

2.3 It is considered that the scheme as shown on the proposed plans are lawful and permitted development as assessed against Schedule 2 Part 1 Class A of the GPDO. In the section below is Class A in full with officer comments added in bold to denote how the proposal accords with each section:

A.1 Development is not permitted by Class A if—

(a) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse); **The proposed works are beneath the curtilage of the original dwellinghouse, so this element is not applicable.**

(b) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse; **The proposed works are below ground and thus**

below roof level.

(c) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse; **The proposed works are below ground and thus below eaves level.**

(d) the enlarged part of the dwellinghouse would extend beyond a wall which— (i) fronts a highway, and (ii) forms either the principal elevation or a side elevation of the original dwellinghouse; **The proposed works do not extend beyond the front wall of the dwellinghouse.**

(e) the enlarged part of the dwellinghouse would have a single storey and— (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height; **The proposed works do not extend beyond the rear wall and would be no more than 4m in height.**

(f) the enlarged part of the dwellinghouse would have more than one storey and— (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse; **The proposed basement is single storey, but nonetheless would not extend beyond the rear wall or be within 7 metres of any boundary of the curtilage (approximately 10.2m) of the dwellinghouse opposite the rear wall of the dwellinghouse.**

(g) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres; **The proposed works are at basement level and thus no eaves are involved, notwithstanding this the height of the proposed basement would be no more than 4m.**

(h) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

(i) exceed 4 metres in height, (ii) have more than one storey, or (ii) have a width greater than half the width of the original dwellinghouse; **The proposed works do not extend beyond a side elevation wall of the original dwellinghouse**

Or (i) it would consist of or include—

(i) the construction or provision of a veranda, balcony or raised platform, (ii) the installation, alteration or replacement of a microwave antenna, (iii) the installation, alteration or replacement of a chimney, flue or soil and vent

pipe or (iv) an alteration to any part of the roof of the dwellinghouse. **None of the above applies to the proposed scheme.**

A.2 In the case of a dwellinghouse on article 1(5) land, development is not permitted by Class A if—

(a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles; **No works to the exterior of the house are proposed.**

(b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; **the proposed works would not extend beyond a side elevation wall of the original dwellinghouse.**

Or (c) the enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse. **The basement does not extend beyond the rear wall of the original dwellinghouse.**

Conditions

A.3 Development is permitted by Class A subject to the following conditions—

(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

No exterior works are proposed as all works are beneath ground level.

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be—

(i) obscure-glazed, and (ii) non-opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; **No windows are proposed.**

And (c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse. **Not applicable in this instance.**

2.4 One of the main issues is whether the proposal relates to operational development. Section 55 of the 1990 Act states:

“(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(1A) states “For the purposes of this Act “building operations” includes-

(a) demolition of buildings;

(b) rebuilding;

(c) structural alterations of or additions to buildings; and

(d) other operations normally undertaken by a person carrying on business as a builder.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building,

and are not works for making good war damage or works begun after December 5 1968 for the alteration of a building by providing additional space in it underground”.

2.5 It is clear that the proposed excavation of a basement would fall under operational development as specified. The neighbouring properties in Mackeson Road and the objection received from residence consider the proposal to be an “engineering operation” therefore would not constitute permitted development. The objectors consider that the proposed location (underground river fleet); the stability of the land (Clay); the proposed impact of the terrace if the new foundation is laid with potential movement of land; the noise impact; need for party wall agreements; pollution and traffic movements are sufficient as a matter of fact and degree and as such, would require planning consent and need to be assessed against councils policies i.e. Basement Impact Assessment (BIA). The Council’s legal officers however, consider that the interpretation of Class A does not exclude the possibility that development involving the enlargement of a dwellinghouse may include both building operations and engineering operations when it is read as a whole in the context of the various classes of development permitted within Part 1 of Schedule 2 to the GPDO as listed above.

2.6 It is acknowledged that the proposed works would entail significant building works. However, such matters are outside the control of this application. Notwithstanding this, informatives are recommended to be added to the decision notice advising the applicant that the contractor will need to discuss and agree with the Council’s Highways Management Team detailed arrangements for the transportation of goods and materials to and from the site. Other informatives will denote the need to comply with Building Regulations and works to be carried out at times noted within the Control of Pollution Act 1974.

2.7 A point has been raised from neighbouring properties that the development of a new basement would require the involvement of a qualified civil or structural engineer with knowledge of geotechnics and structural analysis and design therefore constitutes an engineering operation. It is however considered that as a matter of fact and degree the proposed basement would be relatively modest and would not constitute an “engineering operation”. In *Fayrewood Fish Farms Ltd v Secretary of State for the Environment* [1984] J.P.L. 267 the court

took the view that an “engineering operation” could be an operation which would generally be supervised by an engineer (including traffic engineers as well as civil engineers) but that it was deemed unnecessary that it should actually have been so supervised. In *RFW Coppen (Trustees of the Thames Ditton Lawn Tennis Club) v KJ Bruce Smith* [1998] J.P.L. 1077, the Court of Appeal held that the proposed breaking up and digging out of tennis courts was more aptly considered to be an engineering or other operation than demolition and a building operation.

2.8 It must be noted that the classes of the GPDO within the curtilage of a dwellinghouse involve “building operations” and “engineering operations” and include provision of swimming pools, outbuildings, hardstandings and oil storage tanks. It is therefore considered that whilst the proposals would constitute a building operation, they would not constitute an “engineering operation”.

2.9 Finally an appeal decision, made since the new GPDO, is useful in indicating the Inspectorate’s approach to basements. An appeal was dismissed on 28/09/2009 for a large basement extension under both the house and almost entire rear garden at 4 Turneville Road, London W14 9PS (Appeal Ref: APP/H5390/X/09/2099326). The Inspector considered in his preamble that “In my view, basement and similar extensions to a house come within the scope of Class A of Part 1 of Schedule 2, Article 3 of the GPDO. They will therefore be permitted development only if they do not infringe any of the limitations imposed by subsections A.1 (a) to (i) that are applicable to extensions of this sort.” However in this case, the proposed extension under the garden projected beyond the footprint of the house and thus he considered it failed to comply with limitation A.1 (e) (i) of the GPDO.

4. Recommendation

4.1 Grant certificate of lawfulness (proposed).

DISCLAIMER

Decision route to be decided by nominated members on Monday 8th September 2014. For further information please go to www.camden.gov.uk and search for ‘members briefing’

**Regeneration and Planning
Development Management**
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Judd Street
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WC1H 8ND

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Matthew Wood Architects
83 Weston Street
London
SE1 3RS

Application Ref: **2014/4172/P**
Please ask for: **Obote Hope**
Telephone: 020 7974 **2555**

28 August 2014

DRAFT

Dear Sir/Madam

DECISION

Town and Country Planning Act 1990

Certificate of Lawfulness (Proposed) Granted

The Council hereby certifies that the development described in the First Schedule below, on the land specified in the Second Schedule below, would be lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 as amended.

First Schedule:

Excavation of basement to provide ancillary room for existing single dwellinghouse (Class C3).

Drawing Nos: E0.1, E1.0, E2.0, P1.0, P2.0.

Second Schedule:

20 Mackeson Road
London
NW3 2LT

Reason for the Decision:

- 1 The proposed basement is permitted under Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (No. 2) (England) Order 2008.

Informative(s):

- 1 In good time, prior to the start of construction (or if appropriate, demolition) on site, the contractor shall discuss and agree with the Council's Engineering Service

- 1 In good time, prior to the start of construction (or if appropriate, demolition) on site, the contractor shall discuss and agree with the Council's Engineering Service Network Management team (tel: 020-7974 2410) detailed arrangements for the transportation of goods and materials to and from the site. The Council will prosecute those responsible for any breaches of the provisions of the Highways and Litter Acts which occur as a result of construction on the site.
- 2 This consent is without prejudice to, and shall not be construed as derogating from, any of the rights, powers, and duties of the Council pursuant to any of its statutory functions or in any other capacity and, in particular, shall not restrict the Council from exercising any of its powers or duties under the Highways Act 1980 (as amended). In particular your attention is drawn to the need to obtain permission for any part of the structure which overhangs the public highway (including footway). Permission should be sought from the Council's Engineering Service Network Management Team, Town Hall, Argyle Street WC1H 8EQ, (tel: 020 7974 2410) or email highwayengineering@camden.gov.uk.
- 3 Your proposals may be subject to control under the Building Regulations and/or the London Buildings Acts which cover aspects including fire and emergency escape, access and facilities for people with disabilities and sound insulation between dwellings. You are advised to consult the Council's Building Control Service, Camden Town Hall, Argyle Street WC1H 8EQ, (tel: 020-7974 6941).
- 4 Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Council's Noise and Licensing Enforcement Team, Camden Town Hall, Argyle Street, WC1H 8EQ (Tel. No. 020 7974 4444 or on the website <http://www.camden.gov.uk/ccm/content/contacts/council-contacts/environment/contact-the-environmental-health-team.en> or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

Rachel Stopard
Director of Culture & Environment

Notes

1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the use*/operations*/matter* specified in the First Schedule taking place on the land described in the Second Schedule was*/would have been* lawful on the specified date and thus, was not*/would not have been* liable to enforcement action under Section 172 of the 1990 Act on that date.
3. This Certificate applies only to the extent of the use*/operations*/matter* described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use*/operations*/matter* which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
4. The effect of the Certificate is also qualified by the provision in Section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.