

Objection to Planning Application 2014/6935/P submitted on behalf of
TXL Capital Limited (British Virgin Islands registered) by
Springcroft Constructions (Agent) and Brooks Murray (Architects)

Specific Planning Grounds of Objection

(A) Inappropriate Land Use

The proposal to erect a 2-storey house, including basement & sunken garden, and to demolish the garage will have a seriously damaging effect on the remainder of the garden and its future use by customers. This will undermine the Albert's overall viability as a public house, and with other incentives for the applicant, will lead to eventual closure.

Policy DP15 states that the Council will resist the loss of public houses particularly those that provide a community function or where facilities are used by the community unless it can be demonstrated that alternative provision can be made elsewhere or that the premises are no longer economically viable.

This policy follows the overriding policy statement in Paragraph 70 of NPPF that public houses enhance the sustainability of communities and residential environments. The Localism Acts 2011 underpins both these policies by allowing Councils to list premises as has happened here to the garden and the pub. The Act particularly had public houses in mind (with church and village halls) when determining what was meant by assets of community value.

The change of use of a significant part of the garden area should be refused because the remainder will be much less attractive to customers and will lead first to closure of the garden (a major attraction) and then to the closure of the pub itself. To maintain otherwise is commercially disingenuous.

(B) Failure to meet housing need

The applicant's planning statement is predicated on the basis that housing need is being met by the provision of the two storey house in the garden. The NPPF, the London Plan and Local Development Framework policies are referred to, but without any detailed examination of the wording of those policies and circumstances contemplated by such policies.

The location, the internal configuration (with a basement living area) and a gross internal area of approximately 1,000+ sq. ft. mean that it is highly unlikely that the house would be bought by ordinary market purchasers as the price of the house if built would be in excess of £1.4 million or more if the pub faces closure at the time of negotiation.

A profile of who will buy such a property is emerging from very recent activity in Primrose Hill. This house, as designed, will most likely attract an overseas buyer as a second home as Primrose Hill is now attracting the same interest that have tended to dominate the markets in St John's Wood and Marylebone in the last ten years. If this is not accurate, the applicant can refute this by providing statements to that effect from knowledgeable local agents such as Jeremy Bass and John D Wood.

The contention that the house will meet the needs of those market purchasers contemplated by central and local housing policy is a sham and is specifically a ground for refusal especially as it would involve sacrificing a lovely garden and much valued open space.

(C) Threat to Trees, Plants and Wildlife

The construction will require the removal of a tree and could have serious consequences for the roots of the remaining trees in the retained garden.

The Arboricultural report does not give the required assurances that the remaining trees will not be threatened. It only says that it is unlikely and refers to relatively standard measures of protection. The basement excavation work together with the inevitable loss of some daylighting/sunlighting, if the house is built, will also have a detrimental effect on plant and shrubs etc in the garden.

The Council must insist on the highest level of evidence that this will not be the case and then subject it to detailed scrutiny to ensure that a healthy environment is maintained. That has not been forthcoming up until now and this application should be refused for that deficiency.

(D) Lack of consultation

The NPPF encourages applicants to engage in meaningful consultation with the community pre-application. This can be by exhibitions, meetings, leafleting or a well published dedicated web site for comments to be made. Above all it must be genuine and address reasonable concerns of the community. What it must not be is a simple check list process.

A week notice for a meeting in early October was hardly sufficient for many working or travelling abroad. No serious details, other than there were to be new managers, were given about the future of the pub. Suspicions about true motives behind these applications have not been allayed. All that has happened is that minor changes have been made about the design of the house. That has been done to demonstrate that the applicant has “listened”

The threat is now much more obvious and demonstrable with the erection of scaffolding and the closure of the pub at weekday lunchtimes. If the applicant does not have further high level consultations to address the significant increase in local concerns, then the application should be refused for insufficient consultation as well

(E) Lack of detail on future viability of the Albert

A material planning consideration

The applicant has carefully constructed the applications in an attempt to dissuade the Council from examining the future viability of the pub. He maintains that the public house will continue but other than having new managers (under what terms?), no serious evidence, with appraisals by experts, has been provided on its future sustainability.

The Albert's future viability represents a fundamental material consideration under Section 70 Town and Country Planning Act 1990, Sections 38-39 Planning and Compulsory Purchase Act 2004 and fits squarely within the terms of information that the Council is entitled to receive under Section 6 of the Growth and Infrastructure Act 2013

Lack of evidence

An appraisal should have been provided as part of the application and as far back as the consultation exercise which would have allowed for detailed scrutiny and challenge. Any prudent developer would have commissioned such an appraisal and if such an appraisal does exist why has it not been disclosed? It could be either because the conclusions are damaging or it is being held back to allow for “re-shaping” for submitting on appeal to the Planning inspectorate should the Council refuse. This would not be unusual in such cases.

If it has not been commissioned at all the Council should ask for it to be done.

The Council is under a specific duty to give special attention as to whether an application will preserve and enhance the character and appearance of the Primrose Hill Conservation Area Section 72 of Planning (Listed Building and Conservation Area Act 1990). Such an expert appraisal must be before the Council in some form to allow for proper and informed

deliberations to take place on the effect the loss of the garden will have on the future viability on the operation specifically and on the conservation area generally.

Asset of Community Value

The listing under the Localism Act 2011 places an additional onus on the Council to consider carefully any planning application that will directly or indirectly increase the prospect of that asset being lost permanently to the community.

As there is little or no likelihood that the community would be able to buy and run the premises by implementing the acquisition provisions, then the Council must treat listing as a fundamental material planning consideration to rebut the presumption for sustainable development especially where a much valued open space is at stake.

General Planning Grounds of Objection

(E) The Critical Need for Retention

The retention of the whole garden area for full A4 use is absolutely critical as it is the only pub locally that has a proper garden with trees. It is much valued by residents in Princess Road and Primrose Hill especially elderly residents and those whose flats have no outside space or back garden. It also had a steady clientele from tourists visiting in the Regents Park and the zoo and those using the Park for sporting activity. There are other crucial reasons for resisting the threat to the Albert.

(i) The recent closure of the Queens in Edis Road means that the Albert is only pub in this part of Primrose Hill looking towards Regents Park.

(ii) Recent interest by, and offerings to, developers threaten the other pubs in the Primrose Hill south of Regents Park Road which are seen as ripe for residential conversion if the Council does not refuse this application. Approvals for change of use from A4 (drinking establishments) to C3 (residential) will secure a massive return on investment after construction circa £1,800 per sq. ft. Hence there is little incentive for owners or purchasers of pubs in Primrose Hill to retain them other than being forced to comply with Council policy.

(iii) The Albert and the newsagents are the bookends of a parade of shop in Princess Road. The mix of A1-A3 provision with the La Collina restaurant, solicitors, gardeners, dry cleaners hairdressers etc makes this a vibrant area of commercial activity and employment much valued by the locals. The redevelopment of the Albert, already with the closure at weekday lunchtimes, places a gradual threat to the future existence of the other businesses in the parade as their attraction to passing trade decreases, put off by the eye sore that is the Albert.

Conclusion

Planning officers in reporting to members may be tempted to take a position that the application is only about housing provision and not about the loss of a small garden area or the future of the Albert. Reliance on the owner's statement that the pub will continue could be taken in that context as being sufficient.

That would be wrong in planning terms and would fetter the discretion members have in carefully examining all aspects of this planning application including future viability. For the reasons stated above, the Council has clear and compelling grounds to refuse if the report to members and the grounds of refusal are carefully drafted. It may be that the applicant should be encouraged to rethink the application in the light of community concerns but on no account should this application receive consent.

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