

Mr David Peres Da Costa  
West Area Planning Team  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

By post and email

11<sup>th</sup> March, 2015

Dear Mr Peres Da Costa

**17 Branch Hill London NW3 7LS (ref. no. 2015/0457/P)**

We are the owners of Holme Vale House, Branch Hill. The proposed scheme is at the rear of our garden.

Together with many of our neighbours, we strongly object to the scheme. This is not a view we have formed lightly, and in reaching our decision to object, we have discussed the scheme at length with a planning lawyer, and have also received advice from a heritage consultant.

There are two main reasons for our objection: (i) the unneighbourly nature of the scheme; and (ii) the impact on the conservation area.

(i) Unneighbourly development

The eastern elevation of the existing house runs along approximately half of the rear boundary of our house. As you will see from your site visit, we have clear views through the other half. We can see trees, benefit from natural light and enjoy spending time in the open character of our garden.

The proposed replacement house will obliterate all of the above. The new elevation at the rear of our garden will run along the entire length of our rear garden. All feeling of space and amenity in our garden will be permanently lost. It will be dominated by a massive new structure that will completely envelop and enclose our garden.

Paragraph 4.10 of the Council's Design Guidance makes it clear:

"rear extensions should be designed to not cause loss of amenity to adjacent properties with regard to sunlight, daylight, outlook, overshadowing, light pollution/spillage, privacy/overlooking, and sense of enclosure."

The principles of paragraph 4.10 apply equally to a new build as they do an extension. Whilst some of these assessments might be partly quantitative (eg sunlight), the qualitative judgments on matters such as privacy, overlooking, overshadowing and sense of enclosure are subjective planning judgments. In our view, those judgments should be made having regard to the overarching objective of the guidance, which is to prevent development that causes a loss to amenity.



In order to help the LPA, we have enclosed photographs given to us by the applicant before the application was submitted. These photographs show three schemes: the existing house, a draft scheme (not progressed) and the application scheme. In our opinion, it is highly significant that the applicant did not include the rendering of this elevation in the application documents, instead choosing to include rendered perspectives of the north and south elevations.

As you'll see, the comparison between the existing scheme and the new scheme is stark. The former allows us to enjoy our garden as it respects our space and amenity. In contrast, the proposed scheme creates a massive bulk covering the entire width of our rear boundary. If ever a new house created a sense of enclosure for a neighbouring property, this must be it!

We have also read that in pre-application discussions with the LPA, the applicant was advised of the need to make the proposal subservient to our house, and our neighbour. It is self-evident that this hasn't been done. Instead, the applicant states that a curved roof has been used in order to allow more sunlight into the garden. This is self-evident nonsense. A curved roof of the size being proposed is just as dominant as a flat roof. From the perspective of being in our garden, it doesn't matter if we are looking at a flat roof, or a curved roof or a triangular one! Its mass is overbearing, dominating and creates a huge sense of enclosure.

We met with Mr. Kaye and his architect in December and we highlighted our concerns. We also emailed them to him, prior to his application being submitted formally. Our concerns were not taken into account and the application was formally submitted. If we may draw your attention to the Construction Management Plan, Section 5.1 Community Consultation which states "a series of consultative meetings have been held with Mr Gus Majed, the occupier of Nr1 branch Hill, the property closest to the site". This is a very misleading entry and we object to it strongly as it gives the impression that there is some tacit approval on our part or that we were part of the process, which is most certainly not the case.

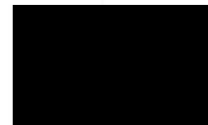
(ii) Character of the conservation area

We believe that the application is so dominant, overbearing and unneighbourly, that those are all sufficient reasons in themselves for it to be recommended for refusal. However, there is also another aspect, which is the impact on the character of the conservation area.

In the Design and Access Statement, there are several references to the site as being "discreet", "backland", "no measurable street presence" etc. In effect, the applicant is saying that the proposed scheme will preserve the character of the conservation area as it won't be readily visible from many locations.

There are two points to note here. Firstly, and most obviously, it can be seen from loads of locations: numerous residents in Savoy Court, our house, our neighbour's house, everyone living in the houses shown in figure 7 etc. The applicant does not live in splendid isolation, and no amount of screening and landscaping will hide it from public view.

The second point is a legal one. Our lawyer has confirmed that screening a house, eg with landscaping, cannot be used as justification for saying that the house doesn't have a negative impact on the character of the area. He's referred us to a case called *Great Trippets Estate Ltd* [2011], which confirmed this as legally correct.



As that is the legal position, the scheme cannot be justified by the applicant saying it has no practical effect on the character of the conservation area. Instead, the proper approach is that as new development in conservation areas must either preserve or enhance the character of the conservation area, the LPA must decide on the impact that the house has on the conservation area.

It is significant to note that the application documents did not include any heritage statements, apart from a few references in the Design and Access Statement. We are not heritage experts so we have asked Kevin Murphy of KM Heritage to independently review the scheme and let us know his thoughts.

His initial report is attached, and his full report will follow within the next 10 days. We would respectfully request that a decision on the application is delayed until that full report has been submitted. As it will be the only expert evidence submitted to the LPA on this issue, we believe it will be highly material to the LPA's determination.

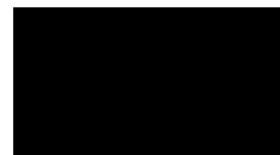
In short, though, you will see that Kevin Murphy considers that the proposed development fails to acknowledge and reflect the characteristics of the conservation area, therefore detracting from its character and appearance. He asserts that the development, due to its proximity, scale and inappropriate appearance, would have a negative impact on the immediately adjacent properties that have been identified as positively contributing to the conservation area.

Further, Kevin Murphy emphasises that irrespective of tree cover, new development should be "subservient and respectful to the older context that provides the conservation area with its character and appearance". He considers that the significant height and inappropriately contrasting design of the proposed development will harm that context. He concludes that the proposed development will neither preserve nor enhance the character and appearance of the Hampstead Conservation Area and that "the proposed scheme does not comply with the law, and national and local policy and guidance, for heritage assets".

As, a matter of law, we understand that this negative impact must be given "considerable importance and weight" (a case called *Forge Field Society* [2014]). We understand this means that the negative impact on the conservation area is not just a material consideration for the LPA to take into account. Instead, the strong presumption is that planning permission should be refused, and only even stronger material considerations can outweigh that presumption.

In summary, our strong view, backed up by the independent opinion of a heritage expert, is that the scheme has a negative impact on the character of the conservation area. On that basis, as a matter of law, there is a strong presumption against granting planning permission. We cannot see any material considerations that would outweigh that presumption. Indeed, we can see several material considerations that would only add weight to the refusal of the application, including dominance, overbearing, sense of enclosure and impact on the amenity of our garden.

We strongly think the application should be refused, allowing the applicant the opportunity to re-consider the scheme and come up with a design that is genuinely sensitive to its surroundings.



We would request that you refuse the application.

Yours sincerely

[Redacted signature]

Gus and Catherine Majed

*Gus*

**17 Branch Hill London NW3 7NA: a representation regarding a proposed new house (ref. 2015/0457/P)**

**Introduction**

- 1 This note provides an opinion regarding the effect of a proposal to erect a new dwelling at 17 Branch Hill. The application reference is and the development is described as 'Erection of part 2 and part 3 storey plus basement single family dwelling (following demolition of existing) with plant room, swimming pool and 5x condensers

**Statement of background and qualifications**

- 2 I am Kevin Murphy B.Arch MUBC RIBA IHBC. I hold an honours degree in architecture, I am a registered architect, and I am a member of the Royal Institute of British Architects. I also have a Masters in Urban and Building Conservation, and I am a full member of the Institute of Historic Building Conservation.
- 3 I am a consultant providing advice and guidance on all aspects of the historic built environment. I have undertaken this work since June 2005. Prior to this I was the head of the Historic Buildings Unit at John McAslan and Partners, architects, for a period of approximately eight months.
- 4 Between 1999 and November 2004, I was an Inspector of Historic Buildings in the London Region of English Heritage dealing with a range of projects involving listed buildings and conservation areas in London. While at English Heritage I was partly responsible for planning casework in Camden, and I dealt with many developments in the Hampstead area. Prior to this, I was a conservation officer with the London Borough of Southwark, and I led the Conservation & Design Team at the London Borough of Hackney.

**The site and its context**

- 5 The site is located in Sub-area 6 of the Hampstead Conservation Area, at its edge and that of the conservation area. The site of 17 Branch Hill is immediately to the west of properties on the western side of Branch Hill. All those properties, including Holme Vale House, The Chestnuts, Leavesden, Oakhurst and Lower Lodge, as far south as Heysahm Lane, are identified in the conservation area appraisal as making a positive contribution to the conservation area. 17 Branch Hill is closest to Holme

Vale House, the house on the left hand side of the gate leading to 17 Branch Hill. 17 Branch Hill is not referred to in the conservation area appraisal - it is not, for instance, referred to among the 'Buildings or features which detract from the character of the area and would benefit from enhancement' or the 'Neutral Buildings' that are identified in the appraisal.

- 6 The existing house appears to be a reasonably modest building in brick with a pitched roof and overhanging eaves.

#### **The planning context**

- 7 The legislation governing listed buildings and conservation areas is the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'). Section 66(1) of the Act requires decision makers to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses' when determining applications which affect a listed building or its setting. Section 72(1) of the Act requires decision makers with respect to any buildings or other land in a conservation area to pay 'special attention... to the desirability of preserving or enhancing the character or appearance of that area'.

- 8 The Council's Policy DP25 says:

*In order to maintain the character of Camden's conservation areas, the Council will:*

*a) take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas;*

*b) only permit development within conservation areas that preserves and enhances the character and appearance of the area;*

#### **The proposed development and its effect**

- 9 The proposed house will occupy a greater plan area and have a greater bulk and mass than the existing house. It will also be radically different in style and appearance from the existing building and from other buildings in its context.
- 10 The predominant material in the area, and a key component of the character and appearance of this part of the Hampstead Conservation Area, is very clearly brick, and instances of the use of other materials (such as at Spedan Close) are the exception rather than the rule. The proposed house, however, will be finished in a white render, at odds with this character, along with 'warm laminate hardwood' (a material of questionable durability) and zinc - again, neither material is typical of the conservation area when used as an external finishing material.

- 11 The submitted material makes clear that much of the design of the new house was influenced by issues of overlook and sunlight. This has influenced the fenestration of the building and the curved form of the roof. The result, in my opinion, is an alien and incongruous design, which sits uncomfortably in its site and in relation to its neighbours.
- 12 Home Vale House and the other buildings facing Branch Hill make a positive contribution to the Hampstead Conservation Area, but that contribution is not simply to the street. Conservation areas cannot just be considered as stage sets, whose only significance is found in the one dimensional presentation of buildings to the street. English Heritage guidance makes clear that, in terms of positive contributors in conservation areas, 'Back elevations can be important, as can side views from alleys and yards'<sup>1</sup>. Buildings that make a positive contribution to a conservation area can be considered as non-designated heritage assets, as defined in the National Planning Policy Framework.
- 13 17 Branch Hill is in close proximity to a series of buildings that are, partly, the reason that the conservation area was designated. The justification of the proposed design relies heavily on the idea that the conservation area is varied in its character and appearance, and that it contains a variety of building types and styles. This may be true, but the conservation area nonetheless has a distinct character and appearance, as described in the conservation area appraisal - it is not simply an area of stylistic heterogeneity, or otherwise it would not be capable of being designated and remaining a conservation area. Within the variety of the conservation area that the applicant identifies, there are distinct typological and characteristic features - such as brick as a material and the use of pitched roofs - both features of the existing house on the site and, for instance, the contemporary development at Birchwood Drive/Firecrest Drive and Savoy Court.

## Conclusion

- 14 The proposed development fails to acknowledge and reflect these characteristics and thus would detract from the character and appearance of the conservation area. It would, by its proximity, scale and inappropriate appearance, negatively affect the setting of the immediately adjacent properties that are identified as making a positive contribution to the conservation area. It occupies a backland site, where, regardless of tree cover, any new development should be subservient and respectful to the older context that provides the conservation area with its character

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<sup>1</sup> Draft Historic Environment Advice 1 – Conservation Area Designation, Appraisal and Management, intended to supersede *Understanding Place: Conservation Area Designation, Appraisal and Management Assets: English Heritage Guidance* (2011). The text is the same in both versions of the English Heritage guidance.

and appearance. The greater height and inappropriately contrasting design of the proposed scheme will harm that context.

- 15 It is clear that the submitted scheme fails to satisfy policies for listed buildings and conservation areas, and does not strike the correct balance between change and conservation that those policies seek. The design of the proposed scheme will not preserve or enhance the character and appearance of the Hampstead Conservation Area. For these reasons, the proposed scheme does not comply with the law, and national and local policy and guidance, for heritage assets

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Break Hill



