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Dear Sir

**The Potential Claimant: Jeffrey Gold and Michael Taylor on behalf of the Hampstead Green Neighbourhood Group and St Stephen's Restoration & Preservation Trust
Planning Application No. 2014/6845/P. Proposed new Institute of Immunology, Pears Building, Royal Free Hospital Charity, Pond Street, London**

We write in response to your letter dated 10th November 2015.

There is a justified expectation that the preparatory work for a planning application which is large scale and of a complex nature, will have taken months, if not years, prior to its submission. It will also have been thorough and technically sound. In contrast, objectors are given only a very short period of time in which to review a broad range of complex technical and expert reports and to provide a meaningful response. Given, too, that they are obliged to live with the consequences we therefore cannot agree with your assertion that it is unreasonable of our clients to raise further points at this stage in the determination of this planning application. Given the seriousness of the issues affecting St Stephen's meaningful reports have taken time to prepare. However, now they are available they make compelling reading; for they highlight serious failings in the applicant's submissions

We enclose with this letter the following reports:

1. Structural Engineering Assessment of Pears Building proposals in relation to St Stephen's by Alan Baxter (Rev B November 2015). Please note this is not a draft document.
2. Engineering Report relating to the proposals for the construction of an Institute of Immunology at the Royal Free Hospital and the implications on the Church and School by Stephenson Davenport Structural Associates (16 November 2015)

Offices also in: [Cambridge](#), [Chelmsford](#) and [Norwich](#)

3. Technical matters for concern arising from the excavations proposed for the Pears Building on Rossllyn Hill Street application 2014/6845/P (Parts 1 and 2) by Dr Michael de Freitas (Part 1 11 November 2015 and Part 2 16 November 2015)
4. St Stephen's, Hampstead Hill School and Planning Application 2014/6845/P by Eldred Geotechnics Ltd (17 November 2015)
5. Day light, sun light and over shadowing report by Malcolm Hollis LLP (31 July 2015)

Whilst we, of course, expect the Council to review these reports in detail with its specialist advisers, we highlight the following extracts from the reports:

1. Structural Engineering Assessment of Pears Building proposals in relation to St Stephen's by Alan Baxter: *"the developer has not demonstrated how the current proposals can be built without causing structural damage to St Stephen's Church and other buildings within its grounds. The BIA therefore does not comply with Camden's policies. We think the proposals in their current form pose a risk of problems for the St Stephen's Church site."* (Executive Summary)
2. Engineering Report relating to the proposals for the construction of Institute of Immunology at the Royal Free Hospital and the implications on the Church and School by Stephenson Davenport Structural Associates: *"it is our view that there are a great many items in the planning application documentation as it currently stands that are unclear and contradictory. Foremost is the issue of the impact of the construction of the basement on the Church and School. Whilst the design for the permanent works has not been completed on the grounds that it is the responsibility of the Contractor to do so. In our view on works of this nature that are both complex and risky, it is incumbent upon the Design Team to have advanced the design to a stage that the design could be built and that due care and consideration have been taken into account with regard to the adjacent buildings and in particular a listed building. The application clearly falls significantly short on this front."* (paragraphs 9.1 and 9.2)
3. Technical matters for concern arising from the excavations proposed for the Pears Building on Rossllyn Hill street application 2014/6845/P by Dr Michael de Freitas: *"ground investigations were commissioned which appear not to have required the contractors to consider the St Stephen's estate. For this reason two Basement Impact Assessments assure Camden that the Council's requirements for approving the application to build the Pears Building have been satisfied. Camden have been misinformed by the BIA's and their decision to approve planning permission is unsound...failure to incorporate St Stephen's into the design of the works for the Pears Building runs a very high risk of initiating ground movements beneath the Church, Tower and its Hall (School) that could be beyond control."* (Paragraphs 3 and 7, Part 1)
4. St Stephen's, Hampstead Hill School and Planning Application 2014/6845/P by Eldred Geotechnics Ltd (17 November 2015): *"Considering Dr de Freitas' opinion concerning slope*

stability and evidence for it cited above, a banked excavation could be unsuitable and potentially damaging for the church and school, if not dangerous. By the same token a ground movement assessment in the application is unsuitable and misleading in that it does not consider the ground conditions in the slope above the site. It cannot because they have not been investigated. These are the items on which a contractor will be expected to rely, but they are not reliable. The scheme is flawed in that respect and should not proceed before a careful investigation relevant to the risks considered by this and Dr de Freitas' reports has been carried out and used for risk assessment."

5. Day light, sun light and over shadowing report by Malcolm Hollis LLP: *"regarding the play spaces between garden, classrooms and the main School building, these should have been assessed to determine whether the proposed structure has an impact...The use of the 40 degree rule, which the applicant seems to be placing reliance on here, is not considered appropriate in this instance as this obstruction angle is meant for close grain urban locations such as mews developments usually where there is some correlation between the heights of the proposed and existing buildings. Here there is no such type of location or height equality."* The use of the 40 degree rule is contrary to the BRE guide "Site layout planning for daylight and sunlight: a guide to good practice".

As serious failings in the applicant's submissions continue to be revealed the only reasonable conclusion that can be drawn is that the Council's officers made recommendations and the Development Control Committee made its determination based on flawed submissions. Given that section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Council to have special regards to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest it possesses the findings of our client's reports cannot now be disregarded. Further, as recent case law confirms that this statutory duty gives rise to a strong presumption in favour of preservation rather than another material consideration to which the Local Planning Authority may attach such weight as it sees fit, the Council is obliged to review the planning application and the necessary s.106 safeguards on a much more rigorous basis.

Indeed, given the findings set out in our client's reports, the Council cannot now say that it is satisfied that the legal duty imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 has been met prior to the grant of the planning permission.

Furthermore, it would be wholly inappropriate to grant planning permission in continuing reliance on flawed reports. However, that would remain the approach if the Council now completed the current draft Section 106 Agreement.

The current draft Section 106 Agreement requires the submission of a Detailed Basement Construction Plan. The Detailed Basement Construction Plan must *"take into account at all times the findings and the recommendations in the document entitled "Civil & Structural Engineering Team – Internal Memo" dated 9th September 2015 by Historic England" at the Ninth Schedule annexed hereto and the water environment and to provide a programme of detailed mitigating measures to be undertaken and put in place by the Owner with the objective of maintaining the structural stability of*

the Property and Neighbouring Properties". The "Neighbouring Properties" include St Stephen's Church.

Dr Michael de Freitas, geologist, has reviewed the Historic England Internal Memo. He finds that the Memo "*should not be taken as a definitive document on either the condition of St Stephen's itself or on the condition of the ground on which it sits*". The question therefore arises as to how the Council can then be "reasonably satisfied" (as required by the Section 106 Agreement) that the works will not harm St Stephen's Church, if the starting point for making that assessment (i.e. the Historic England Memo) is also flawed. We refer you to the full copy of Dr Freitas' advice.

In conclusion, in the light of the information provided with this letter it would be inappropriate for the Council to sign the final draft Section 106 Agreement and to issue the decision notice. Rather, a much more thorough exercise needs to be undertaken jointly by the applicant's advisers, the Council and those acting for St Stephen's Trust to ascertain whether the current Pears Building proposal remains technically deliverable when set against the requirements to preserve the structural integrity of the Church. It will also require a much more stringent basis for ensuring that the Detailed Basement Construction Plan is truly 'fit for purpose'.

Given the above, the application cannot also be remitted back to the Development Control Committee for further determination until all the necessary exercises have been concluded to enable a proper balanced decision to be made. It follows therefore that the Committee's current determination still remains legally flawed too.

Yours faithfully



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