From: Paul Woolf paulwoolf@airstudios.com

- Subject: Re: 11 Rosslyn Hill 2nd Request For a Meeting
  - Date: 30 June 2015 12:21
    - To: Tom Croft tc@thomascroft.com
    - Cc: Richard Boote richard@strongroom.com, Alison Burton alison@airstudios.com

Tom

Please explain the delay on your client's part.

The current application is doomed to failure and if your clients want any goodwill in the neighbourly relationship as they say they do then I suggest they withdraw the application and pay our wasted costs.

#### Paul

On 26 Jun 2015, at 09:17, Tom Croft <<u>tc@thomascroft.com</u>> wrote:

#### Dear Paul

Thanks for your email, which we've forwarded to our clients. We await their instructions & will let you know as soon as we receive them.

Best wishes, Tom

Thomas Croft Thomas Croft Architects 9 Ivebury Court, 325 Latimer Road, London W10 6RA, UK 00 (44) +20 8962 0066, fax 00 (44) +20 8962 0088 tc@thomascroft.com

www.thomascroft.com

On 25 Jun 2015, at 13:03, Paul Woolf compaulwoolf@airstudios.com> wrote:

Tom

Camden advise us that your clients have not paid the fee required to complete the independent assignment of your BIA.

Are your clients proceeding with their application?

It is not appropriate to leave the uncertainty they created hanging over our heads

#### Paul

On 11 Jun 2015, at 09:36, Paul Woolf cpaulwoolf@airstudios.com> wrote:

Tom

Your alleged letter was not received. Even if as you contend you did send it you are dodging the main question.

Why did you not talk with us in 2014 when the scheme planning started?

In any event the date of your alleged letter is after the application was submitted so well past the consultation period.

Despite your attempts to categorise yourself and your clients as reasonable your actions tell a different story.

Paul

#### Sent from my BlackBerry 10 smartphone.

From: tc
Sent: Thursday, 11 June 2015 09:31
To: Paul Woolf
Cc: Richard Boote; Alison Burton
Subject: Re: 11 Rosslyn Hill - 2nd Request For a Meeting

#### Dear Paul

Thanks for your email.

Just to be clear, we did write to you and all the surrounding property owners on 14 April 2015 offering to meet to discuss the project. We leave the door open if you want to talk and whatever happens with the process we will still try and find the best solution for minimising any disruption to you and all the other neighbours.

ΡW

Best wishes, Tom

Thomas Croft Thomas Croft Architects 9 Ivebury Court, 325 Latimer Road, London W10 6RA, UK 00 (44) +20 8962 0066, fax 00 (44) +20 8962 0088 tc@thomascroft.com

## www.thomascroft.com

On 10 Jun 2015, at 12:21, Paul Woolf compatible co

Tom

We are advised that the time for consultation has long expired. We note that you decline our offer to withdraw the application and pay our costs.

We will now file our detailed objections.

For the record we also note the lack of apology or contrition for failing to consult with us since your clients began the process which appears to be in 2014.

Paul

Sent from my BlackBerry 10 smartphone. Original Message From: tc Sent: Wednesday, 10 June 2015 11:56 To: Paul Woolf Cc: Richard Boote; Alison Burton Subject: 11 Rosslyn Hill - 2nd Request For a Meeting

Dear Paul

Thank you for your latest email. I am sorry to hear that you feel this way.

We really would like to come to see you in full 'listening mode'. Your advisors will be able to confirm that Camden would impose strict restrictions on the construction of any basement in terms of noise to avoid disturbance to neighbours if we were to get Planning Consent. Also that the details of these restrictions are normally worked through post-Consent but before works start in accordance with a legal agreement between the applicant and the Council.

Consequently there does seem to be plenty of point in our meeting so that we can listen to the issues you have with our proposals. We don't believe that it is in anyone's interest to not have an open dialogue on this point. We could then bring forward the detailed technical side of the noise discussion in order that we can all understand the exact noise & disruption impact that the proposed works (or possibly an amended scheme) would actually have on Air Studios.

We are now aware of your generalised concerns however a more detailed understanding on our part would help us explore the scope of any technical solutions that could mitigate against noise and that is why we would like to bring our structural engineers (Alan Baxter) and Acoustician (Cole Jarman) to the meeting. It seems premature to withdraw the Application and consider changes without fully understanding the scope and nature of the objections and understanding if they can be solved within the existing plans – this could all be part of our discussion.

In the meantime we note that you have referred to flaws within the Application & a failure to carry out our consultation obligations. We have reviewed the requirements with our planning advisors and believe that we have complied with our statutory obligations. Neither are we aware that any procedural flaws have been brought to the Council's attention in any formal objection to the Application. It would be useful if you could let us know the nature of these alleged flaws & failures and then we could address them.

We look forward to hearing from you.

Best wishes, Tom

Thomas Croft Thomas Croft Architects 9 Ivebury Court, 325 Latimer Road, London W10 6RA, UK 00 (44) +20 8962 0066, fax 00 (44) +20 8962 0088 tc@thomascroft.com

www.thomascroft.com

From: Paul Woolf >paulwoolf@airstudios.com

Date: 9 June 2015 07:46:12 BST To: Tom Croft <<u>tc@thomascroft.com</u>> Cc: Alison Burton <<u>alison@airstudios.com</u>>, Richard Boote <<u>richard@strongroom.com</u>>

Tom

Even though the time for consultation has long past we will meet with you if you withdraw the application and pay our out of pocket expenses. This would be a sign of the goodwill you write exists.

Regards

Paul

Sent from my BlackBerry 10 smartphone.

Paul Woolf Director for and on behalf of AIR Studios (Lyndhurst) Limited e: <u>paulwoolf@airstudios.com</u> t: 020 7794 0660 <u>www.airstudios.com</u> Lyndhurst Hall, Lyndhurst Road, Hampstead, London NW3 5NG

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Tom

I note for the record the lack of response to my simple question.

To end this round of mails I've been advised to make it clear that had you and your clients followed the correct procedure before applying they would in all probability have been granted at no cost. You have now however made your bed and you must lie in it.

Finally we hear reports that your clients are telling third parties that they are supportive of the Studios. You may perhaps suggest that they walk this talk.

Paul

Sent from my BlackBerry 10 smartphone.

From: Paul Woolf
Sent: Thursday, 2 July 2015 07:55
To: tc
Cc: Richard Boote; Alison Burton
Subject: Re: 11 Rosslyn Hill - 3rd Request for a meeting & site visit

Tom

Can I just add that your attempt to categorise us as the unreasonable party by the header to your mail is woeful. The facts speak for themselves.

You and your clients have spent since 2014 working up a scheme which could put us out of business without as much as a phone call or contact until after the application.

Is your application proceeding or not?

Do not refer me to Camden. It's a simple question.

Paul

Sent from my BlackBerry 10 smartphone.

From: Paul Woolf
Sent: Wednesday, 1 July 2015 20:07
To: tc
Cc: Richard Boote; Alison Burton
Subject: Re: 11 Rosslyn Hill - 3rd Request for a meeting & site visit

Tom

Our lawyer advises that all of our costs must be paid if you now want to consult. You should have carried out your work properly before applying.

Paul

Sent from my BlackBerry 10 smartphone.

From: Paul Woolf
Sent: Wednesday, 1 July 2015 16:35
To: tc
Cc: Richard Boote; Alison Burton
Subject: Re: 11 Rosslyn Hill - 3rd Request for a meeting & site visit

I will take advice on your mail. However may I remind you that it was for your clients to set out their case for planning. This they through you failed to do. It ill behoves you now to seek consultation too late and after we have spent thousands of pounds.

Please confirm that your client is NOT withdrawing the application.

## Paul Sent from my BlackBerry 10 smartphone.

From: tc
Sent: Wednesday, 1 July 2015 16:30
To: Paul Woolf
Cc: Richard Boote; Alison Burton
Subject: 11 Rosslyn Hill - 3rd Request for a meeting & site visit

Dear Paul

Thanks for your email dated 30/6/15.

We have recently emailed the Camden Case Officer in relation to the BIA Review & we recommend that you liaise direct with him on this matter.

Camden have now passed us your professional consultant's reports on the technical components of our Application. In the reports criticisms are made that can only really be answered once ourselves & our consultants can get access to the inside of Air Studios.

In the interests of transparency and fairness we would ask you to allow us access to Air Studios so that we can technically evaluate the issues you are raising, in the presence of your professional advisors if you prefer. This will allow Camden to assess the application in consideration of all material considerations.

Best wishes, Tom

Thomas Croft Thomas Croft Architects 9 Ivebury Court, 325 Latimer Road, London W10 6RA, UK 00 (44) +20 8962 0066, fax 00 (44) +20 8962 0088 tc@thomascroft.com

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Subject: Re: Meeting with Paul Woolf

- Date: 9 June 2015 07:47
  - To: Tom Croft tc@thomascroft.com
  - Cc: Alison Burton alison@airstudios.com, Richard Boote richard@strongroom.com

#### Tom

Even though the time for consultation has long past we will meet with you if you withdraw the application and pay our out of pocket expenses. This would be a sign of the goodwill you write exists.

#### Regards

Paul

Sent from my BlackBerry 10 smartphone.

From: Paul Woolf Sent: Monday, 8 June 2015 21:20 To: Tom Croft Cc: Alison Burton; Richard Boote Subject: Re: Meeting with Paul Woolf

Tom

Whilst I note what you say why is it that your clients have made no effort to contact us. It is only now in the face of huge opposition that they say they care about our business. However the application which they and there advisers put in would effectively destroy us.

How do you reconcile that?

Also I note that you have only sought some conversation after we have spent tens of thousands of pounds!

You and your advice team well know what is flawed with the application and yet you've driven us to spend large sums.

I have sent your mail to our lawyer.

Paul

Sent from my BlackBerry 10 smartphone.

From: Tom Croft Sent: Monday, 8 June 2015 21:11 To: Paul Woolf Cc: Alison Burton; Richard Boote Subject: Re: Meeting with Paul Woolf

Dear Paul

Thanks very much for your email.

We understand from the Jeffreys that relations between them and Air Studios have been good till now and they are very concerned by any potential negative effects on the studio's business. We did write to you in April offering to explain the proposals but regrettably it now appears that you did not receive that letter.

We have clearly got the message that you are not content and consequently it does seem sensible for us to meet so that we can listen to the issues you have with our proposals.

The maintenance of neighbourly good relations is a top priority for the Jeffreys and the Design Team are instructed to do everything practically possible to come up with a scheme that will allow Air Studios to continue to trade with as little disruption as possible. We are ready and willing to change and ammend things if needed.

To this end I would like to meet you with our project structural engineer and our acoustician to listen to your concerns in full. We would be in full 'listening mode' and we would then like to devise a mitigation strategy that could be put in place should consent for the works be forthcoming from the planning authority.

Throughout the project we have advised the Jeffreys that Camden will impose strict restrictions on the construction of the basement in terms of noise to avoid disturbance to neighbours. The details of this are normally worked through post-consent but before works start in accordance with a legal agreement between the applicant and the Council. This is always a detailed technical exercise and requires neighbour consultation. Clearly on this project we need to bring this element of work forward and begin looking at it now.

I have plenty of availability for a meeting this week; are you able to suggest some potential meeting dates?

Best wishes, Tom

Thomas Croft Thomas Croft Architects 9 Ivebury Court, 325 Latimer Road, London W10 6RA, UK 00 (44) +20 8962 0066, fax 00 (44) +20 8962 0088 tc@thomascroft.com

www.thomascroft.com

On 5 Jun 2015, at 21:44, Paul Woolf paulwoolf@airstudios.com wrote:

Alison, thanks for the mail.

Tom I did call and left a voicemail.

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As to your mail your actions and those of your clients do not match your words.

Not once through what must have been a long process pre planning application did you or clients have the courtesy of even calling us. We are advised that your clients have not complied with their consultation obligations.

As a result we have been driven to huge expense by engaging experts and lawyers to prepare objections to your application. You will no doubt have seen the extensive objections already lodged with Camden.

We are further advised that your clients have yet to pay the fee for the independent review.

Candidly we would have thought that the battalion of advisers supporting the application would be more than capable of setting out the concerns we would have.

Are you now making contact only because of the huge level of objection as it is clear you had no intention of doing so pre application.

I look forward to your reply and I will then take advice as to whether I should meet with you.

Regards

Paul Woolf

Sent from my BlackBerry 10 smartphone.

From: Alison Burton Sent: Friday, 5 June 2015 17:56 To: tc Cc: Paul Woolf; Richard Boote Subject: Re: Meeting with Paul Woolf

Dear Tom,

I did indeed forward your number to Paul. He also called and left a message for you. I am copying you in to Paul and Richard our owners ( and not to Paul Crowther that you cc'd in who is in our technical department). Regards Alison

Sent from my iPhone

On 5 Jun 2015, at 17:49, "tc" <<u>tc@thomascroft.com</u>> wrote:

Dear Alison

Further to our letter to Air Studios & Lyndhurst Hall dated 14/4/15 & my phone conversation with you yesterday. We are the architects for the current Planning Application at 11 Rosslyn Hill & I was keen to get in touch with Paul Woolf, the CEO of Air Studios.

Our clients at 11 Rosslyn Hill are committed to working closely with all our neighbours throughout the current planning process to ensure that the design and construction of our scheme reflects the sensitivities of this particular site.

With this in mind we think it would be really useful if were able to meet with Paul Woolf to better understand all the issues Air Studios have with our current proposals.

You did say that you would arrange for Paul to call me back but we haven't actually heard from him yet. It would be great to meet Paul, or somebody else at the Studios who might be more appropriate, next week & I have a pretty clear diary if you wanted to suggest some possible dates.

For the record please can you acknowledge receipt of this email.

Best wishes, Tom

Thomas Croft Thomas Croft Architects 9 Ivebury Court, 325 Latimer Road, London W10 6RA, UK 00 (44) +20 8962 0066, fax 00 (44) +20 8962 0088 tc@thomascroft.com

www.thomascroft.com

Paul Woolf Director for and on behalf of AIR Studios (Lyndhurst) Limited e: paulwoolf@airstudios.com t: 020 7794 0660 www.airstudios.com

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Paul Woolf Director for and on behalf of AIR Studios (Lyndhurst) Limited e: paulwoolf@airstudios.com t: 020 7794 0660 www.airstudios.com



Lyndhurst Hall, Lyndhurst Road, Hampstead, London NW3 5NG

Appendix 10

Vanguardia Response to Cole Jarman 6th July 2015

Cc: Tom tc@thomascroft.com

## Drew,

Please see below for the response from Jim Griffiths. The rebuttal was as you expected, however of interest is that they are instructed to do no more work, so details of the design of the studios are unlikely to come forward.

Regards

## Neil Jarman Director

**Cole Jarman** John Cree House, 24B High Street, Addlestone, Surrey, KT15 1TN **t** +44 (0)1932 829007 **f** +44 (0)1932 829003 www.colejarman.com



From: Jim Griffiths [mailto:jim.griffiths@vanguardiaconsulting.co.uk]
Sent: 06 July 2015 15:18
To: Neil Jarman
Cc: Matthew White
Subject: RE: 11 Rosslyn Hill - Air Studios

**Dear Neil** 

Thank you for your email sent earlier today.

We are instructed by our client to incur no additional fees or costs. Our client has confirmed that they made themselves crystal clear to your client's architect. Please refer any further correspondence via your client's architect.

Regards

Jim

Jim Griffiths Director

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From: Neil Jarman [mailto:neil.jarman@colejarman.com]
Sent: 06 July 2015 10:51
To: Jim Griffiths
Cc: Matthew White
Subject: 11 Rosslyn Hill - Air Studios

Jim,

Please find attached a letter in response to your initial report on behalf Air Studios. I appreciate you will need to take instructions from your client, but look forward to hearing from you.

Regards

Neil Jarman Director Cole Jarman John Cree House, 24B High Street, Addlestone, Surrey, KT15 1TN t +44 (0)1932 829007 f +44 (0)1932 829003 www.colejarman.com



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Appendix 11

Cole Jarman Letter to Camden Council 13th August 2015



# **Appeal Decisions**

Hearing held on 10 December 2013 Site visit made on 12 December 2013

## by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

## Decision date: 24 February 2014

## 115 Elgin Crescent, London W11 2JF Appeals made by Mr Mark Hawtin against decisions of The Council of the Royal Borough of Kensington & Chelsea

## Appeal A: APP/K5600/A/13/2199010

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The application Ref PP/12/05137, dated 17 December 2012, was refused by notice dated 18 April 2013.
- The development proposed is described as: New subterranean basement extending to under the side pavement; replacement lower ground floor extension at the rear of house; new upper ground floor single storey extension at the rear of the stair wing; 2nos. of roof lights in the main valley of the main roof; remodelling of the front and rear garden; mechanical outdoor unit located in the subterranean plant room at the rear.

## Appeal B: APP/K5600/A/13/2199013

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The application Ref PP/13/00005, dated 10 December 2012, was refused by notice dated 18 April 2013.
- The development proposed is described as: New subterranean basement with light wells; replacement lower ground floor extension at the rear of house; new upper ground floor single storey extension at the rear of the stair wing; 2nos. of roof lights in the main valley of the main roof; remodelling of the front and rear garden; mechanical outdoor unit located in the subterranean plant room at the rear.

# Appeal C: APP/K5600/A/13/2206606

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The application Ref PP/13/03022, dated 31 May 2013, was refused by notice dated 4 September 2013.
- The development proposed is described as: New subterranean basement extending to under the side pavement; single storey flank extension at upper ground floor; provision of 2nos. roof lights to main roof; installation of air conditioning unit in the rear subterranean plant room.

# Decisions

1. Appeal A and Appeal B are dismissed.

2. Appeal C is allowed and planning permission is granted for a new subterranean basement extending to under the side pavement; single storey flank extension at upper ground floor; provision of 2no. roof lights to main roof; installation of air conditioning unit in the rear subterranean plant room, at 115 Elgin Crescent, London W11 2JF, in accordance with the terms of the application Ref PP/13/03022 dated 31 May 2013, subject to the conditions set out in the schedule annexed to these decisions.

# Procedural matters

- 3. At the Hearing it came to light that representations by an interested party<sup>1</sup>, which had been forwarded to the Planning Inspectorate before the Hearing, had not been passed to the Inspector. Copies of some of these were made available at the Hearing, but all were subsequently passed through while the Hearing stood adjourned in advance of the site visit. The full set of representations has been taken into account in reaching the decisions on the appeals.
- 4. Appeal A and Appeal C are each accompanied by a planning obligation made under S106 of the Town and Country Planning Act 1990 (as amended), in the form of a unilateral undertaking ('UU'). In each case, the UU commits the appellant to pay the costs of reinstatement of the highway, including the provision of a new street tree, following the completion of development. The weight to be given to these obligations is considered later in these decisions.
- 5. At the Hearing an application for costs was made by the appellant against the Council in respect of Appeal C. That application is to be the subject of a separate Decision.

# Background

- 6. The appeal property is the end house of a terrace of six houses that date from the mid-nineteenth century. The terrace stands within the Ladbroke Conservation Area. The front of the house addresses Elgin Crescent, which is one of the curved streets that characterise the concentric layout of the area, while the side elevation faces onto Rosmead Road, which is a link street with limited frontage development. There is a small front garden, within which stands a protected 'Tree of Heaven' tree. To the rear is a small private garden, which backs onto a large communal garden reserved for use by residents of the surrounding terraces.
- 7. The main part of the house, like the adjoining terrace, comprises three storeys over a basement, with accommodation also at attic level within the valley roof. The house's staircase, on the side elevation, is expressed as a two-storey element, with a mansard roof. The house has previously been altered at basement level to the rear by the removal of the original outside wall and bay window and the addition of a conservatory-type structure which wraps around the base of the ground floor bay window and recessed stair wing.
- 8. Permission is now sought in all three appeals to add another basement level below the existing, to form a new flight of steps down to the front lightwell, to add a small single-storey extension at ground floor level to the stair wing, and to insert a flat-roofed infill across part of the main roof valley. All three appeal proposals would also involve the remodelling of the rear garden in stepped form, with a bicycle store partly cut into the slope.

<sup>&</sup>lt;sup>1</sup> A local resident, Sir Nicholas Stadlen

- 9. In the case of the Appeal A and Appeal B proposals, the existing conservatory would be replaced by a new extension to the rear at the existing basement level, expressed as a flat-roofed projection across the full width of the house, with a steel and glass elevation to the garden. In both schemes, the existing basement level would be extended to the side, up to the property boundary with Rosmead Road. In the Appeal B proposal, the new lower basement level would also terminate at the boundary. However, in the case of Appeal A, it is proposed that the new basement should extend further out, under the footway of Rosmead Road.
- 10. The application that has given rise to Appeal C was one of a pair submitted following the Council's refusal of the first two applications. The significant difference from the earlier schemes is that these proposals would retain the existing conservatory. The Appeal C proposal would have a similar arrangement to the Appeal A scheme, with the new basement to be carried out under the footway. The other application submitted at that time, which showed an arrangement similar to the Appeal B proposal, was granted planning permission by the Council. The principle of the formation of a new lower basement covering the full extent of the house has therefore been accepted by the Council. The existence of this valid permission, which provides a 'fallback' position with a realistic prospect of implementation, forms an important material consideration in the determination of the three appeals.

# **Main Issues**

- 11. It was agreed at the Hearing that the main issues arising from the Council's reasons for refusal are:
  - in respect of Appeals A and B, the effect of the proposed rear extension at existing basement level on the character and appearance of the conservation area;
  - in respect of Appeal C, the effect of the proposed new basement development under the footway on the living conditions of nearby residents.
- 12. A number of local residents and councillors have argued that the latter should also be a main issue in the consideration of Appeal A, while also contesting the impacts of lower level basement development in all three appeals.

# Reasons

# Character and appearance of conservation area

- 13. In considering proposed development in a conservation area, section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to pay special attention to the desirability of preserving or enhancing the area's character or appearance. National policy guidance set out in the National Planning Policy Framework ('NPPF') confirms the great weight in favour of the conservation of 'heritage assets' such as conservation areas. The particular significance of any element of the historic environment likely to be affected by a development proposal should be identified and assessed. Any harm should require clear and convincing justification.
- 14. In this case, it is common ground that the significance of the Ladbroke Conservation Area lies in its conception and realisation as a planned residential estate. The distinctive character of the estate is well exemplified by Elgin

Crescent, with formal terraces creating an enclosed urban street scene, contrasted with the spacious scale of the gardens to the rear. The rear of the terraces is thus of equivalent value to their fronts, as reinforced by the quality of their façade treatment. The design of the terraces thus contributes to the special interest of the gardens, which are identified as a designated heritage asset in their own right.

- 15. The consistency of terrace design is a key element of the character of the area. The appeal building plays an important part as a special endpiece to the terrace of which it forms part, reflecting the houses at the opposite end of the terrace and at the other adjoining terraces on this side of the street. Its contribution is emphasised by its added visibility from Rosmead Road, from where the rear of the terrace can be clearly appreciated.
- 16. For these reasons, it is important that extensions to the rear of the terrace respect its character, and particularly important that any extension to the appeal building should do so. The appeal building is distinguished by its articulation of form, with the separate definition of the staircase wing leaving the main body of the house as a strongly vertical element, set back slightly from the main rear elevation of the terrace. The vertical emphasis is strongly reinforced by the axis of the fenestration, with the bay window giving prominence and weight to the ground floor.
- 17. The other end houses have retained their bay windows at basement level. It can be seen that at the lower level, the bays are simple in treatment and generally somewhat smaller in scale than the more decorated ground floor features that they support. In this they are consistent with the modest scale and treatment of the basement level of the mid-terrace houses. Some of those houses have been extended to the rear at basement level, but in virtually all cases this has consisted of an understated infilling below the ground floor balcony.
- 18. The appeal building has lost its original rear wall and bay at basement level. However, there is no imperative to replace them in order to restore the balance of the overall design, as both ends of the terrace cannot readily be seen together at this level.
- 19. The existing conservatory-type extension is of poor quality design and materials. Its principal virtues are that by following the shape of the bay, it allows the lines of the façade to carry down to ground level and that its scale is clearly subsidiary to that of the bay above. But by extending across the full width of the plot and infilling the recess behind the staircase wing it has eroded the articulation of the building's form as a termination to the terrace, and has incidentally resulted in an unattractive area of flat roof at footway level. Replacement of the existing extension offers an opportunity to enhance the character of the house and thus of the wider conservation area.
- 20. The appeal proposal would project to the same maximum depth as the existing, but across a greater width. Its roof would also be equal to the highest point of the existing, tucked immediately below the projecting sill ledge of the bay window, while its base would be sunk lower into the ground. As a result it would be much more bulky than the existing, whose roof slopes away from the building to an eaves level at the height of a conventional door. The scale of the proposal, with its very tall doors, would be considerably greater so that it would

compete with the significance of the ground floor bay rather than be subservient to it.

- 21. Moreover, because of the position of the flat roof directly below sill level, the bay would appear to be sitting almost directly on the box-like projection from the house. The introduction of this horizontal platform would involve a fundamental change from the vertical proportions of the existing house. By extending across the full width of the plot, and wrapping around the side of the house, it would perpetuate the adverse effect of this aspect of the existing extension.
- 22. The measures proposed to address this and to achieve some articulation in the form of the extension would not be adequate. The recess in plan to the area behind the staircase wing would be very limited. The slight step down in the roof profile to the side area would not provide a marked variation. When seen from above, the position of the step would not relate well to the symmetry of the bay window, being cut under the sill shelf to the side only. It also emerged at the appeal site visit that without another deeper step, the side roof would encroach above the top of the side boundary wall, which had not been taken into account on the submitted plans.
- 23. The appeal proposal could undoubtedly be built of higher quality materials than the existing. Its steel and glass aesthetic could, subject to detail and choice of colour, and to some further consideration of the variety of glazing proportions, provide an elegant façade treatment. However, these aspects would not overcome the fundamental issues of the form and scale of the proposal.
- 24. I acknowledge that because of its sunken location, the proposed extension would not be prominent in the street scene or in views from the communal gardens, where it is generally well screened by planting. However, it would be visible from Rosmead Road, from where a broad view of the rear of the terrace and the relationship with the gardens can be appreciated. In any event, lack of prominence does not necessarily mitigate harm to heritage interest.
- 25. Other aspects of the proposal, such as the small side extension at ground floor level and the alterations to the valley roof could, subject to conditions on the details of materials and of proposed roof lights, preserve the character of the building. Planning permission for these works has already been granted by the Council.
- 26. For the reasons set out above, I consider that the design of the proposed basement extension would not adequately respond to the character of the existing building, which occupies an important position in the conservation area. The adverse effect on the building would thus fail to preserve or enhance the character or appearance of the conservation area and, to a slightly lesser degree, those of the registered gardens. The harm to the significance of these heritage assets would be less than substantial, but would not be outweighed by any public benefits.
- 27. The proposal would therefore be contrary to the guidance of the NPPF and to Policies CL1 and CL2 of the Core Strategy for the Royal Borough of Kensington & Chelsea with a Focus on North Kensington ('CS'), which together seek extensions of the highest design quality, and to Policy CL3, which requires development to preserve or enhance the character or appearance of conservation areas. The detailed design of the extension would conflict with

part (i) of saved Policy CD 47 of the Kensington and Chelsea Unitary Development Plan.

# Living conditions

- 28. The Council's first reason for refusal of the Appeal C application states that the proposed development under the footway would result in an unacceptable level of disruption to neighbouring residents, particularly during the construction period. That the concern relates solely to the development under the footway is confirmed by the Council's approval on the same occasion of the accompanying application, which did not extend under the footway. I agree with those opposed to the development that this concern should also logically apply to the Appeal A proposal, as it would be virtually identical to the Appeal C scheme in the extent of its impact on the public highway.
- 29. While the Council's concern is said to relate to disruption 'particularly' during the construction period, it has not provided evidence of any anticipated harm beyond this period. The proposal would involve full reinstatement of the footway construction and surface by the Council as highway authority, funded by the appellant's UU obligation. It was confirmed at the Hearing that the concern relates solely to the construction period.
- 30. The reason for refusal refers to particular conflict with CS Policy CT1. This policy is about alternatives to car use, and its many detailed criteria are directed at the achievement of improved conditions for non-car modes of transport. As with virtually all development plan policies, the policy is in my view clearly aimed at the substantive outcomes of completed development rather than the relatively short-term effects of the construction period. The sections of the policy that could be relevant to the appeal proposal, including the requirements for development not to result in any material increase in traffic congestion or on-street parking pressure, not to compromise road safety, and not to reduce access to footways used by the public, are not actually directed to harmful effects during the construction period only.
- 31. Both the Council's Supplementary Planning Document ('SPD') on Subterranean Development and the SPD on Transport, to which it cross-refers, anticipate that transport impacts of basement development are likely to be satisfactorily addressed by the imposition of conditions on the planning permission, particularly to require the approval of a Construction Traffic Management Plan ('CTMP'). There is nothing in the scale or complexity of the appeal proposals to suggest that such an approach, which is consistent with national guidance on the use of conditions to mitigate impacts, would not also be appropriate in these cases.
- 32. By comparing the appellant's Preliminary Construction Traffic Management Plan ('PCTMP') for development with and without the basement extension under the footway, the estimated additional transport impacts of the larger proposal can be identified.
- 33. It is suggested that both schemes would require suspension of residents' parking bays to the front and side of the house to allow for placement of a skip and delivery of materials, whether the option were to place the skip to the front or the side. The suspension would last for the entire construction period, which for the larger scheme would extend to 78 weeks rather than 66 weeks. It appears that some 6-7 spaces would be affected, but demand for at least one

of these could be expected to derive from the appeal property itself. Nonavailability of these spaces would increase demand for other controlled parking nearby, which could cause inconvenience to local residents. However, in permitting the lesser scheme, the Council has implicitly acknowledged that the anticipated reduction in parking would be acceptable for the 66 week period. The Council offers no clear evidence of why the inconvenience associated with the additional 12 weeks for the larger scheme would have unacceptable effects on local residents.

- 34. A more significant impact of the larger scheme would result from the need to close the footway on Rosmead Road to allow for its excavation, together with at least part of the carriageway. The precise extent of the encroachment into the carriageway was subject to some debate at the Hearing. But greater weight must be given to the professionally drafted PCTMP, which is clear that closure of the southbound carriageway on Rosmead Road would be required, at least until the pavement area works were completed, and that pedestrians would be directed to use the opposite footway.
- 35. No objection has been raised to the proposal by the highway authority on the grounds of effect on the safe or efficient operation of the highway. The need to cross and perhaps re-cross the road would be an inconvenience to pedestrians using this route. However, the road is not a main artery and forms one of a network of routes within the residential area, so that the total amount of pedestrian traffic should not be very high. Adequate visibility could be designed in at crossing points to prevent any significant safety risk to pedestrians. Slightly modified arrangements might be needed for the school mini-bus that currently drops off close by, but the children should in any event be supervised by responsible adults to avoid any safety problems.
- 36. Similarly, the proposed closure would form an inconvenience to car drivers rather than a safety hazard for the relevant period of the works. The grid layout of streets would ensure that alternative routes to almost all destinations, other than the two houses that front onto Rosmead Road, were not unduly difficult. But even residents and visitors of those houses would not be very severely inconvenienced.
- 37. Both schemes would have significant servicing requirements, involving movements of heavy commercial vehicles to deliver and collect skips for excavated spoil and to deliver materials. Use of such vehicles in densely occupied and parked residential streets obviously requires great care. The Hearing was informed of a nearby fatal accident involving a construction vehicle. But in the absence of objection to the proposal by the highway authority, I find insufficient reason to reject the proposal on safety grounds. The concerns raised by some residents about the safety of proposed lorry routes, in particular about turning onto Ladbroke Grove, could be addressed in the approval by planning condition of the final CTMP, as would the details of loading arrangements.
- 38. The forecast total number of movements shows that the larger project would involve over 40% more trips than the already approved scheme. However, the average number of movements would still be in the order of less than one per day, but with probably greater concentration during the excavation phase of the project. While recognising that each of these visits would involve a degree of disturbance, as well as a potential traffic disruption and safety hazard, it

appears that their frequency and duration would be unlikely to cause unacceptable impacts on residents' living conditions or safe use of the highway. The precise details of the timing and regulation of deliveries would be subject to approval in the final CTMP.

- 39. Although it had not been specifically cited in the first reason for refusal, at the Hearing the Council also raised concern about the effect of noise and vibration during the construction phase. The concern appears to be that noise arising from the additional duration of work over the scheme already granted planning permission would pass a threshold of acceptability. The Council's standard approach as outlined in the adopted Subterranean Development SPD is to rely on environmental legislation to control noise, supplemented by conditions and 'informatives' attached to a planning permission. No specific technical or other evidence has been provided to show why that approach should not apply here. There is nothing to suggest that the noise from the additional construction would be more intense than from the approved scheme. It would last for a longer time but some of the additional construction period would relate to fitting out, when the noisier activities of excavation and erection of new walls would have finished.
- 40. In summary, there is no doubt that the construction activity of the larger scheme would be potentially disruptive and would affect nearby residents. However, the controls considered adequate by the Council in approving the lesser scheme to ensure the protection of residents' living conditions should also be effective in the larger scheme, despite its somewhat longer duration. The unique factor associated with the larger scheme, comprising the partial road closure, would add an extra element of disruption, but not one sufficiently harmful to residents in its own right to justify refusal of planning permission. Any adverse impacts of the proposed development could be adequately mitigated by the imposition of planning conditions, such as those drafted by the Council and discussed at the Hearing.
- 41. Residents opposed to the development were particularly concerned that the additional impacts of the larger scheme would arise from the formation of the proposed basement under the public highway. The case was presented that the proposal would represent an unfair exploitation of a public asset for private gain. However, ownership of land is not a prerequisite to an application for planning permission, and there is no suggestion in this case of any ownership interest that has not been made aware of the application.
- 42. The Subterranean Development SPD seeks to discourage the use of space below public footways, but the only reason given is to protect the location and rooting area of existing street trees and to protect existing services. In this case, the street tree affected is a relatively young specimen, and the replacement to be provided by the appellant's UU should be of equivalent amenity value. Evidence has been submitted to show that services would not be unacceptably disrupted.
- 43. Furthermore, the ability of adjoining property to extend under the street, whether as part of a building or as an independent cellar, appears to be well established in law. Section 179 of the Highways Act 1980, which was referred to in evidence, requires the consent of the relevant local or highway authority to be obtained. This is confirmed by the Council's Transport SPD, which raises