

The Planning Inspectorate
Room 3D
Temple Quay House
2 The Square
Bristol, BS1 6PN

Date: 15th November 2016
Your Ref: APP/X5210/W/16/3156359 & APP/X5210/Y/16/3156361
Our Refs: 2016/7079/P & 2015/7300/L

Dear Sir,

**Appeal by Mr & Mrs Jeffreys
Site at 11 Rosslyn Hill, London, NW3 5UL**

I write in response to the appellant's appeal submission. For clarity I briefly describe the preceding events.

Applications for planning permission and listed building consent (references 2016/7079/P & 2015/7300/L) were submitted to the Council on 17th December 2015 and registered on 15th February 2016.

The proposal for both planning permission and listed building consent is: *Excavation to create basement extension and sub-basement plant room to east of property, partial demolition of single storey self-contained studio above and like for like replacement as ancillary accommodation to main house, demolition and replacement of 2x single storey outbuildings above proposed basement extension to west of property.*

The Council failed to make a decision within the statutory period and the appellants submitted an appeal against this non-determination. The start date for the appeal is 11th October 2016.

The Council has now determined the applications, with a recommendation that planning permission would have been refused had an appeal not been made. The associated listed building application has been recommended for approval as the reasons for refusal relate solely to amenity and the absence of an appropriate legal agreement. The Council's case is largely set out in the attached delegated report and the reasons for refusal are contained in the attached decision.

Executive Director Supporting Communities



It is important to point out that the appeal scheme was submitted whilst the Council was still in the process of deterring an identical proposal (references 2015/2089/P & 2015/2109/L) which was submitted on 2nd April 2015 and registered on 10th April 2015 for:

The original scheme was revised in September 2015 to omit the above ground elements i.e. larger studio, removal of outbuildings, and dining room extension. Whilst the existing studio and sheds would still be demolished to facilitate the basement works, they would be rebuilt in facsimile. The two basements would remain as originally proposed. Therefore this revision was identical to the appeal scheme.

The original scheme was further revised in June 2016 to omit the basement to the west of the house and is still being determined. However, the Council is working with the applicant and the primary objector (Air Studios) to arrange a more practical method of noise and vibration testing.

In summary, the proposal which is the subject of this appeal is considered to be acceptable in all instances except for its impact on the amenity of an adjoining commercial premises. The Council considers that the adjacent business, a recording studio, is particularly sensitive to the impacts of noise and vibration from construction and the applicants have failed to adequately demonstrate that conditions or planning obligations would sufficiently protect the business, contrary to the relevant policies and guidance. The Council considers the impact from construction to be a material consideration in this instance.

The Council's case is set out in the following sections:

- 1 Comments on the appellants' statement of case
- 2 Suggested Conditions
- 3 Section 106 Agreement
- 4 Delegated report
- 5 Council decisions
- 6 Conclusion

1 Comments on the appellants' statement of case

As the appeal is against non-determination, the applicant's case is largely history of the application. I raise the following points in relation to the appellants' statement using the appellant's headings and numbering:

1 Introduction

1.6 It is correct that the Council has no in-principle objection to either proposed basement. The role of the Council's technical consultant, is solely to advise the Council as to whether any technical information relating to basement development demonstrates that a proposal would not harm the structural stability of a host building or its neighbours, or have an adverse impact on groundwater flow or flooding and therefore complies with the relevant policies and guidance for basements. Their remit is not to object or support an application, purely to advise on technical matters as far as they relate to basements. They are not engaged to comment on noise or vibration issues.

1.9 The Council's own Environmental Health Officers provide professional advice in relation to the impact of noise and vibration among, other things. Environmental Health Officers do not object to the development, but do raise concerns about the impact of construction noise and vibration on Air Studios.

2 Narrative of events

2.17 The objections from the studio appear to relate to the impact on the studio as a whole, not just the main hall, and how the impact of construction, and even the spectre of development would have an adverse impact on their operation.

2.34 It is accepted that whilst Environmental Health Officers considered that the impact of development itself, in terms of noise and vibration, could potentially be controlled by conditions and obligations, they remained concerned that noise and vibration from construction would have an adverse impact on the studio and were of the opinion that sufficient detail was lacking in the construction management plan to demonstrate that the impact could be mitigated.

It is correct that at the beginning of July 2016, Environmental Health Officers were willing to support the scheme, however this was before a meeting was convened at Air Studios with the appellants, studio representatives and Council officers (including the acoustic experts from Cole Jarman for the appellant, Vanguardia for Air Studios and the Council's Environmental Health Officers). The outcome of the meeting was there was no definitive evidence at this stage that conditions or obligations could prevent noise and vibration from construction, or even what levels would be acceptable, and that testing on site with receptors inside the studio complex would produce more robust evidence.

3 Commentary on material considerations and potential mitigation measures

3.2 As mentioned, the Council has no objection to any aspect of the scheme other than the impact on amenity from construction, and the Council's Environmental Health Officer does not object to the development i.e. he does not consider that the proposal when built would have a harmful impact on the operation of the studio, but does consider that the appellant

has failed to demonstrate that noise and vibration from construction would not have an adverse impact on the studio, or that conditions or obligations could ameliorate this in light of the evidence submitted thus far.

3.4 The Council would expect the appellant to consult with its neighbours when preparing the construction management plan and liaise with them to ensure that any impacts are mitigated as far as possible and to address any specific concerns as they arise. The Council will take into account any comments from the studio and whether reasonable endeavours have been made by the appellant when deciding whether or not to discharge any obligations.

3.5 The Council has been advised that a Basement Construction Plan will be required to secure additional information and controls over the basement development. It is considered that this cannot properly be secured by condition as it requires action outside the application site such as a monitoring regime and a condition survey of Lyndhurst Hall.

3.21 It is not the Council's position that there should be no development in the vicinity of the studio, or any other sensitive site, only that it be demonstrated that the impact of development, including the construction phase can be mitigated to protect the amenity of adjoining occupiers and uses.

3.22 The appellant contends that noise from construction is not a material planning consideration as it is controlled by other legislation. The appellant refers to the Council's website stating that officers cannot consider issues that are covered by other areas of law, however if those issues are material then they must be considered. The Council's website also acknowledges the role of the Control of Pollution Act, and also states, under the heading Control of construction site noise, that "Under Section 106 Town and Country Planning Act, the council may agree an additional level of controls to benefit Camden residents and business occupiers." Planning and pollution controls are separate, but complimentary, with both designed to protect the environment but with different objectives.

The Council considers the impact of noise to be a material consideration to this appeal. Materiality naturally stems from the relevant policies in the local development plan which seek to protect amenity (CS5 and DP5) and control the impact of noise and vibration (DP27 and DP28). These policies are clear that conditions and obligations may be appropriate when they can mitigate the impact of construction noise. When they cannot, not only do such issues become material, but also become contrary to development policies. Camden Planning Guidance (CPG6 – Amenity) is also clear when it states "If your proposal could result in noise and vibration that would cause an unacceptable impact to nearby uses or occupiers, or proposes sensitive uses near a source of noise or vibration and cannot be adequately attenuated then planning permission is likely to be refused. "

S. 70(2) of the Town and Country Planning Act 1990 provides that "local authorities "shall have regards to the provisions of the development plan, so far as material to the application, and to any other material considerations"

Whilst these policies and guidance acknowledge that the impact from construction can be harmful, they rely on the fact that construction noise can generally be minimised, and normally be controlled under the Control of Pollution Act. However, general policies and guidance seek to protect residential amenity and construction is allowed during normal

daytime hours, but in this instance the impact on the studio would be greater than it would be on residential occupiers as its hours of operation extend beyond the times limited by COPA and, the level of noise and vibration which would harm the amenity of the studio is much lower than that which would harm the amenity of adjoining residential occupiers.

3.25 The appeal decisions referred to by the appellant are not considered precedents as they relate to protecting residential amenity. Furthermore, in neither appeal do the Inspectors dismiss the impact of construction as being non material. In relation to appeal C by Brendan Lyons (APP/K5600/A/13/2199010) the Inspector concludes that, considering the planning authority has already approved a slightly smaller scheme, the appeal scheme “would not have an unacceptable impact on residents’ living conditions by reason of its impact during the construction period” (para 47). Similarly in the appeal by Mr Harold (APP/K5600/W/14/3002634) there was a fall back approved scheme with the Inspector stating “There would be some disturbance during the construction phase. However, I am not convinced that such disturbance would necessarily be greater than that associated with the approved scheme and conditions could be imposed to mitigate this harm” (para 26).

3.34 The appellant objects to the condition suggested by environmental Health officers which seeks to restrict construction noise to levels of 25dB and NR15 when measured from within the studios. For clarity, officers agree that this can be adequately covered by referring just to NR15. Whether this is NR15 $L_{max,s}$ or L_{eq} is largely irrelevant, but for precision officers recommend an average of NR15 i.e. NR15 L_{eq} . It is understood that this level was proposed by the applicants after their initial assessment and is considered to be reasonable by Environmental Health Officers. That the condition should be in force at all times is also considered reasonable as the studio does not have a set timetable, and can be in operation for long periods during the day and night, with little forewarning. As part of the Construction Management Plan, it would be required that monitoring take place within the studios, and the threshold would be expected under normal recording conditions.

4 Conclusions

As stated previously, the Council’s Environmental Health Officer is of the opinion that the appellant has not demonstrated that the impact of noise and vibration during the construction process would not harm the amenity of the studio or could be adequately controlled by condition or obligation.

2 Conditions

Were the Inspector minded to allow the appeal, the Council would suggest the following conditions for the planning application:

1) The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan 001; 002; 003; 010; 011;012;013; 020; 021; 022; 040; 041; 042; 050; 110 Rev A; 111 Rev B; 112 Rev B; 113 Rev A; 14 Rev A; 140 rev A; 141 Rev A; 142 Rev A; 143 Rev A; 144 Rev A; 145 Rev B; 146 Rev B; 150 Rev A; 151 Rev A; 152 Rev A; 153 Rev A; Design and Access Statement by Thomas Croft Architects dated 2nd April 2015; Historic Building Report by Donald Insall Associates dated July 2015; Outline Construction Logistics Plan by Paul Mew Associated dated August 2015; Basement Impact Assessment Rev A by Alan Baxter & Associates dated August 2015; Plant Noise Report by Cole Jarman dated 6th January 2014; Plant Noise Assessment by Cole Jarman dated 25th March 2015; Structural Engineering Note by Cole Jarman date 7th August 2015; Letters from Cole Jarman dated 13th & 25th August 2015, 2nd & 14th March 2016; Arboricultural Impact Assessment Rev 3 & Arboricultural Impact Method Statement by Boward Oxford Ltd Rev 3 dated August 2015; Air Spade Root Investigation, Tree Protection Plan, Root Protection and Impact maps by Boward Oxford Ltd; Archaeological Assessment by PCA Ltd dated August 2015; Archaeological Evaluation by PCA Ltd dated December 2015; Pool Plant Spec by Clearwater dated 2nd February 2015; Pool Plant Drawing 7; Energy Strategy Report by Price and Myers dated 27th March 2015

Reason: For the avoidance of doubt and in the interest of proper planning.

3) All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

4) All trees on the site, or parts of trees growing from adjoining sites, unless shown on the permitted drawings as being removed, shall be retained and protected from damage to the satisfaction of the Council. Details shall be submitted to and approved by the Council before works commence on site to demonstrate how trees to be retained shall be protected during construction work: such details shall follow guidelines and standards set out in BS5837:2012 – Trees in relation to design, demolition and construction.

Reason: To ensure that the Council may be satisfied that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the

area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy.

5) No development (except demolition works) shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the local planning authority in writing. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policy CS14 and CS15 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

6) Prior to use of the swimming pool, details shall be submitted to and approved in writing by the Council, of the external noise level emitted from any plant/ machinery/ equipment and mitigation measures as appropriate. The measures shall ensure that the external noise level emitted from plant, machinery/ equipment will be lower than the lowest existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

Reason: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from plant/mechanical installations/ equipment in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

7) Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of building site vibration levels generated by the demolition/construction etc. together with appropriate mitigation measures where necessary. The vibration criteria to be met are: Vibration for occupiers 0.5mm.s⁻¹ and Structural vibration 3.0 mm.s⁻¹ within the nearest vibration sensitive premises. The assessment method shall be as specified in BS 6472:2008. No part of the development shall commence until the approved details have been agreed. Approved details shall thereafter be permanently retained during the construction period.

Reason: To ensure that the amenity of occupiers of the surrounding premises is not adversely affected by ground- or airborne vibration in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies.

8) Construction noise break-in from the development shall achieve an internal noise level of NR15 L_{eq} in any recording studio room of the adjacent premises. These levels are to be permanently maintained during the construction period.

Reason: To ensure that the amenity of occupiers of the surrounding premises in accordance with the requirements of policy CS5 of the London Borough of Camden Local Development Framework Core Strategy and policy DP26 of the London Borough of Camden Local Development Framework Development Policies..

9) No development shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. No development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

A. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

Reason: Important archaeological remains may exist on this site. Accordingly the Council wishes to secure the provision of archaeological investigation and the subsequent recording of the remains prior to development in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

3 The Council's case in respect of planning obligations

Notwithstanding the Council's case as set out above and in the delegated report, should the Inspector be minded to grant planning permission the Council would require the following to be secured by a Section 106 agreement:

- Construction Management Plan
- Basement Construction Plan
- Highways contribution of ££8,130.03

Government guidance on planning obligations is contained within the Community Infrastructure Levy (CIL) Regulations 2010 which came into effect on 6 April 2010 and the National Planning Policy Framework (particularly paragraphs 203-206). The CIL regulations limit the use of planning obligations so that a planning obligation must only be sought where it meets all of the following tests:

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- Fairly and reasonably related in scale and kind to the development.

The Council considers that each of the obligations as referred to above would meet these tests for the reasons set out below:

Construction management plan

The applicant submitted a draft construction logistics plan which Environmental Health Officers consider lacked detail in controlling the impact of construction. A full construction management plan needs to be submitted in line with the guidance provided in supplementary planning guidance (CPG6 – Amenity).

Conditions can only lawfully be used to control matters on land within the developer's control. Many of the CMP provisions will relate to off-site requirements, particularly public highway (which is not land within the developers' control) and detailed environmental controls. As such, a Section 106 Agreement (rather than a condition) is the most appropriate mechanism.

It is also true that as a matter of planning practice in Camden the level of detail required and secured through a planning obligation is usually greater and more specific than through a condition. This is an important consideration in respect of a construction management plan which should be seeking to tailor requirements to managing the specific construction impacts arising from a particular development.

Basement Construction Plan

For similar reasons it is considered reasonable and appropriate to require a Basement Construction Plan to be secured by way of section 106 agreement. A basement construction plan sets out detailed information to demonstrate how the design and construction of the basement has been prepared in order to minimise the impacts on neighbouring properties and the water environment, and provides a programme of

measures to be undertaken by the owner to with the objective of minimise the impact on the structural integrity of neighbouring properties and sensitive structures such as the public highway. In this instance there would be a requirement to carry out operations outside the red line, such as a condition survey of Lyndhurst Hall and noise and vibration monitoring from within the hall with appropriate trigger values and mitigation

Highways Works Immediately Surrounding the Site

In order to repair any damage to the public highway as a result of development a financial contribution of £8,130.03 would be required for highway repairs in line with policy DP21. Such financial contributions cannot be secured by condition.

4 Delegated report

Delegated Report		Analysis sheet	Expiry Date:	22/03/2016
		N/A / attached	Consultation Expiry Date:	10/03/2016
Officer			Application Number(s)	
Rob Tulloch			2015/7079/P 2015/7300/L	
Application Address			Drawing Numbers	
11 Roslyn Hill London NW3 5UL				
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
Excavation to create basement extension and sub-basement plant room to east of property, partial demolition of single storey self-contained studio above and like for like replacement as ancillary accommodation to main house, demolition and replacement of 2x single storey outbuildings above proposed basement extension to west of property.				
Recommendation(s):		Non-Determination: would have been minded to refuse Planning Permission Non-Determination: would have been minded to grant Listed Building Consent		
Application Type:		Full Planning Permission Listed Building Consent		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	612	No. of responses	354	No. of objections	354
Summary of consultation responses:	<p>Site notices were displayed from 17/02/2016 to 09/03/2016 with an advert placed in the Ham & High on 18/02/2016 expiring 10/03/2016</p> <p>The proposal, along with a concurrent scheme (2015/2089/P & 2015/2109/L), has attracted a considerable number of objections and a petition (updated twice following the revisions to the concurrent scheme). Objections were received predominantly from individuals with a connection to Air Studios such as producers, artists, engineers, musicians, composers and other studios, but also from people representing organisations within the music and film industries such as the British Film Commission, Help Musician UK and Abbey Road Studios.</p> <p>The objections all emphasised the importance of Air Studios to the creative economy, and the vast majority were predicated on the assumption that any noise and vibration as a result of construction would have a detrimental impact on the operation of the studio and force it to close down for a considerable amount of time, and possibly for good which would have a severe financial and cultural impact on the borough, London and the UK, and on the British film, television and music industries. It would also lead to a loss of employment for the musicians, producers, engineers and all others who work at the studios.</p> <p><u>Closure of Air Studios</u></p> <ul style="list-style-type: none"> • Proposal would lead to closure of Air Studios for 6-12 months • Proposal would lead to permanent closure of Air Studios • Loss of employment • Proposal would stop worldwide feature film work being produced at the studios which would have huge repercussions for the British film industry • Clients already worried about recording at the studios • Loss of financial contribution to Camden's economy • Effect on the UK economy • Damage to the creative economy • Musicians working at the studio would lose their income • Artists, film and tv companies would consider recording elsewhere • Once the studios are lost they would be lost for good <p>A smaller number also referred to:</p> <p><u>Basement Impact</u></p> <ul style="list-style-type: none"> • Geology of Hampstead difficult for basements 					

- Draft plan would prohibit basements under listed buildings
- Risk of damage to neighbouring listed buildings
- Risk of subsidence and collapse
- Basements are hazardous to surrounding buildings
- Damage of Burland scale 2 to Lyndhurst Hall is unacceptable
- Kensington and Chelsea has prohibited similar applications
- Will attract similar applications

Transport

- Construction traffic will disrupt the Royal Free Hospital
- Inadequate Construction Management Plan

Three **petitions** were received in response to each revision of the concurrent scheme with the number of signatures rising from 9,420 (original application) culminating in 12,513 for the second revision. The petitions are headed “You are invited to reject the application for a major development which would disrupt the workings of Air recording studios, possibly cause damage to the building and its surroundings and may force them to close.” Signatories are from all over the UK and abroad.

Air Studios is an internationally renowned recording facility and occupies Lyndhurst Hall adjacent to the application site. It is also one of only two studios in the UK capable of housing a full orchestra, the other being Abbey Road. They have submitted numerous objections along with detailed technical reports. Their principal technical objections relate to basement and construction impact. They contend that the construction of the basement would harm the structural stability and the fabric of Lyndhurst Hall, and have an adverse impact on the local water environment. They note that the studio has problems with groundwater and suffered a previous flood event in the 1990s. They also object that the construction management plan is inadequate.

Air Studios, as with all of the other respondents, object that the proposal would harm the viability of the studio and force it to close. They emphasise the contribution the studios make to the creative economy in terms of the number, quality and diversity of the artists who record there, as well as the number of successful film and television soundtracks that are also recorded at the studio, and point out how much the creative economy contributes to the national economy. They object that noise and vibration from the development would significantly affect their operation and reputation, and would deter potential clients. They point out that recording studios are particularly sensitive to noise and vibration, and that any noise and vibration from construction would interrupt recording sessions leading to increased costs for clients and ultimately a loss of business. They also state that post-construction noise from the media room, and ground borne noise and vibration from the Northern line tunnels deflected and amplified via the walls of the basements and the deep piling, would also interrupt recording sessions. Furthermore, even if it could be satisfactorily demonstrated that noise and vibration from the proposed development, during and post-

construction, would not be perceptible within any of studios, the very knowledge that permission had been granted and that construction works could commence at any time would prevent future clients from taking the risk of recording at the studio, with the resultant loss of business potentially forcing the studio close down. Not only would this affect the cultural contribution that the studio makes it would also lead to a loss of employment for all the people employed directly or indirectly by the studios such as musicians, composers, engineers, etc. This stance has been supported by other objectors who state that if permission were granted they would not record at the studio as the huge amount of noise from construction would disrupt recordings. Should Air Studios have to close, the cost of relocating would be in the region of £20 million, and may not be viable.

Air studios maintain their objection to the latest revised scheme (Scheme 1) which removes the basement closest to Lyndhurst Hall. They maintain that noise and vibration from construction would still adversely affect the operation of the studio and that sufficient assessment has not been carried out, and suggest that the cost of complying with the noise attenuation conditions would be prohibitive, and therefore such conditions would be unreasonable. They also have no confidence that the Council will properly monitor the conditions.

As there are conflicting acoustic reports, the Council has been in talks with the applicants and Air Studios about the best way to more accurately assess the impact of the proposed works. It has been agreed by both sides that the applicants could conduct more thorough testing, including sample piling, the impact of which will be monitored from inside Air Studios, once an appropriate methodology has been agreed by both sides. The applicants' acoustic engineer submitted a methodology to Air Studios in August 2016, but the method statement has not yet been agreed.

For info, the responses to the concurrent scheme are as follows:

	Original	R1	R2
<i>Number of Letters Sent</i>	104	338	612
<i>Number of responses Received</i>	288	346	309
<i>Number of Objections</i>	288	346	309
<i>Number in Support</i>	0	0	0

Fitzjohns/Netherhall CAAC were notified, but no comments were received.

Heath & Hampstead Society objected in April 2015 to Scheme 1. They considered that the application would destroy the character of this superb house by adding further structures crushed into the precious open spaces surrounding the house and endangered by the huge basement under most of the site. The octagonal extension has some merit, but the other is banal. The basement would devastate the site, is far too big and would not be acceptable under the draft Local Plan. The BIA states that damage to adjoining buildings would be no more than Burland scale 2 which is too much for the adjoining buildings.

The Society further objected to the September 2015 revision of Scheme 1 (and by extent to Scheme 2) stating that their original objections still stand as the revisions do not take into account the noise/vibration/disturbance issues which they were not previously aware of. The proposal would still cause harm to the setting of the listed building and is gross overdevelopment. The construction of a basement under or within the immediate curtilage of listed building would be unacceptable under the draft Local Plan, and there have been cases where planning authorities have made decisions based on draft plans before final adoption.

Greater London Archaeological Advisory Service (GLAAS) GLAAS recommended that the further studies should be undertaken before any decision is taken to establish the significance of the site and the impact of the proposed development. Further investigation was carried out in consultation with GLAAS who advised that after careful consideration of the results and the proposals, the most pragmatic mitigation strategy would be for a programme of archaeological investigation in line with an archaeological condition.

Historic England did not consider it necessary for them to be notified under the relevant statutory provisions”.

Councillor Cooper (Hampstead Town) supports the objection of Help Musicians UK and shares their concerns that noise and vibration would harm the operation of the studio and potentially force it to close.

Tulip Siddiq MP (Hampstead and Kilburn) objected on behalf of a considerable number of her constituents who have expressed concern about the application which has the potential to adversely impact the functions of the studio which is a nationally significant music facility.

Catherine West MP (Hornsey & Wood Green) objected citing concerns of a constituent about the proposal on Air Studios, and would like these concerns to be duly considered.

The Secretary of State for Culture Media and Sport at the time of consultation (John Whittingdale MP) commented in June 2015 that whilst he would not seek to influence any planning decision he is mindful that the

CAAC/Local groups*
comments:
*Please Specify

proper process and diligent consideration should be applied. He is aware that Air Studios are internationally renowned and one of only two orchestral studios in London, and is sure that this will be taken into account. "I would like to reiterate that I very much respect the independence of the Council's planning decisions, but do wish to draw attention to the significance of the music industry in London and to the UK's economy."

The Secretary of State for Communities and Local Government

received a request from a third party to intervene and call in both applications. Normally, consideration of an application against the policy on call-in cannot commence until the application has been considered by the Council. However as the application has been appealed, the responsibility for making the decision is automatically transferred to the secretary of State without the need for call-in. Should the Council be minded to approve Scheme 1, then the council would be asked to withhold issuing any decision notice to allow the Secretary of State time to consider the case and decide if call in is appropriate.

Site Description

The site comprises a two storey house with attic and semi basement set within a large plot, and a separate self-contained studio. The main house is Georgian, and listed Grade II. It sits within an extensive garden and is set well back from the road, accessed via a driveway off Rosslyn Hill. To the east of the house, and within its curtilage, is a single storey post-war studio. To the west are two timber sheds/workshops.

Bordering the site to the west is Lyndhurst Hall also listed Grade II and housing a recording studio known as Air Studios. To the south is Belsize Lane which is a quiet residential, street, and immediately to the east are nos. 9 – 9d Rosslyn Hill a modest, post-war two storey terrace whose garages abut the studio on the site.

Rosslyn Hill (A502) is a busy thoroughfare connecting Belsize Park to Hampstead. St Stephens Church, to the east, is on the corner of Pond Street and Rosslyn Hill, and the Royal Free hospital lies beyond this (approximately 170m further to the east). Further to the west is Waterhouse Close, comprising the Girl Guides Headquarters and a sheltered housing scheme.

The site lies within the Fitzjohns/Netherhall Conservation Area. It does not lie within the Hampstead Archaeological Priority Area, but due to the extensive history of the site has the possibility for archaeological interest. The site is not within any of the constraints for basement development.

Relevant History

2015/2089/P & 2015/2109/L

This application was submitted in April 2015 and proposed two basements and various above ground works:

Erection of single storey extension with single storey plus basement link to proposed basement and sub-basement extension, demolition of single storey self-contained studio and erection of single storey pavilion as ancillary accommodation to main house, demolition of 2x single storey outbuildings and additional basement extension to west of property

[For ease of reference this scheme is referred to as Scheme 1]

The application was revised in September 2015 to omit the above ground elements i.e. larger studio, removal of outbuildings, and dining room extension. Whilst the existing studio and sheds would still be demolished to facilitate the basement works, they would be rebuilt in facsimile. The two basements would remain as originally proposed. This revision is identical to the application which is the subject of this report.

This application was further revised in June 2016, with the basement housing the media room, which would have been directly adjacent to Lyndhurst Hall, being removed from the scheme.

As such, Scheme 1 proposes a single basement and is still under consideration while the applicants and the neighbours (Air Studios) work together to agree a method statement to assess the impact of noise and vibration impact of the proposal on the operation of the recording studio, with the intention of carrying out sample piling and noise testing to provide a more accurate picture of how the proposed works would affect the recording studio in terms of noise and vibration.

Scheme 2, which is the subject of this report, retains both basements and is currently subject to an appeal against the Council's failure to issue a decision within the statutory period.

2013/3002/L Internal alterations comprising the reconfiguration of bedrooms and bathrooms layout at first and second floors. Granted 18/07/2013

2009/4980/P & 2009/4981/L Demolition of the existing detached single storey garage at the side/rear of the dwellinghouse and erection of a single storey garden building and connecting glazed link structure to the single family dwellinghouse (Class C3). Granted 14/01/2010

2005/0942/P & 2005/0943/L Replacement of existing garage building with a new garden building, incorporating a new glazed/timber structure to link to the main single family dwellinghouse. Granted 28/04/2005

PWX0002822 & LWX0002823 Erection of a single storey side and rear extension at ground floor level. Refused 19/12/2000

Relevant policies

LDF Core Strategy and Development Policies

- CS1 - Distribution of growth
 - CS5 - Managing the impact of growth and development
 - CS6 - Providing quality homes
 - CS8 - Promoting a successful and inclusive Camden economy
 - CS11 - Promoting sustainable and efficient travel
 - CS13 - Tackling climate change
 - CS14 - Promoting high quality places and conserving our heritage
 - CS15 - Protecting and improving open spaces & biodiversity
 - CS18 - Dealing with waste
 - CS19 - Delivering and monitoring the Core Strategy
- DP2 - Making full use of Camden's capacity for housing

- DP3 - Contributions to supply of affordable housing
- DP5 - Housing size mix
- DP6 - Lifetime homes and wheelchair homes
- DP13 - Employment sites and premises
- DP16 - Transport implications of development
- DP17 - Walking, cycling and public transport
- DP18 - Parking standards and the availability of car parking
- DP19 - Managing the impact of parking
- DP20 - Movement of goods and materials
- DP21 - Development connecting to highway network
- DP22 - Sustainable design and construction
- DP23 - Water
- DP24 - Securing high quality design
- DP25 - Conserving Camden's heritage
- DP26 - Managing impact of development on occupiers and neighbours
- DP28 - Noise and vibration
- DP29 - Improving access
- DP31 - Provision of and improvements to public open space
- DP32 - Air quality

Supplementary Planning Policies

Camden Planning Guidance

CPG1 Design (2015)

CPG4 basements (2015)

CPG6 Amenity (2011)

CPG7 Transport (2011)

CPG8 Planning Obligations (2015)

Fitzjohns Netherhall Conservation Area Statement 2001

National Planning Policy Framework 2012

The London Plan 2016

Noise Policy Statement for England 2010

Assessment

Proposal

Permission is sought to extend of the house by adding two basements. The creation of the basements would require the demolition of a single storey self-contained studio and 2x single storey outbuildings, which would be rebuilt in facsimile. The replacement studio would no longer be self-contained and would instead provide ancillary accommodation for the main house

The principal considerations material to the determination of this application are summarised as follows:

- Land use
- Heritage impact
- Basement impact
- Construction Impact
- Amenity
- Transport
- Trees
- CIL

Land use

Loss of residential unit

The proposal to extend the house would result in the loss of the self-contained studio, as the replacement studio building would become ancillary to the main house. Policy DP2 (Making full use of Camden's capacity for housing) seeks to protect residential floorspace and although there would be an overall increase in floorspace, the proposal would result in the loss of a residential unit. However DP2 only seeks to prohibit the net loss of two or more residential units, as such the proposal would not conflict with DP2.

Heritage impact

The application is identical to the first revision to Scheme 1 whereby an octagonal replacement studio and dining room extension are omitted from the scheme and the existing outbuildings and studio would be demolished, to facilitate the basement works, and rebuilt in facsimile. As such there would be little difference in the appearance of the site above ground preserving the character and appearance of the conservation area and the setting of the nearby listed buildings. The remaining subterranean works proposed are the creation of a covered lightwell at the rear of the property to house plant and the basements in front of the house to accommodate a swimming pool and to the side/rear to house the media room.

The site

The site comprises a two storey house with attic and semi basement set within a large plot, and a separate self-contained studio. The main house is Georgian, dating from the 1770's, and listed Grade II. It sits within an extensive garden and is set well back from the road, accessed via a driveway off Rosslyn Hill. To the east of the house, and within its curtilage, is a single storey post-war studio. To the west are two timber sheds/workshops.

Bordering the site to the west is Lyndhurst Hall, built in 1883 as the Congregational Chapel, and itself listed Grade II. The hall now houses a recording studio known as Air Studios. To the south is Belsize Lane which is a quiet residential street, and immediately to the east are nos. 9 – 9d Rossllyn Hill a modest, post-war two storey terrace whose garages abut the studio on the site.

Impact of the proposals

The elevations have all been altered in the past, and particularly intensively at basement level; on the north-east elevation, all the windows at this level are modern replacements after twentieth-century interventions. The basement also contains few original features internally, and particularly few in the proposed playroom, from which access will be sunk to the proposed swimming-pool sub-basement. No original or historic decorative finishes survive in this room, and the floor has been renewed, so no fabric of special interest will be lost in order to construct the staircase proposed for the north-east corner. Access to the media room would be through existing void at the side which also provides access to an existing vault.

These functional basement rooms and spaces are of limited significance in their layout and form, so the incongruous presence of a staircase will not harm their historic interest, while the narrow connections and descent from the main body of the house would keep the new volume at sufficient distance from the historic plan-form to have no adverse effect on appreciation of the house's significant hierarchy of spaces. Minor infill of the modern volume and finishes of the lightwell, and on the opposite side of the house where limited excavation would install a plant space, discretely enclosed from the lightwell by appropriately-designed doors, would cause no harm to the conservation area, nor to the special interest of the listed building.

With no loss of fabric of special historic interest and very limited impact on spatial qualities which contribute to the architectural and historic interest of the building, the proposal does no harm to the special interest of the listed building and conserves the character and appearance of the conservation area. As such the proposal would comply with policies CS5, DP24 and DP25, and so does not conflict with the statutory duties set out in ss.16, 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, as amended by the Enterprise and Regulatory Reform Act 2013.

Risk and neighbouring impacts

The applicant's and the Council's own consultants have undertaken thorough impact assessments on the excavation and construction and find no structural risk to the listed building itself, or to the neighbouring listed Lyndhurst Hall. Air Studios, which occupies the former church, cites a further risk to that listed building which might arise if damage to the viability of their business were to cause them to vacate. Their use of the church as a recording studio is recognised and appreciated as a viable use of the listed building, but the Council does not consider the risk to their business sufficiently pressing to represent a threat to the listed building itself.

Basement impact

The proposal would provide a small basement plant room to the rear of the property measuring approximately 2m x 5m with an external depth of approximately 3.3m. It is also proposed to construct two new basements, one to the north east in front of the house and under the driveway to accommodate a swimming pool and one to the side/rear adjacent to the flank wall of Air Studios to house a media room. The basement housing the swimming pool would measure approximately 7m x

18m with a footprint of approximately 135sqm. The swimming pool would extend to a maximum depth of 7m bgl (below ground level) and a sub-basement plant room would extend to approximately 7.3m bgl. The second basement would be to the west of the house and come close to the boundary of Lyndhurst Hall. It would have had a footprint of 52sqm and a depth of 4.2m bgl and house a media room.

The original Basement Impact Assessment by Alan Baxter Associates (dated March 2015) identifies the site as sloping gently to the south east. It identified no local surface or below groundwater features close to the site, but groundwater was encountered between depths of 0.5m and 3m. Borehole investigations revealed the underlying strata to be made ground down to a depth of between 1 and 2.6m bgl, with London clay beneath down to at least 20m. The structural form of the proposed basements would be a combination of contiguous and secant bored piled walls, with reinforced concrete walls in some areas where the basement faces the existing lightwells. The first ground movement assessment identified the impact on surrounding buildings to be no greater than scale 2 on the Burland category. The BIA identified the foundations of Lyndhurst Hall bearing into the London Clay effectively blocking groundwater flows to the site. The BIA concluded that the proposal would have a limited impact on the stability of neighbouring buildings and a legible impact on groundwater or surface water.

Air Studios objected in June 2015 with a technical report from GEA who objected that detailed design will need to be undertaken together with monitoring before, during and after construction and a structural appraisal of Lyndhurst Hall will need to be part of any baseline study. GEA also considered the analysis to be inadequate (using CIRIA C580). It was also claimed that the BIA did not properly consider the shallow depth of groundwater and how this would affect temporary works, and highlighted how the creation of a basement and lift at Lyndhurst Hall in the early 1990s caused a significant inflow of groundwater which required a pumping solution which is still in operation, and indicates groundwater would flow under Lyndhurst Hall rather than around it, and suggests anecdotally of a local groundwater feature below Lyndhurst Hall attributed to the River Fleet. Corbett and Tasker (on behalf of Air Studios) commented that the Burland Scale cannot be used on its own as a direct measure of damage to property. They also stated that no inspection of Lyndhurst Hall has been undertaken, nor a full assessment of the structural fabric or sections showing the relationship of the basement with Lyndhurst Hall provided.

In response, Alan Baxter Associates provided more analysis of Lyndhurst Hall and noted that contiguous piling is proposed to minimise and control ground movements. CPG4 requires the impact on adjoining buildings to be less than category 2, which was confirmed in the BIA, and further assessment indicated the impact on Lyndhurst Hall to be category 1. They point out the walls of Lyndhurst Hall are founded on deep strip footings deep in the London clay and are particularly robust and in good condition, and the use of lime mortar means they are more tolerant to movement than modern buildings. They contend lift pit may have been flooded by a drain, which is adjacent to the pit, and note the River Fleet is 400m away, nevertheless the lift pit is on the west i.e. on the opposite side of Lyndhurst Hall from the proposed basement (media room).

Alan Baxter Associates also provided a revised BIA which was reviewed by Campbell Reith on behalf of the Council in October 2015. They raised numerous points including that the location of exploratory holes was at variance with those shown on the location plan and in the ground investigation report, the implications of the London clay swelling and the use of compressible slab void filler should be clarified, with further investigation of the foundations of Lyndhurst Hall and subterranean water flow to confirm that Lyndhurst Hall presents an impenetrable barrier to groundwater, and it is unclear which of the two basements is being evaluated at any given point in the BIA. Campbell Reith concluded that a

number of items needed to be clarified and a Basement Construction Plan (BCP) should be prepared.

Corbett and Tasker reiterated that a full and proper review of the construction and condition survey of Lyndhurst Hall is required, the applicants structural drawings of Lyndhurst Hall are incorrect and a solitary trial pit is not representative of the whole building, more detail would be required of the controls of the construction process, including movement monitoring and propping proposals, and a more extensive study of ground movements and its effects on Lyndhurst Hall are required. In response to the Campbell Reith Review, Peter Corbett largely agreed with the findings of Campbell Reith and their requirement for further information, investigation and clarification.

Air Studios also commissioned First Steps to provide a geological and hydrological report (November 2015) which concluded that the ground on site contains a number of potential problems all of which have been seen operating at St Stephen's Church across the road, and consider that further investigation is required. First Steps submitted an addendum to this report (dated January 2016) and considered that the investigation for the application site did not fully explore the level of groundwater and its response to rainfall, the nature of groundwater flow across the site, the mechanical properties of the ground on which Lyndhurst Hall is founded, and the mechanical properties of the ground through which the basement excavations will penetrate.

Campbell Reith carried out a further audit of the revised BIA taking into account the October objections from Corbett and Tasker and the November report from First Steps. Campbell Reith's report of February 2016 noted that groundwater levels between January 2015 and March 2015 varied from 0.6m bgl to 2.95m bgl and the revised BIA argues that groundwater flows in the made ground/head are diverted around 11 Rosslyn Hill by the shielding effect of the sub-surface walls and foundations of Lyndhurst Hall. Campbell Reith advised that consideration should be given during any to dewatering to preclude any settlement to the foundations to neighbouring properties. They consider the calculations for the design of the perimeter walls to be appropriately conservative, and although the pile design is simplistic, more sophisticated calculations are expected for the detailed design stage. Revised calculations for ground movements due to pile installation and pile deflection indicate the damage category for both 11 Rosslyn Hill and Lyndhurst Hall to be category 0 (negligible). Campbell Reith recommended an internal inspection of Lyndhurst Hall be carried out as part of the party wall award to check the assumptions made in the ground movement assessment and that a Basement Construction Plan (BCP) be prepared and approved before work commences to include:

- a) Detailed design and sequencing for temporary works noting the comments made within the audit.
- b) Consideration of the impact of potential archaeological issues on the construction programme and the implications for design.
- c) Confirmation of the appointment of Party Wall surveyors.
- d) Proposals for excluding water from excavations and avoiding the loss of fines.
- e) Confirmation of drainage proposals for the under slab voids.
- f) Confirmation of proposals for monitoring and condition surveys with appropriate mitigation measures.

First Steps submitted a further statement from a Mr Harries, the project director during the refurbishment of the studio, who witnessed a 1991 flood event which had washed away the foundations of an adjacent cottage and lead to the installation of the automatic pump under Lyndhurst Hall to protect it from a future flood event. First Step conclude that groundwater in the hill can respond very quickly to rainfall, soakaways and leakage from utilities. Alan Baxter Associates responded that Campbell Reith are satisfied with the information provided thus far, and point out that extensive site investigation works have been carried out. They state that the level of groundwater and its response

to rainfall is not unusual and that the underlying clay is an impermeable layer overlain by drift deposits.

Campbell Reith advised that their concerns have been answered and the basement impact is acceptable and in line with policy DP27 subject to a Basement Construction Plan.

Archaeology

Greater London Archaeological Advisory Service (GLAAS) advised in May 2015 that although the site is not within an archaeological priority area, the existing building was constructed in 1770 and there may have been at least two earlier phases of building on the site. The site therefore has the potential for the remains of the earlier phases of development and GLAAS recommended that the further studies should be undertaken before any decision is taken to establish the significance of the site and the impact of the proposed development.

Further investigation was carried out in consultation with GLAAS who advise that after careful consideration of the results and the proposals, feel that the most pragmatic mitigation strategy would be for a programme of archaeological investigation in line with an archaeological condition. Although there is evidence of a 17th century structure which could be part of Wake's original house, the evaluation as a whole has shown that survival may not be extensive and when taken into consideration the alignment of the wall in trench 2 much of the internal surfaces are likely to have been impacted by the existing house. The proposed works however will still result in the localised loss of parts of this little understood heritage asset and so a programme of archaeological excavation and watching brief would be appropriate. As such GLAAS recommend that the archaeological interest should be conserved by attaching a condition that no demolition or development take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority.

Construction impact

Air Studios comprise four major recording studios, including the main hall, six editing and recording suites and two mastering suites. The studios, other than the main hall, which is the largest and capable of housing a full orchestra, are built with a "box within a box" construction to isolate most forms of external noise so that noise from outside does not disrupt recording and reciprocally so recordings and rehearsals do not harm the amenity of adjoining residential occupiers. The studios, apart from the main hall, also utilise floating floor systems to prevent vibration affecting recordings. Air studios contend that whilst their sound and vibration proofing measures protect the studios from existing noise and vibration levels, the noise from construction would be greater than ambient noise levels, and vibration from piling during construction and deflected from the constructed basement would be greater, and fundamentally different in character, than the type of vibration their studios are designed to be protected from.

The applicant originally submitted two noise reports by Cole Jarman. The first, dated January 2014, deals with just the swimming pool plant proposed for the sub-basement, the second, dated March 2015 also considers the air source heat pumps and condenser proposed to the rear of the house. The reports identify the closest noise sensitive receivers to be the neighbouring residential properties on Rosslyn Hill and Belsize Lane. Concluding that with the appropriate attenuation noise from the plant would comply with the Council's noise standards.

Vanguardia (on behalf of Air Studios) responded in June 2015 that the greatest risk of disturbance

would be the excavation and piling works which are proposed alongside Lyndhurst Hall and which are likely to generate high levels of noise and in particular ground borne vibration which manifests itself as re-radiated noise in the studios. They state that ground borne noise and perceptible vibration are hard to predict and when they occur, hard to control, and present a significant risk to the operation of the studios. There are no predictions of airborne noise, re-radiated ground borne noise and vibration levels from the construction works, and there are no mitigation or management plans provided with the application to minimise any risk from noise and vibration. Vanguardia refer to the work of the BBC and others following the European standard of background Noise Rating curves (NR Curves). For television studios the BBC criterion is typically equivalent to NR25 and NR20 for radio drama. Vanguardia undertook sound level measurements showing the hall and studios as having a Noise Rating of NR15. This rating level is considered by Vanguardia to be "exceptionally low" and required for the type of multiple microphone techniques used in the studios, especially when recording a full symphony orchestra. This indicates that any low level airborne noise or re-radiated noise from outside construction works will be readily noticed and be a potential source of disturbance in such a quiet environment. At this stage Vanguardia proposed the following target levels: internal noise NR20, re-radiated noise 25dB LA_{max,s}, vibration for occupiers 0.5mm.s⁻¹, structural vibration 3.0mm.s⁻¹

In response Cole Jarman submitted a further report (August 2015) and raised their own queries about Vanguardia's report such as under what conditions their measurements were made and how long were the measurements made for. They state that orchestral sound levels can locally get up to around 100 dB LA_{eq} with peaks levels as high as 130 dBA, and amplified bands louder still. The applicant's property 11 Rosslyn Hill is at its nearest point only 7m from the hall recording studio and yet the applicants do not hear music from the hall, despite likely sound levels at times inside up to 100 dB LA_{eq}. It is therefore clear that when the studios were formed sound insulation measures were built into the studios, including the hall, in order that music inside the building would not be heard outside the building in the neighbouring dwellings. Those sound insulation measures will work both ways, also protecting the studios against external noise.

They state that the piling would be undertaken using continuous flight auguring, whereby the holes for the piles are created by auguring (drilling) into the ground, not by impact driven techniques. This means there would not be impulsive noise or any significant vibration generated. They recognise that the construction logistics plan is not a construction management plan and offer certain mitigation measures such as restricted hours of operation for the noisier elements of work; noise and vibration limits at the site boundary to ensure minimal impact on nearby sensitive locations, noise monitoring at the site boundary, and best practical means for any excavation and construction activities, including consideration of piling/demolition/excavation techniques.

The applicant had offered to co-ordinate activity so as not to take place during recordings, but Air Studios maintain that they are a 24 hour operation. They point out that if noise within the studios can be as high as 130dB this would not be constant as periods of high noise are interspersed with periods of low or no noise, and that external ambient noise levels are quite high and would mask any noise from the studios, whereas in the studios even the slightest noise can be picked up and ruin a recording, and that sirens from emergency vehicles and low frequency noise from trains can be heard in the studios. They consider Cole Jarman's figures confusing with no explanation as to how they have been calculated. They point out that continuous flight auguring can produce high noise levels when the augur encounters underground obstructions, when the augur is cleaned and from the roar from the power pack. They do not consider that noise and vibration limits monitored at the site boundary would be appropriate and suggest a synchronised method of noise monitoring inside and outside the building that correlates the internal and external levels would be more appropriate.

In February 2016 Air Studios submitted a structural and ground dynamics report by Civil Engineering Dynamic Ltd (CED). This report refers to an increased impact of ground borne noise from railway tunnels, as low noise and vibration can be detected in the main hall from northern line trains passing by, and could be amplified by deflecting off basement walls, and could potentially affect the other studios. The report also highlights structural and cosmetic imperfections in the building and notes that damage to the building fabric would harm the acoustic integrity of the building fabric and impair the sound attenuation performance between studios and to the external environment.

Cole Jarman and Alan Baxter responded in March 2016. They point out that construction issues have been dealt with at length and there is no structural damage predicted as accepted by Campbell Reith. They do not consider it credible that significant energy could be reflected or re-radiated into Lyndhurst Hall from the proposed basements.

CED responded (April 2016) and do not accept that no structural damage will be caused. They reiterate that ground borne noise and vibration from the Northern line tunnels is a current issue for the studios, and were when the studios were conceived, and anything that could increase what is already a difficult situation within the main hall needs to be fully examined as any deterioration cannot be reversed.

It is clear that the applicants and the objectors do not agree what the actual impact of the proposal may be on the studio, and Environmental Health officers consider that the technical information submitted is largely theoretical and note that ground borne noise and vibration is difficult to accurately predict. Officers agree that from an environmental noise perspective it is important to preserve the current noise and vibration levels within the studios so as not to have an adverse effect on the running of the business, and consider that once construction is complete there is very little evidence to show that there will be a negative impact from the actual use of the development. Officers consider that there are certain construction management issues that have not been addressed such as how noise mitigation would, or could, be carried out during the actual construction phase and how piling vehicles can be brought on site by 7.5T vehicles, as the vehicular access to the site is quite restrictive, but such details could be dealt to an extent with in a revised Construction Management Plan.

Environmental Health officers advise that if permission were granted a demolition/construction management plan would need to be secured as part of a section 106 agreement to include control measures for, among other things, construction site acoustic screening, noise, vibration control, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary, and advance notification to neighbours and other interested parties of proposed works.

It would also be necessary to attach conditions requiring details be submitted for approval of the external noise levels emitted from any plant/ machinery/ equipment and mitigation measures as appropriate to ensure that the external noise levels will be lower than the lowest existing background noise level by at least 10dBA. Details of building site vibration levels generated by the demolition/construction etc., together with appropriate mitigation measures would also need to be approved. Environmental Health officers also recommend a noise assessment be submitted detailing proposed construction site noise levels and proposed site sound acoustic screening that will meet the following studio internal noise limit of 25dB L_{Amax,s}, and that a condition restrict construction noise break-in from the development to achieve an internal noise level of NR15 in any recording studio room.

However, it is considered that, at this stage, the applicants have not sufficiently demonstrated that such conditions or obligations could be met and therefore granting permission could result in a

scheme which could not be implemented. The sole purpose of the sample noise and vibration testing (the details of which are currently being discussed) is to determine whether the impact of noise and vibration can be adequately mitigated, and it would be premature to grant permission until more testing has been carried out and a more accurate assessment of the impact considered.

Amenity

The proposal would result in no noticeable changes above ground, so there would be no impact on privacy, sunlight or daylight to neighbouring residential properties. The impact of noise and vibration from construction on nearby residents could be controlled with an appropriate construction/demolition management plan. However the amenity of the studio also needs to be taken into consideration.

The impact of noise and vibration is an amenity issue and dealt with by local and national policies and guidance. The National Planning Policy Framework expects the planning system to contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability (109).

The Noise Policy Statement for England (NPSE) aims to promote good health and a good quality of life through the effective management of noise within the context of sustainable development (p.3). The NPSE apply to all types of noise including "neighbourhood noise" which is defined as noise arising from within the community such as industrial and entertainment premises, trade and business premises, and construction sites (p.6). Planning Practice Guidance (Noise) reflects this and whilst concentrating on the impact of noise from development on residential amenity it also refers to its impact during the construction phase where applicable (para 004).

Camden's Core Strategy Policy CS5 seeks to protect the amenity of residents, workers and visitors by making sure that the impact of developments on their occupiers and neighbours is fully considered. It states that the Council will protect the amenity of Camden's residents, and those working in and visiting the borough by making sure that the impact of developments on their occupiers and neighbours is fully considered and requiring mitigation measures where necessary.

Development Policy DP26 (Managing the impact of development on occupiers and neighbours) states that the Council will protect the quality of life of occupiers and neighbours by only granting permission for development that does not cause harm to amenity, with one of the factors being noise and vibration. Policy DP27 (Basements and lightwells) requires the council to consider whether schemes will harm the amenity of neighbours, and policies DP26 and DP27 both advise that the impact of construction can be mitigated by a construction management plan.

Development Policy DP28 deals specifically with noise and vibration by setting noise standards and states that the Council will seek to minimise the impact on local amenity from the demolition and construction phases of development. Where these phases are likely to cause harm, conditions and planning obligations may be used to minimise the impact.

Camden Planning Guidance (CPG6 Amenity) also states "if your proposal could result in noise and vibration that would cause an unacceptable impact to nearby uses or occupiers, or proposes sensitive uses near a source of noise or vibration, and cannot be adequately attenuated then planning permission is likely to be refused" (Para 4.9).

As such, the above policies and guidance recognise that construction noise can have an adverse

amenity impact, not only on residents, but on uses and workers as well, and that conditions and obligations may be used to mitigate such impacts. However, if it cannot be substantiated that conditions or obligations could mitigate such impacts then a proposal would be contrary to the above policies and guidance.

Notwithstanding their objections, and without prejudice, Air Studios has agreed to work with the applicants to carry out noise and vibration testing to create a better understanding of how the building works would affect the operation of the studio. The first stage is agreeing a method statement which would outline the parameters for testing, once this is agreed a sound source will be used to produce sound levels comparable to construction noise on site, with sample piling carried out to test the impact of vibration. Measurements will be taken from inside Air Studios to give as accurate as possible an indication of the impacts noise and vibration. The results will then determine what degree of attenuation will be required. It cannot be guaranteed that Air Studios will remove their objection, but this level of testing will give the Council, and both sides, more certainty as to whether the proposed mitigation will serve its purpose. At this stage, both parties are still in the process of agreeing the method statement.

Until the testing has been carried out to the satisfaction of the Council's Environmental Health officers, it is considered that the applicant has failed to adequately demonstrate that the impact of noise and vibration from construction would not harm the amenity of Air Studios. One of the guiding principles of sustainable development is using sound science responsibly – ensuring policy is developed and implemented on the basis of strong scientific evidence, whilst taking into account scientific uncertainty (through the precautionary principle) as well as public attitudes and values.

Transport

Management of Construction Impacts on the Public Highway in the local area

This site is located in the Fitzjohn's Netherhall Conservation Area. It is also located directly adjacent to Lyndhurst House Preparatory School. Transport officers' primary concern is public safety but they also need to ensure that construction traffic does not create (or add to existing) traffic congestion in the local area. They acknowledge the proposal is also likely to lead to a variety of amenity issues for local people (e.g. noise, vibration, air quality). The Council also needs to ensure that the development can be implemented without being detrimental to amenity or the safe and efficient operation of the highway network in the local area.

Camden Development Policy DP20 states that a Construction Management Plans should be secured to demonstrate how a development will minimise impacts from the movement of goods and materials during the construction process (including any demolition works). Camden Development Policy DP21 relates to how a development is connected to the highway network. It is noted that a construction logistics plan was originally and further details received following comments from transport officers. It is considered that the information submitted is appropriate for this stage of the application and a full CMP, incorporating the recommendations of Environmental health officers, should be secured and agreed as part of a section 106 agreement if the application were acceptable.

Highway and Public Realm Improvements directly adjacent to the site

Policy DP21 states that 'The Council will expect works affecting Highways to repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces following development'. The footway and vehicular access directly

adjacent to the site on Rosslyn Hill could be damaged as a direct result of the proposed works. The Council would therefore need to secure a financial contribution of £8,130.03 (tbc) for highway works as part of a section 106 planning obligation if planning permission is granted.

Trees

The applicant has demonstrated that the scheme could go ahead without adversely affecting the trees to be retained both on and off site. The arboricultural method statement states that any roots found during excavation will be retained, protected and worked around in line with BS5837:2012 (Trees in relation to Design, Demolition and Construction). The removal of a category C Laburnum tree is considered acceptable due to its low contribution to the landscape and its close proximity to a neighbouring property. If the application were acceptable conditions should ensure a replacement tree is planted along with further tree protection details. The proposed access facilitation pruning on the entrance road is considered to be of a minor nature.

Community Infrastructure Levy (CIL)-

If the application were acceptable, the scheme would be subject to Mayoral and Camden CIL, based on an uplift of residential floorspace of approximately 170sqm. The contribution would be £8,500 Mayoral (170 x £50) and £85,000 Camden (170 x £500).

CONCLUSION

There would be little perceptible change to the site above ground, so the proposal would preserve the character and appearance of the conservation area. Below ground, the basements would be set away from the house thereby preserving its original plan form and resulting in a minimal loss of historic fabric and no harm to the special interest of the listed building. The impact of the basements on the structural stability of the host building and neighbouring Lyndhurst Hall, and on the local water environment, have been fully assessed by the Council's independent assessor and found to be acceptable, subject to a Basement Construction Plan. A Construction Management Plan could ameliorate some of the impacts of construction, such as dust and vehicle movements, and would be secured by a section 106 agreement if the proposal were acceptable, however the applicant has failed to demonstrate that the impact of noise and vibration on the adjacent recording studio could be adequately controlled at this stage.

The importance of the studio to the British film, music and television industries is without question and demonstrated by the scale of objection to the proposal. The Secretary of State (DCMS) and the Council's own Arts and Tourism and Economic Development teams all recognise and value the contribution that the studio makes to the cultural landscape and the economy of the country, and do not want to see the studios lost. Policies and guidance advise that the amenity of businesses, as well as residential occupiers, should be protected from the adverse impacts of noise and vibration from development. They also take into account the impacts from construction, which can normally be mitigated by controls secured by condition or obligation. However a recording facility presents a unique situation whereby the threshold of tolerance to noise and vibration is much lower than the observed effects for health and quality of life. In this instance the Council considers it imperative that the applicants demonstrate that the impacts of construction can be adequately mitigated, and at this moment in time the Council cannot say with any degree of certainty that this is the case. As such, attaching conditions or obligations that could potentially not be discharged would make the scheme implementable.

The Council welcomes the fact that the applicant and the objector are working together to agree a process of real world testing that would be more definitive than the largely theoretical assumptions made thus far. However, at this stage the applicant has failed to adequately demonstrate that the proposal would not harm the amenity of the adjacent recording facility contrary to policies CS5 and DP26 and planning permission would be refused had an appeal not been made. In listed building terms, the impact on amenity cannot be taken into account, and as the proposals are acceptable in listed building terms listed building consent would have been granted had an appeal not been made.

Recommendation

Refuse Planning Permission (had an appeal not been made)
Grant Listed Building Consent (had an appeal not been made)

5 Decision notices

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Application Ref: **2015/7079/P**
Please ask for: **Rob Tulloch**
Telephone: 020 7974 **2516**

15 November 2016

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)
NOTIFICATION OF DECISION WHEN AN APPEAL HAS BEEN MADE
REFUSAL

Address:
11 Rossllyn Hill
London
NW3 5UL

Proposal:

Excavation to create basement extension and sub-basement plant room to east of property, partial demolition of single storey self-contained studio above and like for like replacement as ancillary accommodation to main house, demolition and replacement of 2x single storey outbuildings above proposed basement extension to west of property.

Drawing Nos: Site Location Plan 001; 002; 003; 010; 011;012;013; 020; 021; 022; 040; 041; 042; 050; 110 Rev A; 111 Rev B; 112 Rev B; 113 Rev A; 14 Rev A; 140 rev A; 141 Rev A; 142 Rev A; 143 Rev A; 144 Rev A; 145 Rev B; 146 Rev B; 150 Rev A; 151 Rev A; 152 Rev A; 153 Rev A; Design and Access Statement by Thomas Croft Architects dated 2nd April 2015

Historic Building Report by Donald Insall Associates dated July 2015; Outline Construction Logistics Plan by Paul Mew Associated dated August 2015; Basement Impact Assessment Rev A by Alan Baxter & Associates dated August 2015; Plant Noise Report by Cole Jarman dated 6th January 2014; Plant Noise Assessment by Cole Jarman dated 25th March 2015; Structural Engineering Note by Cole Jarman date 7th August 2015; Letters from Cole Jarman dated 13th & 25th August 2015, 2nd & 14th March 2016; Arboricultural Impact Assessment Rev 3 & Arboricultural Impact Method Statement by Boward Oxford Ltd Rev 3 dated August 2015; Air Spade Root Investigation, Tree Protection Plan, Root Protection and Impact maps by Boward Oxford Ltd; Archaeological Assessment by PCA Ltd dated August 2015; Archaeological Evaluation by PCA Ltd dated December 2015; Pool Plant Spec by Clearwater dated 2nd February 2015; Pool Plant Drawing 7; Energy



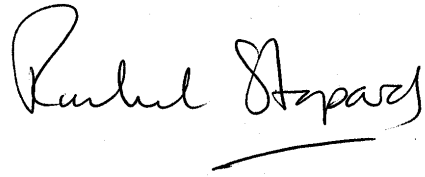
The Council has considered your application and had an appeal not been made to the Secretary of State, would have refused Full Planning Permission for the following reason(s):

Reason(s) for Refusal

- 1 The applicant has failed to demonstrate that construction noise and vibration would not harm the amenity of the neighbouring recording studio, and the area generally, contrary to policy CS5 (Managing the impact of growth and development) of the London Borough of Camden Local Development Framework Core Strategy and policies DP26 (Managing the impact of development on occupiers and neighbours) and DP28 (Noise and Vibration) of the London Borough of Camden Local Development Framework Development Policies
- 2 The proposed development, in the absence of a legal agreement securing a construction management plan, would be likely to give rise to conflicts with other road users, and be detrimental to the amenities of the area generally, contrary to policies CS5 (Managing the impact of growth and development), CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP20 (Movement of goods and materials), DP21 (Development connecting to highway network) and DP26 (Managing the impact of development on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.
- 3 The proposed development, in the absence of a legal agreement securing a basement construction plan requiring, among other thing, further investigation, assessment and monitoring, would fail to demonstrate that the basement works would not harm the local built or natural environment contrary to policies CS5 (Managing the impact of growth and development), of the London Borough of Camden Local Development Framework Core Strategy and policies DP25 (Conserving Camden's heritage), DP26 (Managing the impact of development on occupiers and neighbours) and DP27 (Basements and lightwells) of the London Borough of Camden Local Development Framework Development Policies.
- 4 The proposed development, in the absence of a legal agreement securing necessary contributions towards highway works would fail to make provision to restore the public highway to an acceptable condition contrary to policies CS11 (sustainable travel) and CS19 (Delivering and monitoring the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and policies DP17 (walking, cycling and public transport) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies.

Executive Director Supporting Communities

Yours faithfully

A handwritten signature in black ink that reads "Rachel Stopard". The signature is written in a cursive style with a horizontal line underneath the name.

Rachel Stopard
Executive Director Supporting Communities

Executive Director Supporting Communities

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2015/7079/P

Thomas Croft Architects
9 Ivebury Court
322 Latimer Road
London
W10 6RA

Application Ref: **2015/7300/L**
Please ask for: **Rob Tulloch**
Telephone: 020 7974 **2516**

15 November 2016

Dear Sir/Madam

Town and Country Planning Act 1990 (as amended)
NOTIFICATION OF DECISION WHEN AN APPEAL HAS BEEN MADE
APPROVAL

Address:
11 Rossllyn Hill
London
NW3 5UL

Proposal:

Excavation to create basement extension with sub-basement plant room to east of property, partial demolition of single storey self-contained studio above and like for like replacement as ancillary accommodation to main house, insertion of a covered lightwell to south of property.

Drawing Nos: Site Location Plan 001; 002; 003; 010; 011;012;013; 020; 021; 022; 040; 041; 042; 050; 110 Rev A; 111 Rev B; 112 Rev B; 113 Rev A; 14 Rev A; 140 rev A; 141 Rev A; 142 Rev A; 143 Rev A; 144 Rev A; 145 Rev B; 146 Rev B; 150 Rev A; 151 Rev A; 152 Rev A; 153 Rev A; Design and Access Statement by Thomas Croft Architects dated 2nd April 2015; Historic Building Report by Donald Insall Associates dated July 2015

The Council has considered your application and had an appeal not been made to the Secretary of State, would have granted Listed Building Consent subject to the following condition(s):

Condition(s) and Reason(s):

- 1 All new work and work of making good shall be carried out to match the original work as closely as possible in materials and detailed execution.

Reason: In order to safeguard the special architectural and historic interest of the



building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

- 2 The works hereby approved are only those specifically indicated on the drawing(s) referred to above.

Reason: In order to safeguard the special architectural and historic interest of the building in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policy DP25 of the London Borough of Camden Local Development Framework Development Policies.

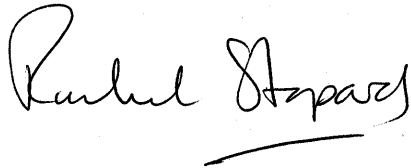
- 3 Detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority before the relevant part of the work is begun:

- a) Details including elevation and section plans at 1:10 and materials and finishes of all refurbished/replaced windows and doors.

The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

Yours faithfully



Rachel Stopard
Executive Director Supporting Communities

Executive Director Supporting Communities

6 Conclusion

The proposal is considered acceptable, apart from the impact of construction on the sensitive operation of Air Studios. The Council considers this to be a material consideration which has not been adequately addressed by the appellant and there is no certainty that conditions or obligations could successfully ameliorate the impact. As such, the proposal as it stands is contrary to the Council's policies which seek to protect amenity.

However, it must be reiterated that the Council is still determining a similar application and that acoustic experts on behalf of the appellant and the Studios are working together to establish a more accurate testing procedure which should produce more reliable and objective data.

As such, until more robust evidence has been submitted, the Inspector is respectfully requested to dismiss this appeal.

Yours Sincerely,

Rob Tulloch
Senior Planning Officer

Supporting Communities Directorate
Contact: Rob Tulloch
Direct Line: 020 7974 2516
rob.tulloch@camden.gov.uk