

10 Fitzroy Park
London N6 6HU

Ms K Smith
Regeneration and Planning
London Borough of Camden
5 Pancras Square
London
N1C 4AG

10 February 2017

Dear Ms Smith

5 Fitzroy Close, N6 6JT - 2016/6844/P 2016/6977/P

We are the owner/occupiers of 10 Fitzroy Park which immediately adjoins the current application site. We are concerned in respect of both current applications. We have only just found out, via a neighbour, that there are two planning applications with the Council in connection with works to 5 Fitzroy Close. Even though our property immediately backs on to this site for some reason we have not been consulted. In view of this we trust that you will excuse, and take into full consideration, the contents of our letter despite the fact that it is submitted slightly late.

We purchased our property in 2005 but did not move in until December 2008 following extensive refurbishment including the construction of a swimming pool. We have not been made aware by the Council of any of the previous applications relating to 5 Fitzroy Close. We have now reviewed the previous planning permissions; as you will be aware these have not been implemented. The current application should be properly reconsidered in the context of current circumstances and also current policies.

Circumstances have changed in that our swimming pool has been constructed in accordance with our planning permission Ref: 2007/1505/P. Part of our concern with the current proposals is the way in which that part of our garden which contains our swimming pool will be particularly overlooked. We are also aware that planning policies have changed in the interim. The current applications must be fully considered on the basis of these new policies. We are concerned to hear that when a call was made to you on our behalf it appeared as if you had already pre-determined the applications, stating to our advisor that these applications were for renewal of previous planning permissions and would therefore probably be approved again.

Application Ref 2016/6977/P – Erection of Pool Enclosure and Associated Outbuildings

The swimming pool application involves the raising of the boundary wall, that boundary being the shared boundary with our rear garden. 10 Fitzroy Park is a listed building and the unbroken original wall around it is also formally listed. This is not acknowledged in the Design and Access Statement. No application for listed building consent has been submitted although we understand this would be required. Indeed it appears as if this issue has previously been ignored by the Local Authority in the determination of the earlier planning permission for this development.

The latest such permission (Ref: 2013/1616/P) was granted on 10 June 2013. Development has not commenced. As the permission has lapsed the Council should be treating the current application Ref: 2016/6977/P as a full application; not a renewal.

The raising of the listed boundary wall with the new swimming pool enclosure attached to it with a modern curved roof form will be wholly out of keeping and detrimental to the setting and grounds of the listed building that is 10 Fitzroy Park.

Thus despite the fact that permission has previously been granted for this development as there was never a listed building consent granted it could not have been implemented. We trust that now we are bringing this error on the part of the Council to your attention you will give the matter very careful consideration when determining this current application. Simply because a mistake has been made previously does not mean that it should be repeated.

Application Ref 2016/6844/P – Extensions and Alterations to Existing House

The application form describes the development as renewal of planning permission Ref: 2012/5689/P which was granted in December 2012. Development has not commenced and the permission has already lapsed. Therefore once again this should be treated as a completely fresh proposal. The fact that it has been previously approved (we were aware first in 2006 (Ref: 2005/4621/P) and then subsequently in 2009 (Ref: 2009/4343/P) prior to the most recent permission in December 2012 (Ref: 2012/5689/P)) does not mean it is appropriate to approve again.

The proposals involve removal of the entire roof, its replacement with a glazed and rendered addition at roof level including two large terraces together with a substantial two storey side extension on the eastern elevation adjacent to our garden.

The site location plan submitted with the application is out of date. In accordance with our planning permission Ref 2007/1505/P our swimming pool is to the south-west of our house, very close to 5 Fitzroy Close. This location was chosen because of its privacy. That will be entirely lost as a result of these proposals.

The proposals remove a fairly standard pitched roof to replace it with accommodation at roof level together with the two very substantial terraces. These will completely overlook almost all of our garden. It seems that in the determination of the previous applications no thought has been given to this. Perhaps this is due to the fact that as there was nobody residing at our house at the time the first two applications were considered there was

nobody to make any objections. Unfortunately with the 2012 application, as with the current application, we were not consulted and knew nothing about it.

To exacerbate matters the change in ground levels means that that part of our garden containing our swimming pool will be at roughly the same level as the roof terraces (this can be seen from Section AA on Drwg No 596-010).

We have reviewed the Officer's reports in respect of the previous applications. It is evident that the overlooking of our garden has not been assessed. Of course this is no reason to repeat the mistake. Indeed there is a fundamental error at Para 6.6 of the Officer's report regarding the 2005 application. It refers to the extension facing "a large open space in the rear garden of 10 Fitzroy Park". This is, however, our private rear garden. Para 6.8 of that same report refers to the distance from our nearest habitable room windows (stated as 50m) and on this basis the conclusion was reached that there would be no adverse effect on privacy. However this completely ignores the overlooking of our garden. We are entitled to privacy in our garden in exactly the same way as everybody else. The fact that we are fortunate enough to have a larger than average garden does not mean it is appropriate for it to be overlooked.

Planning Policies

It is considered that both applications fail to comply with numerous planning policies. Both fail to comply with the National Planning Policy Framework policies in respect of heritage assets. There are two heritage assets that we consider are harmed; the Highgate Conservation Area within which the site lies and also our listed building which includes the original brick wall around the garden that is to be built upon. Since the NPPF was only published in March 2012 it post-dates the original permissions and is therefore a change in material circumstances.

The Applicants and their Agents have failed to follow the requirements of the NPPF. Para 128 requires that they describe the significance of any heritage asset affected. This has been ignored. However we trust the Council will not ignore it in the determination of their application as we feel sure they would not want to face a Judicial Review of any decision they may make. Indeed Para 129 requires that Local Authorities to identify and assess the particular significance of a heritage asset that may be affected by a proposal. We do not consider that any aspect of either proposal, being wholly alien in terms of design and appearance, can be said to make a positive contribution to local character and distinctiveness as required by Para 131.

Similarly the proposals fail to take account of the relevant policies of The London Plan (the latest version of which only dates back to March 2016 and therefore clearly post-dates the Council's previous decisions in respect of the subject site). The overlooking of our garden from the proposed roof terraces to the house fail to comply with Policy 7.6 which includes a reference to buildings not harming the amenities of surrounding land and buildings with particular reference to privacy. Both applications fail to comply with Policy 7.8 which specifically relates to heritage assets and their settings being conserved.

Similarly the proposals fail to comply with a number of the Local Authority's own planning policies. We would particularly draw attention to failure to comply with Core Strategy Policy CS14 in respect of the protection of heritage assets and Policies DP25 and DP26 of the Development Policies Document. DP25 again relates to conserving the Borough's heritage. We consider that the swimming pool enclosure, building on to a listed wall, fails to comply with Part (g) of DP25 as it would harm the setting of a listed building. We believe both proposals fail to comply with Part (b) as they do not preserve or enhance the character and appearance of the Conservation Area.

The proposed alterations and extensions to the house itself also fall foul of Policy DP26 by way of the wholly unacceptable overlooking of our garden including our swimming pool where privacy is particularly important.

Conclusions

We are attaching a photograph taken from our dining room window looking to the roof of 5 Fitzroy Close. This shows the proximity, the impact of the change in ground levels and how badly overlooked our house and garden will be were the existing pitched roof at 5 Fitzroy Close to be replaced with two large flat roofed areas to be used as roof terraces. I am also attaching a photograph taken adjacent to our swimming pool looking towards the existing house at 5 Fitzroy Close. Again you clearly see the existing pitched roof which, it is proposed, be replaced with large terraced areas. It is evident that these will be the main external amenity spaces for 5 Fitzroy Close given that the swimming pool building is proposed to be constructed over most of their rear garden. Indeed the fact that the proposals show a barbeque as being sited on one of the terraced areas is indicative of the way in which these roof terraces are intended to be used. These are not small terraces or balconies for occasional use. They will be the main external amenity space for this family house.

We very much hope that the Council will be carefully considering these applications. As referred to above we consider that the previous swimming pool permission could not have been implemented in any event since the Council did not grant listed building consent for the works to alter the listed wall. Furthermore both permissions have lapsed; policies and facts on the ground (with the construction of our swimming pool) have changed in the interim and, as is clear from considering the original Officer's report, the applications were not properly considered on the basis of all relevant facts when they were first approved. Repeated mistakes, now that this has been drawn to your attention, are inexcusable and were the Council to ignore the important points we are raising we would be taking legal advice with a view to seeking a Judicial Review of the Council's decisions.

Yours sincerely

Olinka Pepovic & Matthew Benham