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Dear Sir/Madam,

Planning application relating to 26 Netherhall Gardens, London, NW3 5TL

I have been instructed by my client, Dome Assets Ltd, to submit a planning application in relation to 26 Netherhall Gardens, London, NW3 5TL.

This planning application is a resubmission of a previous planning application (ref no. 2015/3314/P) which was appealed on non-determination grounds on 04 March 2016 (ref no. APP/X5210/W/16/3145922). The Planning Inspector made a decision to dismiss the appeal on 7 October 2016 citing two reasons for dismissal:

1. Living conditions of occupiers at 24A Netherhall Gardens in respect to loss of daylight and increased sense of enclosure, and occupiers at 28 Netherhall Gardens in respect to loss of daylight and sunlight.
2. Lack of justification for the removal of trees between 24A and 26 Netherhall Gardens.

This planning application seeks to address the reasons for dismissal through a revised design and preparation of supporting information.

Dismissal reason 1

In response to the first reason for dismissal, the scheme has been amended to reduce building mass along the east and south elevations.

The revised scheme has been tested against the BRE guide relating to daylight and sunlight. The revised test complies with BRE recommendations relating to daylight (Vertical Sky Component test and Daylight Distribution test) and sunlight (Total annual sunlight hours test and Winter sunlight hours test). It is therefore concluded that the proposal will not harm the living conditions of occupiers at 24A Netherhall Gardens in respect to daylight and occupiers at 28 Netherhall Gardens in respect to daylight and sunlight. Please see the accompanying Sunlight and daylight report prepared by Rights of Light Consulting for further detail.

The revised scheme will achieve a minimum 4m setback from the southern boundary providing further relief to 24A Netherhall Gardens in terms of sense of enclosure. The revised scheme will ensure that a 45 degree angle of view is maintained from the centre of the window which is considered to be affected. It is therefore concluded that the proposal will not harm the living conditions of occupiers at 24A Netherhall Gardens in respect to sense of enclosure.

As a consequence of the reduction in building mass along the east and south elevations, minor amendments have been made to the following:

- The front entrance wall (3m in width) on the ground floor level has been slightly pulled forward (approximately 0.7m).
- A portion of the front wall (11m in width) on the second floor level has been slightly pulled forward (approximately 0.5m).
- A portion of the front wall (11.6m in width) on the third floor level has been slightly pulled forward (approximately 0.7m).

These are considered to be minor amendments which do not change the overall character and appearance of the proposed building. These changes are a direct response to the changes made to improve the living conditions of adjoining neighbours. The hierarchy and relationship between wall planes and floor levels will be preserved and the primary front building lines will be retained as per the existing proposal (ref no. 2015/3314/P and ref no. APP/X5210/W/16/3145922).

Dismissal reason 2

In response to the second reason for dismissal, further investigation has been carried out by Crown Consultants in relation to the removal of trees along the boundary between 24A and 26 Netherhall Gardens. A Tree Report accompanied by a tree schedule and plan has been prepared which provides detail of the trees along the boundary of 24A and 26 Netherhall Gardens. The Tree Report sets out that 5 trees are to be removed as they are located within the footprint of the proposal. However, their removal is acceptable as they are categorised as 'category C' trees – unremarkable trees of low quality and merit. Please see the accompanying reports prepared by Crown Consultants for further detail.

Other matters

We believe that all other matters have been resolved through the planning appeal process. The Planning Inspector concluded that the other reasons for refusal (had a decision been made) as cited in the Council's Statement of Case dated May 2016 would not be upheld on appeal. This includes:

Demolition of the existing building

The Planning Inspector found that the demolition of the existing building would be acceptable and the concluded that the proposal does not conflict with Policy CS14, DP24 and DP25.

The appeal decision states at paragraph 28 'I find that whilst making a positive contribution to the significance of the conservation area the existing building's contribution is more limited than that of other buildings in the area and makes a limited contribution to the character and appearance of the conservation area. I therefore find that the harm to the significance of the conservation area as a designated heritage asset as a result of the loss of the existing building would be less than substantial.' Paragraph 29 states 'In this case I have found that the public benefits arising from the development of a high quality residential building which responds positively to the site and its neighbours would outweigh the less than substantial harm to the character and appearance of the conservation area.'

Impact of the basement on the biodiversity function and landscape character of the site and wider area

The Planning Inspector found that the proposed basement would not undermine the ability of the rear garden to contribute to the biodiversity function and landscape character of the site and concluded that the proposal does not conflict with Policy DP27, CS14, CS15, DP24 and DP25.

The appeal decision states at paragraph 24 'With regard to the provision of landscaping I have no evidence that the extent of the garden above the basement, or the distance between the site boundary and basement construction would prevent satisfactory landscaping. Furthermore, given the area of the garden and the ability

to address landscaping through a condition it has not been demonstrated that the basement construction would be in conflict with the requirements of Policy DP27 in respect of landscaping. Whilst conflict with CPG 4 has been identified I consider that this would be limited and as guidance I attach less weight to this than I do to Policy DP27.' Paragraph 35 states 'I also consider that the proposed basement development would not conflict with Policy CS14 in respect of preserving and enhancing the Fitzjohns / Netherhall Conservation Area because harm to the biodiversity function and landscape character of the site has not been demonstrated. For the same reasons I find no conflict with policies DP24 and DP25 of the LDF Development Policies which seek to achieve high quality design and the conservation of Camden's heritage, respectively. The Council also made reference to Policy CS15 of the LDF Core Strategy which seeks to protect open spaces and encourage biodiversity but as this policy applies to parks and open spaces rather than private gardens I do not see its relevance in this situation.'

Substandard accommodation proposed for unit 1

The Planning Inspector found that the proposed development would not result in substandard accommodation for proposed unit 1 and concluded that the proposal does not conflict with Policy DP26 and CS5.

The appeal decision at paragraph 37 states '*noting that the BRE guidance states that the standards are intended to be used flexibly and in the absence of clear evidence to challenge the results of the tests I give little weight to these concerns. Based on the evidence which I heard, I find that the assessment had taken account of the concerns raised and that there would be no adverse effect on future occupiers in terms of daylight.*' Paragraph 38 states '*as a substantial duplex apartment with a large rear lightwell to basement bedroom two, a ceiling height for the basement rooms which is well in excess of the minimum standards and the provision of the main accommodation at ground floor level I find that in overall terms the proposal would meet the requirements of Policy DP26 which aims to manage the impact of development on occupiers, avoiding harm in respect of overshadowing and outlook, and daylight among other factors*'. Paragraph 38 also states '*I find that future occupiers would be likely to experience acceptable living conditions in terms of the provision of internal living space.*'

Absence of s106 agreement relating to Basement Construction Plan, sustainability measures, energy efficient plan, highways contribution, Construction Management Plan and car capped housing

The Planning Inspector found that these matters could be dealt with through the signing of a s106 agreement and concluded that there was no conflict with the development plan.

Conclusion

On this basis, it is concluded that this proposal responds to the reasons for dismissal identified by the Planning Inspectorate as part of the recent appeal and is now acceptable in planning policy terms. This planning application is supported by the following documentation:

- Application form;
- CIL form;
- Location plan and Site location plan prepared by Squire and Partners;
- Design and Access Statement including existing, demolition and proposed drawings prepared by Squire and Partners;
- BRE Daylight and Sunlight Report prepared by Rights of Light Consulting;
- Heritage Statement prepared by Peter Stewart Consultancy;
- Tree report, Tree schedule and Tree plans prepared by Crown Consultants;
- Transport Statement prepared by TTP Consulting;
- Energy and Sustainability Statement prepared by Mecserve;
- Planning Statement prepared by Savills;
- Phase 1 Risk Assessment prepared by Site Analytical Services Ltd;

- Ground Movement Analysis Report prepared by Geotechnical and Environmental Associates on behalf of Sinclair Johnston;
- Basement Impact Assessment prepared by Site Analytical Services Ltd;
- Report on a Ground Investigation prepared by Site Analytical Services Ltd;
- Basement Impact Assessment prepared by Sinclair Johnston;
- Structural Design and Construction Statement prepared by Sinclair Johnston;
- Inventory of Basements prepared by Sinclair Johnston.

Please do not hesitate to contact me at any time if further information is required.

Yours sincerely

A handwritten signature in black ink that reads "Savills UK".

Aimee Squires
Senior Planner