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BY EMAIL: David.PeresDaCosta@Camden.gov.uk

Dear Sir

Objection to demolition and redevelopment of 26 Netherhall Gardens, London, NW3 5TL (Application number: 2017/0579/P)

We act for Ms Annabel Bacall and Mr Simon Bacall of 24a Netherhall Gardens and Ms Miriam Madar of 28 Netherhall Gardens. We set out below our clients' strong objections to this third proposal for the demolition and rebuilding of 26 Netherhall Gardens. Our clients' concerns cover the following areas:

1. Living conditions of neighbouring residents

This revised scheme seeks to overcome the detrimental impact on our clients' living conditions, however, the revisions do not go far enough and the proposal would still have a severely detrimental impact on them.

The Inspector held that the 2015 scheme was unacceptable due to the loss of daylight and increased sense of enclosure experienced by the occupiers of number 24a and the loss of daylight and sunlight experienced by the occupiers of number 28 (see paragraph 40 of the appeal decision. This was contrary to DP 26 of the LDF development policies 2010.

Unacceptable overlooking of 24a will occur as a result of the second floor balcony and of 24a and 28 as a result of the third floor terrace. In particular there will be overlooking of a child's bedroom (window 76) and a habitable room linking the living areas at 24a. Given the Inspector's concerns, a proper assessment of the impact of the development on our clients' living conditions cannot be made without the Council visiting their homes and we should, therefore, be grateful if you could please contact the writer of this letter to arrange a site inspection prior to a recommendation on the proposal being made.

Our clients have previously expressed their concerns with respect to the Daylight and Sunlight Study submitted with the application. The Study fails to include the 'no sky line' test within its analysis which would provide a balanced understanding of the impact of the development on the surrounding properties. Our clients are also concerned that a window situated close to window 61 (28 Netherhall Gardens) has been omitted from the assessment.

The proposal will also have a seriously detrimental impact on the garden light enjoyed by 28 Netherhall Gardens. At present, the entire garden will have at least two hours of sunlight a day. Following the development, this will reduce so that only 62% of the garden which will benefit from at least 2 hours of sunlight (that is a 38% loss of sunlight and a ratio of 0.62x, breaching BRE threshold of 0.8x) with the result that 28 Netherhall Gardens' residential amenity will be considerably reduced by the overshadowing and loss of daylight and sunlight. Furthermore, garden light calculations for 24a have not been provided and therefore the analysis is incomplete.

The proposed development does not meaningfully address the impact on our clients' living conditions which will be detrimentally affected in respect of daylight, sunlight, privacy and outlook. It is clear that the current proposal is still contrary to policy CS5 of the Camden Local Development Plan (LDF) Core Strategy 2010 which seeks to protect the living conditions of residents and policy DP 26 of the LDF development policies 2010 which aims to manage the impact of development on neighbours.

2. Trees on boundary with 24a

We enclose a Tree Report prepared by Gifford Tree Services commissioned by our client, Ms Bacall. Kim Gifford of Gifford Tree Services has extensive relevant experience including being a previous chairman of the Arboricultural Association and currently honorary member. Kim's report highlights that the Lime T2 has been plotted in the wrong location (by more than 300mm) and concludes:

"There has not been proper consideration of the group amenity value of trees T7 Holly (Ilex aquafolium), T8 Lime (Tilia sp.), T9 Yew (Taxus baccata), T10 Holly (Ilex aquafolium). As a group in this position they afford high amenity value to the local area. The topography of this location means that this group is predominantly in the landscape at a higher level above the garden of 24a and other properties to the south. These trees are an important feature and should be maintained. The report states that there are no significant defects to these specimens..."

12. The Lime T2 is positioned incorrectly on the tree plan. Therefore, the impact assessment has not properly taken into consideration as required by the British Standards 5837:2012 Trees in relation to design, demolition, and construction recommendations. The protection of the root protection area of this specimen has been excluded from the Tree Protection Plan. Additionally, the canopy of this specimen overhangs the proposal. This is not detailed on the TPP. This specimen is classified as B in the tree report. Therefore Lime T2 is important to the landscape of the conservation area and should be protected as a priority. The calculation of 3.4% root protection loss is understated and inaccurate because the tree has not been plotted in the correct position on the drawing."

The trees on the border of 24a and 26 provide 24a with important screening and privacy. The trees make a positive contribution to the character of the conservation area and are worthy of retention. The lack of justification for their removal remains and the Inspector held that this weighed against the appeal scheme. The applicant has failed to justify the removal of these trees which make a positive contribution and their removal is therefore contrary to policy DP24 of the LDF development policies which seeks to secure high quality design.

3. Impact on the Conservation Area

Whilst it appreciated that the Inspector considered that the previous scheme would enhance the conservation area and make a positive contribution to local character and distinctiveness,

there is growing concern amongst our clients and local groups that this decision was taken in isolation and did not take account of the impact of the continuing development within the Fitzjohns / Netherhall Conservation Area. Over recent years a number of historic buildings have been demolished and replaced creating an incremental erosion of the local character and distinctiveness which originally led to the designation of the locality as a conservation area. It was acknowledged by the Inspector that 26 Netherhall makes a positive contribution to the conservation area and therefore steps should be taken to retain the building and it should be treated as a non-designated heritage asset.

Furthermore, the design of the new building is not sensitive to its setting. The reduction in size of the rear garden is incongruous within the locality which is characterised by large houses with large rear gardens. The height has been increased to an earlier proposal and is excessive and dominant. The extending of the building out to the southern border at the upper floors would create a building with a horizontal proportion much wider than its height and would create a building alien to the proportions of the current house and its neighbouring houses. It should not be extended beyond the limits of its current volume so as to maintain a coherent relationship with its neighbours with which it forms a pleasing grouping. An increase in width and volume will risk number 26 visually dominating its neighbouring properties. Whilst our clients do not object to the loss of the modern low-level extension on the south side of the building, any replacement should not extend beyond its current volume.

The proposal conflicts with Policy DP24 of the LDF Development Policies, which seeks to secure high quality design and Policy DP25 which establishes a presumption in favour of retaining buildings which make a positive contribution to the character and appearance of a conservation area.

4. **Structural Impact**

The proposal will lead to extensive excavation of the rear garden of 26 Netherhall Gardens with the new basement structure being constructed in close proximity to our clients' homes and 47 Maresfield Gardens. The submitted plans and sections do not show the large garages at the rear of 45 Maresfield Gardens, which are within a few feet of the rear boundary of 28 Netherhall Gardens. Drawings should be amended to show them.

The 7.5 metre depth of the proposed sub-basements (the basement and lower ground floor) far exceeds the preferred approach detailed in CP4: Basements and Lightwells in both the depth and footprint. CP4 advocates basements extensions that are no more than one storey (approximately 3 metres in depth) and that do not exceed the footprint of the original building.

The BIA submitted with the application is based on a number of assumptions and the conclusion is that "*it is understood that ground movements and/or instability will be managed through the proper design and construction of mitigation measures*". This is insufficient to assure that there will be no damage to nearby properties. Where a proposal significantly exceeds the Council's preferred approach, it is appropriate for the Council to require a Basement Construction Plan prior to the grant of planning permission. In the absence of the robust data provided within a Basement Construction Plan, it remains unclear whether damage will be caused to our clients' homes and therefore whether the development is either acceptable or deliverable.

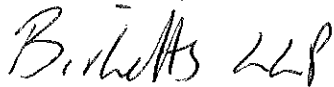
Our clients fully support the critique and comments submitted by their neighbour at 24 Netherhall Gardens, Catrien Harris (attached).

5. **Bats**

Occupiers of 26 Netherhall Gardens have advised our clients that a bat population lives in the rafters of the building. It is important that the protection of bats is given full and proper consideration as part of the determination of this planning application.

Our clients are very upset that, contrary to claims in the Design and Access Statement, the developer has failed to engage with them in the design process. This has resulted in a scheme, which for the reasons detailed above, is both unacceptable in design terms but also on the vitality of important trees and the stability of our clients' homes. We invite the Council to refuse the current planning application and we ask that our clients' comments are given due weight in the decision making process.

Yours faithfully



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