

Friday 28 April 2017

Dear Laura,

Planning Application 2017/1047/P

for basement proposals at 76 Fitzjohn's Avenue, London NW35LS

INTRODUCTION

1. Thank you for your help during this process. As you know, I am terribly worried about the basement proposal next door. This all started when my neighbour turned up in my garden one day, when my children were playing, very soon after we purchased our new home. He announced that his own children having left, he was going to start his works. It seems that he intends to move to the USA to be with his children. I understand that he does not necessarily intend to stay during the construction of the basement. Who will then supervise the works? I worry that the long term soundness of his property, and of mine, is not his priority. This makes it all the more important that his application complies with Camden's Local Plan: "Attenuation measures and Construction Management Plans 6.14 Most potential negative effects of a development can be designed out or prevented through mitigation measures. We will require any attenuation measures to be identified prior to planning permission being granted and secured for the lifetime of the development."
2. Together with our direct neighbours, we decided to appoint experts to help us in our review. I understand that you have already uploaded on the Camden website copies of these reports by Dr de Freitas and Michael Eldred. You will see that they both agree that the potential negative effects of the proposed development have not been identified. Consequently, attenuation measures cannot be identified or secured. Therefore, planning permission cannot be granted.

I also reviewed the documents myself. My findings, as supported by the above reports, are set out below. To summarise:
3. The CMS is highly defective and most certainly does not comply with the Camden Local Plan – it is full of gross mistakes, it is inconsistent with the BIA and uses a Burland Scale level incompatible with existing and most definitely emerging planning policies. The applicant must produce a new CMS before the planning permission is granted. The applicant's disregard for the structural soundness of our property is, in my opinion, callous.
4. The BIA is too limited to comply with Camden's planning requirements: it is limited by budgetary constraints, makes references to documents which do not exist and makes recommendations which have not been followed, be it on possible lead contamination, ground movement analysis or ground water seasonal testing. It is clear that the applicant has not done enough to evidence its claims that there are no likely risks of harm to neighbouring properties. This is especially true when you consider that Camden has acknowledged the hardship imposed upon neighbours by these type of projects. Camden has therefore reduced the level of damage that can be acceptably caused to neighbouring properties in its emerging policies (DP27, CPG4 and Camden Local Plan A5).
5. The applicant must therefore produce a new BIA, having completed further investigations, including seasonal investigations of groundwater levels – as recommended by the BIA itself, Camden planning and Dr De Freitas and Mr Eldred. These, by nature, cannot be rushed. Groundwater will have

to be monitored through dry and wet periods. The revised BIA cannot therefore be meaningfully produced within less than a year since we have entered the warmer, and dryer, months of the year. A 6 month analysis over the dry months would be meaningless in assessing the risk of encountering ground water during the excavation works.

6. The reports of Dr De Freitas and Mr Eldred both confirm that the investigations made and reported in the CMS and BIA are not sufficient to comply with Camden's planning requirements.
7. The Camden Local Plan states that the Council encourages security for expenses for basement developments to adjoining neighbours. The application has no evidence of anything being put in place or even considered.

NEW DOCUMENTS REGISTERED BY THE APPLICANT ON 19 APRIL 2017

8. I note that new documents have been submitted by the applicant on 19 April 2017. There was no planning alert. I spotted those by chance. Unfortunately, they are not blacklined against the previous drawings and I have not had time to compare them. I therefore apologise in advance if some of my comments have been made irrelevant by these new drawings.
9. May I possibly ask for some extra time to review and comment on those revised drawings? I just do not know what impact they have, or do not have, on our amenity.
10. I understand from one of our conversations that these drawings were revised as a consequence of feedback provided to the applicant – would it be possible to review this feedback please?

DOCUMENTS REVIEW

11. I understand from our correspondence that Campbell Reith are reviewing the applicant's supporting documents. As previously discussed, my legal team, including Landmark Chambers, would like to review a copy of their conclusions before any decision is made on this application. This will allow me to update my objections accordingly. We would not want to object based on obsolete documents as this would render the process ineffective.
12. As discussed, my legal team and I would also please like to review your conclusions before a decision is made.
13. Thank you so much for offering to let me know when the above two documents will be available – this is much appreciated.

GROUNDWATER

14. Page 9 of the Basement Impact Assessment states that “it is possible that the basement excavation will extend below the water table”.

INVESTIGATIONS

15. Page 10 of the BIA states that ground water monitoring standpipes “has been monitored on a single occasion to date”. This not consistent with Camden’s policies which recommend seasonal monitoring (CPG 4 July 2015 2.26). Seasonal monitoring is also recommended as “prudent” in the BIA itself (Section 8.1.1).
16. Moreover, Section 3.0 of the Construction Method Statement states that the soil analysis was done in three boreholes within 750m of the site. Section 5.17a. of the draft Hampstead Neighbourhood Plan states that hydrological borehole measurements to sample soil should be made near the boundaries with neighbours to a depth of at least 6m.
17. The draft Hampstead Neighborhood Plan – Policy BA2: Local Requirements for Basement Impact Assessments states at para 5.17 that “hydrological borehole measurements to sample soil near boundaries with neighbours to a depth of at least 6m should be conducted in periods of contrasting rainfall and over a period of no less than 6 months (ref CPG4 and para. 291 to 294 of the Camden Geological, Hydrogeological and Hydrological Study) with meteorological data to establish a realistic model of existing ground water regime. Water was found at 1.05 m on 30 November 2016 – a dry day with 0% rainfall.
18. The BIA report (Section 1.3) states that soil analysis was done in three boreholes on site. This is inconsistent with Section 3.0 of the CMS. I could not find evidence of where those boreholes were actually located in the documents. Is there any evidence of where and when those borehole analysis were made? Apologies if I have missed it.
19. The BIA report (Section 1.4) expressly admits its scope is limited “to the number of locations where the ground was sampled” and the “range of data sources consulted”. The report recommends that “groundwater monitoring should be continued out to confirm that significant groundwater inflows will not be encountered during basement excavation as well as trial excavations, ideally, to depths as close to the full basement depth as possible”. (Section 8.1.1) There is no evidence this has been done.
20. Section 1.3.0 of the BIA found water at a depth of 1.05m. However, this was rejected as “anomalous” in the reports. BH1 was tested on 30 November to 1 December 2016. BH2 and BH3 were tested on 20 September 2016. Para 5.3 of the BIA states that groundwater was measured at a depth of 1.05 m in BH2. The BIA claims that it was situated in a flower bed. Is there any evidence of that fact? 20 September was not a particularly warm day and had no rainfall at all (www.NW3weather.co.uk). Why would No76 water their plants just before installing a borehole in a flowerbed? I assume the “part-time supervising GEA geotechnical engineer” (as described in para. 4.2 of the BIA) would have rejected this borehole location as inappropriate.

21. Given the presence of a spring near the property, as well as the Tyburn, it is quite conceivable that groundwater is at a much more shallow level on the site itself, as compared to the location of the boreholes. Yet the CMS states that the November 2016 GEA investigation only investigated the "near surface" of actual site and claims that this is sufficient confirmation of similarity to an 18m borehole. The CMS states that "groundwater was established 7m below ground level in one borehole"- which contradicts the findings of the BIA mentioned above (at 1.05m and 4.5m). The inconsistencies between the BIA and the CMS are confusing. As mentioned in para. 1 above, these inconsistencies must be satisfactorily resolved by the applicant before planning permission is granted.
22. These concerns are reiterated by Dr De Freitas in his report dated 27 April 2017 (the "De Freitas Report"). For example, he mentions in para 9 to 15 of his report that the log for BH1 illustrates one of the basis for concern: the fabric of the soil provides "mini-aquifers that carry near surface groundwater and it is these that could begin to erode if carrying ground water when exposed during a hit-and-miss excavation".
23. BIA 3.1.1 states that the proposed basement will "possibly" extend beneath the water table surface. They conclude that nearby investigations mean it is considered "relatively unlikely". These statements are unsubstantiated and therefore cannot satisfy the requirements of DP27/CPG4 or Camden's Local Plan to demonstrate that the proposal "would not cause harm to the water conditions of the area".
24. Dr De Freitas also clarifies (para 28.1) that the site is not far downslope from Shepherds Well and the former spring line at that elevation. Shallow ground water is to be expected. He also believes that "to imply that ground water will be nothing more than an incidental feature of the ground, as is done in the application, is unjustified and could be dangerously wrong". (para 29) He also states that statements made in the BIA in Section 9 are "incorrect and dangerous". (para 31)
25. Dr De Freitas continues by stating that "in addition to these sources of water there is the much steadier reservoir of ground water held in the Bagshot sediments just uphill of the site", which "will be flowing downhill towards the site."
26. The De Freitas Report also states that the BIA fails to reflect the risk shallow groundwater at this site can present to a contractor excavating a basement using the "hit and miss" method, as advocated in the CMS. (para 4)
27. Dr De Freitas outlines that No74 will also be affected by silt eroding short lived pulses of shallow groundwater or rising ground water in the sandy clay and that instrumentation is therefore needed in the ground between No76 and No74. Further a period of observation covering a wet season should be provided to enable the natural response of groundwater to be established. (para 32.3)
28. Dr De Freitas concludes (para 35 onwards) that the investigation that is submitted in support of the application and its BIA misses a very substantial hazard, viz that from ground water. Not only does it miss this hazard but it encourages a contractor to believe the hazard does not exist. Ground water has not been properly investigated at this site and needs to be. Given the criticality of ground water to ground stability the investigations required should not be relegated to S. 106 conditionality where they remain unpoliced.
29. Construction and stability impacts are relevant to whether planning permission should be granted in the first place and therefore need to be taken into account now. Policy A5 of Camden's Local Plan is clear that the Council will require applicants to demonstrate that proposals for basements, *inter alia*, n. maintain the structural stability of the building and neighbouring buildings; o. avoid causing damage [...] to the water environment; p.

do not harm the structural stability of neighbouring buildings or the water environment in the local area; r. do not harm the amenity of neighbours. The applicants have not demonstrated any of the above.

30. As it stands the application fails to provide Camden with the assurances Camden requires as a basis for providing planning approval until ground water is properly investigated.
31. Michael Eldred, in his report dated 27 April 2017 (the "Eldred Report"), asks: "Does the application demonstrate that the scheme proposed will maintain the structural stability of neighbouring property?" His opinion is that it does not. "The application provides no assessment of the risk of damage to neighbouring property. Further, the investigations made on behalf of the applicant provide no means of making reliable estimates of the risk. A construction method statement that the risk is negligible is false and completely without justification."

SECURITY FOR EXPENSES

32. As a separate matter, the Camden Local Plan states that the Council encourages security for expenses for basement developments to adjoining neighbours. The application has no evidence of anything being put in place or even considered. The applicant is apparently intending to move back to the United States soon. We therefore assume that the works are not being carried out for the purposes of the applicant or his family continuing to live in the property (at least some of his grown up children apparently currently live in the USA) – they are being done to achieve maximum profit on a sale of the property. There would therefore potentially be significant difficulty in taking any necessary enforcement action or seeking redress against the proprietor in the future.

GROUND MOVEMENT ANALYSIS AND BURLAND SCALE OBJECTION

33. Despite recommendations in the Basement Impact Assessment report itself (page 22) no ground movement analysis has been made. This is vital in ensuring the structural soundness of the building and neighbouring properties.
34. The proposed excavation is significant: The proposed basement is 4m in depth (para 3.3 of the Planning Statement). CPG4 – 2.53 – recommends a depth of approximately 3m and DP27 – 27.3 – states that a scheme over 3m in depth is considered a "larger scheme".
35. The proposed excavation will impact neighbouring properties: The building is semi-detached and forms part of a terrace of four similar houses (No72 and No74 have a party wall and a shared path at the back of the property). (Despite the Construction Method Statement stating (Section 1.0) that the house is detached.) The terrace is built on relatively shallow foundations and there are no existing basements.
36. There is a slope: The building is on a slope, both toward Fitzjohn's Avenue (which road is itself on a material slope) as well as along Spring Path behind the site. (Despite the CMS stating (Section 10.0) that it is on level ground.)

37. Groundwater and tunnel: The river Tyburn runs under or near the site and there is a spring nearby. Shallow groundwater may be affected by the basement, will lead to ground movement and instability and thereby risks serious damage to the building, neighbouring properties and adjoining public highway. Furthermore, there is a railway tunnel next door, under 78 Fitzjohn's Avenue.

38. Existing planning laws require the applicant to ensure the structural stability of neighbouring properties (DP27).

a. This has not been evidenced in the application. Moreover, as acknowledged by the Planning Statement, Camden's emerging policies (known as the Camden Local Plan) will only permit basement developments where it is demonstrated to its satisfaction that the proposal would not "cause harm" to neighbouring properties (Policy A5). The application does not demonstrate this. The CMS (Section 11) only states that the proposal is "unlikely" to result in slope stability (with no substantiation, once more). The Planning Statement (Section 2.15) states that the project is "unlikely" to cause "significant harm". Neither the CMS, Planning Statement nor the BIA provide any evidence of this.

b. Camden's Local Plan is clear that neighbours should be protected even from cosmetic damage to their properties. Indeed Camden Council now acknowledges that even minor internal damage can incur cost and considerable inconvenience to repair and redecorate. The applicant therefore falls short of Camden's current and emerging planning policies. The CMS simply states (Section 7), without evidence, that neighbouring properties have a medium level resistance to vibration.

c. The CMS (Appendix D) uses Burland Scale trigger levels of 3mm and 5 mm whereas Camden's Local Plan recommends a maximum damage Category of 1 on the Burland Scale (1mm). The applicant also contradicts himself within the same document, referring to different Burland Scale Category triggers.

d. Finally, the CMS states (Section 5.0) that their "expectation" is that "relief will not be **significant**" (implying that there will be some relief), that the excavation "will not lead to noticeable swelling of the clay" and will not "impact **significantly** on the surrounding buildings and foundations". The report acknowledges the resulting heave will affect neighbouring buildings, but that such impact will not be "significant". First of all, these statements have not been proven in the application, secondly, even if they had, the Camden Local Plan is clear that the construction of the basement should not harm neighbouring properties. The application fails to prove that the heave will not harm neighbouring properties.

Furthermore, the CMS acknowledges that only 50% of the heave will occur immediately. Long term effects are not discussed.

Again, this is especially worrying as we have been made aware that the owners of 76 Fitzjohn's Avenue do not intend to stay in the country and may not even be around during the excavation and construction process.

e. The BIA mentions (Section 8.2) that settlement will remain within normal **tolerable** limits. "Tolerable" is not a reassuring word when the structural stability of neighbouring properties is at stake. The BIA does recommend that it would be prudent to carry out additional analysis in order to determine the likely heave/settlements associated with the use of a raft foundation. There does not seem to be any record of such additional analysis being made.

39. The BIA fails to address the risks of differential subsidence – caused by differing depths of foundations (shallow no 74; very deep no 76 due to basement into much stiffer clay). While the proportions of clay here are not as high as in lower Hampstead, there is still a potential for seasonal movement that has not been considered.

The CMS incorrectly states that the construction “will not be significantly deeper than the lowest level of surrounding buildings”. None of the neighbouring properties have a basement. It also incorrectly refers to an “existing lower ground floor” at No76. Again, these mistakes are significant.

20. The BIA does not address the risk of erosion to neighbouring buildings’ foundations. Borehole data shows that there is quite a degree of silt here. Considering the potential for groundwater to wash this out, it explains why Fitzjohn’s Avenue has problems with subsidence due to erosion. We have been told of steps up to front doors coming away from buildings and garden walls suffering from movement.

The statement that “care should be taken at all times to ensure the stability of neighbouring properties” is therefore inadequate (page (iii)).

21. The purpose of Camden’s requirement for the BIA is to ensure that neighbours are safe. This is not proven in the application and I believe should be demonstrated **before** planning permission is given because of, *inter alia*, the potential for groundwater surges, silt erosion and differential subsidence.

22. The Eldred Report concludes that:

(i) the application does not demonstrate that the scheme proposed will avoid adversely affecting drainage and runoff or causing other damage to the water environment; and

(ii) the application does not demonstrate that the scheme proposed will avoid cumulative impacts upon structural stability or the water environment in the local area.

I have attached an extract from Mr Eldred’s conclusions below for ease of reference:

“Issue 2: Does the application demonstrate that the scheme proposed will avoid adversely affecting drainage and runoff or causing other damage to the water environment? My opinion is that it does not. The basement impact assessment report and the construction method statement assert that the development would not change the impermeable surface area within the site, but the front lightwell would cause a small increase of impermeable surface which will give rise to additional run off.

Issue 3: Does the application demonstrate that the scheme proposed will avoid cumulative impacts upon structural stability or the water environment in the local area? My opinion is that it does not. The basement impact assessment does not demonstrate that the groundwater regime in the immediate region has been researched and adequately interpreted.”

NOISE

23. Section 4.61 of the Planning Statement states that CPG 6 requires developments to reduce the noise emitted.
24. Obviously, the heavy machinery which will be used for this significant excavation will make noise. A lot of noise. And cause vibrations. A lot of vibrations. Obviously this project will go on for a long time and subject my family, our neighbours' families, school children and pedestrians to constant noise pollution. Moreover, should even heavier machinery become required to resolve ground water or other construction issues (a construction project never runs smoothly), the noise and vibrations (and dust) will be multiplied. Why is this acceptable? This will ruin the peaceful enjoyment of our home and outside space for months on end.
25. The planning application includes a proposal for new plant/equipment inside No76. (plant room / pump) as well as a new plant/equipment to be sited in the front garden (condenser). It is proposed the plants will be operating continually during both daytime and night-time hours. This will in any event affect my family's peaceful enjoyment of our home and outside space. Imposing a constant background noise on your neighbours day and night should be seriously justified. It could well constitute an actionable nuisance; especially when added to the traffic noise which is constant and becomes quite significant during rush hour.
26. The applicant's Plant Noise Assessment report only contains an assessment in relation to the proposed garden plant only. There is no analysis or assessment in relation to the machinery / plant to be situated inside 76. The plant inside the building will generate noise and vibration and is to be sited next to the immediately adjoining 74, Fitzjohn's Avenue. Most worryingly for us, next to our kitchen, the room where every family spends most of their time. The Plant Noise Assessment report therefore appears incomplete or somewhat misleading as regards the entirety of noise emissions from the proposals. There is also no mitigation or attenuation proposed for the plant situated in the basement of 76.
27. The noise levels generated by the machinery to be sited in the garden will, according to the Plant Noise Assessment report, exceed Camden criteria for noise emissions from building service plant. The report recommends mitigating the noise by building an acoustic enclosure to house the machinery in the garden. The attenuation is however only partial and the plant will generate sufficient noise to be constantly heard at a material level in the adjoining gardens of both 74, and 78, Fitzjohn's Avenue (and also undoubtedly by the significant number of pedestrians passing on the pavement outside 76). This plant noise will adversely impact the ability of neighbours to enjoy their gardens in 74, and 78.
28. The size, shape and look of the proposed acoustic enclosure (as shown in the report) is not in keeping with the look of the garden and it will be visible to neighbouring properties as well as all overlooking properties on the other side of Fitzjohn's Avenue.

29. The report states that, at the time of the survey, construction work was being carried out in the front garden of 76. – this work would be out of the ordinary and therefore likely to have resulted in a higher levels of background noise than would normally be the case. This would impact on the underlying assumption as regards normal levels of background noise at the site and its surroundings.
30. The report also states that the nearest sensitive window is located 11m away at 78, Fitzjohn's Avenue yet the report makes no mention of the windows at 74, Fitzjohn's Avenue appear closer based on the plan / photograph in the report itself or of the effect such noise will have on our amenity. This machine will never stop.

TREES

31. BIA 3.1.2.6 incorrectly states that no trees will be felled as part of the proposed development. This is not true.

The applicant is proposing to remove a 6m palm tree from the front garden. The applicant claims that this tree is "not a significant feature in the street scene or typical of the local landscape" (Arboricultural Report 5.1). Trees are protected for a reason in our conservation area. Green spaces are being lost. The applicant does not demonstrate why he considers that the tree is not a significant feature in the street scene. The sheer size of the tree makes it difficult, if not impossible, to replace.

32. BIA 3.1.2.6 also states that there are no works proposed within any tree protection zones where trees are to be retained. This is not true.
33. Section 5.1 of the Arboricultural Report also states that some roots of the mature beech tree in the front garden will be pruned as a result of the basement excavation. This could contravene CPG4 2.17. The report considers that the loss of these roots is "not significant". I assume that an independent expert will verify whether this is the case as the loss of that tree would (i) cause great harm to the character and amenity of the area which would contravene para A5 c of Camden Local Plan and (ii) affect our right to privacy.
34. A 4.5 m height restrictor at access to the site was stipulated in both the arboricultural report and the BIA. The applicant needs to make sure the contractors keep to this. It is not sufficient to make it a s. 106 condition of the permission. This would leave us, the neighbours, having to make sure this condition is enforced. This is especially true as we understand that the owner is not intending to stay in the country. The heavy machinery required to excavate is also highly likely to impact the mature beech tree at the front of the property. The loss of that tree would just be terrible for the conservation area.
35. Moreover, if groundwater is encountered during excavation, and the stability of the property and/or neighbouring properties is jeopardized, I understand that even heavier machinery will be required. How will the tree be protected then? Therefore, unless groundwater issues are 100% resolved **before** planning permission is granted, this application is putting the wonderful beech tree at risk of great harm or even death.
36. Finally, the application ignores the effects of the works on the tree situated in the back garden of No78. Why?

BOUNDARY WALLS

37. The CMS states that “the boundary walls on four sides can be retained safely and easily following industry standard practices and, by following a pre-determined sequence will allow the basement wall to be constructed without detriment to the existing, surrounding construction”. This is not conclusively evidenced in any of the supporting documentation.
38. The boundary wall along Fitzjohn’s Avenue is particularly important to the conservation area. There is no specific indication of the applicant’s plans to safeguard that wall. Again, if water issues occur, very heavy machinery will be needed (to stop our houses collapsing!). How will the applicant ensure that this machinery does not damage the wall?

WINDOWS

39. Section 4.62 of the Planning Statement clearly states that 7.4 of CPG6 expects developments to be designed to protect the privacy of both new and existing dwellings to a “reasonable degree”. “Development proposals are expected to ensure that the proximity, size or cumulative effect of any structures do not have an overbearing and/or dominating effect that is detrimental to the enjoyment of their properties by adjoining residential occupiers” (para 7.9).
40. The proposed windows to the side of the property are disproportionately large. They are very close to 74 Fitzjohns Avenue and will look into their property and therefore unreasonably affect our right to privacy.
41. CPG6 7.5 lists certain factors that can be used to mitigate this affection. However, the CMS does not consider any of these.
42. The windows proposed for the back of the property are different from the windows at 74 and 72 Fitzjohns Avenue. This will impact the character and appearance of the building and the Fitzjohns and Netherhall Conservation Area (CPG1, para 3.7).
43. It is also worth noting that the windows proposed are not always consistent with the windows proposed in the applicant’s previous planning application for a double storey extension. (2013/0413/P).
- a. That planning permission was granted in March 2013 and expired in March 2016.
 - b. However, the applicant seems to assume the existence of a double storey extension in his basement proposals. The basement is to sit below the entire footprint of the host building, including the double storey extension. (Planning Statement 3.5)

- c. However, the double storey extension has not been built.

DOUBLE STOREY EXTENSION

44. As mentioned in my e-mail of 25 April 2017, I did some research on legislation and case law regarding the meaning of "commencement of works". I used to be a solicitor at Slaughter and May so I guess it's just the way I try to make sense of things I don't understand. I also consulted with my legal team including Landmark Chambers. Our conclusion is that, based on observations made from my window, the only way No76 could have commenced works by "the digging of a trench which is to contain the foundations, or part of the foundations, of a building" (Section 56(4)(b) of the Town and Country Planning Act 1990), ie of the double storey extension. The location of the trench is paramount: if the actual foundations of the extension are not at that exact location, the works cannot have commenced and the planning permission therefore lapsed in March 2016. All I see from my window is a short, shallow hole in the ground. The foundations are definitely not completed. I would therefore contend that the permission did lapse in March 2016 because the works never "commenced". I assume an independent expert will be/has been verifying the above. I should be most grateful if you could make his/her report available for our review.
45. <http://www.legislation.gov.uk/ukpga/1990/8/section/56>

CONTAMINANTS

46. The lead contamination set out at Section 5.4.1 and 8.8 of the Basement Impact Assessment Report (the BIA) is worrying: "two of the four samples of made ground tested to contain elevated concentrations of lead". Lead can cause brain and nerve damage, especially in children. The BIA further states that the contamination poses a risk to site workers during the groundworks. However, the BIA ignores the risk to inhabitants of neighbouring properties and of pedestrians walking past the site during the groundworks. Young children live next door and many school children will be walking past the site daily.
47. The BIA states (in 5.4.1) that "where concentrations are measured in excess of these generic screening values there is considered to be a potential that they could pose an unacceptable risk and thus further action will be required". Half of the samples tested contained concentrations of lead in excess of the generic screening values and another quarter was at that level.
48. The BIA states that further action could include site specific risk assessment, soil remediation or risk management. There is no evidence of such actions being taken by the applicant.
49. The BIA states that the assumptions used are "conservative" as "a portion of the site will be used for commercial usage". This intended use is not mentioned in any other part of the supporting documentation.
50. Moreover, the proposals do not consider CPG6: where a site is "potentially contaminated" it is the applicant's "responsibility to ensure that contaminated land issues are considered". (CPG 6 3.8)

51. CPG6 3.11 requires the identification and assessment of land contamination issues to be carried out by a qualified and experienced consultant, in consultation with the Council's Environmental Health Service. There is no evidence in the application of a consultation with the Council's Environmental Health Service. As you know, I have enquired by e-mail with you on 12, 19 and 25 April 2017 as to whether the Council's Environmental Health Service had indeed been consulted. I apologise if I have missed your response on this topic.
52. CPG6 3.13 also requires that the Environment Agency be informed and their consent obtained to any works if there is any existing contamination (or potential risk of contamination) to ground or surface water or to land. The BIA suggests that there is definite ground contamination and that there is a potential risk of contamination to the aquifer. It therefore seems that the consent of the Environment Agency is required. Have they been informed of the proposed works?
53. Annex 2 of PPS23 – Development on Land affected by Contamination. Para 2.36 states that "LPAs and intending developers should recognize that contamination may pose problems on land other than the originating site. For example, contaminants may migrate or be transported by wind or water." Section 2.38 is clear that "only a specific investigation can establish the actual level and types of contamination at a particular site." This will need to "consider the possibility that new pathways may be introduced as a result of development activities". There is an aquifer below the house (BIA 2.6.2) – the Secondary "A" Aquifer. This issue therefore needs thorough consideration.
54. The BIA mentions (2.6.3) that there is "*limited* potential for a *significant* contaminant pathway" into the Secondary "A" Aquifer below. I assume that this is not sufficient and that the applicant should demonstrate that there is no potential for any contaminant pathway at all into the aquifer.
55. The proposed basement will also increase pollution, dust and traffic congestion in an area already heavily polluted and congested. This will affect my and many other children as Fitzjohn's Avenue has a very high concentration of schools.
56. Fitzjohn's Primary School has already expressed its concerns at the proposals on 30 March 2017.
57. The Netherhall Neighbourhood Association, on 24 March 2017, and the Heath and Hampstead Society, on 22 March 2017, have also objected to the proposals.

CONSTRUCTION MANAGEMENT STATEMENT

58. Another concern is that the Construction Method Statement appears to have a number of inaccuracies:
 - a. It states that "although the construction will be further below ground level than the existing building it will not be significantly deeper than the lowest level of the surrounding buildings" – none of the surrounding buildings have basements therefore the construction will definitely be significantly deeper than the lowest level of the surrounding buildings.

- b. It states that "the basement construction will not be lower than the prevailing groundwater level in this area". This is contradicted by the BIA which clearly states that water was found at 1.05 m and 4.05 m (BIA 1.3.0, 5.3 and 7) while para 3.3 of the Planning Statement states that the total depth of the basement would extend to 4m below the front and rear garden level.
- c. BH1 was tested on 30 November to 1 December 2016. BH2 and BH3 were tested on 20 September 2016. Para 5.3 of the BIA states that groundwater was measured at a depth of 1.05 m in BH2. The BIA claims that it was situated in a flower bed. Is there any evidence of that fact? 20 September was not a particularly warm day and had no rainfall at all (www.NW3weather.co.uk) Why would No76 water their plants just before installing a borehole in a flowerbed – I assume the "part-time supervising GEA geotechnical engineer" (as described in para. 4.2 of the BIA) would have rejected this borehole location as inappropriate.
- d. It states that "the boundary walls on four sides can be retained safely and easily following industry standard practices and, by following a pre-determined sequence will allow the basement wall to be constructed without detriment to the existing, surrounding construction". This is not conclusively evidenced in any of the supporting documentation which is worrying especially with regard to the boundary wall along Fitzjohn's Avenue.
- e. Appendix D of the CMS is particularly worrying as it considers a weekly monitoring and two triggers of 3 mm (Category 2 on the Burland Scale) and 5 mm (Category 3 on the Burland Scale) in contravention of both DP27/CPG4 (maximum damage of Category 2 on the Burland Scale) and the Camden's Local Plan (maximum damage of Category 1 on the Burland Scale). The Camden Local Plan is replacing DP27. The planning application acknowledges this fact at Para 4.36 of the Planning Statement.

Therefore, the CMS should not consider triggers higher than Category 0 or 1 on the Burland Scale (cracking damage below 1mm).

CONCLUSION

- 59. For all the reasons above, I strongly object to the proposal to dig a basement under No76 Fitzjohn's Avenue. The BIA does not fulfil its purpose and needs to be significantly amended. Construction and stability impacts are relevant to whether planning permission should be granted in the first place and therefore need to be taken into account now. The potential negative effects of the proposed development have not been identified. Consequently, attenuation measures cannot be identified or secured. Therefore, planning permission cannot be granted.
- 60. I know that Camden protects its residents and will of course make sure that all necessary investigations are made by the applicant to ensure that no harm is caused to neighbouring properties.

Thank you again for your help and patience on this matter.

Yours sincerely,

