

Objections to planning application re: 76 Fitzjohn's Avenue (2017/1047/P)

28 April 2017

[REDACTED] I am writing to object to the planning application in relation to 76.

I do not object to basement developments as a matter of principle / per se – indeed my neighbour at my previous home completed one without objection from me. Nor is this a personal matter against my neighbour. I do not know him very well but I believe he is a long-standing Hampstead resident and is commendably engaged in charitable work and I regret that (due to him being committed to this course of action) this has to be resolved through formal process.

Number 76, Fitzjohn's Avenue is one of four identical houses (72. to 78.) forming a terrace on the east side of Fitzjohn's Avenue. I believe they were built in the early 1930's. The houses have three floors (ground floor, first floor and lofts; but no basements) and they are set back from the road behind a wall which I believe to have protected status and behind small gardens. Number 76. has a front gate and off-street parking and therefore has a smaller garden than the three other houses. The terrace of houses was built with relatively shallow foundations (I believe less than a metre) on what is, essentially, a raised berm between Fitzjohn's Avenue and Spring Path. There is a material slope along Fitzjohn's Avenue and a slope along Spring Path. The slope runs lengthways along the terrace (e.g. the difference in height of the door and the public footpath at the south side of 72.) and the slopes run perpendicular to the terrace (both toward Fitzjohn's Avenue and towards Spring Path). The geology and ground water features of Hampstead are complex and I do not pretend to have expertise but I understand from public records that significant ground water is present and flowing (e.g. the river Tyburn under Fitzjohn's Avenue, a spring behind Spring Path, and significant ground water run-off from higher ground in the Hampstead area).

My objections are set out below. I am a solicitor and I make the below comments in the knowledge they may be used in legal proceedings in connection with the matters contemplated herein.

Trees

1. The proposals include cutting down a palm tree in the front garden. It is a reasonably tall and apparently healthy tree; its branches and leaves provide some cover and privacy to my garden, living room and two bedrooms (especially on the line of sight from the flats on the other side of Fitzjohn's Avenue). The street has a number of palm trees and I think it is a pleasant and remarkable feature of the street scene.

2. The tree report for the application does not consider the impact of the ramp proposed to be excavated in the front garden. The Construction Method Statement (CMS) mentions excavating a ramp from the front of the property down to the proposed basement level. Given the ramp is to be used to create, and access, the basement with machinery it must by definition be relatively deep and wide, and extend over a substantial part of the garden. There is a large mature beech tree in the front garden, it provides significant cover to my property, privacy, shade and it is an important feature of the street scene. The tree report considers only the impact of the actual finished basement / proposed light-wells and does not address potential harm (which could be very significant) to the tree from the construction process itself, specifically the excavation of a ramp.

Windows

3. The proposed changes to the first- and second-floor windows will be visible to the street, the public footpath behind the property and to buildings overlooking the property at the front and the back. The proposals are not in keeping with the design of the property nor the neighbouring buildings.
4. The proposed large windows to the south side of 76. are unacceptably large and will directly overlook my property including windows to my lobby, kitchen, two bathrooms and loft living area. They are not in keeping with the design of the property and they materially impact my privacy / amenity.

Plant and machinery, Noise and dust, Damage to adjoining property

5. The proposals involve installing new plant and machinery in the garden as well as in the new basement. The noise report concludes that the proposed plant to be sited in the garden will generate a material amount of noise (sufficient to breach Camden guidelines) and recommends mitigation by building an enclosure. Such abatement measures is partial only and the machinery will run day and night. Furthermore the abatement relates to the noise as measured at the windows of the surrounding properties. Noise generated will however be heard, notwithstanding any abatement measures, in my garden (and on the street outside the property). Any noise-mitigation enclosure will also be visible from my bedroom windows and is not suitable for a garden scene or use. As an aside, I do not believe the tree report considers the potential impact of cabling / a trench to connect the new plant / machinery with the house.
6. The noise report does not address noise generated by the plant and machinery to be sited in the basement. Again it is expected to run day and night and as it is immediately adjoining my property there may be a constant hum of noise and vibration affecting my property and our daily lives.
7. Demolishing the ground floor (and the potential demolishing of the other floors) as well as the basement excavation, the piling, use of machinery and trucks will undoubtedly

cause a significant amount of noise, vibration, dust and mud to materially and adversely impact my property and my ability to enjoy my property as well as the surrounding roads and pavements. It will also give rise to significant costs for cleaning and repair, and the run-off mud will block gullies and dirty the pavements and streets.

8. The proposed works will undoubtedly cause harm to my property. We share a common wall for part of our boundary and there is only a small gap for the remainder of the boundary. Number 76. has not yet commenced any party wall related discussion and the planning application itself is light on detail of specific support to, or avoiding harm to, my property. This planning application should not be approved until and unless a specific party wall award has been agreed. The applicant is intending to move abroad permanently and to sell the property – there is significant risk to the ability to enforce party wall awards or section 106. agreements once that has occurred. The fact that the applicant's own reports refer to budgetary constraints on the scope of reporting gives some cause for concern. The applicant is not undertaking the proposals for the purposes of his own enjoyment of the property – the intention is to sell (and/or possibly do a joint development with number 78.). I will be seeking a material cash deposit / escrow security in connection with the party wall award given the applicant is likely to not be in the country. I would anticipate a significant party wall dispute in connection with these proposals and I am canvassing engineering and legal advisors to engage – the costs of which I will seek to have covered entirely by the applicant.

Excavation, Ground movement, Ground water

9. The proposed basement extends significantly below the level of foundations of my property, of number 72. and, I assume, of number 78. I believe the terrace of houses was built on shallow foundations and rely on the neighbouring buildings mutually supporting each other. The proposals will undoubtedly undermine the structural stability of both adjoining neighbours as a result of ground movement and subsidence, vibration, as well as the delayed 'heave' after completion of the works. This will be reflected in cracking and other damage to my walls, roof and internally.
10. I believe ground water is significant on the site (and in Hampstead in general). The proposed depth of the basement is very likely to interfere with current ground water and drainage. In addition to concerns around drainage and flooding (the problems around which I have been reading in connection with other basement excavations in the Hampstead area) this could also lead to ground movement. Ground movement could be a material risk to the building and adjacent properties, as well as the public highway and possibly the railway tunnel situated below the adjoining property (beneath number 78.). There is no ground movement analysis provided as part of the planning application.
11. I was left unclear as to where the boreholes for the ground water analysis were sited. It appears they were actually c.750 metres away – if that is the case it seems odd to rely on that given the significant variation in slope and ground conditions and ground water

in and around Hampstead. The methodology of the underlying analysis seems weak – relying on just one reading rather than based on seasonal analysis.

Others

12. Given the scope of the proposals, it would appear the site will be over-developed.
13. The light-well at the front of the building extends beyond the footprint of the building and it will be situated too close to my property.
14. I believe the wall on Fitzjohn's Avenue at the front of 76. is protected. I did not see any proposal to protect the wall from the works.
15. The CMS and the applicant's Basement Impact Assessment appear to have a number of mistakes and/or deficiencies.

