

THE GARDEN HOUSE, VALE OF HEALTH, LONDON NW3 1AN
LONDON BOROUGH OF CAMDEN APPLICATION 2017/2885/P

OBJECTIONS of Dr. Martin Schoyen, owner of 10 and 11 Heath Villas, Vale of
Health, London NW3 1AW, 25th June 2017

Application Site

1. The Application Site lies within an extremely sensitive area, on the fringe of Hampstead Heath and within 50m of the Hampstead Heath Pond to the east. It is within the catchment of the pond chains on Hampstead Heath. The underside of the proposed basement construction would extend to a depth of approximately 1m below the water level of the Hampstead Heath Pond. The area is one of hydrological sensitivity.

2. The Site is within Metropolitan Open Land. Policy CS15 of Camden's LDF refers to the protection of MOL. Paragraph 15.7 provides:
"Camden's designated open spaces include Metropolitan Open Land. This is open space of London-wide significance that provides a break in the built up area and receives the same presumption against development as green belt land. There are four main areas of Metropolitan Open Land in Camden, which are of great importance to the borough and its character - Hampstead Heath and adjoining areas.....These will be protected in accordance with London Plan policy 3D.10¹. Guidance on Metropolitan Open Land and extensions to existing buildings within it is set out in government Planning Policy Guidance (PPG) 2 - Green Belts²."

3. London Plan policy 17.7B provides:
"The strongest protection should be given to London's Metropolitan Open Land and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt. Essential ancillary facilities for

¹ Now policy 17.7B

² Now paragraph 89 of the NPPF.

appropriate uses will only be acceptable where they maintain the openness of MOL."

4. Paragraph 89 of the NPPF states that the construction of new buildings should be considered inappropriate in the Green Belt except for "*the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*" (underlining added). Annex 2: Glossary defines "*original building*" as "*a building as it existed on 1st July 1948 or, if constructed after 1st July 1948, as it was built originally*".
5. The Site also lies within the Hampstead Conservation Area.
6. 10 and 11 Heath Villas lies 1-3 meters next to the retaining wall of the Garden House of the Application Site. All of the rear windows of our houses overlook The Garden House or the retaining wall.
7. The Garden House was built in the early 1950s. It is a split-level house, part two storey and part one storey (at first floor) with no basement. Basements were not allowed then as the works would most likely destabilize the foundations of our houses, and block and divert the tributaries to Vale of Health pond that partly pass under the whole terrace of houses next to the Garden House.

OBJECTION TO 2017/2885/P

(a) Increased size of the proposed building

8. The comparison under paragraph 89 of the NPPF must be between the size of the original building and its size with the proposed extensions, including (on that side of the equation) any earlier or other development whether permitted by the LPA or by the GPDO: see **Brentwood BC v SETR** (1999), 78 P&CR 301. The extensions permitted under the GPDO cannot be ignored. To do so would be as erroneous as suggesting that previous extensions permitted by the LPA must be ignored. A

comparison between the original building plus the permitted extensions and the proposal would be wholly to ignore the clear words used in the NPPF including the definition of “*original building*” and the fact that the previous extension(s) will already have impacted on the openness of the MOL.

9. In his letter of 2nd May 2017, the developer’s planning consultant argues that “*the proposed lightwell is not an extension to the house*”. He is wrong. It is an extension -on his own case adding some 16 sq. m to the house. In any event, it is an alteration in itself and forms part of a larger alterations to the original dwellinghouse. He goes on to argue that “*there can be no considerations of whether the proposal would represent a ‘disproportionate addition’ to the original house in relation to MOL and NPPF policy*”. Again, as a matter of law, he is wrong. The relevant passages in paragraph 89 of the NPPF must be considered by the LPA, as with any case involving an extension or alteration of an existing dwelling house within MOL.
10. No matter how small the extension or alteration may appear to be when viewed entirely in isolation, there will inevitably come a time when, properly considering all that has gone before, the decision maker is entitled to say: “Enough is enough.” That position has been reached in the present case.
11. The precise figures for the overall increase in size are not included in the application documents so that it is not possible to undertake the necessary calculation from the information provided in the application papers. In a previous case (2011/6005/P) that went to appeal,³ the case officer suggested that the increase in volume comparing the original building and that proposed would be 82.4%. We suggest that there would be a similar increase as regards the present application. Such an increase in size, it is submitted, would be disproportionate. We repeat that the appropriate exercise cannot, and should not, be undertaken simply by considering in isolation the figure of 16 sq. m given in the planning consultant’s letter. To do so opens up the possibility of “death by a thousand cuts” or as Sullivan

³ That part of the Appeal relating to a proposed lightwell was withdrawn by the developer.

J remarked in *R (on the Application of Heath and Hampstead Society) v Camden LBC* [2007] 2 P&CR 19, “salami slicing”.

(b) BIA

12. It is submitted that it is neither possible nor desirable to disaggregate the PD basement excavation from the lightwell excavation. If the combined effect of the two is unsatisfactory, then the present application with respect to the lightwell aspect of the proposal should be dismissed.
13. We do not have the technical skills to assess the accuracy of the BIA, although we note with some concern that the previous BIA advanced by the same developer in respect of application 2011/6005/P (also involving a new lightwell) was subject to trenchant detailed criticism by Arups, who were then instructed by the owner of 8 Heath Villas. We understand that, in the present case, Camden intends that the BIA will be reviewed by its external engineering consultants, Campbell – Reith, at the developer’s expense and we fully support that approach.
14. We highlight the following concerns which we trust Campbell – Reith will consider with care and we request that these objections be forwarded to them:
 - (a) We note that groundwater was found at a relatively shallow depth. Accordingly, it appears that the basement excavation will be carried out below groundwater level. We wish reassurance that the developer has taken appropriate steps to deal with this problem both during and after construction.

Does the BIA present an informed assessment of the totality of the potential impact of the proposed underground development on the local groundwater environment?

- (b) We do not believe that the BIA provides a sufficient appreciation of the typical annual fluctuation in groundwater levels and spring flows. Nor do we believe that it appropriately assesses the potential changes to groundwater recharge, surface water infiltration and runoff that will result from the proposal.
- (c) It does not appear that any or any proper consideration has been given to the following local information, namely that there has been previous surface water flooding at surrounding properties, including Hillview, or that there have been incidents of subsidence in the local area.
- (d) We note that soil contamination revealed an elevated concentration of lead. We are naturally concerned that there should be no risk to human health, particularly our and neighbour children's health, during excavation.
- (e) It is said in the CPM that a temporary earth bund formed of site strip topsoil and turf will be installed to ensure that surface water runoff does not enter the adjacent Vale of Health pond. There seem to be no calculations or discussions in the BIA as to the appropriate height of that bund, whether the proposed materials would be sufficient, where precisely it should be located and whether it would be effective in preventing pollution of the pond particularly having regard to the lead contamination found in the soil. In this respect, we are surprised that the City of London has not been formally consulted.
- (f) We note that calculations of the likely ground level movements during the basement construction reveal some predicted damage to the Heath Villas properties, including number 10 and 11. We are anxious that there should be rigorous review of those calculations, including the methodology and assumptions adopted. We draw particular attention to the fact that the capping beam in the proposed lightwell area has been modelled as a permanent prop and we question whether such modelling is appropriate. We

should make it clear that any damage to our property is completely unacceptable.

(g) On the issue of the construction of the lightwell, we note from paragraph 10.3.1 of the BIA that *“The lightwell area will be not be formed by means of a top down construction”* but that *“the capping beam to the lightwell will be adequately stiffened such that the deflections will be controlled in the same manner as a wall constructed within a top down sequence.”* We ask Campbell-Reith to consider whether that method of construction is satisfactory and whether those assumptions are accurate.

(h) The existing slopes are greater than 7°. Has the BIA appropriately considered the possibility of slippage and slope instability?

15. In a number of places, the BIA requires that additional work and calculations be undertaken. Thus:

“The lightwell area will not be formed by means of top-down construction, however it is understood that the capping beam to the lightwell will be adequately stiffened such that the deflections will be controlled in the same manner as a wall constructed within a top-down sequence. In view of the Category 2 – ‘Slight’ movements, it is recommended that further ground investigation is carried out at the site to determine the strength profile of the underlying Alluvium / soft Claygate and underlying Claygate proper. It is also recommended that the foundation depths of nearby structures are confirmed. The analysis should be updated with the results of the additional investigation.” (para 10.3.1)

“A further review should be made to determine the capability of the remaining Alluvium to support the existing groundwater regime from the west.” (para 11.1)

"Consideration should also be given to the practicalities of constructing the basement with the known presence of groundwater." (para 11.1)

"Monitoring of the standpipes should be continued to determine equilibrium groundwater levels and to establish any seasonal fluctuations. Ideally, trial excavations extending to as close to the full depth of the proposed basement as possible should be carried out to determine likely groundwater inflows into the basement excavation. It would be prudent to carry out a deep borehole in the east of the site, in order to determine the depth of Alluvium in this area." (section 12)

We submit that planning permission should not be granted until such time as that work and those calculations have been undertaken and an addendum report submitted.

(c) Unacceptable impact upon Neighbouring Amenity during Construction

16. Camden's planning policies make it clear that the effect on local amenity and the highway network from construction and demolition is a material planning consideration. In this respect, the objectors draw attention to the following policies: namely policy CS5 at paragraph (e) (Managing the impact of growth and development); policies DP26 and DP27; policy A5 of the draft Local Plan; and Paragraph 4.1 of CPG 4 "Basements and Lightwells".
17. In particular, paragraph 6.119 of the draft local plan provides:
"Basement development can also have significant construction impacts due to the need to remove spoil, and the complexities of excavation. The Council recognises the need to protect the environment and adjoining neighbours properties and buildings from these impacts."

18. The only access to the Application Site is via a small arched pedestrian entrance within a terrace of buildings which fronts onto a narrow residential street. It is not big enough to permit a vehicle to access the Site. Above and below the passage are the cellars and rooms of neighbouring properties. The Vale of Health itself is a narrow single-lane dead-end street surrounded by Hampstead Heath, with very limited parking. It is unsuitable for large vehicles. There are few places in which even two normally-sized vehicles can pass each other. The impact on traffic congestion of large works vehicles and suspended parking bays (apparently 3 in number) would be considerable and would pose a safety risk by unacceptably restricting access for emergency services, as well as causing difficulties for neighbours, particularly those who are disabled or have young children. The Garden House is one of the first houses in the street and difficulties caused by large vehicles would have a knock-on effect on all properties further along - some 70 dwellings and well over a hundred people for whom there is no other means of access to their properties. Because of the restricted access, the work is likely to be extremely disruptive to neighbours and have an unacceptable impact upon neighbouring amenity for all Vale residents.
19. We submit that the impact on neighbouring amenity could not be ameliorated by a section 106 agreement.
20. A draft CMP has been submitted. We comment on it as follows:
 - (a) The draft CMP estimates a total of 1146 vehicular movements over a construction period of up to 61 weeks. (It is suggested that in practice the number of vehicle movements would inevitably be greater and the construction period longer. In any event, there would be long periods in late autumn and winter when work could not possibly proceed). During the basement excavation, said to continue for some seven weeks, there would be an average of 11.4 vehicle movements per day.

- (b) There is little discussion given to the removal of excavation spoil from site. The basement excavation is not insignificant, about 500 cu ms for the basement box and possibly up to another 150 cu ms for the secant wall piles with more from the terrace excavation and the lightwell. All spoil would have to be taken off site. It is estimated that a total of 1200-1500t of spoil would need to be removed.
- (c) Often conveyers are used to handle spoil on similar projects within buildings, but there is no mention of that in the CMP. A conveyor at this site may not be practical as there would then be little room left in the passageway for people or plant movements.
- (d) Given the limited access, the document correctly identifies the resulting constraints on plant size. It should be possible to get a small 'basement type' piling rig through the access, but the depth of the basement and nature of the ground is such that it is doubtful whether such a rig would be able to form the secant wall to the sizes and depths needed in these ground conditions where casing would be required. Given the site constraints, it is surprising that there is no statement in the CMP confirming the piling plant to be used.
- (e) It is stated that all materials could be manually handled on and off the site to/from the road. That would have to include the steelwork required for the secant piled wall propping. The section sizes needed for that operation could be long (over 5m), heavy and therefore difficult to handle without lifting equipment. That issue is not addressed.
- (f) It is suggested in the CMP that the project is not of sufficient scale to warrant setting up a working group. We vehemently disagree. Given the sensitive nature of the site and its surroundings, a working group is manifestly required.
- (g) The answer to Question 16 is wrong. Hillview has been granted planning permission and it is expected that work there will soon commence. The

cumulative effect of work on the two sites, were they to proceed simultaneously, would be to cause an intolerable impact upon residential amenity.

Conclusion

21. Planning permission should be refused.