

21 June 2017



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Dear Jagoda

Appeal at 28 Redington Road, London, NW3 7RB
Reference: APP/X5210/W/16/3164577

We represent the appellant in the above appeal, which is due to be heard by way of a one day hearing on 11 July 2017. We are writing to request a short adjournment of the appeal for the reasons that follow. This has been discussed with the local planning authority, the London Borough of Camden, who have raised no objection to the principle of an adjournment. Email correspondence with the LPA to this effect is attached to this letter.

As you will see from the case file, the appeal was submitted on 5 December 2016. Importantly in the context of this application for an adjournment, it was an appeal against non-determination, so there were at that time no grounds of refusal or putative grounds of refusal available to the appellant. PINS validated the appeal by letter dated 13 January 2017 and the appeal was formally started on 31 March 2017.

The Council's statement of case was received on 22 May 2017. In addition to the Council's statement of case, there has been a large number of objections from third parties, which include technical expert material relating to the Basement Impact Assessment and the sunlight and daylight report submitted in support of the application. These objections are pursued by third parties and by the Council.

Since this is an appeal against non-determination, it was only upon receipt of the Council's Statement of Case that the appellant knew the grounds on which the Council was resisting the appeal. A total of 12 reasons for dismissing the appeal are advanced (see pages 7 to 11 of the Council's statement of case).

Reasons 8 to 12 are likely to be addressed by way of a section 106 obligation, but the other reasons are more contentious. They include relatively complex issues concerning the Basement Impact Assessment and the sunlight and daylight impacts of the appeal scheme (for which the appellant and the objectors have technical expert evidence), impacts on trees, highway safety, design and the historic environment.

While the appellant accepts that these topics were considered as part of the Council's processing of the application prior to the appeal, the appellant had no way of knowing whether and to what extent the Council would pursue them as formal objections to the appeal scheme, and on precisely what terms.

The appellant now finds itself in the position that it faces substantial technical objections to its proposals which have only been formally articulated and explained in the recent Statement of Case submitted by the Council. The procedural rules for the hearing required the appellant to put its Statement of Case in first, and they do not give the appellant any right to submit further evidence. Yet in order to respond to these allegations a considerable amount of further technical work is required, and if agreement cannot be reached, this further work will need to be produced in evidence before the appeal inspector.

Indeed, once this work is done, the appellant is very confident that several of the putative reasons of refusal can be agreed or substantially narrowed down. The LPA have indicated that they can co-operate in the consideration of any additional technical information needed.

The problem that the appellant faces is that there is likely to be insufficient time for this to be done before the appeal hearing, and in any event it anticipates potential procedural objections to the submission of the technical material needed to address the objections that are now raised. Added to that, it doubts very much that the 12 putative reasons for refusal can fairly be addressed at a one day hearing, given not only their number but also the dispute between technical experts of various disciplines and the number of third party objectors that are involved.

It is obviously essential that the appeal takes place in a fair manner for all parties concerned. The appellant was entitled to appeal against non-determination, and through no fault of its own it now find itself unable to respond to the objections which have recently been formalized against the scheme.

For these reasons, we request a short adjournment until early September, preferably during week commencing 11 September or week commencing 18 September. This date range is agreed in principle with the LPA as per the correspondence provided. We also request that the matter be set down for a 2 day hearing given the range of matters to potentially discuss and the depth of third party commentary. If the work done between now and then results in the issues being narrowed, then it is likely that the matter can revert back to a one day hearing.

We would be grateful if a decision on this application could be made in writing in advance of the 11 July 2017 so as to save costs and avoid uncertainty for all parties concerned.

Yours sincerely

A handwritten signature in dark ink, appearing to read "Savills" in a stylized, cursive script.

Nigel Dexter
Associate

cc David Peres Da Costa, London Borough of Camden

Le'Jae Hunter

From: Peres Da Costa, David <David.PeresDaCosta@Camden.gov.uk>
Sent: 19 June 2017 17:28
To: Nigel Dexter
Cc: Planning Appeals; Bakall, Gary; Traynor, Deirdre; Simon Wallis
Subject: RE: 28 Redington Road - Appeal

The early part of September should be fine i.e. the first 3 weeks of September

From: Nigel Dexter [mailto:NDexter@savills.com]
Sent: 19 June 2017 17:17
To: Peres Da Costa, David <David.PeresDaCosta@Camden.gov.uk>
Cc: Planning Appeals <PlanningAppeals@camden.gov.uk>; Bakall, Gary <Gary.Bakall@camden.gov.uk>; Traynor, Deirdre <Deirdre.Traynor@camden.gov.uk>; Simon Wallis <SWallis@savills.com>
Subject: RE: 28 Redington Road - Appeal

David,

Thanks for coming back on this one. Would you be able to confirm availability for the early part of September, please? We are keen not to postpone too far and if you are only going to be away in late September we may be able to get a slot for the early part of the month.

Many thanks,

Nigel.

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From: Peres Da Costa, David [<mailto:David.PeresDaCosta@Camden.gov.uk>]
Sent: 19 June 2017 17:01
To: Nigel Dexter <NDexter@savills.com>
Cc: Planning Appeals <PlanningAppeals@camden.gov.uk>; Bakall, Gary <Gary.Bakall@camden.gov.uk>; Traynor, Deirdre <Deirdre.Traynor@camden.gov.uk>; Simon Wallis <SWallis@savills.com>
Subject: RE: 28 Redington Road - Appeal

Dear Nigel,

The Council does not wish to object to the proposed adjournment. However, as I am likely to be away towards the end of September, can I suggest October for the hearing?

It is understood that you will work towards resolving the 'technical matters' in advance of the hearing with the provision of further information in relation to the BIA, transport etc.

Kind regards

David

From: Nigel Dexter [<mailto:NDexter@savills.com>]
Sent: 16 June 2017 17:40
To: Peres Da Costa, David <David.PeresDaCosta@Camden.gov.uk>
Cc: Simon Wallis <SWallis@savills.com>
Subject: 28 Redington Road - Appeal

Dear David,

Further to the receipt on 22 May of your Statement of Case for the current appeal at 28 Redington Road, we have been reviewing in detail the full range of reasons for refusal that have been proposed. As you are aware, given that this appeal was submitted on the grounds of non-determination the receipt of the Statement of Case was the first time that we were aware of these full scope of these reasons.

Broadly, the reasons can be split into three broad categories. These are:

- 1) The subjective items on design and demolition;
- 2) Technical matters, relating to the basement works, daylight/sunlight, trees and highways; and
- 3) Items that would be addressed thorough the completion of a S106 legal agreement.

It is accepted that the reasons falling into Category 1 will not be agreed between us. Conversely, those in Category 3 will fall away once the S106 Agreement is completed.

This therefore leaves the technical items in Category 2. Given that these reasons have been included, the Appellant is keen to address them. In all cases, it is our view that further technical assessment could allow these matters to be successfully addressed and thus remove them from discussion at the hearing. In particular, some minor matters on trees and highways could be very easily addressed.

However, as it stands the procedures of an appeal hearing are such that additional materials to address these concerns cannot easily be submitted at this stage. More pressingly, the limited time remaining between now and 11 July means that it is unlikely that the relevant technical assessments can be completed before then.

Given our belief that these matters can be addressed, subject to sufficient time, we would therefore like to propose that we request an adjournment to the appeal from the Inspectorate to allow these technical discussions to be completed. This will allow the appeal to be focused on the remaining subjective items and limit the breadth of preparation that both parties will be required to undertake.

With specific reference to the basement impact assessment, the appellant would continue to bear the costs of Campbell Reith's independent assessment of the BIA. This would be consistent with the procedure adopted on the appeal at 26 Netherhall Gardens, where discussions with Campbell Reith continued to a point that a BIA became an agreed matter.

On other matters, we would be keen to keep conversing with the relevant officers (trees, highways) to address the outstanding issues on those points too. If both parties can agree to the relevant matters, this offers more weight for the Inspector to accept these changes.

Given the time needed to do this and taking into account items such as the school holidays (which we would like to avoid to ensure that all third parties are able to attend the hearing), it is our proposal that we request that the appeal is adjourned until September.

If the Council would be agreeable to this, could you let me know urgently next week? We need to make a request to the Inspectorate and we would like to get this in as soon as possible so that all parties can prepare appropriately.

Many thanks, do please give me a call if you would like to discuss this further.

Regards,

Nigel.

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