



Pears Building

Planning Application no. 2014/6845/P

Response to DBCP by Birketts (not letter headed) dated 13 November 2017

High Level Counter Response by the Royal Free Charity

December 2017

Executive Summary

The London Borough of Camden (LBC) has requested the Royal Free Charity to pass comment to the representations made by Birketts under cover of their response to the DBCP dated 13 November 2017 which summarised Birketts position, which is, in their opinion, that *'by considering the reliability of the ground model for predicting the damage that could occur to St Stephen's, its Hall and surrounding ground, by identifying key questions relevant to those predictions that remain unanswered and by noting information of critical significance to the management of construction that has not been supplied'*. This is refuted.

As far as the Royal Free Charity is concerned production of the information leading to the formal submission of the DBCP to LBC for approval purposes has been provided in strict accordance with the requirements of the s106 Agreement: on a clause-by-clause basis. Prior to its formal submission the DBCP was subject to intense scrutiny by two Independent Certifying Engineering Practices performing different roles under the requirements of the s106 Agreement, most notably 'the Basement Design Engineer' and 'the Certifying Engineer', with a third Independent Certifying Engineer being appointed directly by LBC charged with the responsibility of independently reviewing the DBCP after its formal submission.

The Royal Free Charity has since seen sight of a report prepared by the Independent Reviewer (LBH Wembley) within which comments have been passed stating that in LBH Wembley's opinion *'the DBCP meets with the requirements of the s106 Agreement and that it has been demonstrated that the Pears Building development can be constructed safely in light of the ground and water conditions and that ground movements can be controlled such that impact on the Neighbouring Properties is limited to "category 0" (negligible) in accordance with the Burland Scale'*. That said the Royal Free Charity acknowledges that the Monitoring Action Plan (MAP) has been subject to amendment to take account of LBH Wembley's observations, with the document having been returned to the Council, comments to which are awaited.

In light of the fact that three independent certifying engineering practices have confirmed that the DBCP has been presented in accordance with requirements of the s106 Agreement with the new Pears Building capable of being constructed safely without causing harm to the neighbouring properties, the Royal Free Charity has not commented to the reports contained within the Birketts correspondence 'in depth' but has arranged for high level responses to accompany LBC's request for the Royal Free Charity to pass comment to the Birketts correspondence. These are attached.

High Level Responses to Birketts Correspondence

As mentioned above, prior to submitting the DBCP to the London Borough of Camden (LBC) for formal approval, the DBCP was subject to amendment, with the likes of the geotechnical and ground movement information being provided to Messrs deFreitas, Eldred and Stephenson prior to and during September 2017, as well the same information being provided to the independent certifying practices, those being:

1. Hayne Tillet Steel, in their capacity as Independent Certifying Engineer ('Basement Design Engineer').
2. Campbell Reith, in their capacity as second Independent Certifying Engineer ('the Certifying Engineer').

Hayne Tillet Steel, prior to submission of the DBCP to the Council, returned statements confirming that the requirements of the DBCP had been fulfilled which has been subject to verification by Campbell Reith, leading to the subsequent submission of the DBCP for formal approval.

In responding to Birketts Correspondence three high level responses have been produced by the following organisations:

1. Hayne Tillet Steel, in their capacity as Independent Certifying Engineer ('Basement Design Engineer').
2. Campbell Reith, in their capacity as second Independent Certifying Engineer ('the Certifying Engineer').
3. A-Squared Studio, in their capacity as Geotechnical and Ground Modelling Consultants.

each of which has, for varying reasons, criticised the content of the reports issued by Messrs deFreitas, Eldred and Stephenson specific to appendices 2 and 3 respectively of the representations received. Attached as appendix A, B and C are the respective high level responses.

Taking the above into consideration of significance is the document issued by Campbell Reith which is highly critical of the comments received from Messrs deFreitas and Eldred, both of whom have either inadvertently omitted reference to key issues in their joint report or purposely not made reference to them. A-Squared Studio have also questioned the content of the deFreitas and Eldred joint report. Of particular note is the statement made by A-Squared Studio that within the deFreitas and Eldred Report there are several misinterpretations or misunderstandings demonstrating an apparent lack of understanding of modern ground movement assessment methods and procedures.

One will also observe Hayne Tillet Steel being critical of the comments received from SD Structures disagreeing with a number of observations made, a prime example being the statement by SD Structures that in their opinion the design remains uncoordinated. Hayne Tillet Steel has responded stating the precisely the opposite, with Wilmott Dixon having subsequently reviewed the SD Structures Report also questioning the integrity of the statement made therein.

The Royal Free Charity has also responded by producing a high level understanding to the situation, details of which are below, which too criticises Birketts correspondence because it contains inaccuracies, most of which are highlighted or referred to in the high level documents by Hayne Tillet Steel, Campbell Reith and A-Squared Studio. When referring to the Birketts correspondence, of particular note is the observation that although there are a number of opinions expressed by the technical representatives of SSRPT and Hampstead Hill School there is very little or indeed no evidence to substantiate the accusations they elude to whereas the Royal Free Charity's Project Team has taken factual information obtained from the ground investigation results, data from monitoring equipment etc., and included into the main calculations and supporting documents (i.e. Geotechnical Design Report, Ground Movement Assessment etc.) leading to submission of the DBCP for approval.

Birketts correspondence infers that the design has benefited from the technical input provided by the neighbour's technical team of experts. This is refuted. Their technical experts have no responsibility for the design of the new facilities nor do they have any liability. Nor do they have responsibility for the construction or the management of the Pears Building project for which they indicate wanting an involvement, intimating wanting an overseeing role through the MoU. That responsibility lies within the governance structure of the Pears Building.

The Royal Free Charity records that unfortunately this has been a trait of the representatives of SSRPT and Hampstead Hill School over the course of the past 18 months, evidenced since the conception of having technical meetings between the respective technical experts, since which time SSRPT and Hampstead Hill School have, and still continue to be fierce opponents of the Pears Building development. In support of this statement but not referred to in the Birketts correspondence are the following issues specific to the development of the DBCP which have been discussed through the forum of the Principals Meetings, which have had a significant bearing and outcome on events:

1. In August 2016 one witnessed the withdrawal (by SSRPT) of approval to allow the Royal Free Charity to drill boreholes within the curtilage of St Stephen's: to be drilled for the purpose of investigating the ground conditions therein. Although initially allowing consent, at the '11th hour' the consent was withdrawn, which resulted in Wilmott Dixon not gaining access onto site to carry out the investigation works. Attached as appendix 1 is a copy of the relevant correspondence dated 26 August 2016 received from SSRPT.
2. The reneging (by SSRPT) of an agreement reached in March 2017 between the Diocese of London, SSRPT and the Royal Free Charity, which was for SSRPT to arrange the drilling and data recording of approximately eight boreholes within the grounds of St Stephen's. This was agreed following the outcome of the initial Ground Movement Assessment carried out by the Royal Free Charity, which indicated a safety issue surrounding the stability of St Stephen's Tower, with the site investigation works to take place between 12 March and 24 April 2017; dates determined by SSRPT. Unbeknown to both the Diocese of London and the Royal Free Charity, when the Royal Free Charity approached SSRPT to obtain details of when the investigation works were actually planned for, the Charity was informed that the investigation works had not been arranged leading to the Royal Free Charity having to organise a similar investigation outside of St Stephen's. Attached as appendix 2 is a copy of the correspondence (dated 11 May 2016) that took place between SSRPT and the Royal Free Charity confirming the situation.
3. Through the forum of the Principals Meetings SSRPT was requested (by the Diocese of London) to grant Wilmott Dixon's Project Team access to the St Stephen's site in order to discuss and make final arrangements in connection with the installation of the movement and vibration monitoring equipment onto the fabric of St Stephen's and Hampstead Hill School. No response was forthcoming leading to a 'final request' being made (on 4 May 2017) to SSRPT by the Charity to allow this essential activity to take place, which didn't materialise, leading to an alternative monitoring strategy having to be put in place which had to be agreed with the London Borough of Camden. Attached as appendix 3 is a copy of the correspondence (dated 4 May 2017) demonstrating the unwillingness of SSRPT to help put in place this importance piece of work.

At this juncture it is important to note that it is not feasible for the Charity to enter into a Memorandum of Understanding (MoU) with any interested party notwithstanding there being no legal requirement within the s106 Agreement for the Charity to do so. As far as the Charity is concerned the s106 Agreement is there for this purpose. That said the Royal Free Charity has entered into a local agreement with the Royal Free London NHS Foundation (as Landowner), in connection with the development of the Pears Building project. The Charity may consider doing likewise with the Diocese of London, as landowner for the St Stephen's site, subject to agreeing the Terms of Reference.

It is also important to note that, approximately 18 months ago; in order to address the financial exposure of SSRPT and Hampstead Hill School in dealing with matters in connection with the Pears Building development, the Royal Free Charity agreed to fund the costs of SSRPT appointing their technical representatives, leading to their consultants not only attending key technical meetings over a period of months associated with the Pears Building development but inviting their consultants to the likes of A-Squared Studio to view development of the numerical model. In addition the Charity funded the cost of SSRPT appointing the likes of specialist soil consultants carrying out trial pit investigations on behalf of St Stephen's, as well as the Charity agreeing to

fund the cost of SSRPT appointing Chartered Surveyors to undertake 2 x Condition Surveys/Structural Assessments associated with St Stephen's and Hampstead Hill School buildings. Furthermore, the Royal Free Charity funded the cost of Hampstead Hill School appointing Chartered Surveyors leading to a Party Wall Agreement being put in place.

As one can see, the Royal Free Charity has, as part of the ongoing dialogue, not only offered to share technical information with SSRPT and Hampstead Hill School but also hundreds of thousands of pounds worth of financial support, but where the Charity was expecting positive feedback quite the opposite has materialised, particularly when one refers to the content of the deFreitas, Eldred and Stephenson Reports, which are technically quite damning as well as being critical of the performance of the appointed consultants and the independent certifiers. If LBC recalls, a similar situation occurred when key information was extracted from one of the initial SSRPT/Royal Free Charity Technical Experts meetings held in July 2016 when, unbeknown to the Charity, a transcript of the meeting was taken without the knowledge or consent of the Charity, subsequently leading to DRK Planning employing this information in a Witness Statement as part of the legal challenge being mounted by the SSRPT, Hampstead Hill School and HGNG against LBC and the Royal Free Charity. As parties know this was a serious breach of legal discipline with the Royal Free Charity reserving the right to take this matter further if taken to a Judicial Review. Reading 'between the lines' there are snippets of the same occurring again. The purpose of agreeing to pay for the services of SSRPT's technical consultants was to assist the consultation process, not to employ it against the Royal Free Charity.

Notwithstanding this, as part of the ongoing dialogue associated with the consultation process it has, on several occasions, been made transparent to those representing SSRPT, Hampstead Hill School and HGNG that as far as the Royal Free Charity is concerned, acute patient services delivered from the Royal Free Hospital cannot be impacted upon by the development of the new Pears Building, as critical patient services (e.g. the Main Operating Theatres, the Heart Attack Centre, the main Accident & Emergency Unit and the Central Imaging Suite containing MRI and CT scanning equipment) are located adjacent to the Pears Building site, having to remain operationally functional 24 hours/day, 7 days/week.

In this regard, based on comments received from SD Structures it is somewhat disconcerting that the same level of protection being offered to the Royal Free Hospital would not be afforded to the likes of St Stephen's and Hampstead Hill School during the construction of the new Institute of Immunity and Transplantation facilities. It has also been explained to key parties representing HGNG that should it be demonstrated that no harm would come to these properties, why would the Royal Free Charity subsequently allow harm to manifest towards the grade II listed properties along Pond St? It does not make sense.

In his section, Mr Stephenson, SD Structures, makes reference to representing Pond St Residents, passing comment about the '*failure to consult meaningfully with HGNG regarding the protection of Pond St properties*'. Through the forum of the Principals Meetings held with HGNG it was requested of Jeffrey Gold, as chair of HGNG, to advise who he was actually representing, with Mr Gold refusing to disclose this information: on grounds of 'confidentiality'.

As a consequence the Royal Free Charity contacted all of the residents referred to in the s106 Agreement on Pond St, initially arranging a Residents Meeting; in January 2017, to advise on development of the Pears Building project, making specific reference to the range of measures being put in place to protect and safeguard the grade II listed buildings, with specific emphasis on the monitoring strategy. This was diligently followed up by group emails to proprietors of each of the respective properties or nominated managing agents, covering key issues such as listed building consents together with the provision of information packs specific to each property, leading to the successful installation of the equipment. In parallel the Royal Free Charity asked residents to put forward representatives willing to assist the project by means of being an active member of the Construction Working Party for which nominations have been put forward.

In parallel, through the forum of the Principals Meetings held with HGNG and the correspondence issued subsequent to those meetings, it was explained to Mr Gold and his colleagues about the arrangements in place for the protection of the grade II listed buildings on Pond St, namely:

1. The range of additional monitoring measures that have purposely been put in place to safeguard/protect the neighbouring properties adjacent to the Pears Building site during the construction work, as part of the alternative strategy. There are over 40

boreholes installed below ground level within which a range of detection equipment has been installed.

2. The 'early warning' system which is in place and operational, which Willmott Dixon will respond to should movement be detected leading to the implementation of the mitigation measures referred to in the most up-to-date version of the Monitoring Action Plan (MAP).
3. The Site Monitoring Process of the MAP and the communication of monitoring data to interested parties, which will be an on-going process during the construction works.
4. It has also been explained to HGNG that should movement be detected in the vicinity of the neighbouring properties the likelihood of damage being inflicted upon the grade II listed building along Pond St is virtually zero, an issue the Charity explained 'in depth' prior to the Charity approaching LBC with the final version of the DBCP.

Yet, very little is made of these points in Birketts correspondence.

The Royal Free Charity confirms that at no point through this process has Mr Stephenson been involved, evidenced by him not being in attendance at Principals Meetings or discussions the Charity held with the proprietors or managing agents of the properties on Pond St, nor indeed meetings held with the residents, except for the occasional meeting. For Mr Stephenson to suggest that the Charity has failed to meaningfully engage with HGNG is unfounded. That said, what Mr Stephenson may be eluding to be the fact that the Royal Free Charity sought relaxation from LBC not to carry out structural assessments to listed properties identified in the s106 Agreement along Pond St as a consequence of the additional protection measures put in place.

Conclusion

Birketts, under cover of their response to the DBCP dated 13 November 2017, infer that '*by considering the reliability of the ground model for predicting the damage that could occur to St Stephen's, its Hall and surrounding ground, by identifying key questions relevant to those predictions that remain unanswered and by noting information of critical significance to the management of construction that has not been supplied*'. This is refuted.

As far as the Royal Free Charity is concerned, when presenting the DBCP to LBC for approval we have done so in a manner that demonstrates compliance with the requirements of the s106 Agreement. This has been recognised by three independent certifying parties.

In the reports issued by Messrs deFreitas, Eldred and Stephenson and the subsequent high level responses by Hayne Tillet Steel, Campbell Reith and A-Squared Studio it is evident that key information has inadvertently or purposely omitted supported by the fact that the opinions expressed by the technical representatives of SSRPT and Hampstead Hill School have very little or indeed no evidence to substantiate the accusations being made. Furthermore, there are several misinterpretations or misunderstandings being made demonstrating an apparent lack of understanding of modern ground movement assessment methods and procedures.

In addition there are other issues which have been discussed with representatives of SSRPT and HGNG through the forum of various meetings which are not referred to in Birketts correspondence, which have had a significant outcome on events, particularly those were SSRPT, Hampstead Hill School and HNG have and still continue to oppose the development of the Pears Building evidenced by SSRPT either withdrawing, reneging or not even responding to requests for cooperation; not only from the Royal Free Charity also but the Diocese of London.