

ref: 17.225 Flat 1, 10 Lyndhurst Gardens, NW3 5NR
Planning reference: **2018/1905/P** & 2018/2707/L
Grounds for Appeal

Applicant: Carly and Manish Madhvani
Agent: James Engel of Spaced Out Ltd
Case Officer: Ben Farrant @ London Borough of Camden
Decision signed by: David Joyce on behalf of London Borough of Camden

Proposal description: Erection of outbuilding, incidental to the use of the host property; excavation of basement beneath proposed outbuilding and rear curtilage; formation of sedum roof on existing single storey rear extension.

Reason for refusal:

“1 The proposed outbuilding by reason of its excessively large scale, would result in an overly dominant addition to the rear garden, harming the spatial quality of the rear garden and setting of the Grade II Listed Building and character and appearance of the conservation area contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017), the London Plan (2016), and the National Planning Policy Framework (2018).”

“2 The proposed basement by reason of its scale would form an excessive and unsympathetic addition to the host property, contrary to policy A5 (Basements) of the London Borough of Camden Local Plan (2017).”

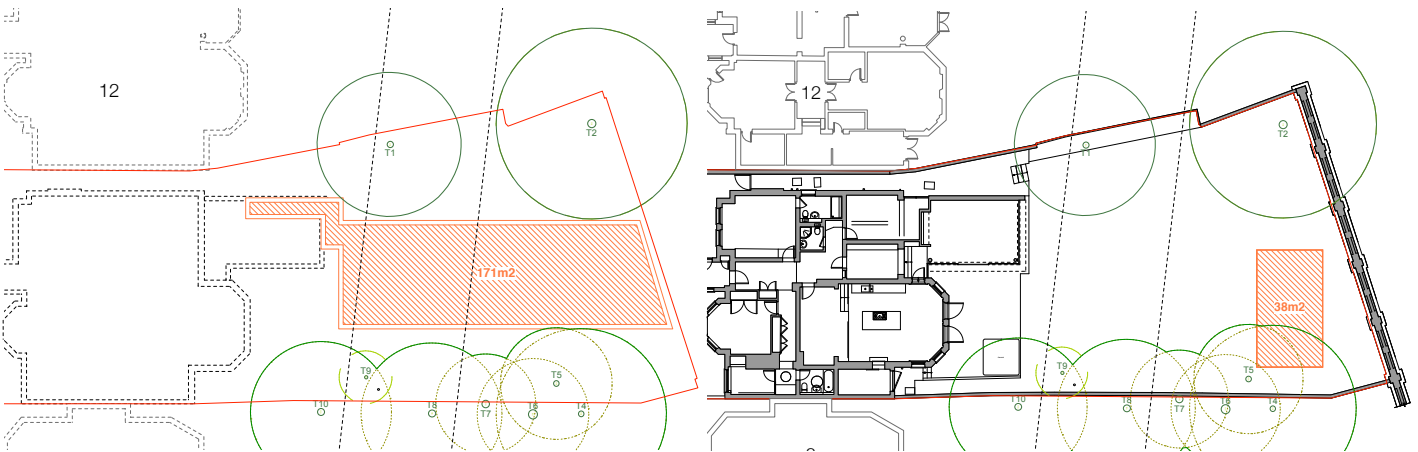
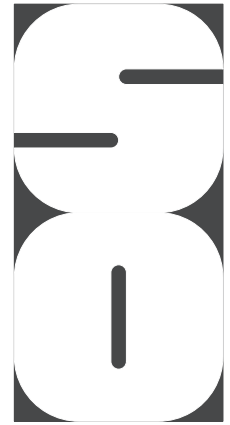
Appeal structure and associated narrative :

1. The PAPA - Context of the Full Application with Listed Building Consent
The preparation of a Basement Impact Assessment , including consultation with Network Rail.
2. Relevant Planning Policies as raised by the reason for refusal
 - *The Outbuilding*
 - *The Basement*
3. The Proposed Design - *What shaped the Proposal that was Refused.*
4. Post Refusal activity and the decision to go to Appeal.

1. The PAPA - Context of the Full Application with Listed Building Consent

The preparation of a Basement Impact Assessment , including consultation with Network Rail.

Observations and critical advice throughout the process, from Pre-Apps to now, have positively contributed to shaping this proposal. This includes an in-depth review of the purpose behind the current Basement Policy and associated guidelines that have been updated during the detail design phase when preparing the Full Planning Application. The time-line from Pre-Apps to the Full Planning Submission which included detailed consultations with a broad spectrum of Stakeholders involving many Specialists including Network Rail, Neighbours and Specialist Consultants is an extended period, in this case over 3 years. It should be noted that although known by Camden Planning Department at the time of the Pre-Apps, Camden did not mention that their Basement Policy was under review and that this could have a major impact on the scheme presented during the Pre-Apps by the Applicant.



Dia. 1. Diagrammatic representation of the basement proposal - PAPA (2015) Dia. 2. Diagrammatic representation of the ground level proposal - PAPA (2015)

This omission by the Local Authority meant that the scheme was designed before the policy was updated and the timeline of all the detail design reviews has bridged the policy revisions. On submission of the Full Planning Application and linked application for Listed Building Consent, it was highlighted to Camden that criteria ‘j’ and ‘k’ of Policy A5 Basements, part of Camden Local Plan 2017 were not met by the application. The very special context of this application, both administrative as well as physical have contributed to this situation. Never-the-less, the solution presented, by no means a precedent for others, proves that all other criteria can be met and other benefits by not aligning to criteria ‘j’ and ‘k’ are clearly achieved. These other benefits being no intrusions into or surrounding the listed building and a care for the existing mature planting either side of this exceptionally wide urban garden.

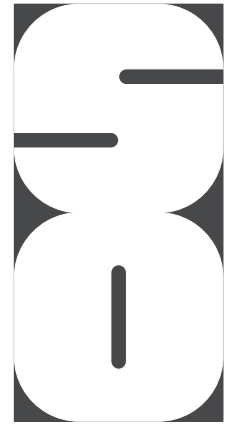
The preparation of a Basement Impact Assessment , including consultation with Network Rail.

The Basement Impact assessment was prepared by Symettrys Structural Engineers. During this time frame it was noted that policy and guidelines were being reviewed. As part of this process Planning Inspectorate clarifies to Camden the primary purpose of the change. Planning Inspectorate states, point 108 [London Borough of Camden Local Plan, Inspector’s Report April 2017, dated 10th May 2017] “The borough (Camden) has experienced an increase in the development of basements as a way of gaining additional space in homes and commercial premises. The Council’s evidence shows that basement development can give rise to ground instability and flooding and have significant construction impacts. Policy A5 sets out a criteria-based approach which seeks to address these issues and prevent harm to neighbouring properties and local amenity.” The application before you is an exemplary solution that prevents harm to neighbouring properties, local amenity and in this very specific case, protects the integrity of the Listed Building within the curtilage of the subject site. Camden’s Conservation Officer for the application case, following Camden’s successful audit of the submitted Basement Impact Assessment (BIA) reinforced the opportunity for this very special and considerate application, in particular the fact that the proposed basement is not under the host grade II Listed Building.

In support of the current basement policy the application BIA reviewed by Campbell Reith for Camden concluded that the proposal :

- A. Does not have an adverse impact on adjacent structures including Grade II Listed host building and the Network Rail Tunnel (within negligible damage- Category 0).
- B. Does not have an adverse impact on ground water flow
- C. Does not have an adverse impact on surface water discharge with the proposed mitigation measures in the form of SUDS and soft landscaping
- D. Does not have an adverse impact on the wider hydrology of the area
- &
- E. Does not have an adverse impact on flooding

For more information and the results of the Basement Impact Assessment please refer to the submitted BIA by Symmetrys and the Audit by Campbell Reith.



It was clearly demonstrated and reported upon by Campbell Reith that the proposal will not harm neighbouring properties, will not cause flooding or induce ground instability. Such factors which were critical in the shaping of the revised version of Policy A5 and the associated supplementary planning guidelines.

2. Relevant Planning Policies referenced by Camden in their reasons for refusal

- *The Outbuilding*
- *The Basement*

The Outbuilding

D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan (2017)

“Local Plan Policy D1 (Design) states that The Council will require that development: Respects local context and character; preserves or enhances the historic environment and heritage assets in accordance with Policy D2 (Heritage); comprises details and materials that are of high quality and complement the local character; promotes health; responds to natural features and preserves gardens and other open space; and, preserves strategic and local views.”

“Local Plan Policy D2 (Heritage) states that the Council will: ‘e’ : require that development within conservation areas preserves or, where possible, enhances the character or appearance of the area; ‘k’ : resist development that would cause harm to significance of a listed building through an effect on its setting.”

With specific regard for the garden pavilion there remain reservations regarding the scale of the proposed Garden Pavilion. With no specific policy or guidelines that define the measure of ‘scale’ it is a subjective consideration that the application design resolves with reference to it’s materiality, the use and the specific location.

The Garden Pavilion is situated at the rear of the garden and is aligned in plan geometry, scale, proportion and material to the existing garden room.

In quantifiable measure the proposed pavilion is minor within it’s private garden setting. The architectural proposal has only one opaque element, the sedum roof with bronze metal fascia details. The fascia of the roof is only 38cms high, providing an overall volume of the roof element to be 14.44 cubic metres or 0.61 % of the overall volume of the existing Listed Building. Other measurables include the area of the rear garden. This is 514 sq.m which means that the roof area is only 7.35% of the garden area and being that it supports biodiversity due to it’s sedum covering is effectively a continuation of the garden habitat.

Other key facts about the pavilion:

- It is sited away from adjacent gardens, to the East by an average of 8m and to the west by an average of 4.8m. This purposeful location mitigates any interruption of sky views from neighbouring gardens or views into neighbouring gardens from within the Pavilion. The Case Officer’s delegated report does not identify any concerns with regards to this proposal causing any negative impact or injury to neighbours amenity.
- The design employs glass to meld the pavilion within the garden setting. This is reinforced by the fact that over 30% of the pavilion floor area is water which will act as a ‘live’ surface creating a constant rhythm of changing light conditions and infinite reflections. These ingredients together are ‘alive’ as is the landscape. A form of symbiosis unlike typical

garden sheds or a-contextual weather boarded catalogue pavillions. Our architectural solution, in the spirit of romantic garden structures integrates an ephemeral structure into this uncharacteristically large urban garden.

- The Pavilion roof is predominantly sedum planted with the rear part, concealed by the fascia of clear glass to glass detailing. The clear glass part is positioned to the rear of the structure closest to the 5.2m high existing rear garden wall providing views through to this 'majestic' victorian wall. Views of this extraordinary rear garden wall are retained from the main house, as is illustrated in sectional studies, see Fig 1 and elevation studies, figures 2 & 3. Please note that Fig 2 included a roof terrace which has subsequently been removed in favour of the sedum roof. Through this revision the internal staircase is also removed, leaving only fine columns and mullions from lawn level to the roof fascia.

- Existing incidental garden structures occupy 6% of the rear garden area.

The proposal removes these incidental garden structures replacing them with the proposed pavilion which occupies 10.55% of the rear garden area. The increase in footprint is only 4.55% and has been designed to be a singular considered work of architecture rather than a collection of adhoc outbuildings.

- The Pavilion is purposefully subordinate to all the surrounding architecture, true to it's typology and it's incidental use. This is further celebrated by the fact that it melds with the existing 5.2m high rear garden wall and the existing mature landscape and trees. By way of volume the proposed pavilion is only 4.8% of the total volume of the main house.

- The land form of this site within the Fitzjohns Netherhall Conservation Area is typified by the level changes from Lyndhurst Gardens to Belsize Lane. On closer scrutiny of the section the proposed pavilion is deminimus within the overall context, subordinate in proportion to the existing built forms, sheltered by the mature trees and not visible from any of the surrounding streets.

- *The Basement*

Camden Local Plan 2017, Policy A5 Basements refers to protecting amenity space by demonstrating that the proposal does not cause harm to:

- a. neighbouring properties;
- b. the structural ground, or water conditions of the area;
- c. the character and amenity of the area;
- d. the architectural character of the building; and
- e. the significance of heritage assets.

- f. not comprise of more than one storey;
- g. not be built under an existing basement;
- h. not exceed 50% of each garden within the property;
- i. be less than 1.5 times the footprint of the host building in area;
- j. extend into the garden no further than 50% of the depth of the host building measured from the principal rear elevation;**
- k. not extend into or underneath the garden further than 50% of the depth of the garden;**

- l. be set back from neighbouring property boundaries where it extends beyond the footprint of the host building; and

- m. avoid the loss of garden space or trees of townscape or amenity value.

- n. do not harm neighbouring properties, including requiring the provision of a Basement Impact Assessment which shows that the scheme poses a risk of damage to neighbouring properties no higher than Burland Scale 1 'very slight';

- o. avoid adversely affecting drainage and run-off or causing other damage to the water environment;

- p. avoid cumulative impacts;

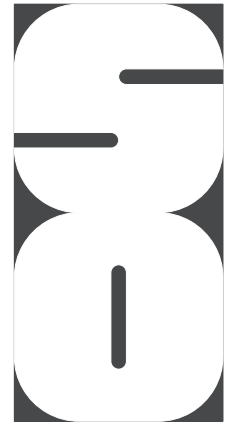
- q. do not harm the amenity of neighbours;

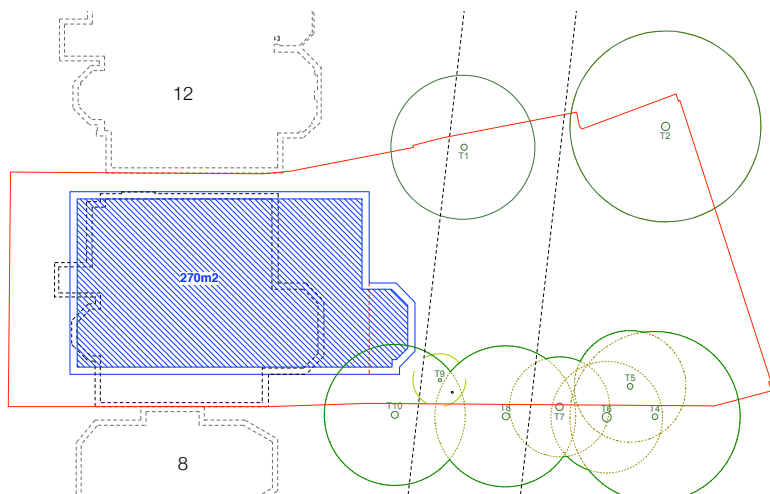
- r. provide satisfactory landscaping, including adequate soil depth;

- s. do not harm the appearance or setting of the property or the established character of the surrounding area;

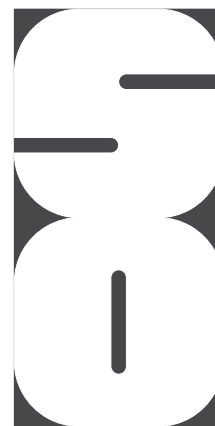
- t. protect important archaeological remains; and

- u. do not prejudice the ability of the garden to support trees where they are part of the character of the area.





Dia. 3. Diagrammatic representation of the basement allowed as per London Borough of Camden Local Plan (2017)



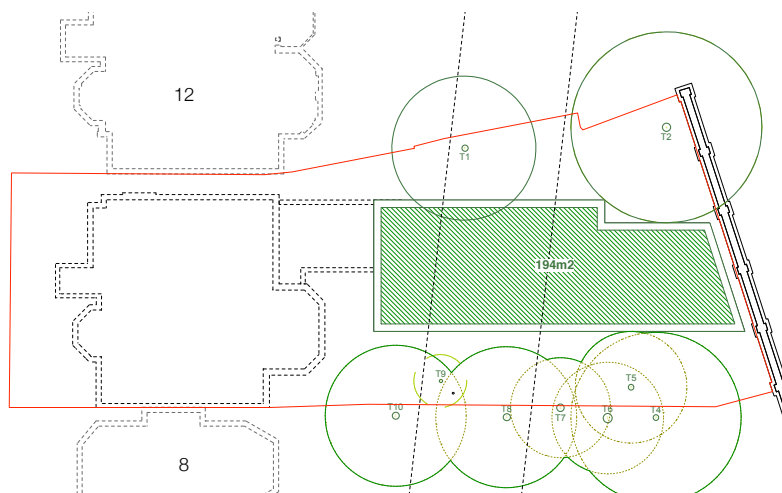
The only two requirements that the proposal does not comply with, due to the special characteristics of the site, as highlighted in the application Design, Access and Planning Statement, are criteria 'j' & 'k'. Herein highlighted above in **blue and bold**. It must be noted that although the proposal does not comply with the positioning of the basement as proposed by criteria 'j' & 'k' the proposal does deliver a footprint area smaller than criteria 'j' & 'k' enable.

The Basement Impact Assessment submitted with the planning proposal prepared by Symmetrys Structural Engineers and audited by Campbell Reith concluded that the proposal does not have an adverse effect on the criteria associated with Policy A5. Please see the Basement Impact Assessment for more information.

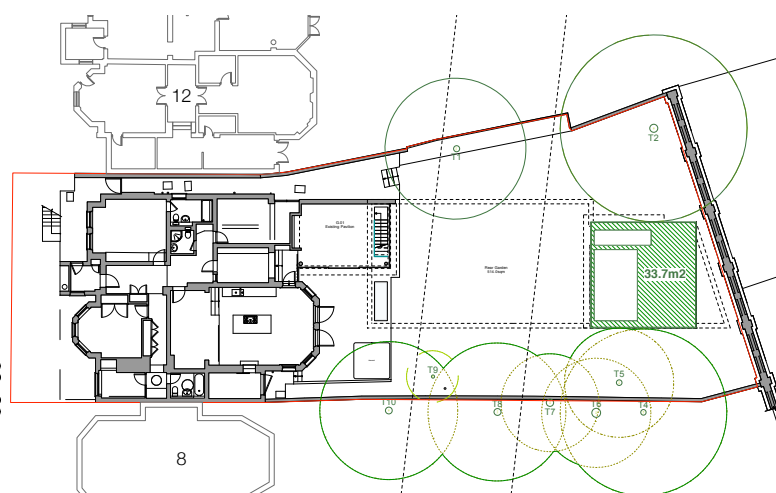
To help compare a basement compliant with the current Camden Policy Guidelines please refer to Dia. 3. This policy compliant basement has a plan area **29.3% larger** than the refused scheme. This we have explained further and illustrated in the submitted document "17.225.Supporting Information 2018/1905/P & 2018/2707/L Justification Document". It is also critical to note that a compliant proposal by virtue of it being below the existing structure would cause greater harm to the Listed Building and more interruption to adjoining neighbours (upstairs and next door) as well as other local residents. All such harm has been purposefully mitigated in the design solution of the refused proposal.

3. The Proposed Design - What shaped the Proposal that was Refused.

The proposal in front of you, outlined in Dia. 4 & 5, has been designed to protect the existing qualities of the host building, its mature large garden, neighbouring amenity and the surrounding area. In particular the design solution as proposed is sensitive to the host Grade II Listed Building. This fact is echoed by supportive comments made by the Design and Conservation Officer.



Dia. 4. Diagrammatic representation of the basement proposal - refused



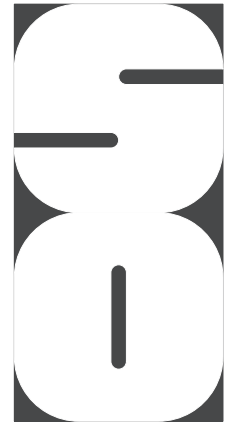
Dia. 5. Diagrammatic representation of the ground level proposal - refused

Camden's support for the proposed design included :

A. The removal of existing garden sheds is encouraged and the proposed outbuilding is read as a garden pavilion which is complementary to the area and its setting. This also aligns with the PAPA response ref. 2015/6043/PRE.

&

B. It is welcomed that the proposal supports the clear separation of the proposed basement from the host grade II Listed Building with an entrance via the existing modern extension (granted permission in 2007). This also aligns with the PAPA response ref. 2015/6043/PRE.



4. Post Refusal activity and the decision to go to Appeal.

It is our assertion that the proposal as refused is sympathetic to its context above and below ground. The fact that in order to do so means that both criteria 'j' and 'k' are not met, suggests that Camden would be better served with options within its policy to celebrate Historic Buildings, Mature Landscapes and other special / uncharacteristic contexts in a different manner. Criteria 'j' and 'k' have in this case served to put pressure upon the Listed Building and the mature trees and in doing so dictate solutions that aggravate rather than nullify the impact of basements upon important assets and neighbours.

To expedite a solution and retian the decision locally, we approached the Camden Planning Team with suggestions to proceed. Our suggestions focused on the very special circumstances of this particular site that provide for a more sensitive solution when criteria 'j' and 'k' are not met, but that the quantum of space proposed does meet both of these criteria within the curtilage of the listed building rather than beneath it.

Our responses to the refusal included a reminder that the scheme applied for was a detailed response to a very helpful pre-apps that the applicant embraced. As a direct response to the Pre-Apps the Applicant invested in very costly and time consuming negotiations with multiple stakeholders with appointed experts to provide a sensitive site specific solution. The solution presented clearly does not cause harm the amenity of neighbours, affect the stability of other buildings or cause drainage / flooding problems. What it does do is secure the continued health of the garden, protect the listed building, preserve its setting and maintain without detriment the natural environment.

Camden responded to our post refusal approaches. Both the Planning Case Officer, Ben Farrant and in more detail his Line Manager, Richard Limbrick, provided the Applicant with advice to shape a new application. In essence the advice provided a solution that would interrupts the full width of the rear elevation at garden level and would require the fabric of the listed building to be altered above and below ground in order to meet Policy A5's criteria 'j' and 'k'. In doing so, rather than no detrimental impact apart from the location of the basement within the curtilage of the listed building, the Planners response would cause pressure or failure upon mukltiple other criteria such as 'e' "the significance of heritage assets" and 's' "do not harm the appearance or setting of the property or the established character of the surrounding area".

On reflection, the Applicants Architectural, Structural and Landscape consultants concluded that Camden's suggestions to be inappropriate in this specific case. Inappropriate in terms of architectural and structural relationships to the host listed building, the original garden facade and the mature trees.

In conclusion, changes to the basement and above ground proposals suggested by Camden, including the position of the outbuilding would have a negative impact on assets and amenity that were mitigated by the original proposal.

As the revised recommendations by Camden is not the subject of the Appeal, it is only mentioned here as an example of how, having tried to work with the Council to bring forth a sensitive contextual solution, the advice being provided back from Camden was policy driven to the detriment of specific features, causing failure against other more important criteria within Policy A5. It is therefore in the Appellant view, that this Appeal requests Planning Inspectorate to help both the Appellant and Camden untangle what has been a frustrating experience for all parties, particularly as the application merits were clear, concise and above all considerate.

Report Author : Agent : *James Engel - RIBA 28.01.2019*