

Mr. and Mrs. Yiyong Yang  
25b Frognal  
London  
NW3 6AR

FAO John Diver  
Planning Officer  
London Borough of Camden  
Town Hall, Judd Street  
London, WC1H 8ND

04/10/2019

Dear Mr Diver,

**RE: Planning application 2019/1697/P for works at rear of 29 & 33 Arkwright Road London NW3 Proposal: Construction of 2no. detached, two storey dwelling houses (1x 2bed, 1x 3bed; Use Class C3), replacement boundary wall to lane and associated site re-landscaping.**

We own the property at No. 25B Frognal Road, NW3 and would like to **object, again**, to the latest series of documents uploaded from the 2<sup>nd</sup> – 16<sup>th</sup> of September 2019. We would like to add to our previous objection (Appendix 2) on the 1<sup>st</sup> of May 2019 and bring some further points to your attention.

**1. Lack of a Planning Policy Statement referring to the “DRAFT NEW LONDON PLAN” and request for Sequential Testing by the applicant**

In the Applicants Design and Access statement (DesignStatement\_Rev A) on page 11, it states “*The Planning statement by JMS Planning Consultants analysing the Planning and Heritage issues that affect the proposals is attached separately*” but this document is not available online or following an email to you, the case officer. We strongly feel the Planning Policy justification for this application is crucial and needs to be provided to accurately demonstrate any viable proposal.

We would like to understand where in the draft London Plan it is mentioned that the National Planning Policy Framework should be ignored in favour of back Garden Greenfield development? We are referring to Paragraphs 111, 118(b) and 122(d).

We would also like to bring your attention to the High Court Case: Dartford Borough Council v Secretary of State for Communities & Local Government (CO/4129/2015) in which it was determined

*"that residential garden land, outside "built-up areas" is "brownfield" land not, as had widely been understood, "greenfield" land."*

**Following this ruling and based on the lack of justification or planning policy statement we request that the applicant provides a Sequential Assessment to demonstrate why there are not more suitable places to develop the proposed 2 new dwelling's in Camden's' Brownfield area's over a Back- Land / Back Garden Greenfield site on a very narrow lane?**

## **2. Independent Tree Consultant – PBA Solutions**

After reviewing the updated Tree Survey 02/09/2019 we held doubt over the content and lack of information submitted by applicant so we commissioned an independent tree consultant, PBA Tree Consultancy Partnership LLP, to review the information submitted by the applicant and advise how damaging tree's especially protected tree's can be allowed in a conservation area.

PBA solutions are amazed how inaccurate elements of the report are and have highlighted them in the report in **Appendix 1 below**. Specifically 4.1.2, 4.1.3, 4.1.4, 4.2.1, 4.2.2, 4.3.2, 4.5.3, 4.5.6.

The character of the driveway entrance to the laneway is dominated by the stunning tree's ahead in the Photograph below. The loss of the Tree's will have a severe visual impact on the laneway. We would like to bring your attention to Policies RF35, RF36 and RF37 of the Redington/Froggnal conservation area statement 20 which protects tree's in this conservation area and are being ignored.



## **3. Ownership information and Right of Way over our access lane**

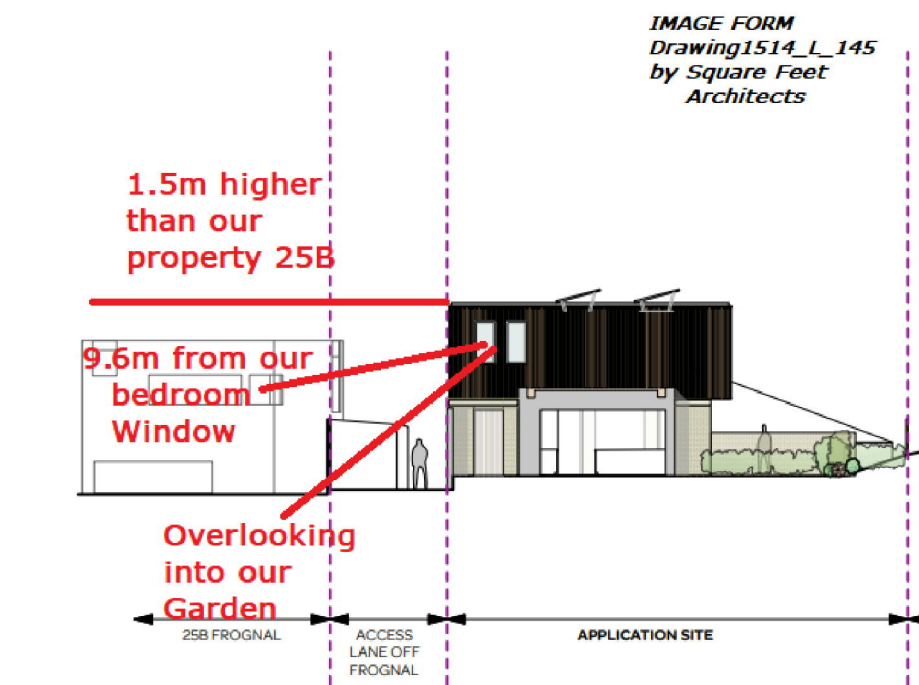
We were very surprised to read the document named: Statement: Access lane Froggnal – ownership which is simply a statement from the Applicants Architect.

We were expecting ownership titles which demonstrate the legal right of way and/or a Barrister's Opinion following the review of all the relevant Titles, documentation and legal Transfers.

We question the intended Right of Way on the original Legal Transfer?

The applicant must demonstrate that any new development would have the legal right of way over the land and could gain access to any new property.

4. Increased Sense of Enclosure and Overlooking onto our property 25B Frognaal



The proposed Dwellings will be 9.6m distance from my property which is well below the 18m recommended allowance. This proximity is clearly unacceptable as the sense of enclosure will be overbearing and oppressive. The narrow path between the proposed new buildings and our Garden and Flank elevation is to be only 3m. This will impact our natural Light and privacy into our Garden. The proximity is very close for a new build development to be considered in a Conservation area.

The proposal also looks to dominate my property by being 1.5m higher than my property which will have an enormous impact on overlooking into my Garden.



*Illustrative view from bedroom window (3) and 25B garden with an illustrative outline of the proposed buildings*



We currently enjoy uninterrupted views from our bedroom window over the garden areas to the rear of properties along Arkwright Road, NW3. The proposed scheme would involve the demolition of storage sheds to the rear of the subject gardens and the erection of new family dwellings that will be accessed via the narrow lane way. The proposed new dwellings would be situated less than 10m from the windows serving our main bedroom. This development would cause a sense of enclosure over my property, with this form of development, not supported within Conservation Areas.

Furthermore, Camden's Local policy D1 states good design should ensure buildings do not significantly overshadow existing/proposed outdoor spaces (especially designated open spaces) and amenity areas.

#### **5. Damage to Conservation Area**

As the property falls within the Redington and Frognal Conservation Area, we would like to give our full support to the objection's submitted by the Redington Frognal Neighbourhood Forum 28/09/2019 and the Hampstead CAAC 13/06/2019.

We would like to draw your attention to The Conservation area statement – Redington/Frognal (20) states in Back-land /Rear gardens RF1.

*"Rear gardens contribute to the townscape of the Conservation Area and provide a significant amenity to the residents and a habitat for wildlife. Development within gardens is likely to be unacceptable."*

The proposed new-build dwellings would be harmful additions to the area due not only to the access constraints, but also to the built form of the proposal, through its size, design and siting and would therefore fail to, at the very least, preserve the character and appearance of the Redington and Frognal Conservation Area in which it sits.

**THE CONSERVATION AREA SHOULD BE RESPECTED AND THIS DEVELOPMENT SHOULD BE REFUSED**

## **Redington Frognal**

#### **6. Detrimental impact on a narrow laneway / entrance to our home**

The proposed development will almost certainly increase the likelihood of multiple vehicles queuing to enter/exit this lane onto Frognal, which will need to join the two-way traffic on Frognal when allowed. As incoming traffic will need to wait before they can enter the access lane, blockages and disruption to the free flow of traffic on Frognal, will be inevitable.

The proposed development is to be car-free, but no provision for parking, for private and taxi drop offs and collections, for amazon delivers and food deliveries. These transport events have become part of modern life.

The proposal looks to create two large family dwellings, this could potentially lead to illegal parking in the lane, which will only compound parking problems in Frognal. The plans state there will be no on-site car parking, however a large entrance gate is proposed leading to an enclosed courtyard.

**We strongly believe there is sufficient requirement for a full Transport Assessment.**

### **Conclusion**

In summary, this updated planning application should be refused. The application continues to lack an updated Planning Policy or Heritage Statement, continues to ignore the pre app request for a Construction Method statement and lacks justification for development in a Greenfield site in a conservation area.

We are the FAMILY HOME most likely to be affected by this proposed development, which will mean, our Garden becomes overlooked, our bedroom will become 9.6m away from another house and our already congested entrance way will receive further traffic pressure. If any development should be deemed acceptable it should be a single storey proposal for a single one storey conservation style Bungalow.

Finally, we feel that the addition of further dwellings accessed via the narrow lane way, will not only add unnecessary strain to the amenities of the existing dwellings, but will also increase traffic, congestion, noise, pollution and risk to health for pedestrians who use the lane way.

For the reasons discussed we encourage Camden Council to refuse this application on the grounds that it is not compliant with the relevant Local Plan adopted and saved policies and guidance.

Should you have any further questions or wish to get in touch, please do not hesitate to contact me directly on [REDACTED]

Yours Sincerely,

Mr and Mrs Y Yang  
25b Frognal  
London NW3 6AR

<http://camdocs.camden.gov.uk/HPRMWebDrawer/PlanRec?q=recContainer:2019/1697/P>

## **Appendix 1.**

### **PBA Consulting**

**Discussion on trees at the proposed development site:  
29-33 Arkwright Road London NW3 6BJ**

PBA Ref: Q1500  
Report Date: 26 September 2019  
Author: Steve Williams Arboricultural Consultant  
  
www.pba-consulting.co.uk

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#### **Tree Report Q1500**

##### **Summary**

This desktop exercise has resulted in the following points, deemed worthy by the author, of consideration:

- 1) Future impact that proposed development may have upon existing trees by way of pressure to remove or prune TPO and/or CA protected trees.
- 2) Impact upon the Root Protection Area RPA of T22 resulting from development; floor slab pile locations and the methodology of installing a tiled surfacing within the RPA of a TPO status tree.
- 3) Potential for the proposed tile surfacing within the RPA of T22 Pear to suffer from distortion as a result of direct tree root action that may result in pressure to remove the considered tree at fault and/or in root damage/pruning occurring in order to mitigate and relay the surfacing.
- 4) Considering the impact of light restriction and the perceived dominant presence of trees in close proximity to a north facing rear aspect, and the pressure that may result to have

trees removed or pruned.

5) A visual tree assessment (VTA) of T22 Pear may be of use to ascertain a third-party opinion of BS5837:2012 Category rating (currently rated C).

## **1.0 Instructions**

1.1 PBA Consulting have been instructed by the "affected home owners of Frognal and Arkwright Road" (referred to as the client within this document) to:

1) Undertake a review/critique of application documents available within the London Borough of Camden Planning Portal relating to Planning Application reference 2019/1697/P.

2) Prepare a report informing the client of any pertinent points that may be of use to the client that may assist their objection to those planning proposals.

## **2.0 Report Limitations**

2.1 This was a desktop exercise only.

## **3.0 Methodology**

3.1 Each document within the planning application documents list was opened and assessed in the order that they are listed within the planning portal.

## **4.0 Points of note/discussion**

4.1 99AR Landscape Design Package, October 2018

4.1.1 It is noted that the design incorporates porcelain tiles to be dry laid with 3mm joints for drainage.

4.1.2 There may be potential for soil compaction and root damage to occur in preparing and installing the tiled area within the root protection area (RPA) of T22 Pear. As such ground protection techniques should be used and a methodology for ground preparation and installation submitted to ensure damage to the tree roots does not occur.

4.1.3 There is potential for future surfacing distortion to occur as a result of tree root activity. This could result in root pruning as a perceived means of mitigating or removing the problem and also place pressure upon the tree owner to remove trees that are perceived to be the culprit and subsequently result in application to London Borough of Camden (LBC) to remove trees protected by Tree Preservation Order (TPO) or with a designated Conservation Area (CA).

4.1.4 The author has no knowledge of the designed gravel trench detail referred to within the document. Details should be provided as to specification, methodology of installation. If within an RPA there may be potential for tree root damage by means of root severance, compaction or harmful material use (i.e. concrete).

4.2 Root Protection Area (RPA)

4.2.1 With reference to T22 Pear and the RPA. RPAs are indicative of a likely symmetric root growth pattern of an individual tree grown in open conditions and of satisfactory condition. It is also generally acceptable to offset the RPA by up to 20% on one side of a

tree dependent upon the site conditions and landscape features. It is possible that the tree roots emanating from T22 grow beyond the extent of the calculated RPA. The tree roots may have taken advantage of an area with less competition and away from competing trees root systems and so the RPA should be viewed as an indicative guideline only and not factual. The only way to ascertain true extent of the rooting area would be to expose the rooting system, undertake trial pit excavations or by using ground penetrating radar equipment to map the rooting area.

4.2.1 The updated Square Feet Architects tree constraints plan ref: 1514\_L\_032 date Oct 2018 appears to show an unacceptable percentage of exposed RPA of T22 Pear once the tree protection fencing is erected.

4.2.2 The exposed area of the non-protected RPA is liable to compaction and toxic materials if ground protection is not put in place to account for this. The specification of the ground protection should be suitable for the type or machinery, plant, vehicular, personnel, storage usage expected in this area.

#### 4.3 Floor slab specification

4.3.1 Small diameter piles with shallow floor slab positioned wholly above ground level have been specified to limit impact upon trees.

4.3.2 There should be a construction specification and methodology in place showing the intended positions of the piles and that those positions have shown to not impact trees rooting systems by means of direct and indirect damage; soil compaction, root severance, toxicity. Non-invasive and non-mechanical means of excavation should be used, hand tools only and overseen by the developers arboriculturist. This should also be featured within the developers Arboricultural Impact Assessment (AIA).

#### 4.4 Square Feet Architects plans/sections/elevations drawings document

4.4.1 Although trees and shrubs used in drawings are indicative only it does serve to indicate that the trees are in relatively close proximity to the proposed unit A and that as a result there is potential conflict as the trees may be perceived as oppressive and the causation of a dark or low light aspect. Although the rear elevation, where the trees are located, is north facing. This may lead to requests to fell or prune trees once the property is occupied.

4.4.2 Pressure to request tree removal or pruning often results following new development adjacent to trees. The reasons often include perception that the trees are causing a nuisance, which may include falling leaves, fruit, insects and birds, tree sap, causing dark and damp conditions that cause slippery surface conditions, blocking of light to the garden or within the property, overhanging branches, perception of causing or exacerbating medical conditions such as asthma, mechanical damage to surfacing or somehow related to any internal cracks that may appear.

4.4.3 The Square Feet sunlight diagrams document indicates that the rear elevation would mainly be in the shade and this coupled with the presence of trees, shrubs and other greenery may act to increase the perceived impact of darkness or low light availability.

#### 4.5 BS5837:2012 Cascade chart categorisation of T22 Pear

4.5.1 Arboricultural Impact Analysis report by Skerratt dated 10 August 2016 on behalf of Square Feet Architects states that at the time of tree survey that T22 Pear had a retention category rating of B, physiological condition rating GOOD and within comments that dead wood was present. The tree survey appears to have been undertaken on 25 May 2015.



4.5.2 The updated Arboricultural Report by Frank PARSONS on behalf of Square Feet Architects 23 July 2019 and the tree survey undertaken 4 July 2019 categorise T22 Pear as BS category C. Physiological condition was recorded as Fair and structural condition was recorded Fair and noted presence of deadwood throughout crown.

4.5.3 The author has not visited the site or undertaken a visual tree assessment (VTA) of T22 Pear so cannot comment upon BS categorisation.

4.5.4 An observation is that when T22 was surveyed in 2015 it was noted that there was deadwood within the crown, but it was not noted that the tree was in decline. In the 2019 survey with dead wood still present within the tree it was noted that the tree was in decline.

4.5.5 Dead wood within a maturing tree is a natural occurrence and process of the lifecycle. If the tree is not managed to remove dead wood, then unless fallen the dead wood will remain in situ. There are benefits to this for insects, invertebrates and wildlife in general although it doesn't necessarily equate to tree decline from pests or diseases or other causes such as anaerobic soil conditions.

4.5.6 The author did not identify any comment from the LBC Planning Tree Officer as to the council perspective of the BS categories given or the impact that the development may have upon those trees to be retained. A tree with a BS category of B would warrant greater protection than a tree categorised as C. The Tree Officer within planning should be able to comment upon the categorisation given and express an opinion on whether being categorised as B or C would have any actual bearing on the decision-making process.

## **5 Conclusion**

5.1 This desktop exercise has resulted in identifying within the planning documentation certain points where the client may wish to require clarification from the LB Camden Planning Department regarding this application and/or to support an objection.

## **Appendix 2. – OBJECTION FROM 29/04/2019**

Mr. and Mrs. Yiyong Yang  
25b Frogna  
London  
NW3 6AR

FAO John Diver  
Planning Officer  
London Borough of Camden  
Town Hall, Judd Street  
London, WC1H 8ND

29th April 2019

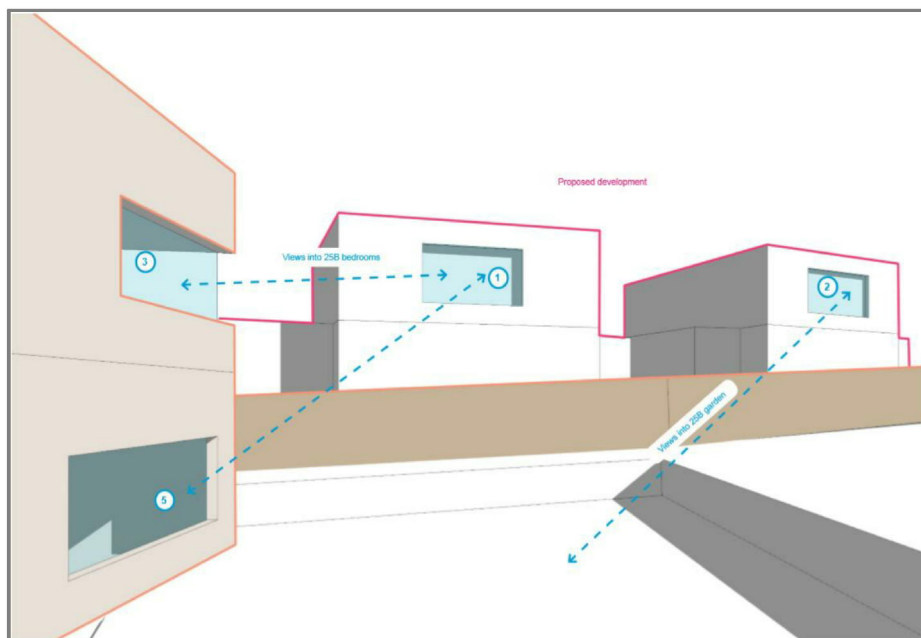
Dear Mr Diver,

**REF: Planning application 2019/1697/P for works at rear of 29 & 33 Arkwright Road London NW3**  
**Proposal: Construction of no.2 detached, two storey dwellinghouses (1x 2bed, 1x 3bed; Use Class C3), replacement boundary wall to lane and associated site re-landscaping.**

We own the property at No. 25B Frogna Road, NW3 and would like to object to the above proposed development for the reasons discussed below:

### **Design and Appearance**

The Council's policy D1 states good design should ensure buildings do not significantly overshadow existing/proposed outdoor spaces (especially designated open spaces) and amenity areas. In addition to this, the policy states to consider the extent to which developments may overlook the windows or private gardens of other dwellings. With regards to promoting good design, the policy states: *"development should be designed to protect the privacy of both new and existing dwellings to a reasonable degree. Spaces that are overlooked lack privacy. Therefore, new buildings should be carefully designed to avoid overlooking, with the most sensitive areas being Bedrooms; Kitchens; Living rooms; and the part of a garden nearest to the house".*



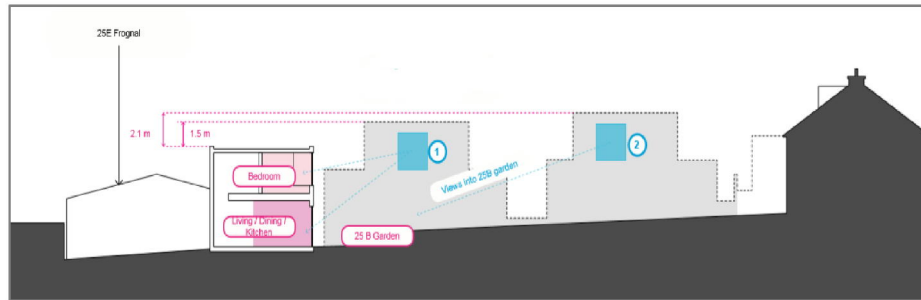
*Illustrative view from the garden of 25B Frognal looking north towards the proposed development.  
The image clearly demonstrates a sense of enclosure and an intrusion of privacy at 25B Frognal.*

#### **Sense of Enclosure**

To ensure privacy, the council states it is good practice to provide a minimum distance of 18m between the windows of habitable rooms in existing properties directly facing the proposed (either residential or non-residential) development, assuming a level topography. In instances where building heights, design or topography mean that opportunity for overlooking would be increased, it is advisable to increase this separation distance. The 18m should be measured between the two closest points on each building. The plan below, clearly demonstrates that at its closest point, the proposed development will be within a 9.5m distance from my property. This proximity is clearly unacceptable as the sense of enclosure will be overbearing and oppressive.



*This image portrays the Overlooking Distances of the surrounding dwellings to the proposed development, highlighting the sense of entrapment and significant loss of privacy.*



*Due to the topography of the surrounding site, two storey developments appear to be nearly three storeys from 25B*

The plans submitted with this application, fail to acknowledge the bedroom windows on the first floor of my property and therefore do not mitigate this sense of enclosure, with the proposed development situated just meters away from this habitable space. I am concerned this application has not been designed appropriately on privacy or overlooking grounds. The above image demonstrates the close proximity to my property. The overlooking and or perceived effect of overlooking is not acceptable.

At present, we currently enjoy uninterrupted views from our bedroom window over the garden areas to the rear of properties along Arkwright Road, NW3. The proposed scheme would involve the demolition of storage sheds to the rear of the subject gardens and the erection of new family dwellings that will be accessed via the narrow lane way. The proposed new dwellings would be situated less than 10m from the windows serving our main bedroom. This development would cause a sense of enclosure over my property, with this form of development, not supported within Conservation Areas. The cumulative height, depth and proximity of the proposed new-builds, being so close to a principal habitable room in our property, would dramatically affect both sunlight and daylight received by this room and therefore harm the amenity value of my property.



*Illustrative view from bedroom window (3) and 25B garden with an illustrative outline of the proposed buildings*

### **Conservation Area**

As the property falls within Redington and Frogmal Conservation Area, Core Strategy policy CS14 requires development schemes to improve the quality of buildings, landscaping and public spaces,



with Council advising that they would not approve designs which are inappropriate to its context or fail to improve the character of a given area.

The proposed new-build dwellings would be harmful additions to the area due not only to the access constraints, but also to the built form of the proposal, through its size, design and siting and would therefore fail to, at the very least, preserve the character and appearance of the Redington and Frogna Conservation Area in which it sits.

This application lies within an established Conservation Area. Proposed materials should form an integral part of the design process and should relate to the character and appearance of the established properties seen locally, particularly in conservation areas or within the setting of listed buildings. Furthermore, the introduction of high boundary walls are seen to be out of keeping and will introduce an overbearing mood between the subject sites and both 25B & 25E Frogna.

### **Environmental**

The Council state that planning permission is unlikely to be granted for new development which significantly erode the character of existing garden spaces and their function in providing wildlife habitat. This statement contradicts the subject application as this proposal supports the permanent destruction of wildlife habitats for foxes, bats, frogs, birds and feral cats.

Where any type of development is proposed, either in rear gardens or on private land that forms part of open habitat land, a full assessment should be made prior to the commencement of the development to avoid any potential impact upon trees or other vegetation in the surrounding area. This assessment may be required as part of an application for planning permission.

From a review of the information submitted, it would appear that there are mature trees in the proposed development site which the developer has removed from the drawings.

The London Plan (2016) Policy 3.2 states that *“new developments should be designed, constructed and managed in ways that improve health and promote healthy lifestyles to help reduce health inequalities.”* There is also a clear association between access to good quality open space and the number of social interactions. Policy A2 of the Camden Local Plan protects, enhances and improves access to Camden’s parks, open spaces and green infrastructure. Consequently, the council should preserve greenspace and not allow for overcrowding housing. Amenity is important for good health and wellbeing. Poor air quality and noise impact adversely on health. Conversely good air quality and a quieter environment can create conditions for people to be physically and socially active.

Arkwright Road has the highest level of air pollution in the Redington/Frogna area. At a time when London Mayor Sadiq Khan is campaigning against air pollution it is shocking to remove precious areas of greenery and habitat, to create more pollution.

### **Transport Statement / Car Parking**

The National Planning Policy Framework (NPPF 2019) states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment which should be submitted along with a planning application for the proposed development. As the lane serving the proposed new dwellings, does not allow for two-way traffic, vehicles wishing to enter the lane must wait for vehicles exiting the lane to pass before they can enter.

Arkwright Road traffic has built up over the years and has become a terribly busy road due to its strategic location between Hampstead and Finchley Road. The road has become frequently used by ambulances and other emergency vehicles. Adding two more large family homes will only increase traffic using this narrow lane. Whilst the application is proposed as car-free, the use of the site as housing would nevertheless increase the number of car journeys down this narrow lane, with visitors, deliveries, maintenance and emergency services all adding to the overall congestion on this lane.



*Existing access lane from Frognal serving my property and the proposed sites*

The proposed development will almost certainly increase the likelihood of multiple vehicles queuing to enter/exit this lane onto Frognal, which will need to join the two-way traffic on Frognal when allowed. As incoming traffic will need to wait before they can enter the access lane, blockages and disruption to the free flow of traffic on Frognal, will be inevitable.

With regards to transport, access and amenity, both in terms of usability and on safety grounds, the proposal would be unacceptable and in conflict with the Council's relevant policies and guidance and as such, should be refused.

As the proposed development is car-free, no provision for parking has been made. As the proposal looks to create two large family dwellings, this could potentially lead to illegal parking in the lane, which will only compound parking problems in Frognal. The plans state there will be no on-site car parking, however a large entrance gate is proposed leading to an enclosed courtyard. Therefore, there is sufficient requirement for a full Transport Assessment.

#### **Construction Logistics**

Heavy construction and pile driving in an enclosed space will create unbearable noise levels. Furthermore, the potential site has no road access (only a back lane) so understanding how significant building works will be carried out, will be essential. The application has no mention on the logistics of construction works in such a tight environment and how machinery and large delivery vehicles will access the site. There is also a significant concern regarding children's safety due to the close proximity of family houses around the proposed site.

#### **Pre-app to this Application**

With regards to the Pre-application response received, the conclusion loosely suggests that this development is supportable, relying heavily on the requirement to justify various other elements not yet agreed at pre-application stage, whilst stressing the significant objections received for this proposal. In terms of design, the report states the proposed dwellings should be of the height level of aesthetic design so as to not appear overly dominant, resulting in harm of the character of the host dwellings and townscape.

Similarly, it mentions in terms of residential amenities the main concern is the implementation of any development on the site, which features very limited access. As such a construction management plan would be necessary for any development on the site, however no such report or analysis has been presented to support this application.

The pre-app advises that in accordance with local policies, any new dwellings should be justified in sustainability, energy, drainage (SuDs) and air quality terms. From a review of the information submitted, no such report or analysis has been presented to support this application.

The pre-app advises that in accordance with local policies, any new dwellings should be car free and should feature the highest possible standard of accessibility. Whilst the dwellings as proposed are in fact car-free, the accessibility of the site, accessed via a very narrow lane, cannot be classed as being accessed via the highest of possible standards. I would argue that the accessibility is therefore not acceptable.

### **Conclusion**

In summary, there are various reasons as to why this application should not be approved.

We feel that as owners of the property most likely to be affected by the proposed development, the amenity and enjoyment of our living space will be substantially compromised as a result of this form of backland grabbing and over development.

We are concerned that the height of the proposal will appear as an incongruous feature and would obstruct our views from within the surrounding area. The proposed structures would appear unsympathetic in terms of their scale, siting and fenestration and in no way, would preserve or enhance the character and appearance of the surrounding Conservation Area.

We are concerned that allowing such a poorly thought-out and designed scheme will set a precedent for others to follow.

Finally, we feel that the addition of further dwellings accessed via the narrow lane way, will not only add unnecessary strain to the amenities of the existing dwellings, but will also increase traffic, congestion, noise, pollution and risk to health for pedestrians who use the lane way.

For the reasons discussed we encourage Camden Council to refuse this application on the grounds that it is not compliant with the relevant Local Plan adopted and saved policies and guidance.

Should you have any further questions or wish to get in touch, please do not hesitate to contact me directly [REDACTED]

Yours Sincerely,

Mr and Mrs Y Yang  
25b Frognal  
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