

<b>Application No:</b>	<b>Consultees Name:</b>	<b>Received:</b>	<b>Comment:</b>	<b>Response:</b>
2020/2666/P	The Heath & Hampstead Society	30/07/2020 15:51:25	OBJ	Full objection from The Heath & Hampstead sent separately by e-mail.

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2020/2666/P	Peter Goldsmith	27/07/2020 15:42:12	OBJ	<p>I am a solicitor practising as sole principal at Peter Goldsmith Solicitor and instructed by Elizabeth Goldsmith who lives at garden flat 4 Downshire Hill. The bedroom windows of the flat look onto the rear garden of no 4, and the entrance to the flat is approximately in line with the fencing seen on the right of the photograph labelled "Proposed location of air conditioning unit - View towards the side wall of No. 4 Downshire Hill" in the Design and Access Statement ("DAS"). That door is left open during the summer months so far as practicable to allow for fuller ventilation and cooling of the flat.</p> <p>1. Visual impact. It is accepted that the unit and its housing should be invisible from this property. However, as 3.2 of DAS points out, the visual impact is designed to be limited, and even screened off, so that it could, theoretically stand anywhere, and, it is suggested, the words "perfectly natural use of a space at the end of any rear garden" are designed to deflect a focused view from such questions as "why does this need to be adjacent to no 4 at all?" and "why need it be at the end of the garden, as opposed to nearer the house benefitting from the unit?". More succinctly, is the case made out that this solution more than any other complies with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, alluded to at 4.2 DAS. We submit that it does not make out this case, but selects the easiest target that is not near the house benefitting from the application were it to succeed.</p> <p>2. Planning Policies. Several are referred to in DAS and we deal with those which raise issues in this case.</p> <p>(a) 66 of the Planning (Listed buildings and Conservation Areas) Act 1990 which DAS states requires the Council to have special regard to the desirability of preserving the setting of listed buildings, we submit, means here that the impact of the proposed structure would be no different as regards material buildings were it to be located anywhere else on the land forming part of 8 Pilgrim's Lane.</p> <p>(b) 4.2 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990: the conclusion in (a) applies equally to this planning requirement that, as DAS specifies, requires the Council to have special regard to the desirability of preserving the setting of listed buildings. Indeed, looking at listed buildings, only 4 Downshire Hill of all the properties adjacent to and including 8 Pilgrim's Lane has a (Grade II) listed building, see 2.3 DAS. If there should be any impact of the proposed application being implemented either that may be anticipated or that may not be anticipated, this will involve, and possibly without any other viable option in the latter case, difficulties and unusual costs for permission and probably implementation for the owner of 4 Downshire Hill to adapt that building accordingly.</p> <p>(c) Section 38 of the Planning and Compulsory Purchase Act 2004 per DAS requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The following such plans are considered:</p> <p>(i) National Planning Policy Framework ("NPPF").</p> <p>(1) DAS mentions section 12, but not section 2 ("Achieving sustainable development") including in particular paragraph 8, "an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy". With the widely trumpeted increase/increasing use of electricity by increased use of air conditioning, it is not possible to reconcile a consent to this application with that goal. We note the presumption in favour of sustainable development(paragraph 11)</p> <p>(2) DAS does not mention section 8, "Promoting healthy and safe communities", with its emphasis on (paragraph 91 (c) ) (c) development to enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling. We submit that in a time of pandemic with more/others anticipated using</p>

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a system that extracts air from (possibly isolating households) to dump it on neighbouring property does not achieve this aim.

(3) DAS does not mention section 14, "Meeting the challenge of climate change, flooding and coastal change".

It is submitted that DAS reference to section 12 NPPF does not either explain how all legs of this section are met, and that compared to the above paragraphs, which are not even mentioned as relevant, the reference comes nowhere near to justifying the development applied for.

(ii) The London Plan 2016

While it is unclear as to the extent, owing to the scale of matters considered in that document, that this is directly relevant to the application, we need merely note POLICY 5.9 OVERHEATING AND COOLING, and the extensive sections dealing with climate change and pollution as well as gas and electricity supplies to appreciate that, again, the document does not promote, in our view, a development such as that now applied for. As with NPPF, DAS looks only at visual design, not any other relevant elements, even if one restricts these to such as might affect a neighbour.

(iii) Camden Local Plan 2017

Quoting from this document, "Air quality, noise and neighbourhood amenity – Policies CC4 Air quality, A1 Managing the impact of development, and A3 Biodiversity recognise that development can have a significant effect upon the amenity, health and wellbeing of those who live, work and visit the borough. We will only grant permission for development that does not cause harm to amenity or/and would cause harm to air quality unless appropriate mitigation measures are adopted."

In addition, we do not find Policy CC1 would be complied with were the application to be granted, which requires inter alia that the council "support and encourage sensitive energy efficiency improvements to existing buildings".

Appendix 3 sets out the clear standards relating to various types of noise. It is submitted that any noise caused by the development in this quiet area is too much noise. We do not accept that the noise through the front door of the flat will be much lessened by a corner just beyond the machinery and housing. Policy A4 is paramount, and we ask the Council in any event to apply with utmost rigour and attention to detail the boundaries to noise it has imposed upon itself. If the noise were so minimal, we imagine there would be no objection on the part of the applicant to the installation being close to the dwellinghouse at 8 Pilgrim's Lane, rather than being someone else's problem.

We do not see enhancement of Camden's heritage assets and their settings from the application as currently framed (DAS 4.11).

(iv) Hampstead Conservation Area Statement 2001

This as framed in DAS has, in our view, no bearing on the merits of the application.

H11, which is relevant, is not mentioned by DAS,

"H11 Rear gardens and backlands contribute to the townscape of the Conservation Area and provide a significant amenity to residents and a habitat for wildlife. Development within gardens is likely to be unacceptable." (our bold text)

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				<p>(v) Camden Planning Guidance Documents We note the Guidance of March 2018, "Planning for health and wellbeing in Camden" not mentioned by DAS, but surely relevant for reasons already rehearsed in this response. In relation to "Design", we note 2.10, Sustainable, in particular, that "Development should promote sustainability and efficient resource consumption", March 2019, again ignored by DAS.</p> <p>(vi) Hampstead Neighbourhood Plan 2018 – 2033 We do not believe this Plan adds to or subtracts from what is contained in the other documents above referred to as regards the issues pertaining to the present application.</p> <p>3. Noise. This is the other principal concern evidenced by the DAS, and we have dealt above with the restrictions on noise. As regards the submitted materials, we note</p> <p>(i) That the actual report by the background noise survey carried out in the rear garden of the development site by Campbell &amp; Associates over the period from 9th January 2019 through to 12th January 2019 was not itself submitted though DAS indicates its conclusions are available per Noico.</p> <p>(ii) Daikin model RXYSCQ 12TY1 referred to in the Noico report at 3.2 is not the equipment for which technical specifications have been provided (RXYSQ-T8Y/RXYSQ-TY1, nor any explanation as to any relationship of these to the specified machinery.</p> <p>(iii) We believe the figures show the constraints of the council are barely met, rather than successfully overcome.</p> <p>(iv) There will in any event be more noise than at present, and this noise is likely to particularly impact the garden flat in no 4 Downshire Hill, probably also the upper part of the building, it must be said.</p>

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