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22 February 2021

Dear Ms Fieldsend

Application ref 2020/5974/P Demolition of existing dwelling and construction of replacement dwelling with basement and associated landscaping

I have been asked by my client Carole Berman to write on her own part, and on behalf of the Mulberry Tree House Residents Association, of which she is the Secretary, to object to this application. Carole Berman lives in the ground floor flat at the property adjoining this planning proposal site. She wrote in August last year to express her general concerns about the scheme and asked me recently to analyse the new drawings that were submitted.

This scheme is extremely aggressive to its neighbours and that it ought not to be permitted in its present form. No concession in the revised drawings submitted has been made at the rear of the property. In this time of coronavirus pandemic, site views are very difficult, and it is necessary to spell out the impacts of the proposal in as much detail as possible, and I have sought to do this.

Existing Situation

The present house at no 5b was permitted in the 1960s and extended in the 1980s. The house was sited so that it came out to the property line on the eastern boundary, but was respectful, in its rear boundary, of the existing layout of the adjacent house at no 5. The birds eye view from Bing Maps at Figure 1 below shows the present configuration



Figure 1. Present Configuration

Figure 2 below is the Ordnance Survey Site Plan from the application with a scale, and it shows the side wall of no 5 set back some 4 metres from the property boundary.



Figure 2. Site Plan with scale forming part of the application

These parameters of the existing layout set acceptable distances and setbacks between the two buildings which have been completely ignored in the present application in a manner which is not explained, but pays no respect to the current configuration of windows at no 5 or the amenities that they confer.

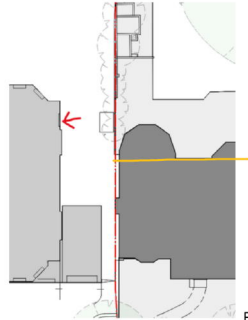


Figure 3 Extract from ST Studios Site Plan showing location of existing window (red arrow) and existing rear building line (yellow line)

Figure 3 above shows how in the application drawings, the location of the existing window at no 5 is depicted, with a red arrow which I have added. As will be seen from Figure 1, the rear building line, which I have shown with a yellow line, of the existing house, is set well back from this window, and the projecting bay is in fact a conservatory located only on the ground floor.

The two gardens are at approximately the same level at this point, as shown by the extract from the existing rear elevation forming part of the application at Figure 4, on which I have added the location of the property boundary in yellow.



Figure 4 Existing rear elevations Property boundary marked in yellow.

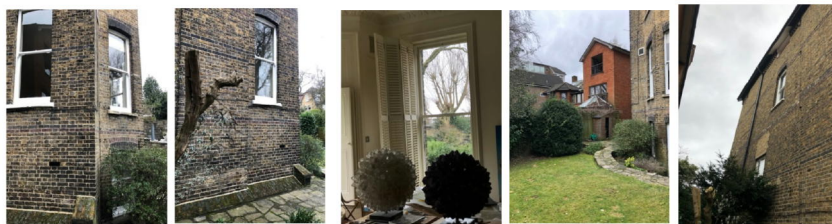


Figure 5. Five photographs (i) the existing main window, (ii) other windows, (iii) internal view of existing window showing outlook, (iv) general view of the rear of nos 5 and 5b, (v) other side windows

Figure 5 above shows four photographs of the main window in the side elevation of no 5 facing the development site. The photographs show that this is not a new window, and that it probably dates from when the building was erected about 150 years ago. They also show that the window provides a pleasant

outlook which contributes significantly to the amenity to the interior of Carole Berman's flat. It would not be right simply to conclude that the light from the bay window facing to the rear of the house is sufficient for the room. The photographs show in addition that the garden area to the side of the extension is part of the garden of no 5, being a space with its own character and providing amenity of its own. Finally, there are also other windows in the side of the house at different levels.

The Effects of the Proposal

TR Studios' plan GA_101 of the ground floor of the proposed building, forming part of the application and conveniently scaled, shows this floor projecting some 3.5 metres beyond the rear wall of no 5, and some 4.5 metres to the rear of the mid-point of the side window. The proposed built form of the design extends a further 4 metres to the rear, in the form of the lightwell and stairs proposed for the basement at this point.

At first floor level the rear wall is cut back to align with the rear wall of no 5 with a proposed terrace at first floor level proposed adjoining the boundary and at a height of some 3.5 metres or 4 metres to the top of the parapet. These proposed features are shown on the three drawing extracts at Figure 6, below, both from the proposed plans forming part of the application.

The left-hand extract shows the relationship of the proposed rear corner of the ground floor at no 5b with the existing layout at no 5. I have drawn a red line round the relevant part.

The central extract shows the rear elevation of the proposed no 5b and the existing no 5. The proposed terrace is marked 'A', and the existing side window I marked with a red line.

The right-hand extract is a plan of the relevant area at first floor level

It will be seen that the overlooking effect of the terrace on both the garden and the window is very marked, and that there will be a clear view from it into my client's living room from a distance of less than 10 metres. There will also be significant overlooking of my client's garden.

The outlook from the side window of my client's flat will be largely obscured at a distance of about 4 metres.

It will be noted also that this relationship, both of the proposed built form and the terrace, is not shown properly on any of these drawings, in that the side window is not marked on plan or elevation, and the proposal for the terrace is masked on the elevation by the brick. In addition, the proposed boundary treatment is not specified on plan or elevation and the very necessary railings which would have to surround the lightwell and staircase in this area are not shown.

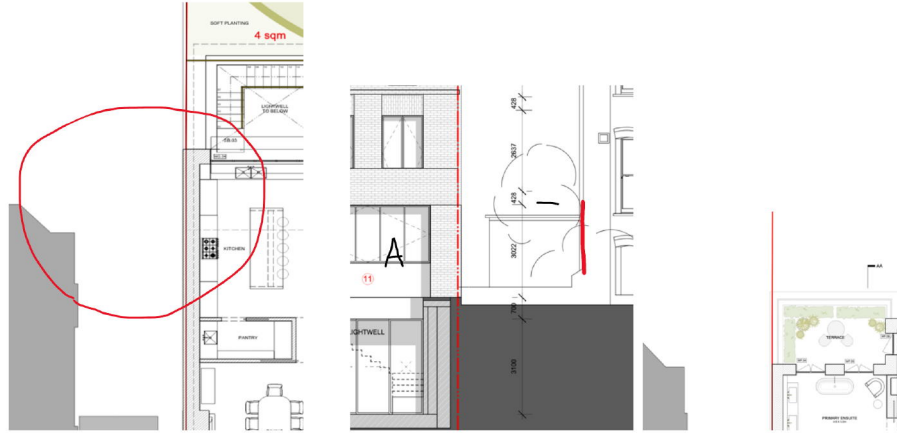


Figure 6. Extracts from submitted proposed drawings (i) plan relationship at ground floor level between proposed corner of no 5b and existing corner of no 5 Prince Arthur Road. (ii) rear elevation showing relationship of terrace marked 'A', and existing side window shown in red. (iii) plan of terrace at first floor as proposed.

In summary, these effects of the proposal on Carole Berman's flat are very unneighbourly and aggressive. They are not called up on the drawings. Nor are they assessed at all in the Design and Access Statement or the Planning Statement. The daylight effects on the side wall windows are referred to in the Daylight and Sunlight report submitted as part of the application, but it seems very unlikely that the perceived effects, particularly from the interior of Carole Berman's flat, will be as limited as is suggested in this document. The photograph at Figure 5 suggests a very different story.

Comments on Effects

It seems to me that this is a development that proposes to incorporate maximum floorspace on the site, seeking to finesse the presentation in a dishonest way, so that the effects are minimised. The normal approach to development on either side of a boundary of this sort is for each building to provide a similar condition on its side of the boundary, to its neighbour. Any other approach is highly inequitable, and results in development which exports its problems across boundaries.

This is the situation created in the present case, 5 Prince Arthur Road is one of the original houses in the street, with is within the Fitzjohns/Netherhall Conservation Area. As such it is extremely unlikely that its replacement would be acceptable in planning terms, and it may be regarded as fixed. This means that any new development should respect its present layout and form. Reasonably this means that the new development at no 5b should be providing similar boundary conditions as exist already at no 5.

It should not simply take the rear building line of the property at no 7 and extend it directly across the site, and there is no doubt that the building ought to be set back from the boundary for the entirety of its intended extension.

In addition, the proposed French windows and terrace should be removed at this point.

Suggested reasonable cutback lines are shown on extracts from the proposed ground-floor plan at Figure 7 below. The left-hand extract shows a red line which respects the northern edge of the large window in my client's flat, and, in yellow, the alignment of the existing rear elevation. The right-hand extract shows a line

which leaves the same setback to the property boundary as no 5. The extract below shows in yellow the area of cutback to the building which would reasonably and equitably mirror no 5.



Figure 7 (i) Left. Cutbacks from the rear of the proposed development which would respect the side window (red) or relate to the existing rear wall (yellow) (ii) Right cutback from the side boundary which would mirror the alignment of no 5 Prince Arthur Road (iii) Area of building that would have to be removed to relate to (i) and (ii) and reasonably mirror no 5.

Policy

Camden Local Plan Policy A1 deals with managing the impact of development, and all the objections set out above are dealt with. It says:

‘The Council will seek to protect the quality of life of occupiers and neighbours. We will grant permission for development unless this causes unacceptable harm to amenity

We will: a. seek to ensure that the amenity of communities, occupiers and neighbours is protected;

...

d. require mitigation measures where necessary.

The factors we will consider include:

e. visual privacy, outlook;

f. sunlight, daylight and overshadowing’

.....

Paragraph 6.3 explains

6.3 Protecting amenity is a key part of successfully managing Camden’s growth and ensuring its benefits are properly harnessed. The Council will expect development to avoid harmful effects on the amenity of existing and future occupiers and nearby properties or, where this is not possible, to take appropriate measures to minimise potential negative impacts.

Visual privacy and outlook

6.4 A development's impact upon visual privacy, outlook and disturbance from artificial light can be influenced by its design and layout. These issues can affect the amenity of existing and future occupiers. The Council will expect that these elements are considered at the design stage of a scheme to prevent potential harmful effects of the development on occupiers and neighbours. Further detail can be found within our supplementary planning document Camden Planning Guidance on amenity.

Camden Planning Guidance (Amenity) republished as recently as January 2021 says

2.1 This guidance relates to the application of Policy A1 – Managing the impact of development and aims to ensure that the potential impact of development on the privacy and outlook of neighbouring properties and their occupiers is fully considered.

This chapter contains guidance on the following:

- *Overlooking and privacy*
- *Separation between buildings*

...

- *Balconies and roof terraces*
- *Outlook*

2.2 Interior and exterior spaces that are overlooked lack privacy, which can affect the quality of life of occupants. The Council will therefore expect development to be designed to protect the privacy of the occupants of both new and existing dwellings to a reasonable degree. Therefore, new buildings, extensions, roof terraces, balconies and the location of new windows should be carefully designed to avoid overlooking. The extent of overlooking will be assessed on a case-by-case basis.

2.3 The places most sensitive to overlooking are typically habitable rooms and gardens at the rear of residential buildings. For the purposes of this guidance, habitable rooms are considered to be residential living rooms; bedrooms and kitchens. The area of garden nearest to the window of a habitable room is most sensitive to overlooking.

2.4 To ensure privacy, 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.

....

2.11 Although balconies and roof terraces can provide amenity space for flats that would otherwise have little or no exterior space, they also have the potential to increase opportunities for overlooking. Balconies and roof terraces should therefore be carefully sited and designed to reduce potential overlooking of habitable rooms or gardens of neighbouring residential buildings.

....

2.13 Outlook is the visual amenity enjoyed by occupants when looking out of their windows or from their garden. How pleasant an outlook is depends on what is being viewed. For example, an outlook onto amenity space is more pleasant than an outlook across a servicing yard.....

2.14 Developments should ensure that the proximity, size or cumulative effect of any structures avoids having an overbearing and/or dominating effect that is detrimental to the enjoyment of their properties by adjoining residential occupiers. ...

It is quite plain that the aspects of the proposals I have highlighted in this letter conflict with the Council's policies in relation to visual amenity, spacing of buildings and outlook.

Conclusion: What the Council ought to do now

There is quite sufficient in these policies to justify refusal if the applicants are unwilling to cut back the development where it impinges upon the rear of no 5 Prince Arthur Road.

This is an application that ought to be dealt with by the Council's Development Management Committee if it is not refused or altered in line with policy. I am copying this letter to Councillors Henry Newman, Andrew Parkinson and Gio Spinella, and also, to Ben Farrant, who was an earlier case officer.

Could you please acknowledge this letter.

Yours sincerely

A solid black rectangular box used to redact the signature of Ian Trehearne.

Ian Trehearne

Cc. Cllrs Henry Newman, Andrew Parkinson and Gio Spinella.

Ben Farrant. LB Camden