

Development Management
Camden Town Hall

By email: planning@camden.gov.uk

Dear Sir/Madam,

6 March 2021

13 Belsize Mews & 29 Belsize Lane, NW3 5AT – application for full planning permission – Objections (ref: 2020/5948/P – previous ref: 2020/0428/P & 2019/4873/P)

1. We are the leaseholders of 14 Belsize Mews, NW3 5AT, the flat on the second floor of 29 Belsize Lane, directly above 13 Belsize Mews.¹ The two rear windows of our property, are directly above the rear flat roof concerned by this application. We vertically share the same rear load-bearing exterior wall, connecting 13 Belsize Mews and the rear flat roof.
2. We object to this application for the reasons detailed below. This application will facilitate and enhance the Applicant's illegitimate use of the rear flat roof, significantly increasing the noise, disturbance and loss of privacy to us. With an absent freeholder, and no evidence of appropriate valid ongoing building insurance, we will have no redress for any issues resulting from this application, other than via court.

Summary

3. This application is misleading, as it is disguised as an application to replace a window access with a door access to the "Applicant's roof terrace". However, it is in effect an application to change the use of the rear flat roof from its current commercial use (as the roof of the ground floor restaurant and the location of the plant equipment) to a residential use by the Applicant, thus facilitating and enhancing the Applicant's illegitimate use of the unoccupied part of the rear flat roof, to our significant detriment. If granted, our enjoyment of our property will be significantly compromised by the increased noise and disturbance and loss of privacy (being overlooked by, and having to overlook, the Applicant).
4. The Applicant did not serve the requisite notices on us (despite untruthfully stating otherwise), or on any of the other registered owners: Euston Holdings Limited (the registered freeholder), Calici Limited (the registered commercial leaseholder), Santander UK plc (the registered lender). The Applicant also did not notify any of the other residents of Belsize Mews affected by the application. Neither the Applicant nor The Stoke House (listed in section 38 of the form), has legal ownership of the rear flat roof. We are unaware of it having been specifically demised to 13 Belsize Mews, and we previously objected to its use by the Applicant. It is an attempt by the Applicant to obtain permission from the Council for a change of use without serving any of the requisite notices, based on misleading information. It is the Council's responsibility to ensure all planning and anti-corruption regulations are adhered to.
5. The Council should carefully consider this application, which involves partly demolishing the load-bearing exterior wall of the building. It is reasonable to anticipate that the works might result in damage to the building and/or to our flat, and based on our experience to date with both the Applicant and freeholder, we have serious concerns that neither of them would take any steps to address such damage. The registered freeholder is an absent freeholder (incorporated in Bahamas) with no interest in maintaining the building. Since it purchased the freehold in 2006, it only maintained the building once, at the end of 2014/early 2015, under a court order. We have no evidence of a valid appropriate ongoing building insurance.

¹ It is a long Lease for 125 years from 3 September 2002. In September 2006, Euston Holdings Limited, purchased the freehold reversion to the Lease. In June 2011, we purchased the unexpired term of the Lease of the flat on the second floor of 29 Belsize Lane. In July 2013, the Applicant purchased the unexpired term of the Lease of the flat on the first floor of 29 Belsize Lane.

6. We note this is the Applicant's third planning application relating to the rear flat roof of 29 Belsize Lane in 18 months, the first one was declared invalid in December 2019 and the second was refused in November 2020. We consider the reasons underpinning the Council's previous refusal decision apply here.²
7. The Council should refuse this application, for the reasons set out in more detail below. In addition, the Council should also make it clear that without a permitted change of use, the Applicant is prohibited from accessing and/or using the rear flat roof in future. Any decision other than straightforward refusal should go to a Planning Committee, due to the serious issues it raises.
8. If despite our objections, the Council decides to grant the application, we request that it subjects the application to legally binding conditions, including at the minimum, the conditions in paragraph 29 below *and* in **Annex 2**. This will provide us and other interested parties, with the necessary information to consider this application, and clarity of accountability and responsibility for any issues related to this application. This is particularly critical considering our previous experience with the Applicant and freeholder (see **Annex 1**).

Key objections

Noise, disturbance and loss of privacy

9. The only description of the proposal is "*Enlargement of existing opening and installation of new timber framed door*" (section 6 of the application form).³ However, the proposal will, in effect, change the use of the rear flat roof, from a commercial use as the ground floor restaurant's roof, to a residential use as the Applicant's roof terrace. We previously objected to the Applicant's use of the rear flat roof. Replacing the window currently used as the Applicant's only access to the rear flat roof with a door, will facilitate and enhance the Applicant's illegitimate use of the rear flat roof as a roof terrace. Easier access to the rear flat roof, will inevitably increase the Applicant's use of it. This will (i) significantly increase the overall noise and disturbance in our flat, (ii) significantly impact our enjoyment of our flat, and (iii) result in loss of privacy.
10. Since before the previous applications, the Applicant, her husband and two daughters (and others), have been climbing through the kitchen window to the rear flat roof, eating and playing there. Although it refers to the rear flat roof as "it's rear terrace", it does not belong to the Applicant, and is not a terrace. Only recently, the Applicant has dressed it with fake grass and a few pots. This inappropriate (and apparently, unlawful) use of the rear flat roof has already become an increasing nuisance to us. We are concerned, that the noise and disturbance and loss of privacy will escalate further, if this application is granted, as it will facilitate and enhance their access to the roof.
11. As the two rear windows of our property, are in direct view of the rear flat roof, a door opening into a roof terrace, will significantly increase the noise levels and disturb our enjoyment of our property, and will result in further loss of privacy (being overlooked by, and having to overlook, the Applicant). This is an acute issue as all our windows are single-glazed. In any event, the Applicant is most likely to access the roof in warmer weather, when our rear kitchen and bathroom windows are open for ventilation. This is particularly concerning as it is the quiet side of our flat, the other side being directly above Belsize Village commercial area, with licensed restaurants opening late, and noise from deliveries and refuse collection, exacerbated by the recent Streatery.
12. We note that the Design and Access Statement attached says: "The application is to convert a rear window into a door to allow access for maintenance purposes." There is no need for any additional access for maintenance purposes.

² Intrusive presence and loss of privacy for surrounding residential occupiers; increased disturbance for the occupiers of neighbouring dwellings; impact on Belsize Conservation Area (Refusal Decision, 3 November 2020).

³ We are confused by the reference to "plant equipment" (section 1) and the estimate of up to £2m development costs (section 7). Our objections relate to the application as described in section 6. We assume the application does not involve any other work, and specifically no relocation of the plant equipment. We object to any further development w/o proper consultation.

Procedural issues

13. Neither us, nor the registered owner of 29 Belsize Lane (Euston Holdings Limited), or its lender (Santander UK plc), or the registered commercial leaseholder (Calici Limited), were given the legally requisite notices of this application. To our knowledge, neither the Applicant nor The Stoke House (listed in section 38 of the application form), has legal ownership of the rear flat roof. We are unaware of it having been specifically demised to 13 Belsize Mews, and we previously objected to its use by the Applicant. It is the Council's responsibility to ensure the requisite ownership certificates are given to the registered legal owners, in compliance with planning and anti-corruption legislation. No permission should be given without such notices being duly served.

None of the requisite notices has been given⁴

14. This application requires demolishing part of the rear load-bearing exterior wall of 29 Belsize Lane, connecting 13 Belsize Mews and the rear flat roof, which the Applicant currently can only access through its kitchen window.

15. Both the rear load-bearing exterior wall and the rear flat roof concerned by this application, are part of the Main Structure of 29 Belsize Lane owned by the freeholder – **Euston Holdings Limited** – and mortgaged to the lender – **Santander UK plc**. Neither Euston Holdings Limited, nor Santander UK plc has been formally notified of this application as required by law. No notice was given to the registered commercial leaseholder of 29 Belsize Lane (**Calici Limited**) either. See section 38 and the attached Title Registers (**Attachments 1 & 2**).

16. The application form states (section 38) that we were notified of this application on 22 December 2020. This is untrue. We received no notification of this application. We understand other residents of Belsize Mews, were not notified either. The statement that "The proposal has been discussed with the neighbours." (p.4 of the Design and Access Statement, 22 February 2021) is therefore also untrue.

17. This is the third time the Applicant did not serve the requisite notice neither on us nor on the registered legal owners of the site. We are seriously concerned about the motivation for such conduct, and the implications for us seeking redress should anything go wrong. This application should not proceed without all requisite notices and consents.

Neither the Applicant nor The Stoke House has legal ownership of the rear flat roof

18. Based on the Title Registers and Lease for 29 Belsize Lane, neither the Applicant nor The Stoke House (listed in section 38 of the form), has legal ownership of the rear flat roof.

19. The drawings attached to the application include the rear flat roof of 29 Belsize Lane in the property boundary of 13 Belsize Mews. However, under the Lease for 29 Belsize Lane, this rear flat roof in question forms part of the Main Structure of the building, owned by the freeholder (see **Attachment 3**). We are unaware of the rear flat roof having been specifically demised to 13 Belsize Mews, and we previously objected to its use by the Applicant.

20. We draw the Council's attention to the following additional misrepresentations in the application:

- a. Although referred to as "joint application" (section 1 of the application form), this is a sole application by Celine Anthoine, the leaseholder of 13 Belsize Mews (section 2 of the form);
- b. Although referred to as "it's rear terrace" (section 1 of the form): (i) the rear roof is part of the Main Structure of 29 Belsize Lane, owned by the freeholder, not the Applicant; (ii) this is a rear flat roof (not a terrace), which the Applicant can only access through its kitchen window, and which it only recently dressed with fake grass and pots; (iii) a significant part of the rear flat roof is occupied by plant equipment and is not accessible to the Applicant.

⁴ Article 13 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

21. We would ask the Council to seek clarification of ownership of the rear flat roof and the capacity in which the Applicant is seeking to build on it. The Council should also seek clarity and legal evidence of the capacity in which The Stoke House has been notified, and of its solvency.⁵

Other concerns

22. The application contains numerous misrepresentations and lacks clarity of the impact on our property. Based on our experience to date, we have serious concerns that neither the Applicant nor the freeholder, will take steps to address issues resulting from this application, leaving us with no redress outside a lengthy and costly court process. We are unaware if the building is insured at an appropriate level, and whether it will be insured going forward. To our knowledge, the building was uninsured during periods in the past. We are also concerned about the Applicant's ensuring the required building regulation approval, party wall agreement, and the appointment of a structural engineer and surveyor.

The application contains numerous misrepresentations and lacks clarity

23. In addition to the misrepresentations listed in paragraph 20 above, we'd like to draw the Council's attention to the following:
- Development dates (section 10): commencement and completion dates are incorrect (stated as April and May 2020).
 - Existing use (section 12): incorrectly stated as "residential flat" not currently vacant. As explained above, the rear flat roof is part of the Main Structure of 29 Belsize Mews, and is commercially used as the location of the plant equipment of the ground floor restaurant 'Calici'.
 - Use of open space (section 21): the form incorrectly answers "no" to the question: "Will the proposed development result in the loss, gain or change of use of any open space?". This application (if granted) would effectively change the use of the rear flat roof from the existing (legitimate) commercial use as the location of the ground floor restaurant's plant equipment, to an (illegitimate) residential use by the Applicant. We object to that change of use. We also objected in the past to the use of the unoccupied part of the roof by the Applicant, which is, to our knowledge, unlawful.
 - Pre-application advice (section 36): the required details are omitted.
 - Ownership certificate (section 38): the form untruthfully states that we were notified of this application on 22 December 2020. This is not the case – we were not notified of this application, and only became aware of it on 16 February 2021, by the Council's planning alert email notification service. The other address listed belongs to the Stoke House – this is not the legal owner of the site, and we do not understand the capacity in which it has been notified of this application, or why the registered legal owners were not notified.
24. We would ask the Council to seek clarification of the above, and of the full impact of the application on us, including:
- the overall impact of the works, e.g. the enlargement of existing opening and scaffoldings;
 - any impact on our fire safety, including ensuring our access to fire escape stairs from our flat to the rear flat roof;
 - any impact on aesthetic integrity, light and overlook we enjoy from our home, and light pollution from the external new roof terrace;
 - impact of this application, to almost double the size of the Applicant's property, on our Lease.

Lack of redress for issues resulting from this application outside court

25. The Council, in considering this application, must ensure we have appropriate remedies for addressing any damage and other issues resulting from this application. This is particularly critical considering our experience to date with both the Applicant and the freeholder, which gives us serious concerns that neither of them will take steps to address issues resulting from this application, without

⁵ A Google search of the address listed in section 38 shows it as a Will Ricker's restaurant. Mr Ricker was a director of Belsize Lane Limited (the previous commercial leaseholder of 29 Belsize Lane), and Ricker Restaurants (Holdings) Limited was its sole shareholder. Belsize Lane Limited was dissolved in July 2019.

strictly binding conditions.

26. We have no contact with the freeholder of 29 Belsize Lane, which is an offshore company (incorporated in Bahamas). Considering it took a Court Order for the freeholder to undertake building works in late 2014 / early 2015, and that no maintenance or repairs have taken place before or since, we have serious concerns that the freeholder will not take any steps to address issues resulting from this application, or to maintain 29 Belsize Lane going forward. We are unaware if the building is insured at present or will be in the future. To our knowledge, the building was uninsured during periods in the past.
27. Moreover, our experience with the Applicant to date, gives us reasons to believe it will deny responsibility for all issues resulting from the proposed works. The Applicant did not notify its application neither to us nor to the registered freeholder or commercial leaseholder, but instead notified The Stoke House, which has no legal ownership of the site (section 38 of the application form). We ask the Council to seek evidence of all legally required notices and consents. We describe our experience with the Applicant and freeholder in **Annex 1** (see page 6 of this letter).

Conclusions

28. Considering the above, we ask the Council to refuse the application. In addition, the Council should also make it clear that without a permitted change of use, the Applicant is prohibited from accessing and/or using the rear flat roof in future. Any decision other than straightforward refusal should go to a Planning Committee, due to the serious issues it raises.
29. If despite our objections, the Council decides to grant the application, we request that it subjects the application to legally binding conditions including, the conditions below as supplemented by **Annex 2**:
- a. Proof of all requisite notices given to the registered legal owner, lender and commercial leaseholder of 29 Belsize Lane.
 - b. Proof of the legal relationship between The Stoke House and the freeholder.
 - c. Proof of ownership of the rear flat roof and of any consent required.
 - d. Conditions to ensure the application does not negatively impact the noise level in our property.
 - e. Conditions to ensure the application does not involve any plant equipment relocation.
 - f. Conditions to ensure minimum disruption, noise and disturbance, or intrusion of our privacy, during and after the works. Specifically, the use of the rear flat roof by the Applicant must be subject to a separate consultation.
 - g. Conditions requiring the Applicant to fully and promptly address all issues resulting from this application (including all damage to our flat and the building) at its own cost (with no cost to us).
 - h. Conditions requiring the freeholder to fully and promptly address all issues resulting from this application (including all damage to our flat and the building) at its own cost (with no cost to us), should the Applicant refrain from doing so.
 - i. Proof of all valid appropriate insurance required, for example, building insurance and public liability insurance, etc.
 - j. Proof of a signed party wall agreement or the relevant equivalent.
 - k. Proof of compliance with all building and planning regulations required for the works.

Thank you for your time and consideration, we will be happy to discuss with you any of the above.

Maya Barr and Adam Tedder

Mobile: 07714 830 692 (Maya) / 07939 285 795 (Adam)

Annex 1 (p.6): Context - our previous experience with the Applicant and freeholder

Annex 2 (p.7): Minimum conditions (in addition to paragraph 29)

Attachments 1 & 2 (separate): Copies of Title Registers

Attachment 3 (separate): 13 Belsize Mews plan attached to Lease for 29 Belsize Lane

ANNEX 1 - CONTEXT

The Freeholder

The freeholder of 29 Belsize Lane, Euston Holdings Limited (incorporated in Bahamas), is an absent freeholder. It has no interest in maintaining the building. The last time we had contact with the freeholder, was in relation to building works on 29 Belsize Lane, it was undertaking under a Court Order, at the end of 2014/early 2015. Despite the contractual obligation on the freeholder to carry out those works, and the severely dilapidated and extremely poor state of decorative repair of the building, we had to fight the freeholder in court during the first 3.5 years of our Lease, until it finally undertook the building works under a Court Order. This delay resulted in emergency works in October 2012, to remove loose render with a cherry picker, after large pieces of masonry had fallen onto the street. The building has not been maintained since the works in 2014/15. We are unaware if the building is insured at an appropriate level, if at all, or whether it will be insured going forward. We are also unaware if the fire and safety system is maintained.

Considering it took a Court Order for the freeholder to undertake building works in 2014/15, we have serious concerns that the freeholder will not take any steps to address issues resulting from this application, or to maintain 29 Belsize Lane going forward.

The Applicant

The Applicant has been the leaseholder of the flat on the first floor of 29 Belsize Lane, since July 2013. Our experience to date shows it is unlikely to take responsibility for, and/or repair any damage, or address any other issues, resulting from this application, unless compelled to by law.

First, the Applicant did not give us the requisite notices of its three applications (2019/4873/P & 2020/0428/P & 2020/5948/P), and then untruthfully stated in writing to the Council that it had done so. Neither did it serve the required notices on the registered freeholder, lender or commercial leaseholder of 29 Belsize Lane. We are also concerned about the accuracy of the information supporting this application (including, ownership of the rear flat roof).

Second, in the past, the Applicant refused to take responsibility for damage resulting from works it undertook on the bathrooms in 13 Belsize Mews. On 5 October 2017, we emailed the Applicant to complain of a worsening constant noise coming from its property pipes following its works, which caused considerable distress to our family. Thames Water and an independent plumber, who visited the site at our request on 20 October 2017, confirmed the source of the noise and its trigger. However, the Applicant initially denied it had undertaken works, and then refused to take any responsibility. This led to a leak from 13 Belsize Mews that flooded the commercial unit, on 10 November 2017. To date, the Applicant did not address the resulting damage to the common hallway wall, leaving it damp-stained and cracked.

Third, the Applicant did not join our litigation against the freeholder to ensure the freeholder undertook the building works required under the Lease pertaining to both properties, leaving us to bear all the burden and related costs.

Fourth, the Applicant's disregard to the Common Parts of the building is evident as it has often left in the common hallway broken/old items, and large items delivered, for long periods, creating a H&S hazard. On two occasions, wet stains on the first-floor landing – caused by the Applicant or its domestic help - were left to stink for weeks. The Applicant also left in the past an old bike and a large wooden pallet (part of the packaging of one of its deliveries) in the Mews area, for a long period, causing irritation to other residents of Belsize Mews.

ANNEX 2 – MINIMUM CONDITIONS (IN ADDITION TO PARA. 29)

Building and public liability insurance, etc.

The freeholder of 29 Belsize Lane, Euston Holdings Limited (incorporated in Bahamas), is an absent freeholder. It has no interest in maintaining the building, and we are unaware if the building is insured at an appropriate level, if at all, and whether it will be insured going forward. Accordingly, any permission must be conditional on the Applicant ensuring and providing proof of all valid appropriate insurance required, for example: (i) Valid appropriate building insurance, before the building works start, throughout the works and going forward; *and* (ii) The Contractor's valid appropriate public liability insurance; *and* (iii) Valid appropriate insurance to cover any potential issues resulting from the works. All the above before permission is granted, at the Applicant's cost (with no cost to us), and maintained by it (at its cost, with no cost to us), during the entire works period, and for an appropriate period thereafter.

Party wall agreement or the relevant equivalent

The rear flat roof concerned by this application is directly below our flat, and the wall connecting the Applicant's flat to the rear flat roof (which will be partly demolished) is the load-bearing exterior rear wall of both flats. It is reasonable to anticipate works involving that wall might result in damage to our flat and/or the building, and to ensure a legally binding agreement, requiring the Applicant to fully and timely repair and/or compensate us, for any damage to our flat, and/or the building, resulting from those works, at the Applicant's cost (with no cost to us). The Council should condition the start of the works on a signed party wall agreement (or the relevant equivalent agreement), at the Applicant's cost (with no cost to us).

Additional conditions

Prior to starting the works - At the Applicant's cost (with no cost to us):

- To pay for us to appoint our own independent surveyor, to survey the property before and after the works, and ensure (among other things) all relevant regulations, standards, etc. are strictly adhered to (or exceeded where we and/or our surveyor deem necessary);
- To agree access arrangements for our appointed surveyor;
- To put an appropriate agreed amount in an escrow account to cover the Applicant's indemnities in our favour and all estimated costs of fully repairing any damage and/or addressing all other issues resulting from the works, such amount to be agreed by us and our appointed surveyor;

During the works - At the Applicant's cost (with no cost to us):

- To limit working hours to 09:00-17:00 Monday-Friday, subject to agreed daily penalties for non-compliance;
- To clean the common hallway at the end of each day, and ensure no building material is left in the common hallway at any time, during or at the end of the day;
- To immediately and fully repair any damage to our flat and the rest of the building (including internal and exterior parts of the Common Parts and Main Structure) resulting from the works, to be overseen by our appointed surveyor to ensure quality of materials and work;

At the end of the works - As soon as possible, and in any event within no longer than 2 weeks after finishing the works, at the Applicant's cost (with no cost to us):

- To fully repair any remaining damage to our flat and the rest of the building (including internal and exterior parts of the Common Parts and Main Structure) resulting from the works, to be overseen by our appointed surveyor to ensure quality of materials and work;
- To professionally clean the carpet in the common hallway, and to redecorate and repair any damage caused to the common hallway (including the damage resulting from the leak in 2017 – see Annex 1), to be overseen by our appointed surveyor to ensure quality of materials and work;
- To replace with triple-glazed windows, and professionally clean, all 4 rear windows of our flat, to be overseen by our surveyor to ensure quality of material and work;
- To install fire escape stairs from our flat to the new roof terrace;

General - To bear all our legal and other costs, related to this application, including our enforcement of the above (and any other) conditions and/or the Lease and/or the law.