



29th July 2021

Delivered by email

Ms Enya Fogarty
Planning Department
London Borough of Camden
2nd Floor, 5 Pancras Square c/o Town Hall, Judd Street
London
WC1H 9JE

Dear Ms Fogarty,

SUBMISSION OF REPRESENTATIONS AND FORMAL OBJECTION TO PLANNING APPLICATION REF: 2021/3009/P AT WORKSHOP REAR OF 38-52 FORTRESS ROAD, FORTRESS GROVE, LONDON NW5 2PA

We write on behalf of our clients, Mr. Michael Pia, who owns the residential property at No.1 Railey Mews, London NW5 2PA, which lies directly adjacent to the eastern boundary of the application site. We also write on behalf of Mr. Matthew Feldman who owns 45B Leverton Street, London NW5 2PE, which lies to the east of the site. See Appendix 1 for photographs of the site and context.

We hereby formally object to the proposed redevelopment (ref: 2021/3009/P) at Workshop Rear Of 38-52 Fortress Road, Fortress Grove London NW5 2HB, which was validated on 13th July 2021. We note that the applicant is seeking planning permission for the following development:

'Variation of condition 3 (approved plans) of planning permission dated 28/01/2019 Ref 2017/6788/P for Works to depot building (Studio B) comprising increasing height of existing parapet, erection of a single storey roof extension, rear infill extension, external alterations and landscaping of courtyard; provision of UKPN substation and external alterations to Railey Mews.'

Background

As the description of the development suggests, the current planning application (ref: 2021/3009/P) follows on from a previous planning permission (ref: 2017/6788/P), which was granted on 28th January 2019. The description of this approved development is as follows:

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‘Works to depot building (Studio B) comprising increasing height of existing parapet, erection of a single storey roof extension, rear infill extension, external alterations and landscaping of courtyard; provision of UKPN substation and external alterations to Railey Mews.’

A copy of the Decision Notice is provided at Appendix 2.

It should be noted that our client submitted representations and objected to the former application based on the height of the building and the impact on the amenity enjoyed at our client’s property. This impact was acknowledged within paragraph 2.3 of the Delegated Report *‘Member’s Briefing’* (a copy is provided at Appendix 3), and the applicant subsequently submitted scheme revisions in response to comments. It states:

‘Reduce terminating height of roof extension by 600mm – to improve design and reduce amenity impact’

Therefore, we consider that the planning approval was granted on the basis that the east perimeter wall would terminate below our client’s first floor windows and that the proposed height would respect the setting and amenity enjoyed by our client’s dwelling at No.1 Railey Mews.

Our client did not expect the Applicant to resubmit revisions to undo the various points that were negotiated in the previous scheme to maintain their amenity and sense of enclosure. Although there was a relatively small height reduction (600mm), the Planning Officers clearly considered that the impact was *‘material’*, as it would make a difference in design and amenity terms.

Following the approval, works began to construct the new office development at the application site. However, it quickly became apparent to our client that the eastern elevation was not in accordance with the approved plans and that it was in breach of Planning Condition 3 (approved plans) within the original Decision Notice.

In response, our client filed an Enforcement complaint (ref: 21682290) to Camden Council and was in direct correspondence with the Enforcement Deputy Team Leader Gary Bakall. The Enforcement Officer agreed that the works were not in accordance with the approved plans (ref: 2021/3009/P). He subsequently informed the Applicant that a planning application would need to be submitted. We understand that works stopped at that time in relation to this aspect of the construction.

Measurement Discrepancies

Having reviewed the submission documents, the Planning Cover Letter (First Plan) confirms that there were errors made regarding the scales and height of the proposed building in the original approval. It states that the heights proposed in the original planning application were based on *‘assumptions’*, which implies that there is reasonable doubt regarding the validity of the measurements.

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Although the Cover Letter identifies some of these discrepancies, there is no evidence that suggests that a Measured Survey was undertaken in the current planning application. We understand that our client has frequently offered to allow the applicant access onto his property to undertake a Measured Survey (via email correspondence to Gary Bakall over recent months). However, it appears that this offer has not been taken up by the Applicant as neither our client nor his neighbours have been contacted.

The RICS Surveying website provides a useful summary of 'Measured Surveys' and outlines how they shape the planning, design and construction phases of development. It states:

'Measured surveys involve taking measurements of sites or buildings in order to produce accurate drawings to scale. They are usually specified to an agreed level of detail, to acceptable accuracy tolerances, scale, delivery times and costs. Surveyors will provide the 'building block' of core information upon which all subsequent phases of planning, design and development are based.'

For further information and local firms that deliver Measured Surveys in the vicinity of the site, the following link is very useful: <https://www.ricsfirms.com/glossary/measured-survey/>

In short, we consider that scales and heights are deficient as a full and accurate Measured Survey is yet to be undertaken (as far as we can see). We consider that this information is essential to allow Camden Council to make an informed decision on the proposal and to inform residents and stakeholders of the true implications of the proposal.

In addition, we also note that the '**Proposed South Elevation**' has a red dotted line around the roof of the building. There does not appear to be any annotation to confirm what this red dotted line relates to. Normally, it would be reasonable to conclude that this was the new proposed height of the building. Please see Figure 1.1 below.



Figure 1.1: Image of Proposed South Elevation with 'redline' potentially indicating height increase

Furthermore, if there is a height increase (which the cover letter suggests that there isn't) then we would also expect to see a ***'Proposed West Elevation'***. However, this does not form part of the Planning Application.

On this basis, we request that a period of at least 21-days should be provided between receipt of the Measured Survey (and any potential revisions to the submitted plans) to allow sufficient time for further consultation with local residents and stakeholders.

We consider it to be wholly unacceptable that a multi-million pound development can potentially be granted planning permission without clear commitment that the submitted plans are indeed accurate. This is particularly relevant, given the highly sensitive nature of the site and surrounding context.

East Elevation Height Increase

Having reviewed the plans for the approved and current application, it is evident that the current proposal seeks to increase the height of the eastern wall, which marks the termination between the main building and the set-back roof addition of the office building. This wall also sits immediately adjacent to the rear (south-west) elevation of our client's property at No.1 Railey Mews.

Although we were unable to find a document that confirms the exact height increase at this location, we undertook a site visit on Wednesday 21st July and can estimate that the eastern wall will rise approximately 1 metre(+) above the approved eastern wall. No doubt a full measured survey at the site would assist in the accuracy of these figures.

For context, figures 1.2 and 1.3 below show the approved east elevation and the current proposed east elevation.



Figure 1.2: Approved East Elevation (ref: 2017/6788/P)

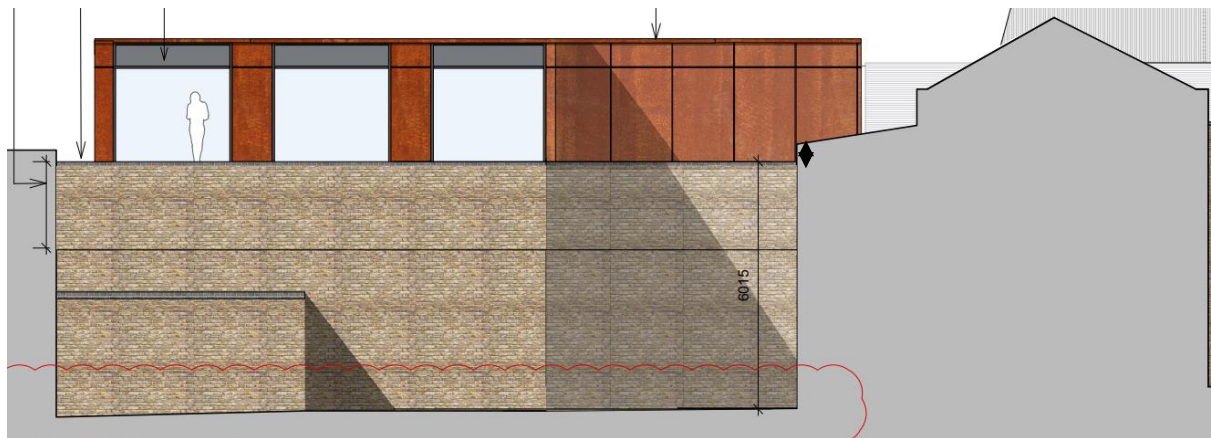


Figure 1.3: Proposed East Elevation (ref: 2021/3009/P)

* The black arrows were added to highlight the increase in height between the two elevations.

Although the increase between figures 1.2 and 1.3 only appears marginal, the eastern perimeter wall now rises above the height of the adjacent windows at the rear first-floor level of No.1 Railey Mews, which serves our client's kitchen, dining and living areas. The elevated position of the eastern wall in relation to the southern elevation of our client's property are clearly shown in the photographs within Appendix 1 and at figure 1.4.

Consequently, we consider that the increased massing and encroachment will have a detrimental impact on the amenity enjoyed at our client's property (see subsection '*Impact on Residential Amenity*' for further details). We also consider that it will result in an '**overbearing form of development**' and significantly increase the '**sense of enclosure**' onto 1 Railey Mews. We consider that it will also result in an overbearing form of development and increase the sense of enclosure of our client's property at 45B Leverton Street.

We are also of the view that the proposed increase in height of the east perimeter wall would not have been approved at the initial planning stage in the interest of amenity. We see no reason why this should now be allowed.

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We note that Camden’s Planning Officers were previously keen to mitigate the impact of the scale, mass, and height on our client’s property in the approved scheme (paragraph 2.3 in the Members Briefing) and we consider that a similar approach is required for this planning application.



Figure 1.4: View of the East Wall (under construction) from the rear terrace, steel frame above window

Daylight and Sunlight Assessment

We have undertaken a review of the updated GIA Daylight and Sunlight Addendum (dated 18th June 2021), which forms part of the submission documents for the current application. In parallel, we have reviewed the Daylight and Sunlight Assessment for the approved development. We have identified inconsistencies with the set-back of the roof addition at the east elevation between the approved roof plan and proposed 3D Massing Model, as shown below in figures 1.5 and 1.6 respectively.

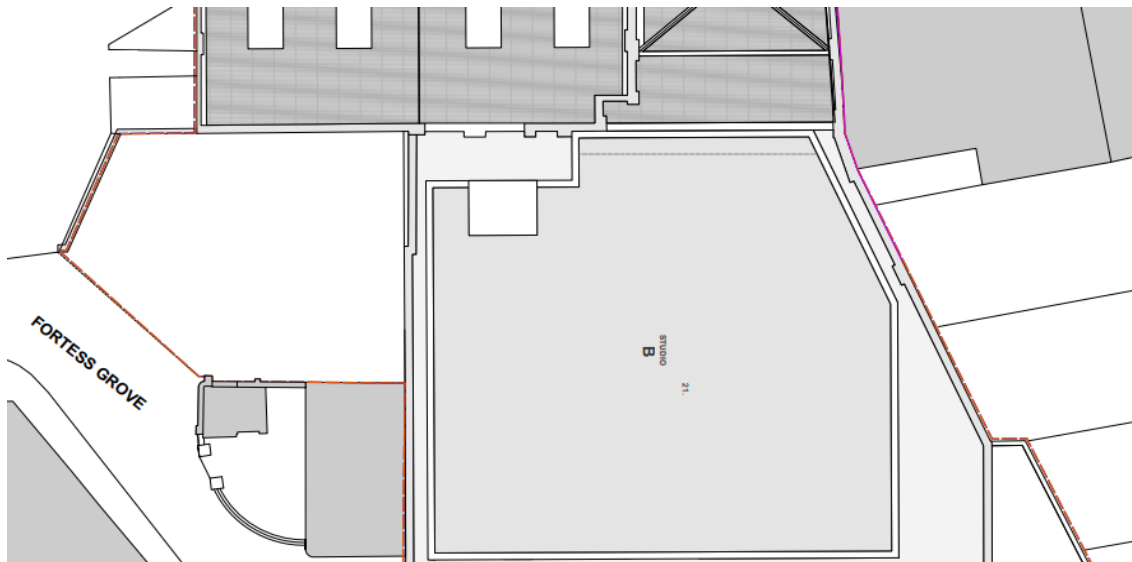


Figure 1.5: Approved Roof Plan

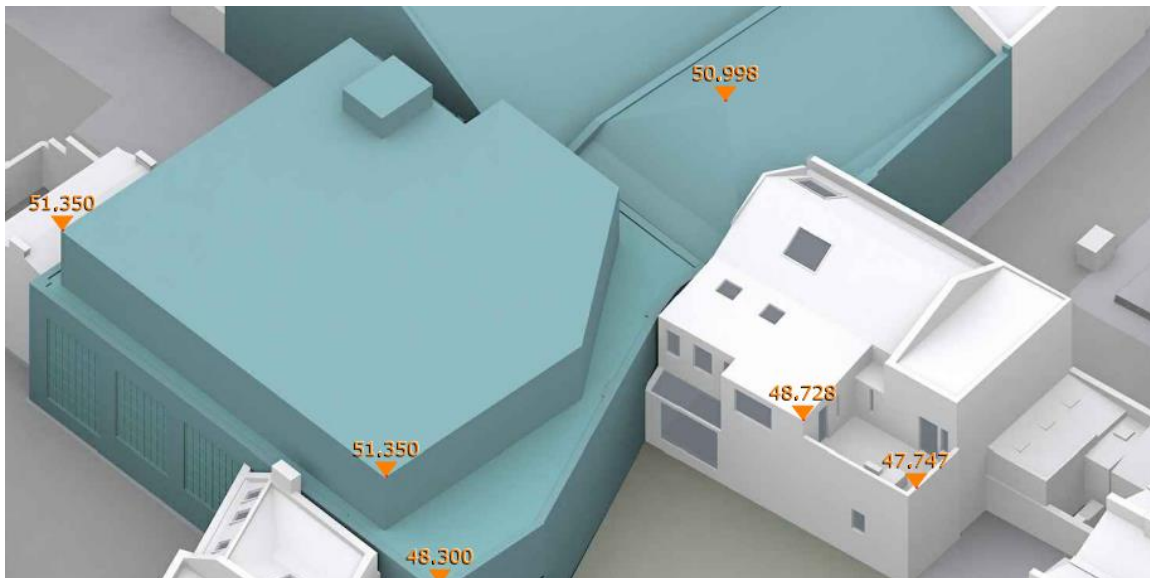


Figure 1.6: Proposed 3D Massing Model

The proposed 3D Massing Model clearly shows that the roof addition is notably set-back from the eastern elevation in the current planning application. In comparison, the roof plan submitted with the approved development extends much further towards the east elevation, and crucially our client's property at No.1 Railey Mews.

In light of this, our client is concerned that the results of the proposed Daylight and Sunlight Analysis are deficient and are not a true reflection of the actual impact caused by the development. If the massing is actually greater at this part of the scheme (as shown in the original approval roof plan), this may detrimentally impact upon the daylight, sunlight and the general amenity enjoyed by our client.

On this basis, we consider that the Applicant should confirm whether the proposed 3D Massing Model is correct or not. If it is incorrect, we request that the Applicant re-submits the Daylight and Sunlight Assessment to confirm whether there is any detrimental impact to adjacent occupiers. We consider that the application should be classed as 'invalid' until this assessment has been provided.

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Impact on Residential Amenity

We would also like to highlight that the increased height of the eastern wall would result in an unacceptable *'sense of enclosure'*, which will be highly invasive and visible from our client's property as well as properties on the adjacent terrace fronting Leverton Street. Therefore, we consider that the increased height in the wall would reduce the neighbouring amenity, in conflict with Policy A1 *'Managing the impact of development'* within Camden's Local Plan 2017.

Policy A1 states that the Council will seek to protect the quality of life of occupiers and neighbours. It adds that they will grant planning permission for development unless it causes unacceptable harm to amenity. The two most relevant factors that will be considered in this case includes the impact on *'visual privacy and outlook'* (part 'e.')

 and *'sunlight, daylight and overshadowing'* (part 'f.').

In response, we note that the introduction of the additional height, bulk and mass will have an impact on key habitable rooms at the rear of our client's dwelling. This includes kitchen, dining and living area at the first floor. It also includes the main bedroom at the ground floor, which is served by obscured glazing on the south elevation and relies on a glazed (conservatory styled) roof for outlook and light. This is the only area providing daylight into the bedroom.

As noted, we undertook a site visit on 21st July and took photographs (see figures 1.7 and 1.8), which clearly show the encroachment of the steel beam above the first-floor window at the rear of the property (the approved planning consent terminates the perimeter wall at the window sill). We consider that this increase in height causes an imposing and overbearing impact at the rear of our client's property and significantly reduces the outlook and overall level of amenity. We would expect this position to worsen should the current application be approved.



Figure 1.7: View of the East Wall (under construction) from the first floor kitchen and dining room

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Figure 1.8: View of the East Wall (under construction) from ground floor 'main bedroom'

Furthermore, it will likely result in overshadowing and loss of daylight and sunlight into these habitable rooms at the ground and first floor of the No.1 Railey Mews. It will also cause overshadowing to the rear of the adjacent terrace to the east (e.g., Nos. 45-49 Leverton Street) when enjoying their rear gardens.

It is important to re-iterate that the original planning permission was granted on the basis that the height of the building was reduced by 600mm. Therefore, the Planning Officers recognise that even a small change in height will result in a positive (or negative in this instance) impact on amenity. In short, we consider that the small height increase (approx. 1 metre plus) will have a detrimental impact on neighbouring amenity and should be refused. Our client worked hard to ensure that the previous consent did not have a significant detrimental impact upon their amenity. Should this application be approved, it would make a mockery of these previous negotiations and agreements.

Overall, we consider that the proposal results in a significant negative impact on the amenity enjoyed at No.1 Railey Mews. This is due to a significant increase in the sense of enclosure; a detrimental loss of outlook and a loss of daylight and sunlight; which conflicts with requirements 'e.' and 'f.' of Policy A1 within Camden's Local Plan. On this basis, we consider that the proposal should be refused on design and amenity grounds.

The fact that the applicant carried out these works in breach of planning control and does not appear to have undertaken an accurate measured survey, only adds to our clients' concern.

Conclusion

In conclusion, we consider that the current application should be registered as 'invalid' until the Applicant has corrected the erroneous information and provided the appropriate assessments to enable Camden Council to determine the application. Specifically, we consider that the Applicant needs to undertake a Measured Survey (including 1 Railey Mews) and provide an updated Daylight and Sunlight Assessment, subject to confirming whether the set-back is correct on the 3D Massing Models.

All plans and elevations should also be checked once the measured survey has been completed. Our clients are more than happy to provide the necessary access to his property to enable the Applicant to carry out the Measured Survey.

We consider that the application should not be determined until all necessary documents are provided (or corrected) and a further round of consultation has taken place to enable residents and stakeholders to fully consider the proposal further.

In addition, we consider that the increased height of the eastern wall at this location will create an overbearing sense of enclosure and overshadowing to the adjacent windows, habitable rooms, and rear gardens of the terrace fronting onto Leverton Street. We acknowledge the Council's support in achieving a reduced development height in the original approval and feel that the current application undermines the aim of protecting the amenity of our client's property, which was a key consideration at this time.

We see no reason why this development should now be considered acceptable. The Applicant has undertaken unauthorised works in breach of planning control at their own risk. Such an approach does not constitute a reason for approval.

We trust that the concerns raised within this objection will be fully considered by the Council in advance of a determination on the application. Should you have any queries regarding this objection, please do not hesitate to contact me at these offices (Tel: 07957 442158).

We would be happy to meet with you on site to highlight our concerns and discuss these matters further should you wish to do so.

Yours Sincerely,



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