

Appellants Response to the
Statement published by
London Borough of Camden
on 21/12/2021

Concerning Appeal
APP/X5210/W/21/3281530
23 Ravenshaw Street, London, NW6 1NP
11/01/2022

1.1. Introduction

This statement is restricted to countering claims that the appellant believes to be incorrect in the LPA's statement, the main issues having been dealt with in the Appellant's Statement of Case.

1.2. It does not appear that the LPA has attempted to address the specific points made in the appellant's statement, but rather seems to reiterate the views expressed in the officer's report on the application.

1.3. This statement deals with the two main issues; flood risk and the appearance and asserted harm caused by the proposed treatment of the rear elevation.

2.1 Flood Issues

Whilst the appellant has produced an in-depth Site-Specific Flood Risk Assessment by the specialist consultancy firm UNDA, which addresses Surface Water (Pluvial) flood risk to the site in detail, the LPA's planning and Local Lead Flood Authority officer/s, have almost completely ignored this evidence where it concerns surface water flood risk. The work of this firm has nevertheless been accepted by the LPA on at least two previous cases.

2.2 The essence of the appellant's case is that whilst the site is within a local area flood risk 'zone' (as designated in the Camden Strategic Flood Risk Assessment*) the site is itself more than half way up a hill, as the appellants detailed flood risk assessment demonstrates, is not liable to flood and commonly accepted site-specific measures to mitigate any residual risk of ingress of water from the road have been proposed.

2.3 * As was made clear in our Statement of Case: Camden's own Strategic Flood Risk Assessment is the document that designates the flood risk zones

that the LPA quotes as sacrosanct. However, its explicitly states at: **6.4.11**
“...It should be noted that the uFMfSW [the reports maps, which define the zones] should not be used on a site-specific basis due to the limitations of the modelling, but instead should be used as a guide for potential risk.”

2.4 The appellant has studied in depth, and in the Statement of Case appendices catalogued, what must certainly be the great majority of cases decided by the LPA in Camden since the current Local Plan came into force, and therefore carried full weight, on 3rd July 2017 where flood issues have been relevant considerations and is satisfied that these cases are relevant as evidence in this case. These statistics indicate that the LPA has not been consistent in its decision making.

2.5 Despite this, the LPA’s statement at page 10, para 12 states:

2.6 *“It is noted that many of these listed by the appellant in appendix C were registered prior to the adoption of the Local Plan 2017. In addition as shown in the appellant’s evidence under appendix C, the Lead Local Flood Authority was not consulted for majority of these applications. As a result, these decisions do not provide a precedent for the current appeal and self-contained flats at basement level cannot be supported in a flood risk zone.”*

2.7 When applications are registered is not relevant; it is when applications are decided that is important - in accordance or not with the development plan in force at the time. Appendix C lists *26 basement development decisions, all in Local flood Risk Zones in Camden, consisting of a range of numbers of units in each development; 20 of which have significant additional flood risks issues such as being in a ‘Previously Flooded Street’. Of these, 22 were granted; while the remaining 4 were not refused for flood risk. Taken

together, the cases comprise at least 40 basement bedrooms, 44 habitable rooms, 14 'vulnerable use' rooms and 77 other rooms. All these cases were granted (or not refused for flood risk) since July 2017 with the current Local Plan in full force. They are thus relevant to this current proposal and should be taken as supporting evidence as to how the LPA decides other similar cases.

2.8 Please note that the *26 decisions listed in Append C, are just sites in Local Flood Risk Zones. Appendix D shows a fuller list of 82 developments (including the LFRZ sites), granted since July 2017, all of which are in 'areas prone to flooding', due to one source another, some from multiple sources.

2.9 At the end of this statement is an addendum containing detailed confirmatory illustrations of the LPA's Local Flood Risk Zones decisions; as previously provided in Appendix C in the appellant's Statement of Case.

2.10 **Notice of an error: Since our data was compiled it has come to light that 16 Frognal Gardens NW3 6UX/2018-2440-P and 18A Frognal Gardens NW3 6XA/2019-5348-P/2020 were included as being in the Frognal Lane Flood Risk Zone. This was an error. The sites are in fact just outside the Zone, but still on a Previously Flood Street 1975. The removal of these two properties from the list does nothing to change the overall picture of decision-making being illustrated.*

2.11 An illustration of this dichotomy is at page 11, para 12 of the LPA's statement: *"this decision ref 2016/2689/P at 190 Goldhurst Terrace was prior to adoption of the Local Plan 2017 and the Lead Local Authority were not consulted for this application."* This is not true. The decision was issued on 25 Jan 2018 with the current Local Plan in full force. The Lead Local

Flood Authority Officer appears not to have been consulted, presumably because, as the facts indicate, he/she hardly ever is. Flood Risk has been primarily decided, and as matter of course since 3rd July 2017, on the basis of the LPA's consultants, Campbell Reith's BIA Audit recommendation and/or the applicants Site Specific Flood Risk Assessment. In the case of 2016/2689/P 190 Goldhurst Terrace (Bia Audit 12466-45 Rev: F1 Jan. 2018) the decision states; *"5.8. The site is located within the Goldhurst Local Flood Risk Zone and the flood risk mitigation measures proposed in the BIA should be implemented."*

2.12 The LPA claims that decisions regarding pluvial flood risk in basement applications are made by the 'Lead Local Flood Authority' (stated by the case officer to be an officer in the 'Sustainability Team' in Camden's planning department). The 152 decisions listed in Appendix A of the appellant's Statement of Case show that in decisions listed since 3rd July 2017 the officers have taken their recommendations on Pluvial Flood Risk to the sites in question, in the overwhelming majority of cases, from Campbell Reith's BIA Audit assessment, and/or a Site-Specific Flood Risk Assessment; not from advice from the LLFA officer. In only one case, of all those listed in the appellant's study, has the opinion of the 'Lead Local Flood Authority officer been used as the sole basis of a decision on flood risk; that case is 23 Ravenshaw St. the subject of this appeal.

2.13 Campbell Reith's BIA Audit and the applicant's Site-Specific Flood Assessment, submitted with the application, confirms that the site is at low risk of flooding. Whether the officers agree with the LLFA office's opinions or not is unimportant in itself, since no supporting evidence to counter the appellant's detailed Flood Risk Assessment has been put forward by the LPA.

- 2.14** The appellant's case is that the Councils' own BIA Audit along with appellants Flood Risk Assessment from UNDA Consulting, find this proposal to be acceptable in terms of surface water flood risk; and this is exactly same evidence base the LPA has used in 99% of its flood risk decisions since 3rd July 2017. It is difficult not to conclude that Camden's decision making with regard to flood risk has been random, irrational and inconsistent.
- 2.15** Whilst this site is more than half way up a hill, at times of heavy rainfall water naturally flows down the surface of the street. The appellant has submitted a video as part of the appeal, '*APPENDIX 14 - Video of No23s Crossover During Heavy Rainfall.pdf*'. The video shows; (a) that rainwater takes advantage of the existing dropped curb to cross from the road onto the pavement, to the detriment of properties further down. (b) since the application site is gently sloped toward the gatepost adjoining No.25, water never flows from the street onto the site. In fact, it flows under the gate, off the site adding to water running down the pavement; should the development proceed, this would no longer be the case when a full continuous kerb is reinstated and SUDS measures implemented as part of the scheme; the to the betterment of adjacent properties.
- 2.16** The appellant has lived at No 23 Ravenshaw Street for 29 years and during that time there is no record of rainwater from the street entering the vacant site despite the dropped curb. The LPA and the LLFA officer have ignored all this evidence, and rely instead, quite exceptionally on a simplistic 'argument from authority' that any site situated in a Local Flood Risk Zone is 'de-facto' at risk of flooding. Only one other basement decision under the current Local Plan seems to have been decided this way; that being 2019/0158/P 190 Goldhurst Terrace, where the same assertion was refuted by the Inspector.

2.17 The appellants Site Specific Flood Risk Assessment and proposed mitigation measures take full account all current and future rainfall events, required by national and local policy. Proposed flood risk mitigation measures further mitigate against any remaining residual risk; it demonstrates that the site is not at risk of pluvial flooding and consequently the Inspector is asked to regard the appellants FRA as the only credible evidence being put forward on this matter.

3.1. Alleged Harm caused by Proposed Rear Elevation

3.2. The LPA has not demonstrated the nature or details of any harm to any issue of importance or significance caused by the proposal and its rear elevation. Its allegations are that somehow the proposed development at the rear is out of keeping with the surrounding rear elevations, and this causes harm, but to whom and how is not explained. The LPA has ignored all the evidence put to it in the form of the new CGI's, plans, photos and photo montages presented in the Statement of Case Appendices 2, 3, 4, 5, 6 along with a supplementary pdf which was sent to them (and PINS) showing views from 2 flats (recently offered for sale) lower down Ellerton Tower.

3.3. At page 1, last para. The LPA states: *“Between the railway line and the appeal site there is a green private open space designated a borough site of Nature Conservation importance.”* This description is a somewhat romantic overstatement. It is an unkempt railway banking, owned and accessed occasionally by Network Rail staff for maintenance.

3.4. Furthermore, the environmental and ecological future (as shown in the relevant reports) of this area will in no way be compromised by this proposal. But it does raise the unanswered question as to whether a proper,

comprehensive site visit, including views from across the railway lines, from actual, not suspected windows, and from actual and not supposed rail journeys have ever been carried out by the LPA's officer/s.

- 3.5.** The appellant, who lives in No 23, has on numerous occasions made these visits to the relevant viewpoints and his evidence is based on the observations he made from the various vantage points. The appellant's photographs are in no way doctored or selectively edited and their CGI's images are technically accurate.
- 3.6.** There is no report in any of the LPA's documentation of officers ever have ever visited the site prior to their decision, or viewed the site in context from across the railway tracks from Wayne Kirkham Way's pedestrian access gantry, or the 'Hill' on the children's playground at the foot of the gantry. Both provide clear, safe, quick and easily accessible views across the railway towards the site, where an attempt can be made to see it in its proper context.
- 3.7.** From these vantage points it becomes very clear that rear of the site is almost completely hidden from any wider public view by a densely wooded area to the north of the site in the garden of Ellerton Tower, narrowing to clumps of trees and brush to the rear of houses south of the appeal site that then continues along the rear of Ravenshaw Street.
- 3.8.** Views from the Brassey Road Estate should not now be in question by the LPA since the LPA was provided with appeal '*APPENDIX 4 - Brassey Road Estate Views.pdf*' which shows from sale and private rental particulars (from a handful of flats presumably sold under right to buy) that windows facing the site from Brassey Road are predominantly frosted bathroom and staircase windows with a limited number of kitchen windows. As the entire estate is

principally social housing, managed by LBC Camden, the LPA should very easily be able to provide the Inspector with confirmatory floor plans of these properties, and possibly arrange a site visit should the Inspector request it.

- 3.9.** Additional views from flats in Ellerton Tower have been provided, (*Additional views from flats in Ellerton Tower - Appeal 3281530.pdf*) indicating that from all but the top floor flats the views towards the site can now be seen to be mainly obstructed by trees. Ellerton Tower is also principally social housing managed by LBC Camden, and again, the LPA may be able to arrange access for the Inspector to make internal inspections to observe the actual views. The photographs, taken from a number of flats, clearly and unambiguously indicate what can. and what cannot be seen of the site from Ellerton Tower.
- 3.10.** The LPA in its statement relies on views of the proposed development from passing trains. The appellant has travelled on trains in both directions and made observations of what can be seen of the proposed development from them.
- 3.11.** A video (*APPEAL APPENDIX 6 - Video of the Rear View of No 23 from a Train.pdf*) was provided showing views of the rear elevations of Ravenshaw Street on a train journey between West Hampstead and Cricklewood Stations.
- 3.12.** The journey would demonstrate that views from railway carriages are glimpses of less 1½ seconds duration, through trees. The LPA has ignored this evidence. The HD video is clear and in real time shows that the appeal site flashes by in little over a second. A passenger on the train, gazing out of the window, but not looking for the specific site, would not distinguish it from its neighbours. Even for someone looking for that specific site and

already familiar with the rear of the terrace he/she would find it very difficult if not impossible to distinguish the site from its neighbours. The view would be obscured by trees and over in an instant. No identifiable harm to any passenger could possibly be incurred by this experience.

3.13. These are the ‘long views’ referred to by the LPA. Aside from the realisation that the views are patently not as the LPA alleges, the next issue to be addressed is what harm to any interest would these restricted views from particular viewpoints bestow either to peoples’ perceptions of their surroundings or on any estimation of aesthetic importance.

3.14. CGI image (A) of our Statement of Case Appendix 2, shows the proposed scheme in the context of all the other rear elevations along Ravenshaw Street. It demonstrates just how difficult it would be to even distinguish the proposed development from the neighbouring properties – even when shown without intervening trees. It shows just how hard pressed anyone, anyone that is who could ever manage to get clear view of the rear elevation in the first place, would even be able to identify the scheme, much less be offended by it. What does stand out, however, is the stark white dormer behind No. 17. The LPA makes no mention of this.

3.15. Without a clear definition from the LPA of what ‘harm’ in this context means, the appellant assumes that what is meant is simply a dislike by an individual or individuals, for some undefined reason, of some aspect of the proposal’s appearance, design or style etc. That is a subjective definition. There is no suggestion in the responses of the LPA that there would be harm to, say, the surrounding ecology or to the environment, or to the fabric of surrounding buildings. The harm alleged and complained of is assumed to be to the LPA’s own perception of the style and design of the rear elevation, its

alleged incompatibility in design and appearance with its neighbouring elevations, and the alleged diminution of the enjoyment of neighbour's own properties as a result of the proposal. There is no objective harm alleged to any issue of material significance. The LPA's response is examined against this analysis.

3.16. In the LPA's statement at page 2, para 1. the following statement is made:

“the council considers that the proposal does not reflect the existing pattern of development”; this is the incompatibility argument. There is no explanation as to what actual harm would be caused were the proposed rear elevation be unable to *‘reflect the existing pattern of development’*.

3.17. There is no intrinsic reason why there should be compatibility unless there is some identifiable departure from, say, the roof line or the rear building line, and even then, any alleged harm would have to be explained in terms of more than subjective opinion – unacceptable overlooking and the obstruction of light, for example. The appellant maintains that his proposal melds, for all practical purposes, indistinguishably into the generality of appearance of its neighbours and does not reduce the neighbouring owners' enjoyment of their right to light.

3.18. The appellant believes the LPA has overstated its views on this matter and sought support from another case at the rear of No 71. At page 9 of the LPA's statement there is the proposition that the dormer of No. 71, which is the subject of appeal APP/X5210/W/16/3157363, is smaller than its neighbours'. In fact, it is full size and full width.

3.19. The residents of Brassy Road and those who live in Allerton Tower have lived with the interrupted view of the existing terrace for many, many years,

and this proposed addition cannot plausibly be said to cause any additional irritation to the eyes or perceptions of those at these distances. The LPA's claim that it does is not tenable.

4.1. Views from neighbouring gardens

4.2. The LPA has ignored evidence put to them in the Statement of Case in the form of Photomontages and CGIs presented in '*APPENDIX 8 - Views from neighbouring rear gardens.pdf*'. The views of the proposal shown from neighbouring gardens, having been derived from detailed laser scanning and multiple photographs, represent an accurate interpretation of the as-built environment and circumstances on the ground. All the buildings shown in these 3D views are views of exactly the same 3D model shown in the 2D application plans, elevations and sections. They show, from eye level, quite precisely the views that neighbours would see of the proposed development from their gardens. The images are accurate and not 'creative' artists' impressions designed to present an optimistic impression.

4.3. The LPAs' statement is silent about these views, choosing to ignore them and focus instead on promoting 2D technical section drawings of the rear elevation. These show the entire building in section through the site; cutting through the railway banking and surrounding 8" walls, including everything below wall and ground level. They show all these elements together in single technical illustrations and in flat orthographic projection. These views are physically impossible for anyone to ever see except in these technical drawings. They are technical and largely diagrammatic illustrations of the proposal and do not represent views possible in reality, from any of the materially relevant vantage points. The LPA seeks to claim that the sections and elevations of the proposal accurately depict what the scheme's real world

visual impact would be on neighbours in their gardens and properties. They do not. It is necessary to visit the site and the neighbouring gardens and to make accurate measurements and observations before any accurate visual impact can be realistically ascertained. It does not appear that the LPA has done this.

- 4.4.** As a result, an inaccurate claim is made by the LPA about the visual impact of the rear elevations by observers from neighbouring gardens. The illustrations in Appendix 8 show that for these assertions to be true neighbours would have to be able to literally see round corners. The illustrations show the full extent of the visibility of rear elevations from each garden. From No.21, No.19 and No 17 all that can be seen of the SW façade is a small section of wall as shown in Fig.2. Occupants of the gardens of No.25, No.27 and No.29 will see even less; being unable to see anything of the west facing façade, beyond the apex of the corner. The rear elevation was specifically designed to use the corner location to ensure that observers from either direction only ever get partial views of the rear façade; and of that, only what is visible above wall level.
- 4.5.** The LPA's statement at Page 6, Para 6. asserts that the appellant has claimed that no-one would be able to see any of the proposed development. This is an over generalisation and a misstatement of the appellant's position. The statement of case and supporting evidence regarding the degree to which the scheme can and cannot be seen in these views is detailed and very specific.
- 4.6.** There has been no attempt by the LPA to indicate what the harm would be, given this accurate depiction of the positioning of the proposal. As the Appeal Statement pointed out, this is inner urban London, and not some spacious row of individual houses. Residents in inner urban areas and those

in particular who choose to live in terraced accommodation cannot reasonably expect to have no visual intrusion from neighbouring properties. What they have a right to expect is that the intrusion is kept below unnecessary and excessive levels and does not significantly reduce their rights to daylight and privacy. This proposal does not exceed these limitations and the LPA's claims are untenable.

5.1. Site Visit

5.2. The appellant understands that they can in no way direct the Inspector as to what they may wish to look at on a site visit; however, they respectfully suggest the following views would prove very informative:

5.3. No.17 Ravenshaw Streets rear garden: During the previous appeal visit (ref; 3225592) the Inspector made private arrangements to visit the garden of No.25A (and of course may do so again); however, this time it can be confirmed that the occupant of the neighbouring site at No.17 Ravenshaw Street, Ms Sue Ellison has kindly offered to allow the Inspector to view the appeal site from her rear garden; views from which are shown in our Statement of Case Appendix 8 Page 4. The appellant can make arrangements to visit the property on the day of the site visit, or of course the Inspector may make his/her own arrangements with Ms Ellison directly.

5.4. Views from trains: Coming from Kings Cross on a Thameslink train to West Hampstead, should the Inspector choose to continue on just one stop to Cricklewood Station, then return on the next train to West Hampstead (5 mins or so), he/she will be afforded two opportunities to view the rear of the appeal site from the railway, as shown in the appellants video evidence. The

Inspector can then continue on the site as normal; if on foot, via Black Path.

5.5. Views from Public Realm Vantage Points: On leaving the site turning left up Ravenshaw Street, then left again at the Alliance Pub, a short walk down Mill Lane, at the end of the railway bridge is the entrance to Wayne Kirkham Way. Although somewhat foreboding in appearance, this pedestrian walkway leads down a gantry beside the tracks to the Brassey Road Estate, directly opposite the appeal site on the other side of the railway. Through the walkway fence and at the bottom from an artificial playground ‘hill’ the Inspector will see the only actual, rather than imagined, ‘public views’ of the rear of the appeal site, such as those shown below.



View from Mill Lane Railway Bridge Wall



View through a gap in the fence at Mill Lane Bridge



View playground hill on Wayne Kirkham Way

6.1. Conclusion

6.2. The proposal is demonstrably beyond flooding danger. The LPA’s response to the design and appearance of the proposal and to the content of the appeal statement seems to be based on inadequate or non-existent observations of the facts and circumstances on the ground. Claims that both near and far views would lead to harm are unsubstantiated and cannot be justified by properly and comprehensively conducted site inspections and views. Finally, the LPA has given little or no attention to the bulk of detailed and verifiable evidence provided by the appellant.

6.3. The Inspector is respectfully requested to examine the evidence provided by the appellant, to make the same site visits as the appellant, reject the objections from the LPA and to grant permission for this carefully and sensitively constructed addition of five homes for London.

7.1. ADDENDUM

7.2. The pdf files attached to this Statement are provided in order to further clarify statements already made in the appellant's original Statement of Case, but ignored by the LPA in their Statement. Any yellow highlighting is by the appellant.

7.3. **Local Flood Risk Zones**, application illustrated with plans and maps: The appellant forwards the attached pdf; '*Appendix C2 Flood Risk Zone Basement Applications Decided.pdf*'. It shows applications already listed in Appendix C of the appellants original Statement of Case; only here supported with plans and maps. The purpose of this is to further refute claims made by the LPA in its Statement and emphasise that these applications are not one-off mistakes to be dismissed as irrelevant; they are very real applications in Flood Risk Zones that the LPA has been routinely deciding, based primarily on flood risk assessments provided by Campbell Reith and not the LLFA officer.

Just 4 examples out of the 29 applications shown are:

2016/3545/P Maryon House 115-119 Goldhurst Terr.: 3 fully self-contained Flats in the Goldhurst Flood Risk Zone. No LLFA comments.

2016/6356/P 1-3 Britannia St.: A double depth commercial office basement in the North Swinton St. Flood Risk Zone. No LLFA comments.

2016/6697/P 251 Goldhurst Terr.: Basement bedroom, bathroom and family room in a Local Flood Risk Zone and on a previously Flooded Street. No LLFA comments.

2017/4705/P 62 Belsize Rd.: A newly converted fully self-contained basement flat in a Local Flood Risk Zone, on a twice previously flooded Street. No LLFA comments.

All of these applications contradict the claims being made by the LPA. Were one to undertake the same exercise for all 152 applications listed Appendix A, the pattern of decision making would remain much the same.

7.4. Flood and Water Management Act 2010. Naturally, the Inspector is perfectly well able to read the Flood and Water Management Act 2010. However, to further support a point already made in our Statement of Case at (para. 60), the applicant has attached abridged and annotated extracts from the Act that it is believed are pertinent their case in the form of '*Flood and Water Management Act 2010 - Abridged Extracts.pdf*'. The point being emphasised is that a Lead Local Flood Authority is subordinate to the Environment Agency and Government guidance and is expected to "*act in a manner which is consistent with the national strategy and guidance*" and is not at liberty to simply decide for itself how it will exercise its duties under the Act.

7.5. Lead Local Flood Authorities Roles and Responsibilities: The LPA repeatedly asserts the Lead Local Flood Authority officer has (and it seems to maintain, always should have had) a key role in application flood risk decisions as a statutory consultee; although there seems to be little actual evidence of this. On that point, attached are extracts from Government guidance on the role of LLFA's, see: '*Lead Local Flood Authorities Roles and Responsibilities - Govt Guidance.pdf*'. Indeed, the LLFA does have a statutory consultee role, providing technical advice on surface water drainage to local planning authorities for major developments, of 10 dwellings or more. However, aside from a major redevelopment of the KOKO music venue in Camden Town, the Lead Local Flood Authority officer, at least from the appellants study, seems to have primarily been preoccupied with a handful of very small sites, almost exclusively single basement extensions under private houses. Indeed, the subject of this appeal is itself also a minor

development. This raises a question as to why a Lead Local Flood Authority is busying itself with random minor allocations in the first place, while seemingly paying little or no attention to some very major ones.

While a handful of applications such as **2016/5266/P** 53-55 Chalton St. did have LLFA officer input, many other large schemes seem to have no recorded LLFA officer involvement.

Examples being:

2020/2470/P St Martins College Campus, an enormous redevelopment with a 4x level deep basement.

2015/5759/P Royal Academy of Dramatic Art's, new basement with 300 seat theatre.

2015/6955/P 156-164 Gray's Inn Rd., a 7 storey plus basement building for office, retail, restaurant at LG/GF.

2016/2457/P Ferdinand Place. A new four storey plus basement building with a very large funeral facility in the basement.

7.6. British Standard 85332017: The LPA seems in many ways to be rather oblivious to the fact that besides Government Guidance, there are established British Standards in place dealing with the assessment of flood risk. By way of illustration and for the benefit of the Inspector, the attached pdf contains short, highlighted extracts from BS 85332017 in the form of *'British Standard 85332017 Assessing and Managing Flood Risk in Development.pdf'*; illustrating the depth of detail the standard goes into. There is no indication the LPA adheres to any of these procedures in its decision-making regarding flood risk.