
From: Glen Robinson [REDACTED]
Sent: 08 July 2021 15:30
To: Nora-Andreea Constantinescu
Cc: [REDACTED]
Subject: 08072021 RE: PA 2020/0927/P 31 Willoughby Road NW3 : FINAL AUDIT RESPONSE FROM WILLOW COTTAGES
Importance: High

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08072021
Dear Nora

RE: PA 2020/0927/P 31 Willoughby Road NW3 : Final Audit Response

I hope our email finds you well. Thank you for getting back to Hilary and me and giving us an extension to reply until the 16 July [email date 30 June 2021] This is appreciated.

• **GCG COMMENTS ON FINAL AUDIT RESPONSES:**

We have now had comments back from Dr Smith, which I add to this email. He acknowledges that the applicant's consultants have in the main addressed his and Campbell Reith's Audit 2 queries. He, however, has raised further queries and points for clarification, one of which was asked, but has not been appropriately responded to i.e.

1. INAPPROPRIATE CRITERIA OF BIA STRUCTURAL ANALYSIS :

One of the Eldred's final response document states EXTRACT : "*Neither strength nor stiffness of the wall and footing materials are considered. Results are thus conservative and the method is suited to perforate wall sand to intact fragments of walls. Any distortionless tilt judged to occur due to differential settlement relieves shear strain but has not been considered here.*"

Dr Smith has commented on above statement as follows i.e.

EXTRACT : "*Reading the text in blue, it's not entirely clear, but I would take from this:*

The strength/stiffness of the materials of the wall have not been considered as part of the wall assessment (movement/damage impact assessment).

This is, to be fair, the normal approach for ground movement/Building damage assessment. However, the normal approach is generally being applied to masonry houses in a good state of repair, not a listed wall in quite poor condition. (I assume that the wall here is the retaining wall).

It is generally assumed that in fact, the inherent stiffness of a building results in more uniform movements, with a lower maximum movement than is predicted when the building is considered to have no stiffness. Hence, the standard approach is normally viewed as being conservative and as giving higher movements than occur in practice. This is, generally, correct – well-built basement extensions typically cause lower ground movements than were predicted.

Please see Dr Smith's statements below. I have added an extract of his email so that I do not misinterpret or misrepresent his query i.e.

EXTRACT

'...In my report (27 May 2020), on page 8, I discuss growing area.

In the Applicants response (G1808-TN-01-E1, one of the new documents on the Camden website), they have:

Growing area

14. The LPA have confirmed to the Agent via email on the 16 June 2020, that the basement need not be set back from the boundary

This may be an area that can at least be brought to the Councillors' attention.

My concern was that any planting between basement and listed wall would have restricted root growth.

The issue is not one of the health of the plant, but the effect of root action pushing against the back of the listed wall.

*At this point, I admit that I'm aware of the issue, but not an expert in root growth/horticulture, **but it would seem to me that there will need to be restricts placed on what can be grown immediately behind the listed retaining wall, and that such restrictions would need to be for the lifetime of that wall.***

Thus, whatever restriction on planting would need to be continued with any future change of ownership, implying some form of restricted covenant on that section of land (grass or carrots, acceptable; trees or large shrubs, not so). This is getting well outside my expertise, but may be an issue to discuss with the councillors?

...this might save the wall from becoming destabilised in 10 years' time.' END EXTRACT

I draw your attention to this important point as once again there are heritage assets under real long-term threat. I have forwarded this matter to Vicki Harding who is the Heath and Hampstead Society Tree specialist for her comments which may help in defining a suitable response from yourselves.

I also draw your attention to the fact that you as LBC have confirmed to the agent via email on 16 June 2020 that the basement need not be set back from the boundary. Please clarify this position as such implementation would undoubtedly seriously damage and make dangerous the fragile listed retaining wall. Remember that this wall forms the much used communal and private amenity space of Willow Cottages. It is a space where residents gather, children play safely etc. Any act of construction that jeopardises this is unacceptable, over and above the fact that such a decision undermines the heritage asset status of the wall and the spaces themselves.

• **SOME ADDITIONAL COMMENTS FROM WILLOW COTTAGES FOR CONSIDERATION & CLARIFICATION**

1. **TRANSPARENCY OF PROCESS** - The applicant's consultants submitted their audit 2 responses to yourselves and Campbell Reith in March / April. Can you please clarify for us why you did not inform us that these documents were in your receipt some weeks earlier than your recent email sent 18 June? I mention this because you might remember that during the process of determining Campbell Reith's Audit 2 requirements, we were allowed to view the documents and add additional important critical technical comments for you and Campbell Reith to include for the applicant to respond to. For some reason, we seem to have been excluded under the recent final Audit 3 process from the applied transparent process of Audit 2. We feel that this is an unfortunate breach of proper procedure.
2. **CRUCIAL SITE VISITS** – It is unclear from the lengthy planning process to date and the proper procedure of such applications if
 - Campbell Reith ever carried out a site visit to establish the real context and constraints of the proposal and its impact on neighbours and, more importantly, the contiguous listed structures of Willow Cottages. Please would you clarify this query and if Campbell Reith have not carried out such a necessary site visit, the reason why such an important task was deemed unnecessary given the huge impact on the numerous contiguous listed structures.
 - Similarly, could you please confirm that you as the case officer visited the site and appraised the real conditions pertaining to Willow Cottages and the rear amenity space bounded by the listed retaining wall. Your colleague

John Diver, who was the planning officer for the previous and almost identical application 2016/7146/P that was withdrawn post 12 April 2018 and who after accepting the invitation to view various parts of Willow Cottages including the dangerous rear listed retaining wall, appreciated the magnitude of fragility and complexity of the Willow Cottages context. We here consider such actions as full site visits as being fundamental to the proper procedure for such a complex planning application and its ramifications on the many heritage assets bounding the application site. This is critical in establishing the real balance of harm.

3. **NEXUS & ELDRED** : The Nexus Planning letter [Ref34624 date 01032021] submitted with Audit 02 applicant responses is incorrect on a number of points as are the accompanying Eldred documents i.e.
 - It is unhelpful for the applicant's consultants to belittle the immediate neighbours' right to appoint our own expert consultants [GCG] to view and to comment on the applicant's BIA documentation as it is outside our skill base. In fact, GCG's analytical appraisal has been crucial to establishing the numerous and perturbing shortcomings of the applicant's technical submission and assisting Campbell Reith in carrying out a rigorous appraisal as they are expected to do.
 - It is also not correct for the applicant to say that neither adjoining neighbour [33 Willoughby Road and 29 Willoughby Road] have objected to this application. Whilst this may on the face of things be correct when the Nexus letter was issued in March, it is no longer the case i.e.
 - a. The previous owner of 33 Willoughby Road was a developer whose acquiescence was based on self-interest in wanting to obtain permission for future development at 33 Willoughby Road. The property was purchased by new owners on the 25 March 2021, who have been made aware of this damaging application not by the applicant, but by abutting concerned neighbours. Subsequently you have been sent a formal objection from the new owners on 29 June 2021 which you have accepted.
 - b. It is confirmed that whilst the owner at 29 Willoughby Road has not submitted a formal written objection to the proposal, she has verbally conveyed to us on 5 July 2021, that she does NOT support the application, and feels awkward because of her friendship with the applicant. Clearly the applicant has taken advantage of their friendship to gain her silence. She has confirmed to us that she doesn't want to put in a formal objection but is happy for us here at Willow Cottages to say we have spoken to her, that she is very worried about the proposed work, and the fact that she hasn't put in a formal objection is to do solely with friendship rather than because she is in support of the work.
 - c. Whilst 29 has not lodged a formal objection, you can see that there is real concern to the proposal from both immediate abutting neighbours.
 - The recent Eldred document fails to acknowledge that the building techniques of the 1850's for "build-to-lets" such as Willow Cottages were rudimentary even by the standards of the day and that this makes the row more vulnerable. [I can confirm this, given what was unearthed during our approved listed works at 39 Willow Road]. The 1861 census shows all but one of the 9 cottages housing 2-3 families, a total of some 76 persons in all. This confirms the cottages, which are small in area, as being workers' housing. The terrace of 9 houses collectively known as Willow Cottages are undeniably fragile in both fabric and construction. This is made even more precarious as they are located over an underground subsidiary of the Fleet – remember there is an existing live well in the front garden of 38 Willow Road. This makes the existing soil memory to the cottages even more risk adverse, as any changes to underground water flow patterns will undermine the existing historic stability of the footings to the cottages. Since both the terrace and the rear wall are now listed as heritage assets, Camden must by law protect them as the balance of harm is clear.
 - These same documents also questionably incorporate inappropriate criteria modelling when defining potential damage to the already dangerous and fragile listed retaining wall [See item 2 above as outlined by GCG comments]
4. **HERITAGE ASSET POLICIES**: This is critically important when you consider both national Planning Policy Framework [NPPF] policy and Camden Plan paragraph 7.41 regarding the Council's responsibility to have special regard preserving listed buildings i.e.
 - The National Planning Policy Framework states that in decision making, local authorities should **give great weight** to conservation of designated heritage assets in a manner appropriate to their significance. **The Council expects that development not only conserves, but also takes opportunities to enhance, or better reveal the significance of heritage assets and their setting.**

- *NPPF POLICY Paragraph 193 shows 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*
 - *NPPF POLICY Paragraph 196 shows 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*
 - There are no public benefits to this application. On the contrary there are multitude of negative effects, nuisances and harm that would accrue to the community under this proposal as described by the many objections from nearby residents and local community groups. This is an extremely important point which must be taken into account by LBC. The heritage assets in this case are not a singular building, but a cohesive group of 9 listed terrace cottages set within an integral listed retaining trench. Greater weight must therefore be applied.
 - The importance of the heritage asset value and real balance of harm from this application is beyond the numeracy exercise set out in the engineering analysis of the applicant's submitted BIA. It is of far greater importance. NPPF Policy Paragraph 193 and 196 must be adhered to. This proposal only adds unnecessary risk and real damage to heritage assets. This application should be refused on these grounds alone.
5. **PERCEIVED CONFLICT OF INTEREST:** It has come to our attention that Eldred and Michael de Freitas, who have both acted as advisors and consultants to the applicant and this planning application, have also been consultants and advisors at policy level to Camden Council. If this is the case, then there is an obvious potential conflict of interest which has not been tabled. It is either perceived or real conflict of interest and therefore, procedures are not transparent and correct, making yet another very real argument for refusal of this application as it places Camden in a potentially litigious position.

Whilst it seems that CR are of a mind to support the revised and updated BIA, it is hoped that you as the case planning officer [PO] for this application, will reflect carefully not only on ALL of the very legitimate reasons listed above for objecting to this application, but also on the large number of objecting individuals and community based representative bodies like Heath and Hampstead Society and Hampstead Neighbourhood Forum.

We have recently become aware of the pending legal action being taken against Camden by the community for similar basement works at 47D Netherhall Gardens NW3 1NT [2019/3948/P] which has many echoes with the 31 Willoughby Road planning applications.

The reasons for not granting permission here are unequivocal. This is clearly not a simple application that should be determined alone by a 'tick box' process of assessment based mostly on technical aspects determined within the BIA framework. It should be a transparent process that is competent, wide ranging and responsible enough to grapple correctly with the implications of the **real context** of such an application where there is not just 'one' Heritage asset but a number of Heritage assets. Failure to recognise the numerous shortcomings of the 'one size fits all' BIA approach is irresponsible - especially as it undermines the clear interests of the community which LBC officers are duty bound to support.

Do please confirm receipt of this email and what the next stages and key dates are, so that we here can act suitably in opposing this application.

If you have any queries with any of the above and wish to discuss with us, then please do contact either myself or Hilary King and if needs be, we can set up a zoom meeting with you and Willow Cottages residents before you conclude your report to committee.

Best wishes

Glen and Hilary
On behalf of Willow Cottages