



Date: 25/04/2022

Your Ref: APP/X5210/ W/21/3288791 & APP/X5210/Y/21/3288793

Our Refs: 2021/3482/P and 2021/4055/L

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The Planning Inspectorate

Room 3/23

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Dear Planning Inspectorate,

**10 Prowse Place, London NW1 9PN**

**Appeal on behalf of Mr & Ms Luke Moore for the refusal of planning permission and listed building consent**

The Council refused planning permission and listed building consent under delegated powers on 17/10/2021, under Ref. 2021/3482/P and 2021/4055/L

The description of development for the planning application was as follows:

*Erection of a part three/part single storey rear extension and deeper semi-basement floor to extension following the demolition of the existing part two/part single storey rear extension, alterations to side entrance.*

The description of development for the listed building consent application is as follows:

*Erection of a part three/part single storey rear extension and deeper semi-basement floor to extension following the demolition of the existing part two/part single storey rear extension, alterations to side entrance and associated internal alterations.*

2021/3482/P - Reason for refusal:

- 1. The proposed first floor extension to the rear closet wing, by reason of its height, location and design, would fail to be a subordinate addition to the host Grade II Listed building, harming its composition and disrupting the pattern of rear development to the wider terrace, to the detriment of the significance of the host building and the character and appearance of the Jeffrey's Street Conservation Area, contrary to policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.*

2. *The applicant has failed to demonstrate that the proposed lowering of the basement level would not cause harm to the structural stability of the building and neighbouring properties and avoid adversely affecting the structural, ground, or water conditions of the area contrary to policy A5 (Basements) of Camden Local Plan 2017.*
3. *The proposed development, in the absence of a legal agreement securing an Approval in Principle, would fail to mitigate the impact of the basement works on the adjacent public highway, contrary to policies A1 (Managing the impact of development), T3 (Transport Infrastructure) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.*

2021/4055/L – Reason for refusal:

1. *The proposed first floor extension to the rear closet wing, by reason of its height, location and design, would fail to be a subordinate addition to the host Grade II Listed building, harming its composition and disrupting the pattern of rear development to the wider listed terrace, and the proposed relocation of the entrance door and demolition of the side wall of the closet wing would result in loss of historic fabric and harm to plan form to the detriment of the character, appearance and significance of the host listed building, contrary to policy D2 (Heritage) of the Camden Local Plan 2017.*

## **1. COMMENTS ON APPELLANT'S GROUNDS OF APPEAL**

- 1.1. Reason for Refusal 1 harm to Heritage assets
- 1.2. The heritage assets affected and the harms caused have been described in detail in the delegated report. This section will assess the appellant's 10-page appeal statement page by page so will most easily be read in conjunction with that document.
- 1.3. The appellant begins with the frequent misconception that, if something is not mentioned in the list description, it is not significant. Every part of the exterior and interior of a listed building is protected. Here, the rear elevations have highly unusual transverse chimney stacks, which can be seen all the way along the terrace from Prowse Place. The rear elevations are also largely consistent from the first floor upwards.
- 1.4. The appellant goes on to note that the building's side and rear elevations are not specifically mentioned in the conservation area statement. CA statements would need to be thousands of pages long if they were to itemise every feature of interest or value in the conservation area. What the CA statement does say is-

*“rear extensions should be as unobtrusive as possible and should not adversely affect the character of the building or the conservation area.*

*In most cases, such extensions should be no more than one storey in height, but general effect on neighbouring properties and the conservation area will be the basis of its suitability” (para JS19).*

- 1.5. This proposal contravenes these principles. Being so large and on a corner site, it is not unobtrusive, it masks most of the rear of the host building, interferes with the appreciation of the rear of the terrace as a whole, and is more than one storey tall. The development is therefore specifically in conflict with the CA statement. Even if the house wasn't listed, the proposal would be considered overscaled and obtrusive.
- 1.6. The appellant notes a clerical error in the CA statement. The house was probably omitted from the CA statement for the same reason it was listed slightly later than its neighbours, namely that despite being of equal merit to them, the peculiarity of its street number meant that its address was not recorded properly.
- 1.7. On the third page, the appellant points out that the rear extension is modest in scale compared to other buildings in its surroundings. However, comparing a rear extension with entire buildings is not logical. The rear extension needs to be compared with its host building. Unfortunately, it is not considered that adding a storey to the existing extension will result in a subordinate structure.
- 1.8. The appellant then refers to the gable end of a block of modern houses in the next street, Jeffreys Place, saying that it is large. This cannot be denied, but as the appellant notes, that development dates from the 1970s when things were done differently. The fact that there is a large building in the vicinity does not justify the substantial enlargement of the host building. After all, it is always possible to make a bad situation worse, and never desirable. And, as is always the case when overscaled local developments are being cited as precedents, it is important to understand what was already on the site in question; it is possible for example that the houses on Jeffreys Place replaced a factory.
- 1.9. The appellant appears to be under the misapprehension that the CAAC wrote the CA statement. In fact, councils produce CA statements. It is therefore quite possible for the CAAC to find that the proposal would be overbearing and dominant and for the CA statement, written in 2003, to approve of the Jeffreys Street houses.
- 1.10. The appellant then explains that the extension will still leave 3.8m of the host building visible above itself. Another way of putting this is that the extension will rise from one visible storey, to two, from 3.3m tall to 5.8m tall. Height is only part of the story though; what gives rise to bulk is surface area. The vertical area of the side extension will increase from 13.2m<sup>2</sup> to 26.1m<sup>2</sup>, double the size.

- 1.11. On the fourth page, the appellant notes that a block of garages across the street was replaced with dwellings in 2015. However, the new dwellings are in scale with the area and do not present a large gable end. The block of garages was noted in the CA statement as both a negative contributor and an opportunity site. The appellant asks why the decision notice did not mention this development “dominating the single-storey extension at 10 Prowse Place”. The answer is because it does not dominate it; it does not face it. What faces no 10’s rear extension is 27 and 29 Prowse Place, as noted by the CAAC. Replacing a block of garages with appropriately scaled housing does not justify enlarging the host building’s rear extension.
- 1.12. On the fifth page, the appellant moves on to the relationship between the extension and the host property. He or she notes that the planner’s report used an out-of-date photo. The planning officer who assembled the report accepts that he inserted this photo in error. However, the conservation assessment was not carried out on the basis of this photograph.
- 1.13. The appellant states that the photo proves that the rear elevation has been “significantly altered several times”. Yet the photo shows nothing of the sort. It shows that the roof has been restored to its original form, that the windows have been sympathetically replaced, and that the house has already benefitted from an enlargement of its rear extension, increasing its bulk to the street.
- 1.14. The appellant states that the majority of the proposal is not visible from the public domain. Unfortunately, the parts of it that are, are unacceptable. There are also the matters of historic fabric and plan form of the listed building, which will arise in due course.
- 1.15. The appellant adduces harmonising the brickwork as a benefit. However, the discontinuities in the brickwork differentiate the different phases of the building and tell its story. Eradicating them is certainly not a heritage benefit that outweighs the harm of the proposal.
- 1.16. On the sixth page, the appellant addresses the effects of the scheme on the listed building. He points out that the front door is not in its original position and claims that the stairs are not original. The fact that the front door has moved is demonstrated by several interesting clues, as well as by its obviously being in the wrong place. However, it is less “in the wrong place” than it would be if it was moved to the landing. As it stands, it reads like garden door, which is appropriate.
- 1.17. If the flank elevation was rebuilt after a fire in the 19th century, that still makes it historic fabric; modern conservation theory is based

on the principles of the SPAB, formulated by William Morris, who argued that all periods of a building's history had significance and all "accretions of time" could help tell the building's story. The same goes for the staircase, which may have been damaged at the same time. The staircase remains in its correct configuration and position and is likely to be historic fabric even if not original fabric.

- 1.18. Citing the neighbours' opinions of previous works ("butchered..." etc), the appellant argues that these changes mean that the fabric is devalued. But that is simply another version of the argument that a bulky building over there justifies one over here. As noted above, there is no situation that cannot be made worse.
- 1.19. He or she goes on to point out that the closet wing is not original fabric. That is possibly so, but the removal of most of its side wall at lower-ground-floor level will create a full-width space, flowing fluidly into the basement, so creating an atypical open-plan space that is harmful to understanding of the house's spatial hierarchy and historic plan form.
- 1.20. It is also proposed to extend the length of the LGF rear extension so that it is flush with the closet wing's rear elevation. This too increases the bulk of the proposal and turns it into a full-width rear extension at that level, rather than a legible closet wing with a lightweight infill.
- 1.21. The appellant states that the stair window aperture has been altered. If this is the case, it is nonetheless in its correct position and is consistent with the pattern of those along the rest of the terrace, allowing the position of the staircase to be understood. The proposal would engulf this part of the rear elevation, and obscure the elevations of other houses.
- 1.22. The appellant closes this section by arguing that the plan form is not historic. The truth is that the plan is largely intact – certainly is legible – and the proposal will make it less intact rather than more so, so is harmful.
- 1.23. On the seventh page, the appellant discusses the effects of the scheme on the terrace as a whole. He or she cites alterations at no 8 (whose stair window has been bricked up), no 20 (which has replaced its stair window with a door) and no 18 (which has a full-height closet wing but also has no recorded planning history after 1971). This does not amount to an overwhelming degree of precedence.
- 1.24. On the other hand, above the ground floor, all of the houses with the exception of no 8 and no 18 retain their staggered pattern of windows and their unusual protruding lateral chimney stack.

- 1.25. On the eighth page, the appellant lists development elsewhere in the conservation area that he or she believes support the proposal. All that can be said is that those proposals will have been assessed on their merits and are unlikely to combine the same factors as this one. Are they listed buildings (no; of the addresses provided, only 108 St Pancras Way is a listed building)? Are they in unspoilt groups? And what pre-existing built form was replaced by the new form?
- 1.26. On the ninth page, the appellant explains why there is no basement impact assessment and goes on to lay out the benefits of the scheme. The first is that the new rear extension will be better insulated than the existing one. This negligible benefit is not considered to outweigh the harms laid out above.
- 1.27. The appellant offers to reuse materials “wherever feasible”. Even if this could be enforced and did result in some materials being reused, the more carbon neutral course of action is not to demolish the closet wing in the first place, so this is a reduction of harm as opposed to a benefit.
- 1.28. Finally, on the tenth page, the appellant notes that listed building owners perform a service by maintaining listed buildings. Much of the time this is indeed the case. However, it is unlikely that this valuable building will fail to be maintained if its owners are not granted consent for a large rear extension.
- 1.29. The stated reason why the applicants wish to have an additional room – to house an elderly relative – unfortunately, does not take away the permanent harm caused so cannot be taken into account.
- 1.30. The appellant then quotes the Local Plan regarding family-friendly housing policies. Unfortunately, making this house even more valuable by adding a bedroom to it and enlarging its basement will not improve the lot of middle-income families with children trying to buy property in the borough.
- 1.31. The appellant closes by quoting the Local Plan regarding size mix. But this material relates to new-build developments, rather than extensions to early-19th-century listed buildings.
- 1.32. For the reasons given above, the proposal is considered harmful to the special interest of the grade-II-listed building and the character and appearance of the Jeffreys Street Conservation Area, contrary to policies D1 and D2 of the Camden Local Plan.
- 1.33. No public benefits have been demonstrated that outweigh the less-than-substantial harm caused by the proposal.
- 1.34. Reason for Refusal 2 Basement Impact Assessment (BIA)

- 1.35. The purpose of a BIA is to enable the Council to ‘assess whether any predicted damage to neighbouring properties and the water environment is acceptable or can be satisfactorily ameliorated by the developer’ as stated in Local Plan policy A5 on basements.
- 1.36. Paragraph 4.36 of CPG Basements states that “*to provide the Council with greater certainty over the potential impacts of proposed basement development, **we will expect independent verification of Basement Impact Assessments to be funded by the applicant.***” The CPG states that Independent verification will be required in the following circumstances:
- Where a scheme requires applicants to proceed beyond the Screening stage of the Basement Impact Assessment (i.e. where a matter of concern has been identified which requires the preparation of a full Basement Impact Assessment);
  - Where the proposed basement development is located within an area of concern regarding slope stability, surface water or groundwater flow; or
  - For any other basement applications where the Council feels that independent verification would be appropriate (e.g. where conflicting evidence is provided in response to a proposal).
- 4.37. This independent verification will be commissioned by the Council.
- 1.37. During the application process, the Case Officer made the agent aware of the requirement for a BIA. The agent was advised that the application was to be refused and that if the applicant wishes to appeal, they should complete the BIA audit process, rather than leave it to be completed at appeal stage. Below is a list of dates where the Case Officer sent emails (Appendix A) requesting the completion of the BIA audit instruction form.
- Email sent to the appellant on 11/10/21 confirming that the application is to be refused on design grounds and lack of BIA would be another reason for refusal. The email was seeking completion of the audit instruction form and fee for CR. (The audit instruction form makes it clear what is required to start the audit process). The applicant refused to proceed with the BIA audit process during the application.
    - then application refused 17/10/21
    - then appeal submitted 10/12/21
  - email sent to appellant on 10/12/21 seeking completion of audit instruction form and fee for CR.
  - email sent to appellant on 11/12/21 seeking the same.
  - email sent to appellants on 12/12/21.

- Email sent to appellant 22/3/22 asking for completion of the document to start BIA process
- appellant replied 28/3/22 asking for a deadline for returning the form. The council replied stating that we do not set the appeal deadlines
- email sent to appellant 11/4/22 asking for an update on instruction form. No reply and no form was sent

1.38. Despite the appellant not funding independent verification in compliance with the Council's adopted policies, Campbellreith have now audited the BIA and expenses incurred would be met by the public purse. The Council seeks that the appeal is considered with the benefit of independent engineering scrutiny.

1.39. Campbellreith has concluded that the submitted BIA does not comply with the requirements of CPG Basements. The chief reason for this is that the BIA identifies that ground movement will occur but provides no assessment of the magnitude of this movement, or the potential impact to adjacent structures and infrastructure, or what mitigation measures will be used to ensure an unacceptable amount of damage does not occur as a result of the basement development.

1.40. Any excavation into the ground, regardless of the depth of that excavation, has the potential to have a significant impact on adjacent buildings and infrastructure if it is carried out in an uncontrolled manner.

1.41. Further points/details are as follows:

1.42. Paragraph 1.5.4 of the BIA identifies the information required under CPGB, which has not been provided in the BIA. Chief among these is the absence of a Ground Movement Assessment (GMA), a Construction Sequence Methodology and proposals for monitoring during construction.

1.43. Section 6.5 of the BIA identifies the adjacent road and neighbouring property has been could be impacted by the basement works. It is also noted that the host building is Grade 2 listed.

1.44. Paragraph 6.5.2 of the BIA reads as follows:

Unavoidable lateral ground movements associated with the lower ground level excavations must be controlled during temporary and permanent works so as not to impact adversely on the stability of the surrounding ground, any associated services and structures.



- 1.45. Based on the above statement within the BIA, and the identification of three receptors directly adjacent to the basement that would be impacted by ground movements resulting from the work, the BIA is considered incomplete and therefore does not comply with the requirements of CPG Basements.
- 1.46. The following additional information should be provided:
- A Ground Movement Assessment providing estimations of the magnitude of the "unavoidable lateral movements" identified in the BIA for each of the impacted structures/features (neighbouring building, host building, road and utilities therein).
  - details of the expected impact of the "unavoidable lateral movements" on the neighbouring property, Grade 2 listed host building and adjacent highway and any utilities therein. The impact to properties should be described using the Burland Scale (in accordance with CPGB and Policy A5).
  - details of the construction sequence to show how excavations will be controlled/supported.
  - details of the monitoring measures that will be implemented to check that the actual movements are within the values predicted in the GMA.
  - details of what additional actions will be undertaken if movements are found to exceed the predicted values.
- 1.47. The above notwithstanding, the screening and scoping assessment for hydrology (surface water) and hydrogeology (ground water) are considered appropriate and it is accepted that the proposed basement will not have a significant impact on the hydrology or hydrogeology of the area. However, the BIA fails to comply with CPG Basements for several reasons outlined above, chiefly that ground movement will occur but provides no assessment of the magnitude of this movement, or the potential impact on adjacent structures and infrastructure, or what mitigation measures will be used to ensure an unacceptable amount of damage does not occur as a result of the basement development.
- 1.48. Reason for Refusal 3 Approval in Principle
- 1.49. The Council, as the local highway authority, is responsible for the quality, maintenance and safety of the borough's roads, footpaths and other adopted spaces. It will determine how highway and/or other related works should be designed and implemented, in consultation with developers, to ensure that they are carried out in accordance with Council procedures and standards.
- 1.50. In line with Local Plan Policy A1, the Council seeks to manage the impacts of the development by requiring developers to repair any

construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces following development.

- 1.51. As the supporting text (paragraph 6.11) to Policy A1 explains: “Highway works connected to development proposals will be undertaken by the Council at the developer’s expense. This ensures that highway works, maintenance and materials adopted by the Council are constructed to an appropriate standard. This includes highway works that form part of a planning approval appropriate for adoption, including design and implementation of new routes to be adopted, owned and managed by the relevant Highway Authority. Development requiring works to the highway following development will be secured through planning obligation with the Council to repair any construction damage to transport infrastructure or landscaping and reinstate all affected transport network links and road and footway surfaces.”
- 1.52. Policy A1 also states in para 6.11 that highway works connected to development proposals will be undertaken by the Council at the developer’s expense. A highways contribution is therefore required to pay for repairing any damage to the public highway. The calculation based on our Highways Engineers cost estimates and results in a required payment of £646.27 (six hundred and forty-six pounds and twenty-seven pence).
- 1.53. All the aforementioned items would, if planning permission were to be granted, be secured by a Section 106. However, in the absence of such an agreement they will remain to constitute a reason for refusal.
- 1.54. Community Infrastructure Regulations 2010
- 1.55. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the “CIL Regulations”) creates statutory tests to determine whether a planning obligation is capable of being a reason for granting planning permission. Obligations must be:
  - necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.
- 1.56. Current government guidance on the application of Section 106 is contained within the Planning Practice Guidance (NPPG) on Planning Obligations and the Use of Planning Conditions.
- 1.57. In this case, it is necessary to secure the AIP to ensure the basement works to not damage the adjacent public highway, in

accordance with policies A1 (Managing the impact of development), T3 (Transport Infrastructure) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

- 1.58. The highways issues and BIA cannot be secured by condition because part of land lies outside the application site and financial contributions are necessitated.
- 1.59. Update on communication with appellant.
- 1.60. The appellant's email today, 25/4/22, indicates agreement to the S106 should the inspector find the proposal acceptable on design grounds- see appendix. However it would be unusual for the inspector to consider isolated parts of the planning application and solely one of the three reasons for refusal.
- 1.61. Nevertheless, the council will continue to liaise with the appellant regarding signing of the S106 agreement, fees for the S106 administration and fees for a BIA and Highways contribution. The inspector will be updated at final comments stage.

## **2. Conclusion**

- 2.1. Based on the above the Council respectfully request the Inspector to dismiss this appeal due to harm to heritage assets, an inadequate BIA and failure to secure an AIP by a S106 Legal Agreement.
- 2.2. Should the Inspector be minded to allow the appeal the Council suggest the following conditions set out below.

### **Conditions:**

1. The development hereby permitted shall be carried out in accordance with the following approved plans [2115/01; 2115/02; 2115/03; 2115/12; 2115/13]  
  
Reason: For the avoidance of doubt and in the interest of proper planning.
2. The first floor window of the rear extension hereby approved should be obscure glazed and permanently maintained as such.  
  
Reason: To preserve the privacy of neighbouring occupiers in accordance with Camden Local Plan Policy A1.
3. The development hereby permitted must be begun not later than the end of three years from the date of this permission.

Reason: In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

4. All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 D2 of the London Borough of Camden Local Plan 2017.

If any further clarification of the appeal submissions is required please do not hesitate to contact Josh Lawlor on the above direct dial number or email address.

Yours sincerely,

Josh Lawlor  
Planning Officer