

JASON COOKE

ERECTION OF SIDE EXTENSION

CAMDEN: FLAT 1 102 FELLOWS ROAD LONDON NW3 3JH

Council reference: 2021/2119/P

Appellant's Statement

MBA Planning February 2022

1.0 INTRODUCTION

1. This is the appellant's statement in respect of a proposal for a single-storey lower-ground floor extension at the above property. The application form described the proposal as 'side extension', which was altered by the Council to 'proposed side extension with biodiverse roof' on registration.
2. The original application was indeed for a contemporary designed extension with a flat, bio-divers roof. Following the case officer's advice, a pitched roof extension consistent with the Victorian design of the building has been substituted. The first had a bio-diverse roof and the substitute does not.
3. The email trail setting out the key parts of the application process is below. The emails are in the 'additional documents' section of the appeal submission.
4. On 4 July the Case Officer emailed to say: *Apologies for the delay to respond to you. I have registered the application today and begun the consultation process. I will be in touch again following the consultation and discussions with colleagues. I would note the decision is due by 26/05/2021 (sic), however; the consultation will take a bit longer than this, so I will request a formal extension of time, but I will confirm the precise date for this following the consultation, when we know if there have been any objections etc.*
5. He did not fix a date for the extension of time and the case dragged on. On 16 December we emailed the Case Officer after he told us his line manager was opposed as follows: *Thanks for this – I take it as a no to the principle of the proposal. The applicant has asked for it to be determined and we agree an extension to the determination period to 31 December. In view of the time that has passed, please get your report out as soon as possible.*
6. The proposal was modified during the application. On 23 July we emailed the applicant to say: *I have now spoken to Matthew Dempsey, the case officer, who says:*

- *the excavation (the permitted lower level of the application site) makes an extension possible in principle;*
 - *the present scheme is too austere - he would like richer detail that responds to the existing building;*
 - *he does not know whether a pitched roof will be more acceptable - Camden like green roofs;*
 - *he would like the front cut back to the front building line of the house;*
 - *he has received most of the internal consultation responses and will send them to me;*
 - *he recommends the application is put on hold or withdrawn and a pre-app takes place that could consider a number of schemes;*
 - *the pre-app will cost £460 and if the current application is withdrawn the £206 application fee will be deducted from this.*
- This is reasonably good news. Give me a ring to discuss where we go from here, probably after I have the consultation responses and circulated them.*

7. in response to the case officer's request for 'richer detail', the appeal pitched roof scheme, with curved headed windows and matching the design age of the building, was then submitted.
8. On 18 November I emailed the applicant: *I laid siege to Matthew Dempsey on the phone today and finally got hold of him. He says that the only real objection to the second scheme is that the windows are too big, and arch headed. He would prefer windows with square heads of similar size to those in the existing walls above. He also suggested a door would be possible in the KCR side if you needed an alternative main access or a secondary access to the garden (although he may not have appreciated the levels). He wanted any changes to go to a pre-app but in the end agreed that if we could get some alternatives in within 2 weeks, he would comment on them without a pre-app.*

I feared his long response time may have been because he had changed his mind on essentials of the scheme, but there is no sign of this. Can we get something to him in the next two weeks? Should it include a door?

9. Further plans with square headed windows were immediately submitted. On 2 December the case officer emailed us saying *I have presented the alternative options you have provided and I'm afraid colleagues are not in favour of either proposal. As discussed previously, I cannot continue to allow further revisions and so the application shall be recommended for refusal. I will prepare the final decision notice asap, however, please be advised this is likely to be issued towards the end of December. Should you prefer to withdraw the application prior to the decision being issued, please let me know? Thank you.*
10. We replied on 16 December *Thanks for this – I take it as a no to the principle of the proposal. The applicant has asked for it to be determined and we agree an extension*

to the determination period to 31 December. In view of the time that has passed, please get your report out as soon as possible.

11. We did not receive the decision 'towards the end of December' and chased for a decision through January. We sent this email to the case officer on 3 February: *I noticed that you told Steve recently to expect a decision by 28 January and obviously this date has passed. You have been sitting on this application for many months and are well past the extension of time to 31 December that we accepted last year. I have a patient client but even he is astonished by the length of time you are taking to get the decision out. If you force us to make a non-determination appeal, we will certainly seek costs because of your unreasonable delay causing the appeal. Please help us avoid this and get the decision out!*
12. We have not received a response from Matthew Dempsey to any of our emails and phone calls after 2 December. He deleted our last chasing email without even opening it.
13. The proposal is not directly precluded by any relevant Local Plan policies – all require judgement to be exercised and in our judgement the proposal enhances the character and appearance of the Conservation Area. With an originally encouraging case officer now refusing to engage and without reasons for refusal, the applicant has no idea what the Council's objections are and whether they could be remedied.
14. This appeal may well prove unnecessary in this uncertain situation. The appellant has asked us to defer a decision on whether to seek costs because of the Council's unreasonable behaviour in refusing to issue a decision in the agreed timescale until we have received the Council's statement.

2.0 CONTEXT

General Location

15. The appeal site's position (yellow triangle) is shown on the extract from the Council's Policies Map below. It is on the edge of the Belsize Conservation Area (yellow wash), about 300m east of Swiss Cottage Shopping Centre.



The Surroundings

16. The OS plan shows the location of the appeal site at the junction of Fellows Road and Kings College Road.



17. The Conservation Area Statement (CAS) notes '*Whilst the groups of Victorian houses along the north side (of Fellows Road) have a character relating to the wider Conservation Area, the character of the street as a whole is altered by the 1960s housing estate to the south*' (Page 23). The 1960s housing estate referred to in the CAS is Camden's Chalcots Estate. The first photo below shows the massive 22-storey Burnham Tower on the opposite side of Fellows Road immediately south of the pale brick appeal property on the corner. This is an overwhelmingly dominant townscape feature that overshadows this edge of the Conservation Area and No102 in particular.



18. The second shows two flat-roofed modern houses in Kings College Road (with the appeal property on the right). The black one was permitted following appeal **3000546** in 2015 in what was then part of the rear garden of No102 and the other in the 2012 (**2012/5729/P**). There were no buildings previously on their sites.



The Appeal Property

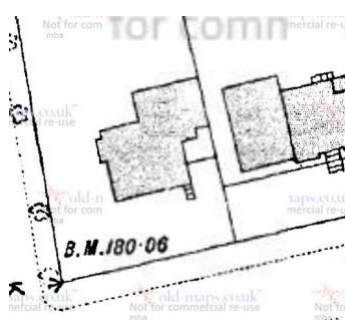
19. No102 is a 3-storey detached Victorian house built of pale Gault bricks above a red brick lower ground floor. It was subdivided into flats many years ago. The appellants have title absolute over Flat 1, which is accessed from Kings College Road through the rear garden beside the black house and occupies the whole of the lower ground floor and the front, side and rear garden.
20. WH Wyllie, probably the most distinguished of the early C20 British maritime painters, died in the house in 1931 after completing his great Trafalgar panorama at Portsmouth.
21. No102's elevation to Fellows Road is below. Note the large arched lower ground floor front window in the recessed side extension to the right, the fenced off access through the front boundary wall to the left and the lack of visibility of the red brick lower ground floor, even from the 2.5m high viewpoint of a Streetview camera.



22. On the Kings College Road face below (also from the high viewpoint of a Streetview camera) note that the top of the boundary wall aligns with top band of the lower ground floor brickwork and the red brick quoins on the rear/side extension.



23. No102 is not listed nor locally listed but is identified as a positive contributor in the CAS, which notes that *in the Eaton Avenue character area there is ...consistency of materials generally, red brick with red clay tiled roofs being a recurrent theme (page 20) and says: Nos. 86 -100 (Fellows Road) are a group of Victorian dwellings of an eclectic style showing slight Arts. and Crafts style mixed with Italianate influence consistent in their frontage walling and the use of red brick. These are seen together with the corner detached house No. 102 which faces Kings College Road (page 23).*
24. No102's Gault brick, double-piled slate roof with its ridge parallel to the road differs materially to the red brick and clay tiles, ridge perpendicular to the road style of the group to the east. It is not Arts and Crafts, nor Italianate, nor red brick nor terraced like the others and its street boundary wall is much higher than the others. The site inspection will show it is an anomalous building.
25. The map history shows the house was built between the 1871 and 1895 1:1056 OS maps (probably prior to 1886 on the basis of Bacon's Street Map in the CAS). It was built without its large, projecting side/rear extension, which does not appear until the 1915 OS map.



1895



1915

26. The photograph below shows the excavated patio within the boundary wall at lower ground floor level that is the appeal site. The original wall at pavement level forms the south and west boundary of the site. This is about 1.5m -2.0m above pavement level. The photo at para 20 shows the top of the wall aligns with the top course of the red

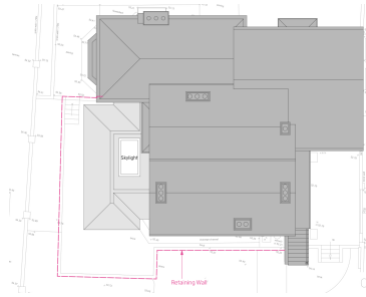
brick bands that distinguish No 102's lower ground floor from the gault storeys above in views from the road.



27. The lowered patio was permitted by the Council in 2014 (consent **2014/3257/P** *Alterations to garden landscape, including the replacement and relocation of retaining wall, relocation of patio area and steps, and works of soft landscaping*). The approved patio is about 1.0m below garden level and about 2-2.5m below the height of the top of the boundary walls.
28. The street walls and the excavated area have been in place for many years and are well-established root barriers to the street and site trees.
29. The application site plan shows the excavated patio occupies the notch between No102's original side elevation and the later side/rear extension. It is close to the road and in shadow (mainly from Burnham Tower) for much of the day. While it is occasionally used as a children's play area, its hard surface and overshadowed position makes it unattractive for this purpose. The remainder of Flat 1's large garden provides ample, more attractive, space for play.
30. The banded red brick lower ground floor side elevation of the house has no features other than a shallow red brick bay with a pair of clear glazed windows that light the present kitchen.

3.0 THE PROPOSAL

31. The proposal is entirely within the excavated patio. It involves the construction of a single-storey extension in the notch at lower ground floor level between the side elevation and the projecting side/rear extension blank wall. It does not extend beyond the established front and side building line and does not affect the foundations of the building. It involves making two access points through the existing lower ground floor walls.



32. The application proposal was originally for a simple modern flat-roofed redbrick extension in keeping with the materials of the house (the recently permitted houses behind No102 in Kings College Road show that the Council often thinks it appropriate for present-day development in CAs to be designed to reflect its time).

33. The originally submitted scheme is below.

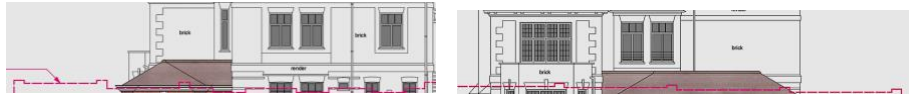


34. The case officer thought it too austere. The redesigned appeal scheme is configured in a more Victorian style in the same banded red brick as the existing lower ground floor. Its arched windows pick up the style of windows on the east wing of the building and the front elevation aligns with the house.



35. The proposed front window relates to the access through the front wall and may suggest that the proposed extension could have been a coach house. The side window is in a similar style and might have been intended to light a studio. The quoins reflect the quoins on the side/rear extension. The design is specifically tailored to reflect the historic character of this part of the house.

36. The elevations show that only the top of the pitched roof of the appeal proposal projects above the line of the boundary walls.



37. It is about 10m from the front boundary wall, 5m from the side wall and aligns with the existing building lines. Its public visibility will be very limited, and probably not read at all by the public at large because it is well out of their eyeline, sunken and so far from prominent. Whatever would be seen by the more enthusiastic looker-over walls is consistent with the character and appearance of the area – considerably more so than the flat-roofed modern houses permitted and built in Kings College Road.

4.0 PLANNING ISSUES

38. The absence of a decision notice and delegated report obviously handicaps preparation of this statement. The careful design approach to the proposal to reflect the character and appearance of the house and Conservation Area and the way it has been modified to meet the case officer's requirements is described above.
39. The proposal does not harm the amenity of local residents because of its corner position away from other houses, respecting established building lines in a private garden on an unattractive patio sunk to lower ground floor level.
40. The Belsize Conservation Area is the only relevant designated heritage asset. The statutory test that requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area is a 'no harm' test that has been in place for 50 years. Developers are entitled to expect certainty and consistency in the way the Council applies the special judgement required by the statutory test. The two modern houses at the rear of the appeal site show how the Council applies the 'no harm' test in the immediate area.
41. The CAS describes the character of this part of the Conservation Area as follows:
Although there are a variety of building types the blocks are generally taller: three storeys with a basement or four storeys. In addition, there are generally consistent themes such as the use of London stock and yellow brick and the predominantly Italianate styling of the buildings, which pick up on themes within the Belsize Park area that was developed over a similar period.
Fellows Road marks the southern edge of the Conservation Area...On the north side, there are a number of different building types and styles, reflecting the different periods of development. In terms of materials, themes include yellow brick with red brick detailing, red brick with red clay tiled roofs and a pale London stock brick with stucco/painted stone detailing. Stylistically, themes include three storey paired villas, some with porticoes and three storey bays, some with more of a 'Queen Anne' influence in the Dutch gables at roof level. The trees within the street and the front gardens of the properties make a significant contribution to the character of the road as do the hedgerows to the frontages of Nos. 26-72. These properties form a consistent frontage of paired and detached three storey villas with overhanging eaves, three

storey bays, porticoes with Corinthian capitals and sash windows at the eastern end of the road.

42. No102 is an anomalous building that does not fit well into any of these descriptions. We have not identified any other site close by with the same features – a large corner site occupied by an irregularly shaped building with a sunken patio in a notch between its front and side faces at the same level as the lower ground floor, all concealed by original high boundary walls and in the vicinity of three very prominent modern buildings
43. The proposal is on the edge of the Conservation Area and will not harm its character or appearance because of its design, inconspicuous position below the parapet level of the boundary walls and the lack of detail on the two walls it adjoins. Replacement of the unattractive, little-used excavated patio with the well-designed proposal will have a positive effect on the Conservation Area consistent with the statutory test.
44. The Inspector is respectfully asked to allow the appeal for all the above reasons.