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BY EMAIL

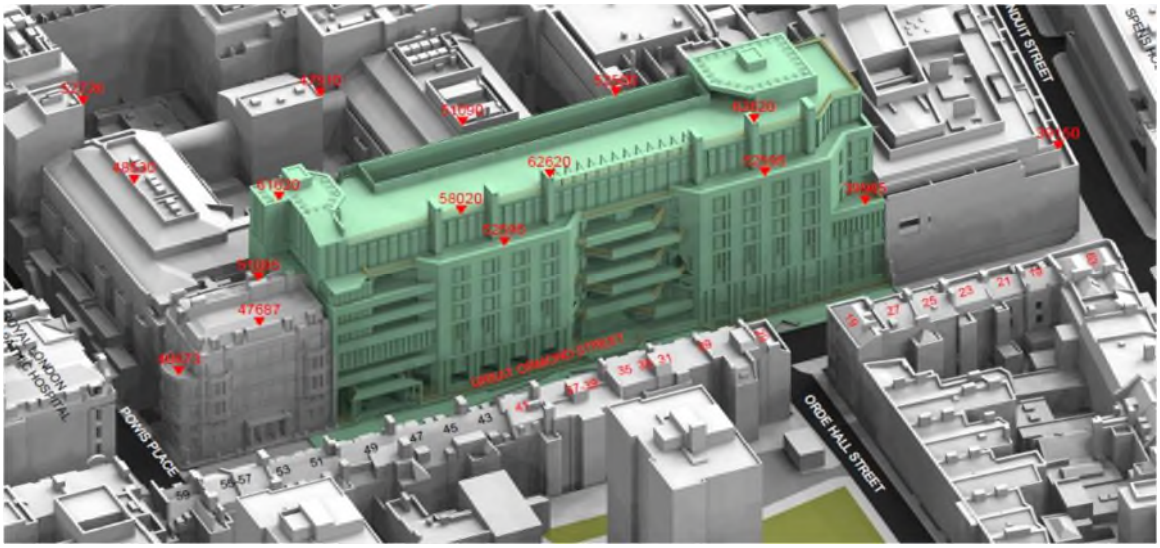
Patrick Marfleet
Camden Planning
5 Pancras Square
London
N1C 4AG

4 July 2022

Dear Mr Marfleet

Planning Application Reference No. 2022/2255/P
Proposed Development of Great Ormond Street Hospital, London

We are appointed by the owners of 29 to 35, 37 to 39 (Flats 7 & 8) and 49 Great Ormond Street following concerns that the proposed development above will impact upon the daylight and sunlight receivable by their properties. The properties are all situated directly opposite the proposed new development. Please refer to below image taken from the Daylight & Sunlight Report submitted as part of the above planning application.



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The Building Research Establishment (BRE) "Site Layout Planning for Daylight and Sunlight: a good practice guide" 2011 by PJ Littlefair provides guidance for the planning department to consider.

The introduction to the BRE guide at 1.1 suggests that "people expect good natural lighting in their homes and in a wide range of non-domestic buildings. Daylight makes an interior look more attractive and interesting as well as providing light to work or read by. Access to skylight or sunlight helps make a building energy efficient; effective daylighting will reduce the need for electric light, while winter solar gain can meet some of the heating requirements."

We note that the applicant instructed Avison Young to undertake a daylight and sunlight report which was submitted as part of the above planning application. I note that the daylight and sunlight report was produced on 20 May 2022. This is relevant, as the 2011 BRE Guide was superseded on the 8 June 2022. Notwithstanding this, the tests for assessing existing neighbouring properties are essentially the same as the 2011 guidance. Therefore, for the purpose of my comments at the start of this letter, and also below, is made by reference to the 2011 guidance.

Having read through the report, the results indicate an extreme reduction of light to a number of windows and rooms at our clients' properties which breach the BRE guidelines by a significant margin. These are summarised below by property with the abbreviations of 'VSC' for Vertical Sky Component and 'DD' for Daylight Distribution used for ease of reference.

29 Great Ormond Street – All 17 habitable room windows at the property fall significantly below the VSC recommendations. All 9 habitable rooms also fall significantly below the DD recommendations. Specifically, in regard to VSC there are reductions of up to 59%, which is considerably in excess of the BRE guides 20% threshold. The DD results show losses of up to 77%, which is again considerably in excess of the BRE guide's 20% threshold.

31, 33 & 35 Great Ormond Street - All 32 habitable room windows at the property fall significantly below the VSC recommendations. All 20 habitable rooms also fall significantly below the DD recommendations. Specifically, in regard to VSC there are reductions of up to 61%, which is considerably in excess of the BRE guides 20% threshold. The DD results show losses of up to 86%, which is again considerably in excess of the BRE guide's 20% threshold.

Flat 7 - 37 to 39 Great Ormond Street – Both habitable room windows at the property fall significantly below the VSC recommendations. Both habitable rooms also fall significantly below the DD recommendations. Specifically, in regard to VSC there are reductions of up to 57%, which is considerably in excess of the BRE guides 20% threshold. The DD results show losses of up to 77%, which is again considerably in excess of the BRE guide's 20% threshold.

Flat 8 – 37 to 39 Great Ormond Street - Both habitable room windows at the property fall significantly below the VSC recommendations. Both habitable rooms also fall significantly below the DD recommendations. Specifically, in regard to VSC there are reductions of up to 57%, which is considerably in excess of the BRE guides 20% threshold. The DD results show losses of up to 77%, which is again considerably in excess of the BRE guide's 20% threshold.

49 Great Ormond Street – 13 habitable room windows at the property fall below the VSC recommendations. All 7 habitable rooms also fall significantly below the DD recommendations. Specifically, in regard to VSC there are reductions of up to 41%, which is in excess of the BRE guides 20% threshold. The DD results show losses of up to 59%, which is considerably in excess of the BRE guide's 20% threshold.

Due to the high number of properties that do not comply, and given to the margin by which some of the neighbouring properties fall short of the recommendations, I am of the opinion that the proposal would cause significant harm to the daylight enjoyed by the occupants of these properties.

I would also set out the following points (in no particular order) in relation to the Avison Young report, which I am of the opinion need also be considered:

1) No Access - Apart from 49 Great Ormond Street, no site visits have been undertaken to my clients' properties to take internal measurements and therefore it is not possible to set out that the results of the daylight distribution test are an accurate representation of the impact of the development on the properties. Therefore, we would request that no decision in favour of the application is made until the applicant instructs their surveyor to visit our client's property to obtain the internal layout and measurements, amends their computer model where necessary and re-runs the BRE daylight and sunlight tests. We will be happy to liaise with our client(s) to arrange access for the applicant's surveyor to visit so they can gather the necessary internal measurements for the assessment. This will be required in any event when it comes to assessing the rights of light implications of the scheme, which is summarised at the bottom of this letter.

2) Omitted windows - Whilst a minor point, there are additional windows at the ground floor of 31 to 35 Great Ormond Street which have been omitted as it has been assumed that they serve commercial premises. My client has confirmed that in fact next to the main door are the windows that serve a bedroom and a sitting room. They should therefore be included in the daylight and sunlight report.

3) Residual VSC levels – at paragraph 1.7, Avison Young draw on alternative typographies (through a façade analysis in the subsequent paragraphs), to set out that a retained VSC of 10% is not uncommon in the locality and have used this as an alternative target when considering overall acceptability. Of the five local examples that Avison Young have included in paragraphs 5.2 to 5.3, there is only one, Selwyn House in Guilford Street, which has been affected by a recent development which has reduced its light. The remaining four are buildings that were constructed before the war, and, importantly face pre-war buildings on the other side of the street. At the time they were constructed, they would not have been subject to the same daylight and sunlight scrutiny that applies today. It is also relevant that Selwyn House is a University of London hostel, and not permanent residential accommodation, and presumably that was a consideration when Camden gave planning permission for the Morgan Stanley Building which sits directly opposite.

   Given the above, in my opinion it is too simplistic to compare VSC ranges in this way and I would stress that it is always possible to find comparable light levels within urban locations, but this ignores the noticeable change which the BRE Guide is primarily concerned with. For example, the low performing windows in the façade analysis might be secondary windows or to bedrooms (or pre-war buildings as above); whereas a number of the windows at my client's properties are main living room windows. This leads to a situation where the comparable data might have low light levels for justified reasons. The low targets could then inadvertently be applied to windows where the same justifications don't apply. This process can go on and on. Paul Littlefair (the author or BRE guide) has previously described this as "a race to the bottom". This practice has also been criticised in various public inquiries. Even if the comparable data is like for like, it doesn't prove that the proposal isn't significantly harmful. All it shows is that other areas have experienced similarly harmful effects. i.e. even if someone in another road has been harmfully affected by a development, or experiences poor light levels, this doesn't make the Great Ormond Street Hospital scheme any less harmful for its nearby residents. Further, and Avison Young do make reference to this, is

that in the Whitechapel Estate appeal case, that VSC values in the mid-teens have been found acceptable, in urban locations. However, in the case of my client's properties, there are residual VSC values as low as 9% which is well below the 'mid-teens' level and significantly below the BRE VSC 27% criterion.

4) Average Daylight Factor (ADF) - In addition, we note that Avison Young have provided the ADF scores for the rooms. Appendix F of the BRE Guide acknowledges that the use of ADF for loss of light to existing buildings is not generally recommended, as it penalises well-daylit existing buildings. Furthermore, ADF calculations depend on a number of factors that are outside of the applicant's control, i.e. room layouts and internal reflectance values. Given the layouts (and reflectance's) of the majority of rooms are not known, the inclusion of these results is completely misleading. It follows that the Vertical Sky Component and Daylight Distribution tests are therefore the more appropriate parameters to use. Within the report, Avison Young set out on a number of occasions that a number of the properties have low baseline ADF levels in the existing condition and that any reduction is unlikely to 'substantially alter the use and enjoyment of the property'. Whilst as above, I am of the opinion that it is incorrect to apply the test to existing neighbouring properties, an alternative view is that rooms with relatively low ADF scores should be protected further, in order to retain the precious light that the rooms currently achieve.

5) Matching heights of existing neighbouring properties – at paragraph 5.2, Avison Young refer to the BRE Guide paragraph 1.6 that sets out that a higher degree of obstruction to neighbouring properties may be unavoidable if new developments are to match the heights of existing buildings. Whilst I would concur with this, it is evident, and can be seen first-hand within the image at the start of this letter, that the proposal is taller than nearly all of the neighbouring properties within the immediate vicinity.

6) The Avison Young report seeks to categorise magnitude of impact by reference to windows and rooms that experience alterations of greater than 40%. However, this is an extremely broad range. In my opinion by ignoring alterations for the properties above that are as high as 61% for VSC and 86% for DD, dilutes the magnitude of the impact which will be caused by the proposed development.

7) Notwithstanding all of the above, I am mindful of the planning balance and the need to consider both the benefits and harm caused by any proposal. I am also mindful of the National Planning Policy Framework (NPPF) which explains that local authorities should refuse planning applications that fail to make efficient use of land. The NPPF explains that a flexible approach in applying policies or guidance relating to daylight and sunlight should be taken, as long as the proposal would provide acceptable living standards. However, given some of the extremely low Vertical Sky Component and Daylight Distribution results to main habitable rooms as a result of the proposal, and the fact that this affects the whole property rather than just isolated windows, I am of the opinion that all of the above neighbouring properties would not maintain acceptable living standards.

Rights of Light

In addition to planning considerations, it is useful to assess the risk of any potential civil action from the outset and mitigate any future costs which could be incurred defending a claim. Our clients are disappointed that they have been obliged to respond negatively to the application, but feel compelled to oppose a development which they consider will have such an oppressive and overbearing impact on the way they enjoy their properties.

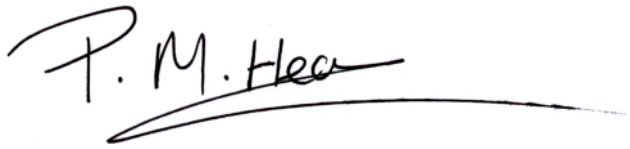
If our clients are forced to seek an injunction from the court preventing the construction of the proposal, any fees that are incurred will be sought for reimbursement from the applicant. We aim to avoid these further courses of action. Therefore, we strongly advocate that the issue is resolved during the planning stage, in particular, to avoid planning permission being granted for a development that may not be built due to legal rights of light restrictions.

In summary, we request that no decision is made in favour of the application until we are satisfied that the proposal complies with both the BRE guidelines and the civil legal rights of light criteria.

Please acknowledge receipt of this letter and respond accordingly with your assurances. Should you wish to discuss any aspect please do not hesitate to contact me.

I look forward to hearing from you in due course.

Yours sincerely,



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