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Ms Deb Smith
The Planning Inspectorate
3D Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Our ref: E5250

5th August 2022

SENT BY EMAIL: north1@planninginspectorate.gov.uk

Dear Ms Smith

CAMDEN: FLAT 1, 102 FELLOWS ROAD NW3 3JH - APPEAL APP/X5210/W/22/3294112

This letter is the appellant's response to the Council's and objectors' statements in this case.

The Council

1. The application was originally submitted on 29 April 2021 and registered on 4 June. The appellant agreed an extension of the determine period to 31 December, eight months after submission. The Council had ample time to determine it. As it had not been determined by March 2022, this non-determination appeal was inevitable.
2. The Council's appeal case is made in its undated delegated report posted on-line on 7 April. This was a month after the non-determination appeal form and statement was copied to the Council on 3 March. The Council must have been aware of it when it drafted the report, but it does not refer to it.
3. The delegated report led to a notification that the application would have been refused because *The proposal, by reason of its siting in a prominent and open corner location, scale and detailed design would result in an incongruous addition which would harm the character and appearance of the host property, streetscene and Belsize Conservation Area contrary to the policies D1 (Design) and D2 (Heritage) of the Camden Local Plan 2017.* This response is the only opportunity the appellant has had to respond to it.

Subsequent Events

4. The Council has now helpfully confirmed at senior level that a single storey extension is acceptable on the appeal site. This is consistent with the Case Officer's advice in July 2021 (**Appellant para 6**).
5. The email chain below sets out the Council's position. Jason Cooke is the appellant, Matthew Dempsey the Case Officer and Alex Bushell the Area Manager.

29 May 2022 Jason Cooke

From: Jason Cooke <jasonwcooke@hotmail.co.uk>

Sent: 29 May 2022 10:59

To: Alex Bushell <Alex.Bushell@camden.gov.uk>; Richard Limbrick <Richard.Limbrick@camden.gov.uk>; Michael Burroughs <michael@mbaplanning.com>

Subject: 2021/2119/P - Flat 1, 102 Fellows Road

Afternoon Alex,

Many thanks for your calls on Thursday and Friday.

Great to hear that you feel an extension could exist on the site in principle.

As mentioned, the crux of the scheme is a third bedroom. We have two girls 8 and 10 and currently only two bedrooms and as they reach teenage years the additional space to give them some privacy is much needed.

As discussed, we are more than happy to work with you and Richard to align on what Camden would like to see. Hopefully this can be achieved with a similar floor plan but more than happy to amend the design to address concerns that you and Richard would raise. Hopefully to date you can see we have been very flexible in adjusting the designs following feedback from Matthew.

If you could let me know a time that works this week, Monday to Wednesday, Mike and I would be happy to discuss your thoughts with a view to resubmitting an application that addresses your feedback.

I look forward to discussing if you could let me know a convenient time to discuss.

Many thanks

Jason

07500918144

30 May 2022 Alex Bushell

From: Alex Bushell <Alex.Bushell@camden.gov.uk>

Sent: 30 May 2022 14:50

To: 'Jason Cooke' <jasonwcooke@hotmail.co.uk>; Richard Limbrick <Richard.Limbrick@camden.gov.uk>; Michael Burroughs <michael@mbaplanning.com>

Cc: Matthew Dempsey <Matthew.Dempsey@Camden.gov.uk>

Subject: RE: 2021/2119/P - Flat 1, 102 Fellows Road

Hi Jason,

I am sure we can agree something that meets your needs and addresses our planning objections. Unfortunately, both Richard and Matt are on leave this week. Perhaps we could catch up sometime next week after I have had the opportunity to discuss it with Matt. We will get back in touch.

*Kind Regards,
Alex Bushell
East Area Manager
Development Management*

7 July 2022 Matthew Dempsey

From: Matthew Dempsey <Matthew.Dempsey@Camden.gov.uk>
Sent: 07 July 2022 14:40
To: 'Jason Cooke' <jasonwcooke@hotmail.co.uk>; Michael Burroughs <michael@mbaplanning.com>
Cc: Alex Bushell <Alex.Bushell@camden.gov.uk>; Richard Limbrick <Richard.Limbrick@camden.gov.uk>
Subject: RE: 2021/2119/P - Flat 1, 102 Fellows Road

Dear Jason,

RE: 2021/2119/P - Flat 1, 102 Fellows Road.

Thank you for your e-mail. Apologies for the delay to respond to you. I have discussed the scheme with my senior colleagues and can advise the following regarding an acceptable way forwards; A single storey extension to the existing sunken area at the front/ side garden space could be acceptable under these circumstances:

- The extension should be set back from the main front elevation of the existing house (to Fellows Road).*
- The extension may extend as far out as the existing (half hexagonal) bay to the side, but no further.*
- The intersection of the proposed extension with the existing house to the side (adjacent to the half-hex bay window), should be more clearly defined, i.e.) there should be a wider gap between existing bay and proposed extension to the Kings College Road elevation.*
- The roof of the extension should sit beneath the red brick at lower ground floor of the existing house, and not to project above this level. A flat roof with cap-stoned parapet is preferred to a pitched roof. This could also incorporate some biodiverse elements.*
- The proposed fenestration should be of a more traditional window scale, not full height windows/ French doors. Two smaller windows may be more appropriate than larger openings here. Timber framed sash or casement, to be in keeping with the host property, are considered more appropriate.*
- The proposed extension should read as subordinate to the existing house. To achieve this; the scale of windows should also be subordinate to the existing windows. Also; any new window arches (and other window elements; mullions/ glazing bars etc) should follow the design and proportions of the existing windows.*

Should you wish to prepare revised drawings base on the advice offered above, pleased send these to me and we will be happy to take a look at it, before superseding the proposed drawings on file.

If you would prefer to discuss this further prior to creating revised drawings, please let me know and I will provide some availability for a meeting between yourselves, my colleagues (cc'd) and I. Any other queries, please let me know? Thank you.

*Kind regards,
Matthew*

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14 July 2022 Michael Burroughs

Matthew

I attach plans that are designed to respond to the six criteria in your email of 7 July. Since they were drafted, I have been asked to seek your opinion on including a side door to give direct access to the garden and larger skylights to compensate for smaller windows. I don't think the current application can be modified because it is now with PINS for a decision. If you know better, please let me know.

Mike Burroughs

15 July 2022 Matthew Dempsey

Dear Michael,

Thanks for your e-mail and revised drawings. I'll discuss these with colleagues asap.

Re: inclusion of a door to access the sunken garden; you are welcome to send another option for us to look at, which I can also discuss with my colleagues. I would note any door should be subordinate to the main entrance, and would therefore probably be better placed to the Kings College Road side elevation. Also any opening should benefit from detailing appropriate for the host property and the prominent position it would have at the host corner site. Without prejudice, it may provide a better balance to the side elevation to include an appropriately designed doorway.

Re: larger skylights, again you're welcome to send us an option to look at. However, please confirm the ownership and use (type of room) servicing the existing windows facing the proposed skylight from the upper floors.

Re: continuation of the current application, you would need to withdraw the appeal with PINS, in order to supersede the details with the revised drawings you have sent us. I would be grateful if you could confirm intentions here?

Having had a very quick look at the revised elevations, I would say the proposed pair of windows on each elevation appear slightly awkwardly placed. My immediate reaction would be; to suggest moving the proposed windows facing Fellows Road to the right of picture so they would sit centrally on the front elevation of the proposed extension. And; moving the proposed windows facing Kings College Road to the left of picture so they sit beneath and in line with windows on the upper floors of the existing house above. Potentially each pair of windows could benefit from a very slight reduction in scale to ensure the desired subordination is achieved. However, I will discuss these drawings with my colleagues and get back to you asap in more detail.

Please also send any further additional drawings to me. I expect to speak to colleagues on Thursday next if not before. I will get back to you shortly after this.

*Kind regards,
Matthew*

15 July 2022 Michael Burroughs

Matthew

Thanks for these helpful comments - we will tweak the plans in response to them.

As the inevitable safeguard, we will run the appeal until we have an agreed scheme, which should not be far off.

I note that you have prepared a delegated report and so this should not involve extra work.

As PINS seem to enjoy awarding costs for withdrawn appeals, please confirm the Council will not seek them if we do withdraw.

Mike Burroughs

Dear Michael,

Thanks for your e-mail. I will double check with senior colleagues regarding withdrawn appeals and whether the Council would seek costs – I will get back to you on this.

Also to note, I will await your tweaked plans as mentioned below. Thank you.

Kind regards,

Matthew

15 July 2022 Mike Burroughs

Matthew

Have you spoken to your senior colleagues about costs and the revised plans yet?

Mike Burroughs

22 July 2022 Matthew Dempsey

Dear Michael,

Thanks for your e-mail. I can advise, should you withdraw the appeal in relation to 2021/2119/P, we would not seek to apply for costs.

With regards to the revised plans; the comments I have offered still stand, however I was expecting a further revision from you with alteration to the windows as suggested in the comments; and, possibly an additional access/ door to the sunken garden; and, skylight, which you had raised previously.

I also note, the previous advice relating to the intersection with the half hexagonal bay window does not seem to have been addressed in the most recent drawing received.

Kind regards,

Matthew

27 July 2022 Michael Burroughs

Matthew

Thanks for your comments.

I attach a scan of a mark 2 set of revised plans and elevations.

We have been told that the Inspector will visit the site on 16 August and so time is short.

Please let me have comments as soon as possible.

Mike Burroughs

28 July 2022 Matthew Dempsey

Dear Michael,

Thanks for your e-mail with revised plans. I will liaise with senior colleagues on this and get back to you asap.

*Kind regards,
Matthew*

6. The appellant appreciates the Council's help with unlocking this site. He is very happy with the recent co-operation and has instructed us not to make an application for costs.
7. The Council's suggestion that the appeal should be withdrawn to allow the Council to determine the appeal application with a different design is controversial. Our understanding from **DCP 5.213** is that *As soon as a valid non-determination appeal is made, jurisdiction passes to the SoS and a decision notice may not then be issued by the LPA. This was confirmed in Braintree 11/03/1992 DCS No 043-757-932 where a refusal in these circumstances was considered to be a nullity, even if the reasons for that refusal were material to the appeal decision. While the Planning and Compulsory Purchase Act 2004 inserted a new s78A into the 1990 Act to provide for a period of dual jurisdiction over such appeals, this provision does not appear ever to have been brought into effect.*
8. In these circumstances it is obviously prudent to pursue the appeal. Fifteen months has passed since the application was submitted and the timing and outcome of a new application must be uncertain. As soon as there is an agreed scheme, the appellant will submit a new application.
9. As we now agree with the Council that the appeal site can be developed with a single storey extension, the only issues in this appeal is whether the appeal scheme will harm the character and appearance of the Conservation Area and the host building. This is mainly a matter for the site inspection, but we have some comments on the Council's case in the context of its later proposed changes below.

Comments on the Council's Evidence

General Points

10. We agree with **Council para 4.2** that *'given the nature of the (proposal) it is not considered to have any effects on light, privacy or outlook'* of the neighbours. The objectors are other residents of No102 who do not have access to the garden. Their objections do not identify any additional points. The local Conservation Area Advisory Committee was consulted by the Council and had no objections.
11. The Council does not disagree with **para 23 of the Planning and Heritage Statement** submitted with the application that identified the proposal's effect on the Conservation Area heritage asset as neutral. It does not identify the extent of any harm to its appearance or claim that public benefits should have been provided to balance this.
12. The Council does not consider the effect of the two adjacent modern houses in Kings College Road on the character of this part of the Conservation Area, or of the looming tower block immediately opposite. The immediate area's character is distinctly different to the Conservation Area's general character.
13. The **Site Description** in the delegated report says the house is 'mid-c19' and 'typical of the area'. **Appellant paras 24 and 25** explains that the main house was built later, between 1871 and 1895 with its side/rear extension before 1915, and that its design and materials are anomalous in this area of 'eclectic' red brick semi-detached or terraced houses (as the site visit will show). The other houses in this part of the road have no space for side extensions.

The Site

14. The Council's **Site Description** states that the appeal site is an *'existing sunken area approximately 1.5m below ground level'*. Its **para 3.3** says that the sunken garden is *'partly screened by a 1.7m boundary wall'* (providing dead ground totalling 3.2m in true elevation). This corner of No102's garden cannot be seen from the road, and it is very hard to see how the Council arrived at the description in the reason for refusal that the proposal is *'in a prominent and open corner location'* – the site visit will show the boundary wall is prominent, but the appeal site is not visible well behind and below the wall.
15. **Council para 3.4** says the height of the proposal from sunken ground level to the top of the proposed lean-to pitched roof of the appeal site is 4.3m, 1.1m above the height of the boundary wall. The application plans below show it in true elevation. It is a well-

mannered and plainly subservient extension to the 3-storey main house behind the boundary walls, with the same roof pitch as the 2-storey early C20 extension behind.



16. A 1.7m wall height is above the normal eyeline of 1.5m and the Council has not identified how much, if any, of the proposed roof would be seen in perspective. It evident from the elevations that the proposal's walls (and their windows) will not be seen from the public domain at all.
17. It follows that the criticism in **Council para 3.3** that the appeal proposal will be '*highly visible in both short and longer views from both Fellows Road and Kings College Road*' must be carefully scrutinised at the site inspection, which will confirm the photos at **Appellant paras 21 and 22** that show it is neither prominent nor open.
18. The Council's first bullet point in its 6 July email says *the extension should be set back from the main front elevation of the existing house (to Fellows Road)* but the elevations above show that it is read from the public domain as set back from the road because only half the roof is visible.

The Roof

19. **Council para 3.6** criticises the height of the roof and the fact that it would join the main house above what it calls the 'existing ground floor render band'. The photo below shows that there is no render band between lower and upper ground floors (the elevations are mis-labelled) but there is between the upper ground and first floor. Point 4 of the Council's email of 7 July explains *the roof of the extension should sit beneath the red brick at lower ground floor of the existing house, and not to project above this level*.



20. The elevations above show that the top of the proposal's roof has only a very slight overlap with the Gault brick upper ground floor. This does not compromise the integrity of the red brick bay windows and is of no consequence to the appearance of the building.
21. The Council's evidence does not identify that the pitched roof was proposed as part of a redesign in response to the Case Officer's comment that the original flat-roofed contemporary application proposal needed 'richer detail'. The redesign has a coach house character. These have pitched roofs in this mainly Victorian Conservation Area. The roof pitch fixes its height.

Windows

22. **Council para 3.8** criticises the proposed windows' curved lintels and says they should be horizontal. **Appellant para 9** shows that horizontal lintels were unacceptable to the Case Officer's line manager. The curved lintel design echoes one on the recessed north side of No102 (**see Appellant para 21**) and so cannot be credibly described as '*not in keeping with the host property*'.
23. The photo below shows the many different designs of windows in the immediate vicinity of No102 (left). The proposed windows are not out of place in this context.



24. The Council's criticism that the windows would '*dominate the elevations of the extension*' is not a Conservation Area issue because of their concealed position behind the walls. They are no larger than the windows in No 102's north extension (part of the original house) and at No 100a next door.
25. The sunken position of the extension will make its interior gloomy without good windows, and the proposals are simply an inconspicuous design feature consistent with the history of the house.

Attachment to the House

26. **Council para 3.10** claims this has been clumsily designed. It provides a 1m wide recess on the Fellows Road face and a 0.5m recess on the Kings College Road frontage to make it quite distinct from the bay on the early C20 side/rear extension.
27. The Council's third bullet point in its 7 July email accepts the 1m gap but says *The intersection of the proposed extension with the existing house to the side (adjacent to the half-hex bay window), should be more clearly defined, i.e.) there should be a wider gap between existing bay and proposed extension to the Kings College Road elevation.*
28. The proposed gap is the same as the gap between the existing canted bay and the side/rear extension, which the photo above shows creates a strong shadow line clearly distinguishing the two features.



29. Its criticism that it involves the loss of lower part of the 2-storey bay window that will be the access route is misplaced – the case officer and his area manager have agreed that a ground floor extension is acceptable that inevitably will have the same effect.
30. There is nothing in the Council's statement that requires any changes to the Appellant's evidence or conclusions.

Yours sincerely,

Michael Burroughs
Planning Consultant