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[REDACTED]  
**Date:** 19<sup>th</sup> August 2022  
**Your Ref:** 2022/2885/P  
**Our Ref:** 161

Dear Alex,

**PLANNING APPLICATION REFERENCE 2022/2885/P 37C FITZJOHN'S AVENUE, LONDON, CAMDEN, NW3 5JY**

We write on behalf of Mr & Mrs Brown the owners and occupiers of no. 37b Fitzjohn's Avenue, to submit an objection to planning application reference 22/2885/P. The application proposes alterations to the existing dwellings and the addition of a new storey with lift overrun. Mr & Mrs Brown have appointed PowerHaus Consultancy to represent their views in writing. Whilst Mr & Mrs Brown do not object to the addition of a new storey at roof level or the proposed ground floor extension, they do object to the scale and design, and operational details of the proposal. It is requested that the following representations are taken into account when determining the application.

This written statement provides an assessment of the planning issues arising from the scheme. The objections are submitted on five grounds:

- i. The impact of the proposed lift and lift plant on existing residential amenity
- ii. The impact of the proposed rear third floor terrace on existing residential amenity
- iii. The impact of the proposed external wall on existing residential amenity
- iv. Other Issues

Each of these grounds is now expanded below.

**i) The Impact of the Proposed Lift and Lift Plant on Existing Residential Amenity**

National Planning Policy Framework (NPPF) paragraph 185 requires that development is appropriate for its location taking into account the likely effects or impacts that could arise from the development. Paragraph 185 Criterion a) requires applicants to mitigate and reduce to a minimum, potential adverse impacts resulting from noise from new developments and avoid noise giving rise to significant adverse impacts on health and quality of life.

London Plan Policy D14 *Noise* states that in order to reduce, manage and mitigate noise, proposals should manage noise by avoiding significant adverse noise impacts on health and quality of life and

mitigate and minimise the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development.

Camden Local Plan Policy A1 *Managing the Impact of Development* seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and would not harm the amenity of neighbouring residents. The Council expect development to avoid harmful effects on the amenity of existing and future occupiers and nearby properties.

Camden Local Plan Policy A4 *Noise and Vibration* requires applicants to ensure that noise and vibration is controlled and managed. Development should have regard to Camden's Noise and Vibration Thresholds. Planning permission will not be granted where the development is likely to generate unacceptable noise and vibration impacts, or development sensitive to noise in locations which experience high levels of noise, unless appropriate attenuation measures can be provided and will not harm the continued operation of existing uses.

The application proposes to insert a lift. The lift is proposed on the southern side of the property along the party wall with 37b Fitzjohn's Avenue. The adjacent residents at 37b have bedrooms located at first, second and third floor on the walls adjacent to where the lift is proposed. When the lift is operating, the noise and vibration arising would significantly harm the amenity of the bedrooms. The applicant must be required to demonstrate through a noise assessment the noise and vibration levels generated by the new lift and if required attenuate for this noise within the application site, given the poor sound insulation that exists between the properties. Voices can be heard between the separate residences. Plant noise and vibration from the lift will be an alien and disturbing noise that must be mitigated if it is to be accepted by the Council. Whilst it is an internal alteration, the required external plant on the proposed extended roof must be assessed and investigated to ensure that noise and vibration impacts are not experienced by Mr & Mrs Brown.

The Council's CPG Amenity document outlines design feature which could reduce noise impacts. This includes, locating noise sensitive areas/ rooms away from the parts of the site most exposed to noises. As the bedrooms in 37b are existing, the applicant should consider locating the proposed lift to the northern wall facing towards Nutley Terrace where no resulting impact would arise for Mr & Mrs Brown and their bedrooms at 37b. This would limit the impact on adjacent residents, particularly given the northern facing wall is the end of the terrace with no adjacent residents. At present, the application does not include or give any consideration to noise mitigation measure and the proposal does not include any appropriate attenuation to alleviate or mitigate the impact of noise and vibration caused by the lift.

There is no technical information in the application submission which addresses the associated lift plant located on the roof. Local Plan Policy A4 and Camden Planning Guidance (CPG) Amenity (Adopted January 2021), requires an acoustic report to accompany an application where plant, ventilation, air extraction or conditioning equipment's and flues are proposed. An Acoustic Report was not submitted with the application and therefore should have been found invalid on submission. It must be requested, submitted and assessed by the Council before any determination of the application can be reached. It would be contrary to and not in accordance with the Council's policies and guidance to determine the application and could be potentially considered unlawful.

The adjacent residents at 37b Fitzjohn's Avenue have private amenity balconies to the rear which are highly valued private balconies. The amenity space would be significantly impacted by any external plant. The noise and vibration from the plant would not be acceptable to the residents and would conflict with the Council's policies to protect existing residents' amenity.

Local Plan Policy A4 *Noise and Vibration* states that the Council will only grant permission for noise generating development, including any plant and machinery, if it can be operated without causing harm to amenity.

The National Planning Policy Framework (NPPF July 2021) sets out in Chapter 15 the importance of accounting for the impact on noise and the likely effects on the health and quality of life (para 185), which is linked to the Noise Policy Statement for England (DEFRA 2010).

Without the submission of an Acoustic Report, it cannot be concluded that the noise and vibration associated with the proposed lift will not harm the amenity of the neighbouring residents at 37b Fitzjohn's Avenue. The worst case scenario is therefore concluded.

Noise and vibration can have a major effect on amenity. The World Health Organisation states that excessive noise can seriously harm human health, disturb sleep, and have cardiovascular and behavioural effects. Where uses sensitive to noise are proposed close to a new source of noise this must be appropriately mitigated or refused if harmful to residential amenity. The proposed plant at roof level has the potential to generate levels of noise and disturbance which could harm the neighbouring residential amenity, particularly given the location of the neighbouring bedrooms and balconies at 37b. It is therefore requested that the Council do not determine the application until a full Acoustic Report has been conducted for the proposed lift and plant and appropriately assessed by the Council.

In consideration of the above, the proposal does not conform, with national, regional, or local planning policy concerning noise and vibration. It is requested that the applicant considers relocating the lift to the north side of the property and a full Acoustic Report is submitted prior to determination. This will prevent unacceptable levels of noise or vibration being generated.

**ii) The Impact of the Proposed Rear Third Floor Terrace on Existing Residential Amenity**

Local Plan Policy A1 *Managing the Impact of Development* seeks to protect the amenity of Camden's residents by ensuring the impact of development is fully considered and would not harm the amenity of neighbouring residents. The Council expects development to avoid harmful effects on the amenity of existing and future occupiers and nearby properties.

Local Plan Policy D1 Design requires high quality design in development by ensuring the proposal respects the local context and character and preserves or enhances the historic environment and heritage assets in accordance with Policy D2 Heritage.

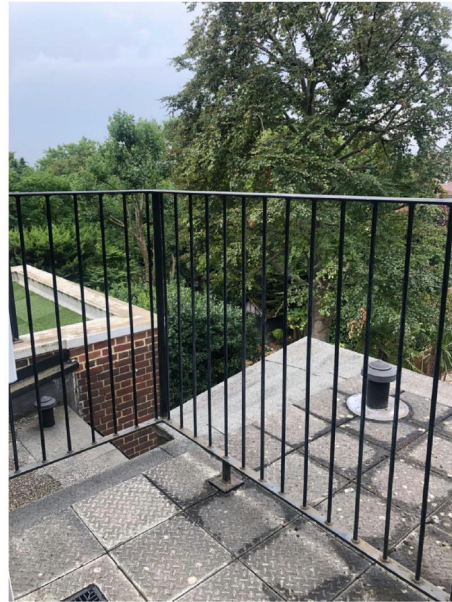
The residents of 37b, have limited but precious amenity space. The property at 37c has a garden that wraps around the rears of 37a and 37b, which curtails the residential amenity space of these properties. Any development whether by proposed walls, extensions or new building that would impact on the enjoyment of this amenity space must be carefully considered where new development threatens the enjoyment and use of this existing amenity space.

In terms of the detailed design, the application proposal would include a terrace at third floor level, abutting the terrace at 37b Fitzjohn's Avenue. At present there is a gap between the properties either side of 37b, as evidence by photographs 1 – 3 below. However, the application proposes to infill this gap resulting in the balconies sitting side by side. This would alter the original form of the house as well as impact the residential amenity enjoyed at the existing balcony at 37b which would be considered contrary to Policy A1 and D1. It is requested that the applicant provides further details concerning the privacy protection measures proposed between the two balconies.





**Photograph 1: Taken from 37b third floor balcony showing the existing gap between 37c and 37b**



**Photograph 2: Taken from 37b third Floor balcony showing the existing gap between 37a and 37b**



**Photograph 3: Taken from 37b ground showing the gaps between 37 a, b and c**

At present, the applicant has failed to fully consider the residential amenity issues of the proposed development and adequately demonstrate that the development would have no adverse amenity impacts between the proposed and on 37b Fitzjohn's Avenue. The proposed terrace at third floor would compromise the form, character and appearance of the host building, its relationship with 37B, contrary to Policy D1 of the Camden Local Plan 2017.

No daylight, sunlight or overshadowing assessment has been undertaken to assess the effects of the extensions, walls and proximities to the enjoyment of the amenity areas or any of 37b for that matter. The applicant should be requested to provide further evidence that the amenity enjoyed by 37b will not be materially impacted by the proposed development. The applicant should also provide further evidence that the infilling of the gaps and the roof plant will not materially impact 37b in terms of daylight/sunlight considerations.

**iii) The Impact of the Proposed External Wall on Existing Residential Amenity**

Local Plan Policy D1 is supported by Camden Planning Guidance (CPG) Design (adopted January 2021). CPG Design states that good design should respond appropriately to the existing context by ensuring the scale of the proposal overall integrates well with the surrounding area. The design should carefully respond to the scale, massing and height of adjoining buildings, the general patterns of heights in the surrounding area. Proposals must positively integrate with and enhance the character and nature of existing buildings on the site and other buildings immediately adjacent in the surrounding area. This is particularly important in conservation areas.

The application proposes to increase the height of the boundary wall between 37c and 37b Fitzjohn's Avenue. The existing wall measures 2.25 metres in height (see Photograph 4), the proposed wall measures 3 metres. As evidenced by the front elevation drawings, 37c is located slightly higher than 37b. In addition, it begs the question of the need to increase the wall height and the scale of development under construction behind it. The proposed wall is considered incongruous and unsympathetic, enclosing 37b's external courtyard area. When extending 37a, the proposal included glazing along the wall (see Photograph 5) to prevent 37b feeling enclosed. It is recommended that the applicant considers some materiality to this effect.

The permitted development height of residential fencing is 2 metres without planning permission. The existing wall is already higher than this. As stated in ii) above, the private amenity space of 37b is fairly restricted and contained behind existing walls. Any increase in the height of the walls will have a material effect on the amount of daylight/sunlight and overshadowing experienced by 37b. The applicant must be requested to prepare and submit a daylight/sunlight assessment based on the BRE June 2022 guidance to demonstrate that there will be no material impact on the amenity of 37b.



**Photograph 4: Existing Boundary Wall  
between 37b and 37a**



**Photograph 5: Existing Boundary Wall  
between 37b and 37a**

At present, the applicant has failed to fully consider the existing residential amenity issues of the proposed development and adequately demonstrate that the development would have no adverse amenity impacts. The proposed wall is considered imposing and overbearing on 37b and should be refused. The proposal has not been designed in careful consideration of adjoining buildings contrary to Local Plan Policy D1 and CPG Design.

#### **iv) Other Issues**

The applicant has already proceeded to demolish the existing kitchen/dining room at ground floor (see Photograph 6). It is understood that Camden require full planning permission to demolish a building or structure if the building is in a conservation area and is more than 1 metre high and next to a highway or public open space or more than 2m high if elsewhere.

It is understood that the applicant is also constructing a gym and swimming pool under the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 1 Class E *Buildings etc incidental to the enjoyment of a dwelling house*. As PowerHaus Consultancy nor Mr and Mrs Brown have been provided with a copy of the proposed plans for the garden, there are concerns that the proposals will exceed the restrictions of Class E. The foundations for the gym can be seen in Photograph 7 below. This looks to exceed the 50% of the total area of the curtilage excluding the original dwellinghouse. It is questionable whether a gym with noise from gym equipment and music that might be played is a use that falls with Class E in this instance. There are also concerns regarding the potential plant noise for maintaining and conditioning the swimming pool and the gym and where these will be located. If the applicant is also proposing to build a changing room to support the swimming pool this would also be of concern. While Mr and Mrs Brown understand there is no right to a view, the daylight/sunlight and overshadowing effects of the proposed permitted developments are of concern. Given that this is development within a conservation area, the applicant must be requested to demonstrate compliance with the restrictions of the Schedule 2, Part 1, Class E of the Town & Country Planning (General Permitted Development) (England) Order 2015 ("the Order") as amended.



There are a number of mature trees located close to construction works. Given that trees are protected by the Conservation Area status, consideration must be given to root protection areas (RPAs) and whether the works being undertaken will threaten the health and viability of these trees. This is particularly relevant to the potential construction of the swimming pool.



**Photograph 6: Demolition of Existing Ground Floor**



**Photograph 7: The short wall to the rear of the digger is understood to be the length of the gym. The swimming pool is to be located at the rear of the garden adjacent to the Nursey play area**

It is requested that the Council investigate both these issues as a matter of urgency.

### **Conclusions**

For the reasons set out above, it is considered that the proposal would be wholly inappropriate and unacceptable due to the significant impact on existing residential amenity arising from the proposed lift and plant at the top of the house, third floor terrace and raising of the external walls. The applicant has not submitted sufficient technical support to demonstrate that there will be no material impact on existing residential amenity arising from noise and vibration, impacts on daylight/sunlight and overshadowing on amenity space and whether the works, currently being undertaken, fall within the relevant permitted development restrictions particularly the development of a gym. Given the current proposals, the Council is asked to refuse the application in order to protect existing local residents' amenity. Positive determination of the application without the additional technical reports would be contrary to the Council's policies A1, A4 and D4 the NPPF, the London Plan and potentially unlawful.



Yours faithfully,



**PowerHaus Consultancy**