



Date: Monday 9th January 2023
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Our Ref: EN21/1029
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Craig Maxwell
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Dear Mr Maxwell

Appeal by Mr Ronald Hofbauer of Trumros Ltd.
Site address: 282 Finchley Road, London, NW3 7AD

Appeal against

- **The service of an enforcement notice dated 16th September 2022 requiring permanent removal of the outbuilding including foundations; make good any resulting damage and restore the garden to its previous condition.**

The Council has already submitted its case in the report dated 19th December 2022 and the planning officer's delegated report refusing the planning application to retain the structure. These comments here are in response to the appellant's appeal statement from Derek Horne dated 15th December 2022. I would be pleased if the Inspector would take into account the following information and comments before deciding the appeal.

1.0 Comments on appellant's statement

1.1 At paragraph 10.0.11-12 the appellant states that the outbuilding would provide welcome additional residential accommodation ancillary to one of the existing residential flats. This seems to ignore the fact that the appellant built it as an office but in any case although the 8 flats in the principal building range in size from 14.66 sqm (Flat 6) to 25.68 sqm (flat 2) they were allowed under prior approval legislation that allowed the applicant to effectively choose the size of the units. In this case it appears that every separate room was converted into a separate residential unit and so are relatively small compared to the majority of 1 bed properties in Camden. Camden's minimum floor area for new flats (not prior approval) is 32sqm. The Council contends that the small size of the existing flats does not in any way justify the erection of the outbuilding in the rear garden. It was the appellant's sole decision to maximise the number of flats in the principal building under the prior approval system, if some consideration had been given to this matter before the change of use to residential the residential units could have been reconfigured to allow less but larger flats.

1.2 Issue One: Whether the outbuilding, by virtue of its design and siting detracts from the nature, conservation, biodiversity and amenity value of the rear garden.

The appellant argues that the installation of this outbuilding does not detract from the above. While the Council is grateful for the arboricultural report the Council contends that even if the outbuilding did only remove a relatively small area of grass that without a green roof to mitigate this loss of greenery the nature, conservation and biodiversity of the garden has been lessened by introducing a built structure on concrete foundations. The

loss of habitat and increased impermeable surfaces detract from the above. Furthermore due to the narrowness of the garden the siting of the outbuilding takes up the entire width of the garden and effectively stops this area behind the structure from being used.

1.3 Issue 2: Whether the outbuilding by virtue of its size, design and siting detracts from the character and appearance of the application site and wider area, including the Redington & Frognal Conservation Area. In para 10.2.2 the appellant states that possible redevelopment opportunities would have a greater impact than the outbuilding however this is not the matter in hand and any redevelopment would require planning permission beforehand where Council policies would have to be followed.

1.4 Issue 3: Whether the development has caused unacceptable harm to trees.

In the light of the arboricultural report that has just been submitted the Council is prepared to concede that this reason for issuing the notice is no longer valid.

1.5 Issue 4: Whether the development has caused unacceptable noise and vibration impacts. If the air handling plant has been removed from the outbuilding the Council is willing to concede this reason for issuing the notice.

1.6 Issue 5: Whether the development has caused unacceptable harm to the amenity of surrounding residential properties by way of loss of visual privacy, overlooking and loss of outlook. The Council does not agree that all the above concerns can be addressed through the provision of a 2-metre high close boarded fence along the boundary with 1-5 Heath Drive. Although a high fence would help shield the structure from the properties in Heath Drive they would still have an office or ancillary residential accommodation inches away from their properties that would still be visible from upper storey windows and balconies.

1.7 Issue 6: Whether the development by virtue of active cooling has failed to minimise carbon dioxide emissions. If the air handling plant has been removed from the outbuilding the Council will concede this reason for issuing the notice.

Other Matters

While the Council is glad that an arboricultural report has finally been submitted it must be noted that it is at a very late stage. In light of this report finally coming to our attention the Inspector is invited to add another condition should the appeal be allowed;

Prior to the end of March 2023, decompaction of the soil in the rear garden of the application site shall be undertaken in accordance with the method statement on page 11 of the Arboricultural Impact Assessment (to BS:5837 2012) by Trevor Heaps dated 1st November 2023 ref. TH 3652. The works shall be supervised by the project arboriculturalist.

Reason: To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policies A2 and A3 of the Camden Local Plan.

Yours sincerely

Gary Bakall

Deputy Manager, Planning Enforcement
Culture and Environment Directorate