

EMAIL ONLY

Nathaniel Young

Mocatta House  
Trafalgar Place  
Brighton  
BN1 4DU

02 March 2023

Dear Nathaniel

**Re: Proposed Development on Land at 13 Netherhall Gardens, London, NW3 5RN (LPA  
Reference: 2022/5566/P)**

Further to our exchange of e-mails last week, I can confirm that we are instructed by Imperial Towers (Freeholders) Limited of Imperial Towers, 17 Netherhall Gardens, to submit this objection letter in respect of planning application 2022/5566/P. This is a full planning submission, seeking approval for the erection of a new four storey residential building, comprising 6no. flats (Use Class C3) together with other associated works on land at 13 Netherhall Gardens, immediately to the south of Imperial Towers.

We write to raise our client's significant concerns with the proposed development, specifically in respect of the noise issues which would be generated from the proposed Air Source Heat Pumps (ASHPs) and how this would have a direct and unmitigated adverse impact on the neighbouring amenity of residents living within the flats at Imperial Towers.

The application site lies within the Fitzjohns/Netherhall Conservation Area and therefore further concerns are also raised in regards to adverse impact of these ASHPs on the special character, and appearance of this conservation area.

Should Officers be minded to approve this application, Imperial Towers (Freeholders) Limited would ask that amended plans be sought from the applicant, to address the noise pollution concerns and harmful impact this will have on the neighbouring residential amenity.

On behalf of the neighbours we highlight the following material planning objections with the current proposal.

#### Objections

As identified in the submitted drawings, a plant enclosure is proposed along the northern boundary of the application site, and therefore immediately adjacent to the southern flank wall of Imperial Towers.

The plant enclosure would house a total of eleven ASHPs which would serve the residential units of Elm Tree House.

The application is supported by a Plant Noise Impact Assessment (PNIA) produced by Pace Consult Limited which specifically seeks to assess the impact of these proposed ASHPs on the nearest residential dwellings.

Imperial Towers is acknowledged within this PNIA as being one of the closest group of residential dwellings which have the potential to be impacted by the proposed ASHPs, and is identified within the PNIA as 'R1'.

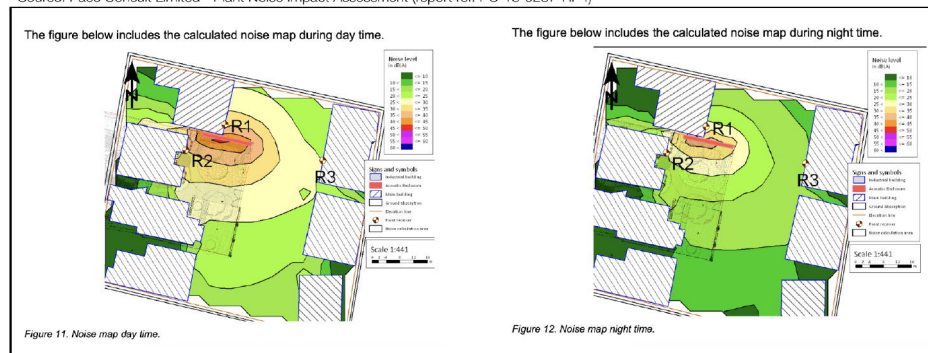
Based on the typical background noise levels which were recorded by the noise consultants, the PNIA states that noise emissions generated from the proposed plant at the nearest residential dwellings should not exceed 37 LAeq dBA during daytime hours, and 29 LAeq dBA during night-time, i.e. they must be more than 10 dBA below the typical background noise levels that were recorded on site.

Based on the location of point receiver R1, their assessment indicates the proposed plant would generate noise emissions of 34 dBA during the daytime, and 27 dBA during the night time. Therefore leading them to conclude that this would satisfy the above noise criteria, and thus implies there would be no adverse impact on neighbouring amenity in terms of noise levels.

We strongly disagree with this conclusion and argue that the submitted PNIA has failed to accurately assess the level of noise impact of the proposed plant by failing to place the point receiver R1 at its shortest possible distance from the proposed noise source.

As shown in Figures 11 & 12 of the PNIA (copied below for ease), it is evident that the R1 point receiver (as well as R2) have been intentionally positioned in such a location to give a more acceptable result, that is on the eastern side of Imperial Towers, approximately 4m away from the proposed noise source.

Source: Pace Consult Limited - Plant Noise Impact Assessment (report ref: PC-18-0287-RP4)



Had this point receiver been positioned at its shortest possible distance from the proposed plant, i.e. on southern eastern corner of Imperial Towers, where it would sit less than 1m away, the results would have clearly been different -

- The diagram at Figure 11 indicates that had R1 been positioned immediately on this south eastern corner of Imperial Towers it would be subject to up to 40-45 dBA in noise emissions during the day-time, which significantly exceeds the identified limit of 37 dBA.
- Similarly, the diagram at Figure 12 indicates that with R1 positioned in this revised location, it would be subject to up to 30-35 dBA in noise emissions at night time, which again exceeds the 29 dBA limit.

There are 11 no. of flats within Imperial Towers which are situated within this southernly most portion of the building. 6 of these flats (flat no.s 2, 6, 10, 14, 18 and 21) all have windows (serving habitable rooms) and balcony areas which are positioned right at the southern end of the eastern elevation (see Figure 1 below). It is worth noting that the windows on this elevation are single glazed (originals), therefore making their properties even more sensitive to external noise levels.

Figure 1: Google Streetview image of the flats to be most impacted by the ASHPs



On that basis it is considered the proposed 11 ASHP sited in extremely close proximity to these residents, would in fact have a high and harmful impact on these neighbouring residents and therefore the proposed development would overall be in direct conflict with Policies D2, A1 & A4 of the Camden Local Plan (July 2017), Policies DC13 & DC14 of the London Plan (March 2021), and Paragraphs 174 and 185 of the National Planning Policy Framework (NPPF) (July 2021).

Policy D2 of the Camden Local Plan relates to designated heritage assets. In respect of conservation areas, the policy states that, inter alia, developments will be required to preserve, or where possible, enhance the character and appearance of the area.

We would argue the design of the proposed plant enclosure, its prominent siting within the front garden space, and its overall scale / quantity of ASHPs in this location, would not preserve or enhance the character and appearance of this conservation area. The noise pollution generated from the 11 ASHPs would also fail to preserve the relatively tranquil nature of this quiet residential part of the conservation area.

The supporting text of Policy A1 emphasises the major effect noise and vibrations can have on amenity noting that *"excessive noise can seriously harm human health, disturb sleep and have cardiovascular and behavioural effects. Camden's high density and mixed-use nature means that disturbance from noise and vibration is a particularly important issue in the borough."*

Policy A4 relates specifically to noise and vibrations and makes clear that planning permission will not be granted for:

- *"development 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."*



Supporting policy text notes that fixed machinery (such as ASHPs) are likely to have a greater impact on amenity and are source of noise which due to their permanence and consistent generation of noise, can increase stress levels and cause significant disturbance for those impacted.

Policy DC13 of the London Plan states that *"new noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses."*

Policy DC14 also sets out that *"in order to reduce, manage and mitigate noise to improve health and quality of life, residential and other non-aviation development proposals should manage noise by:*

- 1) avoiding significant adverse noise impacts on health and quality of life*
- 2) reflecting the Agent of Change principle as set out in Policy D13 Agent of Change; and*
- 3) mitigating and minimising the existing and potential adverse impacts of noise on, from, within, as a result of, or in the vicinity of new development without placing unreasonable restrictions on existing noise-generating uses.."*

The above is further echoed by the NPPF, which states at Paragraph 174, that planning policies and decisions should contribute to and enhance the natural and local environment by, inter alia, *"preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability."*

Paragraph 185 also notes that planning policies and decisions should ensure *"new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.."*

It is also considered unlikely that the proposed ASHPs would comply with the relevant Building Regulations Approved Document L (Conservation of Fuel and Power) as this makes clear at Paragraph 6.42 that, *"heat pumps should not be sited adjacent to sleeping areas, nor should they be located on materials that can readily transmit vibrations. Additionally, the location of external fans and heat pump compressors should be appropriately selected to minimise disturbance to neighbours, while remaining in compliance with planning requirements."* Whilst this is not directly a planning matter, it would be curious of the LPA to approve the location from a planning perspective, only for this to become an issue at the building Regulations stage and require an amendment.

In this scenario the proposed heat pumps would be sited less than 1m from Imperial Towers and therefore in close proximity to a number of flat's sleeping areas. There does not appear to have been any justification provided by the applicant as to why the ASHPs have been proposed in this particular location and why they could not be relocated elsewhere within the application site area, in order to provide minimal disturbance. On that basis, we consider that if the current scheme were approved, it would unlikely comply with the relevant Building Regulations.

Overall, and in light of the above relevant planning policy context and Building Regulations, it is considered the proposed 11 ASHPs, positioned in such close proximity to a number of residential flats at Imperial Towers would put these occupants at an unacceptable risk from noise pollution generated by this fixed machinery, causing a consistent and significant level of disturbance, and adverse affect on their quality of life.

We would therefore respectfully request that either the current proposal be refused, or alternatively the PNIA be amended and updated in line with our above comments so as to provide a more robust and accurate assessment of the proposed plant's noise impact. The outcome of which can then be used to revise the proposed scheme (i.e. by relocating the plant further away from Imperial Towers such that the entire south eastern portion of Imperial Towers falls within an acceptable range of noise levels.)

We would be most grateful if you would consider the above request and keep us informed with any updates in this regard. We would also ask that any amended plans provided by the applicant be subject to a re-consultation, so that further comments can be made. If the changes resolve the current concerns then our client would be more supportive of the scheme.

Should you require any clarification in respect of the above points that they outline these to the e-mail address given at the top of the letter.

#### Summary

On the basis of the current plans, our clients, Imperial Towers (Freeholders) Limited, object to the proposal which will have an unacceptable impact on their neighbouring amenities in respect of noise pollution, and would fail to preserve or enhance the character and appearance of the Fitzjohns/ Netherhall Conservation Area.

As currently proposed, it is submitted that the proposed design, quantity, and siting of these ASHPs, in extremely close proximity to the residents at Imperial Towers directly conflicts with the requirements of Policies D2, A1 & A4 of the Camden Local Plan (July 2017), Policies DC13 & DC14 of the London Plan (March 2021), and Paragraphs 174 and 185 of the NPPF (July 2021). It is also argued that the proposal would fail to comply with the relevant Building Regulations by virtue of its failure to minimise noise levels, and close proximity to residential sleeping areas.

It is hoped that Officers will agree with the assessment and details presented here and either conclude to refuse the application on that basis, or seek changes to the siting of these proposed ASHPs, as outlined above.

Should you wish to discuss any of the content of this letter or visit the site, please do not hesitate in contacting me.

Yours faithfully



Peter Young

