

**From:** [REDACTED]  
**Sent:** 07 August 2014 11:18  
**To:** Planning  
**Subject:** Application 2014/4332/P Dam works Hampstead Heath

I am objecting to the application for dam works on Hampstead Heath for the following reasons:

1. My husband, George Hill, was a great supporter of the Heath ponds and especially of the boating pond which is now greatly under threat. I paid for a bench to be erected in his memory after he died in 1997. He died by the boating pond and his bench is the last one before the wild bird pond. The bench was guaranteed by the Heath Management to be retained there and maintained for ever. If this application is approved, the bench will be threatened will removal therefore breaking the terms of the Heath Management's Guarantee. I, and many of my friends, frequently sit on the bench enjoying the view, the peace and memories of George. All this will disappear should this application be approved.
2. There is absolutely no proof that a huge downfall of rain will cause the present ponds to overflow and endanger the lives of residents living below the ponds, as has been asserted. A great deal of water fell last winter and none of the ponds overflowed. When the ponds did overflow a few years ago the cause was found to be blocked drains. Clearly proper management of the drains will overcome this problem.
3. The ponds area of the Heath will be permanently disfigured by the proposed works. The Hampstead Heath Act of 1871 requires the City of London to preserve the Heath in its "natural state and aspect". The proposed works would create a very unnatural aspect in this part of the Heath.
4. The works will take at least 2 years and many more years will elapse before the scars will disappear. The area is at present full of wildlife and wonderful trees and all that will be terribly harmed.

If the application is recommended for approval by officers, I am asking that it be heard by the Development Committee.

Please acknowledge my email and keep me informed about the progress of the application.

Yours

Caroline Hill



**From:** Hill, Teresa [REDACTED]  
**Sent:** 07 August 2014 11:35  
**To:** Planning  
**Subject:** Hampstead Heath Dams and Ponds Project Ref 2014/4332/P

Dear Camden Council,

I am writing to object to this planning application. It would seem from the information available that the proposed works are simply unnecessary as the risk of flooding from the ponds is extremely low. In my opinion the proposed works would

- have an adverse effect on the natural surroundings and character of the Heath
- the visual impact would be adverse as it would completely change the existing structure and open spaces of the land surrounding the ponds
- prevent the public from enjoying open air swimming for an extended period

I ask that you do not grant planning permission for this application.

thank you

Teresa

Dr Teresa Hill

[REDACTED]

\*\*\*Please note that as MRC CTU is now within the Institute of Clinical Trials and Methodology at UCL, my email address is now [teresa.hill@ucl.ac.uk](mailto:teresa.hill@ucl.ac.uk) for both the MRC and the Royal Free\*\*\*

**From:** Ben Rust [REDACTED]  
**Sent:** 07 August 2014 11:40  
**To:** Planning  
**Subject:** Hampstead Heath

I am very concerned about the plans to develop the ponds to reduce potential flood impacts. I feel the scheme will irrevocably alter the Heath to the detriment of the users of the park and also it's wildlife.

Ben Rust

**From:** yvonne fisher [REDACTED]  
**Sent:** 07 August 2014 12:13  
**To:** Planning  
**Subject:** attn: Jonathan Markwell

For the attention of Jonathan Markwell from Yvonne Fisher, 27 Oak Village.

As a resident of Oak Village/Elaine Grove/Julia Street I firmly support the City of London's Planning Application No: 2014/4332/P (and the Associated Applications, Refs:- 2014/2149/PRE, 2013/7231/P, 2014/0320P).

I believe it complies with Camden's Core Strategy, Development Policy 23 and will provide increased protection against flooding for much of our community and other downstream communities in certain circumstances.

**From:** Anne Burley [REDACTED]  
**Sent:** 07 August 2014 13:01  
**To:** Planning  
**Subject:** Application Number 2014/4332/P

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Camden Council,

I would like to appeal against the above planning application. I have been a user of the Heath and in particular the Kenwood Ladies' Pond for more than 50 years. I would be heartbroken if the City of London Corporation's planned major changes to the Heath were allowed to proceed. The Corporation claims that the work it proposes is necessary to save lives, but is ignoring independent experts who say that the plans are unnecessary and excessive. The Corporation has based its plans on unrealistic computer modelling that assumed the collapse of all existing dams; no warning and no emergency services; and the very worst kind of storm ever possible - predicted to happen only once in 400,000 years.

Independent experts have made recommendations which could better protect homes and lives, but these have been ignored by the Corporation.

The damage done to the Heath, an area loved and visited by people all over London, and indeed the world, would be irreversible and the work in progress would spoil the Heath for those, like me, who visit it daily, for many years.

I appeal to you not to grant this planning application.

Anne Burley  
96 Highgate Hill  
London N6 5HE

Sent from my iPad



# *The Heath & Hampstead Society*

The Society examines all Planning Applications relating to Hampstead, and assesses them for their impact on conservation and on the local environment.

## **To London Borough of Camden, Planning and Development Management**

Planning Reference	2014/4332/P	
Address	Hampstead and Highgate chains of ponds, Hampstead Heath, London	
Description	Dam engineering works etc. as described	
Case Officer	Jonathan Markwell	Date 6 August 2014
Response	<b>OBJECTION</b>	

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The Heath & Hampstead Society (the Society) has already been engaged in discussions and negotiations of these proposals with the applicants, the City of London Corporation (the City), for more than three years, a process which has received widespread publicity. The Society is one of a large number of amenity societies, residents associations, sports and swimming associations, community groups, and individual local residents and Heath users who, without exception, vehemently oppose these proposals.

Despite many suggestions on our part for substantial modification of the approach and proposals, the City has remained immovable. We therefore have no alternative but to **object** to the application, on the grounds set out below. The Society is also pursuing the matter in the High Court as a separate process. The council has been notified of this as an interested party.

### **1. The Reservoirs Act 1975 and statistical basis of the proposals**

We say that the basic criteria used to justify the works, interpreted from the Reservoirs Act 1975, are unrealistic and out of all proportion to the threat, if indeed a threat can be deemed to exist at all.

These criteria can be summarised as the greatest theoretically possible rainfall in the area, leading to failure by collapse of the existing dams, with consequent flooding and potential loss of life; the so-called Probable Maximum Flood (PMF). The City are advised by Atkins, one of the largest firms of consulting engineers in the country, who predict the annual probability of such an event as 1 in 400,000.

The Reservoirs Act 1975 was plainly drafted with much larger, commercial water supply reservoirs in mind. These structures are typically raised above the surrounding land and the largest contain up to 200 billion litres of water.

The Heath ponds, although originally constructed or extended in the 17th and 18th centuries as water supply reservoirs, are no longer used as such, and are on a minute scale

by comparison. Their current functions are solely as elements in the landscape of Hampstead Heath, and as public amenities for swimming and recreation. They resemble natural ponds, and it is noteworthy that, had they been entirely of natural origin, the Reservoirs Act would not have applied to them, irrespective of any danger of flooding.

The Act does not require that action must be taken other than for the assurance of reasonable public safety. It does not specify the statistical basis on which safeguarding work should be calculated. This appears to have been set by the City on the evidence of flooding run-off assessed by a number (we believe no less than five) successive hydrology reports, all conflicting so far as the statistical probability of dam failures and consequent flooding.

We say that, however the assessment is arrived at, it is on a common sense view unreasonable, disproportionate and, in its effects through the proposed engineering works, highly damaging to the character and appearance of Hampstead Heath.

We also say that the public safety hazards implicit in the proposals, which are said to arise from the provisions of this Act, are grossly exaggerated, as follows:-

- a. it is self-evidently disproportionate, indeed absurd, to take such elaborate precautions against an event with a probability of 1 in 400,000. No ordinary civil engineering project is predicated on anything like this remote possibility, the Thames Barrier for instance being said to be designed to cope with a 1 in 1,000 contingency; while prior to the Atkins study, the Camden Flood Risk Management Strategy noted that even a 1 in 10,000 contingency was 'highly unlikely'. The significance of these disparities becomes clear when the probability of flooding arising from other more likely causes is considered in the following paragraphs.
- b. the scenario outlined is one of dam collapse with flooding on an apocalyptic scale endangering inhabited areas to the south and east and causing loss of life. Long before this event happened, serious flooding, arising from exceptional rainfall, would have occurred throughout the area – if not most of London – arising from other causes. These are principally surface water run-off from the land following exceptional rainfall; consequent overflowing of the public sewerage system; and overtopping ie. overflowing of ponds and watercourses.

It is important to make clear that these elaborate, expensive and in our view unnecessary proposals are confined to preventing dam **collapse**, and will do nothing to prevent flooding due to other causes including overtopping, which would involve much greater risk to life and property, are much more likely, and would occur first. The consulting engineers themselves have stated that *this is not a flood alleviation scheme*.

- c. the event implied by the proposals would not be instantaneous, even if it happened at all. Long before collapse, probably several days, local and national authorities would have taken emergency action which might include evacuation, and would already be dealing with flooding arising from the other causes identified above.

- d. in August 1975 a severe storm with torrential rain occurred in Hampstead. It was the most severe storm since records for the area began with 150 mm of rain falling in two and a half hours. Even in these extreme circumstances, the flooding which ensued was

caused by rainwater run-off exceeding the capacity of the public sewerage system. None of the flood water came from the Heath, no dams collapsed and, most importantly of all, no lives were lost. This demonstrates that the existing pond enclosures – unlike other infrastructure – will safely cope with even these extreme conditions.

e . flood events within the bounds of reasonable probability can and should be dealt with by dam modification work on a much smaller scale, complemented by properly designed and functioning storm drainage systems in the downstream inhabited areas.

## **2. The Hampstead Heath Act 1871 and the preservation of the natural aspect and state of the Heath**

The Hampstead Heath Act was enacted to save Hampstead Heath, at the time under threat from development, and to protect it on a permanent basis. The provisions of the Act were designed to ensure that the Heath is preserved in perpetuity in its natural aspect and state (see Section 16 of the Act). In today's language, this also means that its ecosystems are protected.

Hampstead Heath is unique, both within London and elsewhere in Britain, for its preservation of wild natural countryside, with its wildlife habitat, in the heart of a high-density urban area. It is estimated that over seven million people visit it every year, drawn by its natural beauty and character exemplified by the ponds and their surroundings. It is unrivalled as a space where people can enjoy natural countryside within a major city, and is a social asset of inestimable value.

The Heath has existed in this form for several centuries and has been commemorated in art and literature by, among others, John Constable, Sir Arthur Conan Doyle and Wilkie Collins. As well as being by far the largest and most important open space in Camden, it is a national, indeed international, asset which must be preserved unharmed.

We say that the construction or enlargement of these dams, and other associated elements of the project, would damage the wild and natural character and appearance of the Heath seriously and irreparably. This damage would be most apparent in the vicinity of the works, but would also affect views into and across the Heath, which are one of its notable qualities.

The introduction of modern dam construction techniques and materials, replacing or modifying the earth dam construction of the existing structures, would destroy the present natural character permanently. It is clear that many of the proposed interventions would result in the ponds appearing as man-made reservoirs, rather than natural features. We say this notwithstanding the landscaping measures proposed by the City; they would be no substitute for the natural environment of the ponds as it exists at the moment, a characteristic which is much admired, and indeed loved by all visitors.

We appreciate that the scheme needs to be considered as a whole, and that all the detailed elements of the scheme are inter-dependent, but there are particularly objectionable aspects of it that must be highlighted:-



#### a. Model Boating Pond

A new raised dam, 2.5 metres higher than the existing earth dam, radically changing both long and short views of the pond surface, the pathway across it, and the surrounding landscape.

#### b. Mens' Bathing Pond

A new concrete dam one metre higher and, again, altering the landscape of the area.

#### c. New Catchpit close to the Mixed Bathing Pond

This enormous "dry dam" is over 100 metres long with a new 5.6 metre high earth dam and spillway. This is the largest of the proposed interventions and would form a particularly bleak new feature, gravely damaging the attractive natural appearance of this part of the Heath. The catchpit will not even contain water; except, that is, in the 1 in 400,000 contingency for which the City and its advisers are designing.

There are other proposals, smaller in scope, which we also oppose. Amongst these is the loss of trees, assessed by the City at around 160. The City's suggestions – and they are no more than that – for replacement planting are extremely vague. We do not need to emphasise how important trees are to the character of Hampstead Heath, and this is an enormous number to lose.

Hampstead Heath is classified as Metropolitan Open Land (MOL), and The London Plan (2013 revision incorporating REMA) is specific as to the protection to be accorded to London's MOL. Policy 7.17 states that:-

*The strongest protection should be given to London's Metropolitan Open Land and inappropriate development refused, except in very special circumstances*

In 2006, the Society took a case involving development on Metropolitan Open Land to the Court of Appeal. This case involved the Garden House in the Vale of Health, overlooking one of the ponds (Heath and Hampstead Society: London Borough of Camden; ref CO/1454/2006) where the Court found in favour of the Society in a Judicial Review. We say that the present proposals – not on the fringes of MOL, but at its heart – are not development appropriate or acceptable on Metropolitan Open Land, and require refusal on this basis alone.

The Society's view is further supported by the Statement of Significance for Hampstead Heath – produced by the City itself. The Statement begins as follows:-

*Hampstead Heath has been shaped over the centuries by the way humans have lived on it, farmed, exploited and enjoyed it. Despite these pressures the Heath has retained its 'natural' character and rare sense of 'ruralness', a unique find just four miles from the centre of London; a piece of encapsulated countryside in the city. The Heath's distinctive landscape has become nationally renowned, immortalised in the paintings of Constable and instantly recognised as one of the principal open spaces in London.*

The Statement continues by highlighting the importance of the Heath for its diverse mosaic of habitats that encompass Ancient Woodland and UK BAP habitats, and its

estimated 800 veteran trees. These habitats support European and UK protected species as well as national, regional and local rarities including bats, beetles, spiders, birds, fungi and invertebrates; and the Heath is designated in the London Plan as a Site of Metropolitan Importance for nature conservation. Much of this habitat will be threatened by these proposals.

The Statement goes on to refer to the ponds specifically as follows (our emphasis):-

*The strings of ponds are a significant hydrological resource and collectively form **an essential part of the character of the Heath**. The ponds serve a wide range of functions including acting as reservoirs, contributing to the Heath's diversity of wildlife habitats, whilst also providing a highly popular and nationally renowned recreational resource. The natural bathing ponds have been enjoyed for centuries and are the only life-guarded open-water swimming facilities in the UK open to the public every day of the year. **The ponds are also importantly valued for their visual amenity** for example as the setting for the Grade II Listed Viaduct Bridge.*

### **3. Presentation of the proposals by the applicant: "Before" and "After" images**

The Society is extremely concerned at the misleading nature of the "before" and "after" photographs provided by the City in connection with the planning application. In many, if not most cases, these photographs are taken at a great distance from the site of the actual engineering works and so have the effect of concealing the scale of the "unnatural" changes which are proposed.

We have produced "before" and "after" photographs in respect of:

1. The dam at the Model Boating Pond;
2. The dam at the Mens Bathing Pond;
3. The dry dam at the Catch Pit;
4. The dam at the Mixed Pond

The photographs in respect of 1 and 4 were prepared by KeanLanyon. The photographs in respect of 2 and 3 were prepared by Wilmac Geomatics. These images will be forwarded to the council separately along with a copy of Wilmac Geomatics' report.

You will see that, in relation to the dam at the Mens Bathing Pond, the "after" picture submitted by the City does not clearly identify the one metre high concrete wall proposed to be built along the top of that dam. You will also note that the "after" pictures prepared by the City in respect of the Catch Pit effectively conceal the size of the new dry dam which will be 100 metres long, 40 metres wide, 5.6 metres high and have a slope of 1-in-3.

We therefore insist that Camden require the production of proper geomatic photovisuals by a firm experienced in this type of work, and which are fully auditable. Only such images will show the true extent of the disfigurement of the Heath, as we have already done for the instances cited. It should be for the applicant, and not us, to produce these for every location.

#### **4. Construction operations and collateral environmental damage**

The disruption due to construction operations is recognised as a planning issue and is covered in the LDF and supplementary planning guidance. These policies, which were written primarily for works in already developed areas, become even more important when the level of disruption to the Heath, its landscape and ecosystems is considered.

This is a major project, the construction cost of which alone is estimated at more than £17 million. Although the works themselves will take place at particular sites, we estimate that a far larger area of the Heath will be blighted by these operations with surrounding residential areas also being adversely affected. The operations will include heavy goods vehicle movements to remove excavated spoil and to deliver plant and bulk materials and heavy plant movements to and from the site and while operating; all with associated noise, fumes and dust as well as damage to the landscape. This will result in loss of amenity; restrictions on public access and use for recreation and other purposes; and collateral damage to habitats and ecosystems. In particular, swimming in the ponds – a very popular pastime at all times of year – will be interrupted for an extended period.

We have looked at one instance by way of example, namely the dry dam at the Catch Pit (see section 2c above) which is to be formed as an earth bank. We calculate that this feature will require well in excess of 3,500 cubic metres of earth requiring more than 500 heavy goods vehicle (HGV) movements to bring it to site. One movement is one journey in and out, so this is more than 1,000 HGV journeys along local residential roads and across the Heath to construct this feature alone.

In conjunction with the Highgate Society, we have made considerable efforts to prevent damage to the Heath from construction traffic in cases such as Fitzroy Farm where our position was supported by the ensuing planning decisions. Hence we find it particularly regrettable that construction access on a far more damaging scale is now proposed by the Heath's guardians, the City itself, in pursuit of this misconceived proposal.

#### **5. Planning policies, guidance and other material considerations**

The following elements of national and local planning policy support our objection (this list is not exhaustive). We have not quoted these policies in full here since they are a matter of record, and will be readily available to the planning authority:-

- o National Planning Policy Framework, especially Section 9, Protecting green belt land<sup>1</sup>; Section 11, Conserving and enhancing the natural environment; and Section 12 Conserving and enhancing the historic environment.
- o The London Plan (2013), especially policy 2.18A Green Infrastructure; 7.17 Metropolitan Open Land; 7.21 Trees and Woodlands.
- o Camden Local Development Framework:
  - Core strategy introduction, especially paragraphs 17 and 22
  - Core Policies CS15, Protecting and improving our parks and open spaces and encouraging biodiversity; especially CS15 (k) to (p) which refer specifically to

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<sup>1</sup> Metropolitan Open Land is the equivalent of Green Belt land

Hampstead Heath and its MOL designation.

Core policy CS16, Improving Camden's health and well-being.

Development Policy DP26, Managing the impact of development on occupiers and neighbours.

Development Policy DP31, Provision of and improvements to public open space and outdoor sport and recreation facilities.

- o Supplementary Planning Guidance:
  - CPG 3 Sustainability; especially Section 13, Biodiversity
  - CPG 6 Amenity, especially Section 8, Construction management plans and Section 11, Open space, outdoor sport and recreation facilities
- o Statement of Significance (Corporation of London), especially Natural Landscape; Hydrology; and Public Open Space etc (see also Section 2 above)

## **6. Mitigation**

We have said, in discussions with the City, that the proportionate response to protect public safety called for in the Reservoirs Act, could be implemented with substantially less environmental harm to the Heath, if a more rational approach to risk was adopted. Negotiations between us and the City to achieve such mitigation have been unsuccessful, and this is an important factor in the challenge we are currently mounting in the High Court.

We attach with this objection the Society's Judicial Review pre-action protocol letter dated 30 June 2014 addressed to the City which seeks rescission of the City's decision to proceed with these proposals on the following principal grounds:-

- o That the City's interpretation of its duties under the Reservoirs Act 1975 is flawed and must be read as subject to and qualified by the City's statutory duties under the Hampstead Heath Act 1871 and the environmental consequences for the Heath generally.
- o That the City is taking an irrational and unlawful approach to risk in view of the extreme improbability of an event causing dam collapse and the likelihood of flooding due to other causes occurring first.

In addition, we say that even if the City were right in its interpretation of the Reservoirs Act, the balance of the arguments calls for refusal, inasmuch as the harm, in planning terms, is simply too great given the remote possibility of the risk identified actually eventuating.

## **7. Public opinion; the DamNonsense campaign**

The public criticism of these proposals, both in quality and quantity, is very nearly without precedent in the Society's long history, and is indicative of the alarm with which these proposals are viewed by the voting public. This is evidenced by the overwhelming support given by thousands to the DamNonsense campaign sponsored by us (see [www.damnonsense.org.uk](http://www.damnonsense.org.uk)), and the generous financial support it has received from many individuals. This public response is in spite of a persuasively presented public relations

campaign mounted by the City.

We draw particular attention to the articles by Richard Morrison in The Times in January 2014, and by Sir Simon Jenkins, a patron of the Society, who wrote in the Evening Standard in March 2014 asking *'Why spoil all this to build dams that nobody will need?'*

#### **8. Timing of decision on planning application; prematurity**

In the circumstances of the current Judicial Review instigated by us, and now in progress, we consider that a decision on this planning application would be premature, and that it should be postponed accordingly. In particular, the City seeks to justify the enormous harm in planning terms that these proposals would cause by reference to what it believes to be its duties pursuant to the Reservoirs Act 1975. It would therefore be premature for Camden to determine the application until the Court has ruled on the meaning of the statute.

We have to inform the Council that, subject to legal advice, if eventually a decision is taken to grant planning permission, we must reserve our position regarding a second Judicial Review in relation to that decision.

The grave and irreversible damage that would be caused to the Heath by these proposals is too important a matter for us to ignore, given that our primary object as a Registered Charity is the protection of Hampstead Heath in its wild and natural state, having regard to the provisions of Section 16 of the 1871 Act.

#### **9. Enclosures with this objection**

Letter dated 30 June 2014 from Scott Fowler, the Society's solicitors, to the City of London Corporation.

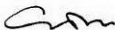
The Times 17 January 2014 *It's Heath (sic) and Safety gone mad in Hampstead.*

London Evening Standard 4 March 2014 *Why spoil all this to build dams that nobody will need?*

#### **To follow**

Before and After images 1, 2, 3 and 4 and report by Wilmac Geomatics referred to in section 3 above.

Signed



for The Heath & Hampstead Society

The Heath & Hampstead Society, PO Box 38214, London NW3 1XD [info@heathandhampstead.org.uk](mailto:info@heathandhampstead.org.uk)

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Letters

## Simon Jenkins: Why spoil all this to build dams that nobody will need?

Highgate Ponds did not flood last month nor ever have done. It is folly to ruin them with £15m of 'safety' works



Pond life: huge construction will "spoil the look of Hampstead Heath", creating a "municipal waterworks" (Picture: Alamy)

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PUBLISHED: 04 March 2014  
Updated: 11:36, 04 March 2014

SIMON JENKINS



The war of Hampstead Heath is joined again. Consultation closed last week on whether to raise the dams enclosing the dozen large ponds that descend the heath on either side of Parliament Hill, the Highgate and Hampstead "chains". Ever since Victorian rimovs mercifully saved the heath from becoming another Regent Park, it has seen one battle after another. Now it has an enemy who should know better, the heath's own custodian, the City of London.

Nowhere in London conveys nature more serene than Highgate Ponds. They spring from the woods, glide round the contours and drop gently south, as a visual carpet to London floating in the distance. They are still remarkably wild and un-manicured. Dickens took them as the epitome of useless research by having Pickwick "Speculating on the Source of the Hampstead Ponds".

Since their formation as London reservoirs in the 17th century, the ponds have been used variously for bathing, model boating, bird-watching and, above all, peaceful contemplation. They are often surreal. One has a notice "For Mused Bathing. No swimming. No diving". It must be reserved for drowning.

The ponds pose no conceivable menace to the people of London. They survived the great Hampstead storm of 1975 without overflowing. They were unmoved by last month's downpours. They are fed by no mighty river or wide catchment area and have passed regular inspection with flying colours, the last being in 2007 and 2012. There were reported to be "no recommendations as to measures to be taken in the interests of safety". Dams are required to be subject to a once-in-a-century risk of failure, occasionally once in 10,000 years for worst-cases.

To the amazement of local residents and heath users, the City of London in 2013 commissioned a separate report under the controversial 2010 Flood and Water Management Act. This was from the engineering firm of Arup, which advises councils on

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risk and designs and builds dams. I make no suggestion this might involve a conflict of interest.

This firm put forward a wholly different scenario. It ignored the centuries of safety and satisfactory inspections and instead applied the test of failure once in an extraordinary 400,000 years, which seems so absurd as to be comical. It considered the possibility of a progressive collapse as one pond poured into the next, bursting each dam in turn like balworks on the Titanic. This "could" produce a tsunami, a wall of water descending on Gospel Oak and Kensal Tower, wiping out, says the computer model, 1,400 people. It would indeed be terrible.

I am surprised the computer did not add fire, plague and the Norman Conquest to the horrors of which Hampstead's ponds were capable. Why not imagine Kenwood silting down to South End Green, the old Fleet River spewing rats from bursting sewers and Armageddon descending on Camden Town, with only local hero Jude Law to hold it back?

Atkins advised that the pond dams be raised, some by six to eight feet, diversions dug and embankments reinforced all round, at a cost of £15 million. Locals have been mystified. The Heath and Hampstead Society's chairman, Tony Hillier, complains that the massive construction "will completely spoil the look of the heath". It would become a "municipal waterworks".

The City replies that it is legally required "to minimise the risk to the public from the dams", matter closed. I should have thought there was a stronger argument for closing Tower Bridge to "minimise the risk" of it being hit by a plane.

There has never been an overflow of the Highgate and Hampstead ponds, no massive escape of water and certainly no death in all their 300 years of existence. The apocalyptic tone of the Atkins report and the massive spending required seems out of proportion to any conceivable risk.

More to the point, one of the lessons now being learned about flood management is the crucial importance of upland water retention. If there were a danger of flooding on the heath, plant more vegetation, have more trees, put in more ponds.

The reason the ponds do not overflow is that there is not that much water above them. Such rare flash floods as do occur on London streets arise from torrential downpours overwhelming incompetently maintained sewers, as happened last week in Kennington, not Hampstead ponds.

Something strange has happened to the City. A peer review of the Atkins report from another engineer, ARCOM, came as near as professionalism allows to rubbishing it. There was nothing in the modeling, it said, that seemed to justify so drastic an increase in the chance of failure, let alone the extraordinary imagined death rate.

From reading the documents I find it hard not to believe that the City Corporation was simply blown away by Atkins. It is a splendid firm famously successful at lobbying public organisations for work. It was behind the Metronet consortium that went bust trying to run half the Tube network, at huge cost to the taxpayer. The 2010 act, produced with heavy lobbying by the dam industry, looks suspiciously like legislation to make work for a profession long adept at winding public bodies round its little finger. Atkins may have seen the well-heeled City of London as a soft touch. It was right.

The ponds lie amid their encircling trees as one of the glories of London. Locals may feud over mixed or nude bathing, over precedence to model boats or waterfowl, but the topography of the ponds themselves is precious and timeless. In an age of obsessive health and safety the scaremongers may have the best tunes and sing loudest. But that is no reason for hanged Heath to be sacrificed to a dam-builder's job-creation scheme.

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# Scott Fowler

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**BY EMAIL : [michael.cogher@cityoflondon.gov.uk](mailto:michael.cogher@cityoflondon.gov.uk) AND PERSONAL SERVICE**

Dear Sir

**Judicial review pre-action protocol letter requiring urgent attention**

**Re: Decision 09.06.2014 to proceed with "Chosen Options" for "Ponds Project"**

**Introduction**

1. We are instructed by the Heath & Hampstead Society ("the Society") to challenge the decision of the City of London Corporation ("the City"), acting through Committee, taken on 09.06.2014, the draft minutes of which were published on 17.06.2014, that the City approve and proceed with specific "Chosen Options" for flood defence works to and associated with the ponds ("the Ponds") on Hampstead Heath, London ("the Decision"). The City has termed the entirety of the works proposed "the Ponds Project". We will refer to the works as "the Proposals".
2. The Proposals are intended to address what the City believes are its legal obligations under the Reservoirs Act 1975 ("the RA 1975"), as regards the risk that one or more of the Pond dams might be breached through overtopping generating erosion sufficient to cause the dam to fail and water to escape uncontrolled, leading to a flood affecting residents downstream. The Proposals will result in the Heath being subject to significant engineering works, including the construction of a new dry dam at a natural valley known as "the Catchpit", the raising of the existing dams on four of the Ponds and the excavation of sizeable reinforced spillways. It will result in drawn-out disruption to the Heath. It will also, of course, involve the expenditure of large sums of money by the City, the current budget being in excess of £17,000,000.
3. The Society has, as the City will be well aware, been concerned for some time as to whether the Proposals are being promoted on a sound legal basis, in particular on a correct understanding of the RA 1975.
4. Having taken advice from counsel, Mr Stephen Tromans QC and Mr James Burton of Thirty Nine Essex Street Chambers, we consider that the Decision is unlawful on a number of grounds:

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- (1) The Decision is based on an erroneous interpretation of the words “in the interests of safety” in section 10 of the RA 1975.
  - (2) The Decision is based on an irrational and/or unlawful approach to risk.
  - (3) The Decision is the result of a process that ought lawfully to have been subject to strategic environmental assessment in accordance with Directive 2001/42/EC (“the SEA Directive”), but has not been.
5. We are writing to the City now to invite it to rescind the Decision and to take any further decisions regarding the Ponds and its duties under the RA 1975 on the correct legal basis. If the City declines to rescind the Decision then, subject to anything the City may say in response that materially affects our understanding of the position, we will advise our client to institute proceedings for judicial review seeking a quashing order and declaratory relief.

### **The Claimant**

6. Our client is the Heath & Hampstead Society, a charity founded in 1897 whose charitable objects include the preservation of the Heath in its wild and natural state, and the promotion and maintenance of the amenities and characteristics of the environs of the Heath.
7. Further information regarding the Society, including its patrons and committee members, is available at [www.heathandhampstead.org.uk](http://www.heathandhampstead.org.uk).

### **The Decision under challenge**

8. The Decision under challenge is the City’s decision of 09.06.2014, which the draft Minutes indicate was taken on the City’s behalf by its Hampstead Heath, Highgate Wood & Queen’s Park Committee (“the Heath Management Committee”), to:
- (1) Approve “Chosen Options” recommended by the City’s officers for the “Ponds Project”, namely “Option 6” for the Highgate Chain and “Option M” for the Hampstead Chain, together comprising the Proposals; and
  - (2) Authorise the submission of a planning application to Camden London Borough Council for those Proposals.
9. The Decision also made provision for associated budgetary matters and matters of delegation.
10. We understand that the reasoning for the Decision is that found within the joint report of the City’s Director of Built Environment and Director of Open Spaces prepared for the meeting of the Heath Management Committee on 09.06.2014 (“the Joint Report”).

### **Facts and statutory framework**

#### *Hampstead Heath and the Ponds*

11. The Heath is a unique area of natural open space within inner London, enjoyed by millions of visitors every year. It is a stretch of varied countryside surviving within one of the largest urban areas of the world, a *rus in urbe*, providing quiet enjoyment and contact with nature. The Heath’s variation, both in flora and fauna, derives from its mixed geology and sub-soil. It straddles the Hampstead-Highgate ridge of Bagshot Sand, then passes across a strata of Claygate Beds as it descends onto London Clay. Each type of sub-soil has produced its own ecology and many springs arise where water, after draining through the sand, encounters the clay. The Heath’s

qualities are such that it is of national importance. It extends beyond Spaniards Road to Sandy Heath, the West Heath and the Heath Extension. Kenwood House and grounds is not formally part of the Heath (though in practice the visitor perceives the two as a coherent whole).

12. The Ponds are man-made, constructed centuries ago (in the latter part of the 17<sup>th</sup> century and subsequently) and initially served as reservoirs for the supply of water to the metropolis. Their reservoir use ceased long ago (ending altogether in the 19<sup>th</sup> century) and the Ponds' function since has been aesthetic, recreational and ecological. Three of the Ponds are in active and regular use for swimming, one is a bird sanctuary, one is used for model boating, several are for fishing, and all support a wide range of flora and fauna. The Ponds are an integral part of the Heath and a key element of its natural aspect and beauty.
13. The Proposals are concerned with the 11 Ponds on the "main" Heath, which are split between two Pond "chains"; the Hampstead Chain on the west side of the Heath and the Highgate Chain on the east side of the Heath. The two chains are fed by a combination of natural springs rising on the Heath and surface water run-off from rainfall (together, "the Catchment"). The five Ponds on the Hampstead Chain which are the subject of the Proposals are those known as Vale of Health, Viaduct, Mixed Bathing, Hampstead No.2 and Hampstead No.1. The natural valley known as the Catchpit is upstream from the Mixed Bathing Pond. The six Ponds on the Highgate Chain which are the subject of the Proposals are those known as Stock, Kenwood Ladies' Bathing, Bird Sanctuary, Model Boating, Men's Bathing and Highgate No.1. The Ponds on both chains are linked by overflow pipes, and the last Pond in each chain (Hampstead No.1 on the Hampstead Chain and Highgate No.1 on the Highgate Chain) discharges into the culverted River Fleet. Ultimately, then, the entire Catchment is drained into the sewerage system.
14. So far as the Society is aware, none of the Pond dams has ever been breached through overtopping generating erosion sufficient to cause the dam to fail and water to escape uncontrolled (the risk that the City believes the Proposals are required to address) in their centuries of existence.

#### *The Hampstead Heath Act 1871*

15. The Heath enjoys statutory protection pursuant to its proprietary Act of Parliament, the Hampstead Heath Act 1871 ("the Heath Act"), which Act followed decades of lobbying to protect and preserve the Heath. The area of land protected by the Heath Act has expanded over time.
16. By section 16, the Heath Act has at its core the requirement that the body in whom for the time being the Heath is vested (at the time the Heath Act was passed the Metropolitan Board of Works, presently the City):

...shall at all times preserve, as far as may be, the natural aspect and state of the Heath, and to that end shall protect the turf, gorse, heather, timber and other trees, shrubs, and brushwood thereon.
17. We note that it is common ground that the "natural aspect and state" of the Heath includes the Ponds.
18. Section 16 of the Heath Act is supported by section 12, which requires that the City:

...shall for ever keep the Heath open, uninclosed and unbuilt on, except as regards such parts thereof as are at the passing of this Act inclosed or built on, and shall by all lawful means prevent, resist and abate all encroachments and attempted encroachments on the Heath, and protect the Heath, and preserve it as an open space, and resist all proceedings tending to the inclosure or appropriation for any purpose of any part thereof.
19. There are other provisions within the Heath Act that complement sections 12 and 16, but they are the most important for present purposes.
20. The Heath also enjoys protective designations under other regimes. For instance, Hampstead Heath Woods is a designated site of special scientific interest ("a SSSI"), and the Heath as a whole is Metropolitan Open Land.

21. The Decision has come about because the City believes that the Proposals are required by the RA 1975, as presently in force as amended by the Flood and Water Management Act 2010 ("the FWMA 2010").
22. The RA 1975 provides for a safety regime for "large raised reservoirs". It repealed the first such statute, the Reservoirs (Safety Provisions) Act 1930. Section A1 to the RA 1975 presently defines "large raised reservoirs" as follows:

A1 "Large raised reservoir": England and Wales

(1) In this Act "large raised reservoir" means—

- (a) a large, raised structure designed or used for collecting and storing water, and
- (b) a large, raised lake or other area capable of storing water which was created or enlarged by artificial means.

(2) A structure or area is "raised" if it is capable of holding water above the natural level of any part of the surrounding land.

(3) A raised structure or area is "large" if it is capable of holding [25,000] cubic metres of water above the natural level of any part of the surrounding land.<sup>1</sup>

...

23. RA 1975, section 1 defines "undertakers" for the purposes of the Act:

1.— Ambit of Act and interpretation.

...

(4) In relation to any reservoir "undertakers" means for purposes of this Act—

(a) in the case of a reservoir that is or, when constructed, is to be managed and operated by the Environment Agency, the Natural Resources Body for Wales (the "NRBW") or a water undertaker, the Environment Agency, the NRBW or, as the case may be, the water undertaker; and

(b) in any other case—

(i) if the reservoir is used or intended to be used for the purposes of any undertaking, the persons for the time being carrying on that undertaking; or

(ii) if the reservoir is not so used or intended to be used, the owners or lessees of the reservoir.

(4A) The "area" of the Environment Agency, in its capacity as a relevant authority for purposes of this Act, is the whole of England...

24. Although the Ponds have no use as commercial reservoirs and form no part of a commercial enterprise, the City is their "undertaker" by virtue of section 1(4)(b)(ii).
25. Large raised reservoirs must be registered with the Environment Agency by the undertaker (see section 2(2B)).
26. Section 4 of the RA 1975 establishes a panel of civil engineers for the purposes of the act ("the Panel Engineers"), to be appointed by the Secretary of State for the Environment after consultation with the Institution of Civil Engineers ("the ICE").

<sup>1</sup> The figure of 25,000m<sup>3</sup> in subparagraph (3) was replaced by a figure of 10,000m<sup>3</sup> from 30.07.2013 (see the Flood and Water Management Act 2010 (Commencement No. 2, Transitional and Savings Provisions) (England) Order 2013/1590, Arts. 3 and 4).

27. Section 7, 8 and 9 of the RA 1975 make provision for construction or alteration of large raised reservoirs, and that such works are to be certified by a qualified civil engineer ("the construction engineer").
28. Section 10 of the RA 1975 provides for inspection of large raised reservoirs by a qualified civil engineer, the "inspecting engineer", who shall report and whose report shall be acted upon by the undertaker. In so far as that action includes works, those works are to be supervised by a qualified civil engineer ("the supervising engineer"). The most relevant parts of section 10 are as follows:

**10.— Periodical inspection of large raised reservoirs.**

(1) The undertakers shall have any high-risk reservoir inspected from time to time by an independent qualified civil engineer ("the inspecting engineer") and obtain from him a report of the result of his inspection.

...

(3) As soon as practicable after an inspection under this section, the inspecting engineer shall make a report of the result of the inspection, including in it any recommendations he sees fit to make as to—

- (a) the time of the next inspection;
- (b) the maintenance of the reservoir;
- (c) any measures required in the interests of safety and the period within which those measures must be taken.

...

(4) An inspecting engineer shall consider the matters (if any) that need to be watched by the supervising engineer during the period before the next inspection of the reservoir under this section, and shall include in his report a note of any such matters.

(5) An inspecting engineer, when he makes his report, shall also give a certificate stating that the report does or does not include recommendations as to measures to be taken in the interests of safety or as to the maintenance of the reservoir, if it includes a recommendation as to the time of the next inspection, stating also the period within which he recommends the inspection should be made.

(5A) The undertaker must comply with a recommendation made under subsection (3)(b), unless the recommendation is the subject of a reference under section 19 and the reference has not been determined.

(6) Where an inspecting engineer includes in his report any recommendation as to measures to be taken in the interests of safety, then subject to any references of the matter to a referee in accordance with this Act the undertakers shall, within the period specified in the report, carry the recommendation into effect under the supervision of a qualified civil engineer; and that engineer shall give a certificate, as soon as he is satisfied it is so, that the recommendation has been carried into effect.

...

(9) For purposes of this Act "independent" when used of a civil engineer in relation to a reservoir means —

- (a) that he is not in the employment of the undertakers otherwise than in a consultant capacity; and
- (b) that he was not the engineer responsible for the reservoir or any alteration to it as construction engineer, nor is connected with any such engineer as his partner, employer, employee or fellow employee in a civil engineering business.

The reference in this subsection to a construction engineer includes an engineer acting under section 8 or 9 above.

29. Section 19 makes provision for an undertaker to refer disputed recommendations made by the inspecting engineer to a referee.
30. The Ponds were last inspected by an inspecting engineer in 2007, at which time no recommendations were made in the interests of safety, let alone for the Proposals or anything similar to the Proposals.
31. Section 12 makes provision for the supervision of large raised reservoirs by a supervising engineer, who shall if appropriate recommend to the undertaker that a section 10 inspection be carried out (see section 12(3)).
32. The City has presently appointed Dr Andy Hughes as supervising engineer for the Ponds. As Dr Hughes is an employee of Atkins, the engineers who the City has appointed to design and supervise the Proposals, Dr Hughes may also be considered the construction engineer for the purposes of the Proposals.
33. Section 12A to the RA 1975 empowers the Secretary of State to direct that an undertaker prepare a flood plan for a large raised reservoir.
34. By section 16 the relevant enforcement authority may intervene in the event a large raised reservoir is unsafe and immediate action is required to protect persons or property from an escape of water, and recover the costs from the undertaker:

**16.— Emergency powers.**

(1) Where it appears to the enforcement authority, in the case of any large raised reservoir, that the reservoir is unsafe and that immediate action is needed to protect persons or property against an escape of water from the reservoir, they may take at the reservoir such measures as they consider proper to remove or reduce the risk or to mitigate the effects of an escape.

...

(6) Where an enforcement authority exercise the powers conferred by this section, the undertakers shall pay them the amount of the expenses reasonably incurred by them in the exercise of those powers.

35. By section 22, breach of certain of the requirements of the RA 1975, and of the regulations made under it, is a criminal offence.
36. Various provisions of the FWMA 2010 that further amend the RA 1975 have yet to come into force.

*The Civil Contingencies Act 2004*

37. By the Civil Contingencies Act 2004 ("the CCA 2004") certain bodies, including the City, the London Borough Councils and the police, must plan appropriately for emergencies. By section 2(1) of the CCA 2004, they must, amongst other things:

...

(f) arrange for the publication of all or part of assessments made and plans maintained under paragraphs (a) to (d) in so far as publication is necessary or desirable for the purpose of—

- (i) preventing an emergency,
- (ii) reducing, controlling or mitigating the effects of an emergency, or
- (iii) enabling other action to be taken in connection with an emergency, and
- (g) maintain arrangements to warn the public, and to provide information and advice to the public, if an emergency is likely to occur or has occurred.

38. The CCA 2004 defines "emergency" at section 1, as follows:

1 Meaning of "emergency"

(1) In this Part "emergency" means-

- (a) an event or situation which threatens serious damage to human welfare in a place in the United Kingdom,
  - (b) an event or situation which threatens serious damage to the environment of a place in the United Kingdom, or
  - (c) war, or terrorism, which threatens serious damage to the security of the United Kingdom.
- (2) For the purposes of subsection (1)(a) an event or situation threatens damage to human welfare only if it involves, causes or may cause–
- (a) loss of human life,
  - (b) human illness or injury,
  - (c) homelessness,
  - (d) damage to property,
  - (e) disruption of a supply of money, food, water, energy or fuel,
  - (f) disruption of a system of communication,
  - (g) disruption of facilities for transport, or
  - (h) disruption of services relating to health.
- (3) For the purposes of subsection (1)(b) an event or situation threatens damage to the environment only if it involves, causes or may cause–
- (a) contamination of land, water or air with biological, chemical or radioactive matter, or
  - (b) disruption or destruction of plant life or animal life.

...

39. Schedule 1 to the CCA 2004 identifies the persons and bodies charged with preparing emergency plans, including Camden London Borough Council and the Common Council of the City of London.

#### *The Proposals and the Decision*

40. By the Proposals, the City will effect works the core of which will be the provision of a new dry dam across the Catchpit, the raising of the dams around four of the Ponds by one or more metres, the reinforcement of the dams elsewhere and the excavation of spillways at all but one of the Ponds in the Highgate Chain (the Bird Sanctuary) and most of the Ponds in the Hampstead Chain. In addition, the City predicts that the Proposals will cause the loss of up to 70 trees on the Highgate Chain and up to 82 trees on the Hampstead Chain.
41. The new dry dam in the Catchpit natural valley in the Hampstead Chain will be up to 5.6m high and 40m wide. The dam at the Model Boating Pond in the Highgate Chain will be raised by 2.5m. The excavated spillways will range in size, with some up to 25m wide at their base (and the top of the spillways will inevitably be wider than their bases due to the incline of the side slopes). Borrow pits on the Heath are also proposed, though their locations have yet to be identified.
42. The Proposals have been designed on the basis that the system must be a “passive” one, with no reliance on any mechanical system or human intervention. We understand this is because Dr Hughes considers that the City lack appropriately qualified or experienced staff to manage a system requiring intervention (see Joint Report paragraph 5, fourth bullet, and paragraph 6). The result is a highly engineered set of Proposals.

43. In addition to the hard engineering proposed, certain offsetting measures to improve biodiversity and water quality are proposed.
44. Some of the background to and, as we understand it, all of the reasons for the Decision are set out in the Joint Report. As the Joint Report explains within its opening summary and at paragraphs 1 and 4 of its main body:

#### Summary

...It is important to understand that the Ponds Project is a response to the City's statutory duties under reservoir legislation, and it is specifically concerned with preventing dam breach. The primary concern is that in a flood event, water could overtop the dams causing erosion and ultimately failure. To prevent overtopping a combination of increased dam heights and the introduction of reinforced grass-covered spillways is proposed....the scheme is concerned with dam breach rather than preventing surface water flooding.

...

#### Main report

1....The aims of the Ponds Project as set out in July 2011 are to reduce the risk of pond overtopping, embankment erosion and failure; to comply with the Reservoirs Act 1975 and the Flood and Water Management Act 2010; and to improve water quality...It has in addition always been recognised that the City has statutory obligations under the Hampstead Heath Act 1871 that are relevant to the Ponds Project.

...

4....it is important to note that fundamentally the Ponds Project is concerned with protecting those downstream from the potential for dam breach – it is not a flood alleviation scheme. The City is acting in its capacity as a reservoir undertaker whereas the London Borough of Camden is the Lead Local Flood Authority for the area with statutory responsibilities in relation to surface water flooding.

45. As the summary to the Joint Report also explains:

...At the very start of the design process it was determined that the designs should satisfy the industry standard engineering requirements set out in *Floods and Reservoir Safety*<sup>2</sup> whilst minimising as far as possible any negative impact on the Heath's landscape, amenity and ecology in compliance with the Hampstead Heath Act 1871.

46. The decision that the Proposals should satisfy the engineering requirements set out in the ICE's *Floods and Reservoir Safety* ("the ICE Guidance") means that the City is interpreting its duties under the RA 1975 as requiring it to "virtually eliminate" the probability of dam/embankment failure. As Dr Hughes explained in his Position Paper Regarding Quantitative Risk Assessment for the Hampstead Heath Ponds Project, prepared in/around August 2013 ("the Position Paper"):

Currently in UK the risk presented by dams is assessed in accordance with Flood and Reservoirs Safety; An Engineering Guide, 1996, which acts as supporting guidance to the Reservoirs Act 1975. Dams are categorised into four types (Category A to D), depending on the likelihood of a breach causing damage and/or endangering life, with Category A dams having the highest consequence of failure. The assessment of population at risk, made by the Inspecting Engineer under Section 10 of the 1975 Act, is often based on his/her judgment supported by the guidance and any inundation mapping that may be available. Where lives in a community (generally 'considered to be not less than about 10 persons') are considered to be endangered, Category A dams are required to be able to safely pass the design flood. The design flood for Category A reservoirs is the Probable Maximum Flood (PMF) and the dam is required to pass the routed outflow of the PMF.

<sup>2</sup> *Floods and Reservoir Safety* (3<sup>rd</sup> edition, 1996) Institution of Civil Engineers.

It should be noted that the recently implemented part of the Flood and Water Management Act, 2010 has revised the categorisation of reservoirs to “high risk” and “not high risk”. High risk reservoirs are those which endanger the life of at least one person.

This is a standards based approach; if there are lives which can reasonably be seen to be endangered the dams should be designed or modified to “virtually eliminate” the probability of collapse. To avoid failure, the excess water which the dam cannot retain in a flood must be passed safely by a spillway, or over and around the dam, without causing the dam to collapse. To virtually eliminate probability of collapse, the PMF has been used as the benchmark for Category A dams since if this extreme low probability event can be safely accommodated it is reasonable to state that probability of collapse has been virtually eliminated.

We all live with risk all the time in our normal lives. In some other areas of life a more risk based approach has been adopted, where an explicit balance, or trade-off, is made between the probability of endangering life and the cost which may be incurred to reduce or remove that risk. The concept of a tolerable level of risk implies that such a balance can be arrived at. Currently the Inspecting Engineer is relied upon to use his/her judgment as to the risk but not to make an explicit trade-off.<sup>3</sup>

...

The City of London, as the owner or undertaker for the reservoirs, some of which are currently covered by the 1975 Act, and all of which may be covered by the Flood and Water Management Act 2010, needs to virtually eliminate the probability of collapse. It is noted that eliminating the probability of collapse will not eliminate flooding downstream from overtopping during extreme events, which could in such events lead to loss of life.<sup>4</sup>

47. Contrary to that final sentence quoted from Dr Hughes’ Position Paper, the greater risk presented by the kind of weather event that might conceivably result in dam breach is in fact the risk, which would eventuate long before any dam breach, of flooding from the overwhelming of the sewerage system by surface water. That flooding, which would include but not be limited to surface water from the Catchment flowing off the Heath, would inundate residents downstream of the Ponds long before any dam breach. It is our understanding that the sewerage undertaker, Thames Water, is required to build its system to withstand no more than 1:70 year probability storms.
48. The Joint Report further explains Dr Hughes’ advice and the ICE Guidance at paragraphs 100-107. As the Joint Report acknowledges, the City has estimated the probability of the PMF that the Proposals are designed to counter as 1:400,000 years (see paragraph 105 of the Joint Report).
49. The essence of much of the dispute between the Society and the City, which has been extensively trailed, is summarised at paragraph 98 of the Joint Report.

## **Grounds**

### **1. Flawed interpretation of “in the interests of safety” in section 10 of the Reservoirs Act 1975**

50. The Decision is based on a flawed interpretation of the words “in the interests of safety” in section 10 of the RA 1975. It is the Society’s view that, contrary to the interpretation adopted by the City and its advisers, in particular Dr Hughes, section 10 of the RA 1975:
  - (a) is concerned with reasonable safety, not absolute safety;
  - (b) is to be read as subject to and qualified by the City’s statutory duties to preserve the natural aspect and state of the Heath pursuant to the Hampstead Heath Act 1871;

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<sup>3</sup> Page 1.

<sup>4</sup> Page 4.



- (c) does not exclude consideration of safety measures in place under regimes other than the RA 1975 itself. It also requires consideration of the historical, social, ecological and even economic value of the Heath that will be disturbed or harmed by the Proposals.
51. As with any statutory language, the word “safety” in section 10 is to bear its ordinary meaning unless a contrary intention is apparent on the face of the statute. The ordinary meaning of “safety” is not absolute safety but “reasonable” safety. What is reasonable will depend on the full range of circumstances.
52. It is entirely possible that for a commercial reservoir with limited amenity and ecological benefit an engineered solution that “virtually eliminates” that risk will represent “reasonable safety”, and the untrammelled application of the ICE Guidance will be appropriate. But in the case of a reservoir whose intrinsic value to London residents and to the nation lies in its natural beauty and amenity, that factor must be weighed in the balance when deciding upon what is required in the interests of safety. The Ponds are the paradigm of reservoirs valued for their natural beauty, and in their case the mechanistic application of the ICE Guidance by the City and its supervising engineer Dr Hughes misconstrues the statute by giving safety an absolute and inflexible meaning. The decision-making process should not exclude, when assessing “reasonable safety”, circumstances which fall outside the ambit of Dr Hughes’ professional training, and go beyond the ICE Guidance.
53. Further, the section 10 test and what is required in the “interests of safety” cannot be construed in isolation from the City’s statutory obligation to preserve the natural aspect and state of the Heath, including the Ponds, pursuant to section 16 of the Heath Act. There is no doubt that the Proposals will affect the natural aspect and state of the Heath. The section 16 Heath Act duty is not one to be considered after Dr Hughes and the City have decided upon the steps to be taken “in the interests of safety”, which is the approach the City has taken to date, but at the same time and as part and parcel of the section 10 RA 1975 test. Contrary to the City’s approach, section 16 of the Heath Act positively informs what is required “in the interests of safety” under section 10 RA 1975.
54. One possible example of the effect the section 16 Heath Act duty might have on the City’s decision making under the RA 1975 is that it might have caused to reconsider Dr Hughes’ insistence upon a “passive” system, in so far as a “passive system” results in a greater degree of engineering that disturbs the natural aspect and state of the Heath than a system that relies on some suitably trained human intervention.
55. Further, there is nothing in section 10 of the RA 1975 to suggest that the City must or should ignore other measures that would help to ameliorate any risk from dam failure outside the physical engineering envisaged by the ICE Guidance when considering what is required “in the interests of safety”. The City’s own Strategic Risk Framework contains a risk numbered “SR11” that addresses the risk of flooding from dam breach at the Heath. SR11 lists controls that include a telemetry system enabling early warning, which the notes to SR11 advise has been successfully tested, along with liaison with the local authority (Camden London Borough Council). If plans for other measures, such as early warning and evacuation, are or should be in place under such as the CCA 2004 or otherwise, then they must be taken into account when deciding whether hard physical measures are required, if at all.

## **2. Irrational and unlawful approach to risk**

56. The Decision is based on an irrational approach to risk which approach, amongst other examples of irrationality: assumes that residents downstream of the Ponds would have no warning in the event of dam breach at one or more of the Ponds.<sup>5</sup> This approach unlawfully disregards a number of material considerations, including:

<sup>5</sup> See the Quantitative Risk Assessment “interim report” prepared for the City in 2013, at p.11, para.5.3 and elsewhere.

- (1) the warning mechanisms that are and must be in place, including under the CCA 2004, which mechanisms will provide warning of possible flood and dam breach far in excess of the 40 minute time frame that has led the City to proceed on the basis of “no warning”;<sup>6</sup>
  - (2) that the City’s own assessment is that breach will not occur immediately but will take several hours;<sup>7</sup> and
  - (3) the fact that in the event of rainfall sufficient to cause dam breach, surface water would have already overwhelmed the sewerage system, causing widespread flooding, as would run off from the Catchment as a whole. These events would occur significantly before any dam breach at the Ponds and would pose an equal or greater risk to life. It is inconceivable that this prior flooding would not itself have already prompted warning and evacuation measures, long before any dam breach at the Ponds.
57. As regards (1) above, the City identifies such mechanisms as “controls” against the risk identified as SR11 within its current Strategic Risk Framework, yet ignores them when considering its duties under the RA 1975.
58. As regards (3) above, Dr Hughes has himself at least partially acknowledged the point we make as accurate in his Position Paper (we have quoted the relevant extract above), but despite that acknowledgement this fact has been excluded from his and the City’s approach to the risk of dam breach.
59. Further, and as indicated under Ground 1 above, the City’s approach to risk and its approach to the assessment of risk also has no regard for the intrinsic qualities of the Heath that will be affected and harmed by the Proposals.

### **3. Failure to carry out Strategic Environmental Assessment**

60. Directive 2001/42/EC (“the SEA Directive”) is aimed at providing “a high level of protection of the environment”, contributing to “the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development” by ensuring that “an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment” (Art.1).
61. The UK has transposed the SEA Directive through the Environmental Assessment of Plans and Programmes Regulations 2004 (“the SEA Regulations”). The SEA Regulations apply to plans and programmes that relate to England, either solely or together with any other part of the UK. Generally, though, it is sufficient to look to the words of the Directive alone.
62. By Art.2(a) the SEA Directive provides that “plans and programmes” means plans and programmes which are:
- ... subject to preparation and/or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure...
  - (and)
  - ... which are required by legislative, regulatory or administrative provisions.
63. In the case of the Decision, the City has made clear that it is pursuing the Proposals because it believes they are “required” by the RA 1975.
64. Article 3(1) provides that an environmental assessment be carried out for “plans and programmes referred to in paragraphs 2 to 4 which are likely to have significant environmental effects”. The terms “plan” and “programme” are not defined in the Directive, but will be given a broad and purposive interpretation. As the Advocate General explained in Joined Cases C-105/09 and C-

<sup>6</sup> Ibid.

<sup>7</sup> See the Quantitative Risk Assessment “interim report”, p.23, Table A.2.

110/09, *Terre Wallonne ASBL v. Région Wallonne and Inter-Environnement Wallonie ASBL v. Région Wallonne*, the focus should primarily be on whether the measures in question may have significant environmental effects and a broad approach is necessary in the light of the history and aims of the Directive.<sup>8</sup>

65. So far as relevant, Art.3(2) explains that, subject to Art. 3(3), an environmental assessment “shall” be carried out for all plans and programmes:
- (a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II of (the EIA Directive)...
66. The Proposals are concerned with both water management and town and country planning, at least. They will also have significant environmental effects. Subject to the question of whether the Decision “sets the framework for future development consent of projects listed in...(the EIA Directive)”, the Decision plainly falls within Art.3(2).
67. As to that final question, in *Terre Wallonne* (see above), Advocate General Kokott noted that it was unclear how strongly the requirements of plans and programmes must influence individual projects in order for those requirements to set a framework, and that they may influence the development consent process in many different ways: consequently the concept is very broad and must be construed flexibly. At issue there were programmes for the management of nitrogen in agriculture. The Advocate General emphasised that action programmes on nitrates will be relevant to the provision of storage facilities for manure on intensive livestock installations and the disposal of such manure, which must be considered as part of the development consent process both in terms of the operating conditions of such installations and their location. The action programmes did accordingly set a framework in SEA Directive terms. The Court of Justice endorsed that reasoning.
68. In the case of the Proposals, the fact that the City has termed them collectively “the Ponds Project” cannot disguise the fact that the Decision sets the framework for future development consent for a series of extensive Pond-specific works to the 11 individual Ponds and the Catchpit. Many if not all of those works would of themselves be EIA development. The Decision is a “framework” plan or programme for the purposes of the SEA Directive, and so is subject to it.
69. By Art.5(1), the SEA Directive requires preparation of an environmental report that includes the identification, description and evaluation of the “reasonable alternatives” to what is proposed.
70. In the case of the Decision, no such environmental report has been prepared. This is of particular significance given the reasonable alternatives could, and we consider should, have included the full range of non-physical interventions, such as inspection and if necessary intervention by qualified staff and early warning systems.
71. The City’s failure to comply with the SEA Directive is a further reason the Decision is unlawful.

### **Action the City is asked to take**

72. The City is asked to rescind the Decision, to undertake to construe its obligations under the RA 1975 in accordance with our interpretation set out above and to pay our client’s costs.
73. If the City will not consent then, subject to anything said in the City’s response, we anticipate we will be instructed to pursue a claim for judicial review of the Decision. In that regard, the City is asked to indicate whether it would agree to such a claim being expedited and dealt with by way of a rolled-up hearing, with the question of permission and the substantive hearing dealt with at the same time.

<sup>8</sup> See paras.29-35.

74. We confirm that our client would not seek expedition at the expense of the availability of the City's preferred legal representation, but in the event the City will not concede the claim we would invite the City to provide detail of its legal representation, and any known dates of non-availability (or the person from whom such dates may be obtained) in its response.

#### **Details of the Claimant's legal representatives**

75. This firm is dealing with our client's claim, with the assistance of counsel, Mr Stephen Tromans QC and Mr James Burton of Thirty Nine Essex Street Chambers, London, WC2R 3AT.
76. This firm's address and reference is at the header to this letter.

#### **Interested Parties**

77. We consider that Camden London Borough Council as the local planning authority may be an interested party and are also serving DEFRA and the Environment Agency on the basis that they may possibly be interested parties.

#### **Information sought**

78. We do not believe any further information is necessary at present but in responding to this letter doubtless the City will provide any further material which it regards as relevant and wishes to draw to the Society's attention.

#### **Aarhus and costs**

79. This is an Aarhus Convention claim within CPR r. 45.41(2). Accordingly, it is subject to the costs limits prescribed by CPR r.45.43, set out in the Practice Direction to Part 45 at 5.1 and 5.2.
80. As such, our client's exposure to adverse costs will be capped at £10,000.
81. Please confirm that you agree.

#### **Address for reply and service of court documents**

82. To this firm at the address at the header to this letter.

#### **Time for reply**

83. We request that the City reply substantively within 14 days, so before 4pm on Monday 14.07.2014. We believe that the City has had ample pre-warning of our client's arguments and trust that this time period will not cause the City difficulty. We also believe that it will be in both our clients' interests that the legal disputes between them are brought to a speedy resolution through the Courts, and hope that if the City does decide to resist the claim it will be on the basis of cooperation regarding costs, expedition and a rolled-up hearing as outlined above.

## **Interim relief**

84. It would not be the Society's intention to seek interim relief at this stage. Obviously it is for the City to decide the extent it wishes to submit and pursue a planning application which the Society believes is predicated on a wrong view of the law.

Yours faithfully,

**Scott Fowler, Solicitors**

cc:

Ed Watson  
Assistant Director (Regeneration and Planning)  
Development Management Planning Services  
London Borough of Camden  
Town Hall  
Argyle Street  
London  
WC1H 8ND

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)

Susan Jacobs  
Treasury Solicitor's Department  
One Kemble Street  
London  
WC2B 4TS

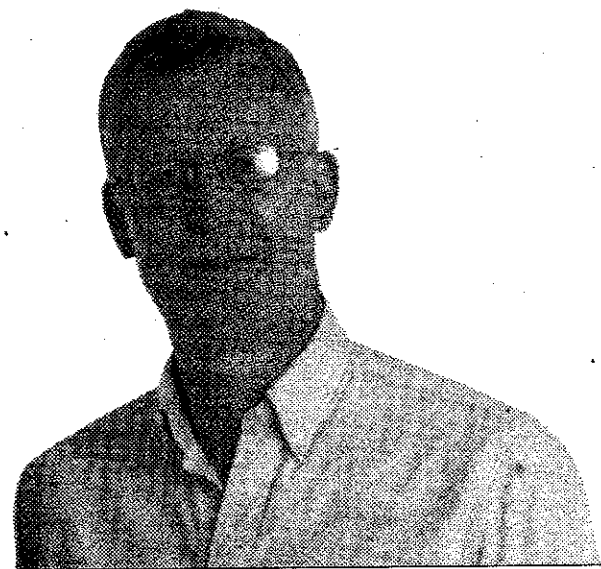
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# It's Heath and Safety gone mad in Hampstead

## Richard Morrison



**D**am nonsense! No, that's not a lamentable misspelling. It's the name of a website ([damnonsense.org.uk](http://damnonsense.org.uk), to be specific) set up to object to a scheme that would radically alter and (in the view of many critics) disfigure the greatest open space in London.

Namely, Hampstead Heath. And yes, the title is literally apt. At the heart of the proposed scheme is a series of hefty new dams, as high as 5.6 metres.

They would enclose the much-loved chain of ponds on the Highgate side of the Heath. These lakes aren't natural; they were created as reservoirs 300 years ago to store the water of the River Fleet for drinking purposes while it was still relatively pure. Yet they have a wonderfully natural look, fringed by trees and grassy banks. Swimming and picnicking there is one of the perennial joys of the London summer, and thousands flock there every warm weekend.

Quite a few hardy souls also swim there in midwinter, though my own masochistic urges don't extend that far. And though the segregation of the sexes may seem quaint in 2014 (there are still separate men's and women's ponds) it is surprisingly popular, especially with the gay community.

The ponds won't disappear if the proposed scheme goes ahead, but the objectors — led by the formidable Heath and Hampstead Society — say that the dams would destroy their

rustic charm, ruin landscapes beloved of painters through the ages and make them "look like municipal waterworks". Apart from the long-term damage, the scale of the building work would blight the ponds for years.

So why is the scheme being proposed? The answer is that the City of London Corporation, the local authority that owns and runs Hampstead Heath, claims that without the new embankments there is a risk of the ancient reservoir walls collapsing in a flood, leading to potentially catastrophic loss of life in Kentish Town and Gospel Oak. What's more, the City maintains that the health and safety requirements of the Reservoirs Act 1975 allow it no legal option except to build new dams.

The objectors say this is, well, dam nonsense. They claim that although there is occasional flooding in those salubrious streets below the Heath, it has nothing to do with the ponds. It is caused, they maintain, by sewers unable to cope with torrential downpours. In their 300-year history, the ponds' dams have never been breached.

They also accuse the City of stoking up irrational public fears by postulating ludicrous worst-case scenarios: a once-in-400,000-years storm probability, for instance, in which every dam round the ponds is breached simultaneously and a biblical flood drowns 1,400 people. Far better, cheaper and less disruptive than this huge project, they argue, would be an upgrade to early-warning and civil emergency procedures.

I hesitate to be too critical of the City. It gamely took on the Heath when the Greater London Council was abolished, even though the verdant vales of Hampstead lie well outside the Square Mile. And it has hitherto been a model custodian. At a time when cash-strapped local authorities across Britain have allowed many parks to become overgrown, the Heath's 900-odd acres have been scrupulously tended. Of course, with most of the capital's lawyers, bankers and media grandees living around its borders, that doesn't come as a total surprise, but at least millions of ordinary Londoners also benefit.

This overblown dam scheme, however, strikes me as being an example of a local authority being led up the garden path — rather literally, in this case — by engineers and planners intent on creating years of lucrative work for their own profession. The 1871 Hampstead Heath Act requires its guardians to maintain its "natural aspect and state". If you feel that the new dams contravene this stipulation — or even if you think they will be a marvellous addition to London's *rus in urbe* — go to the City's website ([cityoflondon.gov.uk/pondsproject](http://cityoflondon.gov.uk/pondsproject)). You have until February 17 to state your view.

## In-street art lo

Since devoted week's column clothing I have added to all unlikely e-r Girls and b PR industry. I gently breathe devastating I'm not very in fashion? may seem but we just live with it.

On the other I was fascinated learn of an by a company Selfridges, I believe run department Festival of which started yesterday, v emporia with and other showcasing social communication and scientific Admirable and learn!

The Man programme particularly because it with the city's W Art Gallery a £15 million transformation a move that true image of the White greatest treasure including a Picasso, Tracey Emin and Epstein gone on display Selfridges Square. Sh

I just hope the Whitworth in the autumn don't find it a reciprocal it is stuffed furnishing and frocks



**From:** Blackwell, Theo (Councillor)  
**Sent:** 12 August 2014 13:56  
**To:**  
**Cc:**

**Subject:** RE: Support for Planning Application No: 2014/4332/P

Many thanks for you email - I too support the strengthening of the dams and will ensure your representations are heard.  
Best wishes,  
Theo

Cllr. Theo Blackwell  
**Cabinet member for Finance and Technology Policy**  
LB Camden, Gospel Oak ward ([Lab](#))  
**Winner - LGIU Digital Innovator of the Year 2014**

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**Daytime telephone** - 020 7974 1969 **Skype** surgeries available, please email to arrange a time

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[www.wearecamden.org](http://www.wearecamden.org)

**voXup** - voXup is a locally developed resource which lets you tell your representatives what matters to you - join here  
[www.voxup.co.uk](http://www.voxup.co.uk)

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**From:** Sarah Allen  
**Sent:** 08 August 2014 09:33  
**To:** Planning

**Subject:** Support for Planning Application No: 2014/4332/P

**For the attention of Jonathan Markwell**

I wish to express my support for this Planning Application No: 2014/4332/P and the Associated Applications, Refs:- 2014/2149/PRE, 2013/7231/P, 2014/0320P.

I applaud the City of London Corporation for having the foresight to strengthen the dams in order to safeguard the well-being of citizens and civic infrastructure.

I have every confidence that the City of London Corporation will implement the works with sensitivity and as little disruption as possible.

I believe it complies with Camden's Core Strategy, Development Policy 23 and will provide increased protection against flooding for much of our community and other downstream communities in certain circumstances

Thank you.

Yours sincerely,

Sarah Allen  
9 Elaine Grove  
London  
NW5 4QG





**From:** Blackwell, Theo (Councillor)  
**Sent:** 12 August 2014 13:57  
**To:**  
**Cc:**

**Subject:** RE: City of London's Planning Application No: 2014/4332/P

Many thanks for you email - I support the strengthening of the dams and will ensure your representations are heard.  
Best wishes,  
Theo

Cllr. Theo Blackwell  
**Cabinet member for Finance and Technology Policy**  
LB Camden, Gospel Oak ward (Lab)  
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**voXup** - voXup is a locally developed resource which lets you tell your representatives what matters to you - join here  
[www.voxup.co.uk](http://www.voxup.co.uk)

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**From:** Ruth Jackson  
**Sent:** 07 August 2014 00:45  
**To:** Planning  
**Cc:** Revah, Lorraine (Councillor); Blackwell, Theo (Councillor); philipdjones@gmail.com; Gimson, Sally (Councillor)  
**Subject:** City of London's Planning Application No: 2014/4332/P

For the attention of Jonathan Markwell

As a resident of Oak Village/Elaine Grove/Julia Street I firmly support the City of London's Planning Application No: 2014/4332/P (and the Associated Applications, Refs:- 2014/2149/PRE, 2013/7231/P, 2014/0320P).

I believe it complies with Camden's Core Strategy, Development Policy 23 and will provide increased protection against flooding for much of our community and other downstream communities in certain circumstances.

I fully support the City of London's proposals to strengthen the dams associated with Hampstead Heath Ponds and since I live downstream of these ponds believe there is a significant risk of flooding as was the case in 1975 when Oak Village was submerged under 5 ft of water and sewage.

Yours faithfully,

Ruth Jackson (45 Oak Village)

**From:** Amanda Lebus [REDACTED]  
**Sent:** 07 August 2014 13:24  
**To:** Planning  
**Subject:** objection to application 2014/4332/P

To whom it may concern: I oppose the planning application 2014/4332/P on the following grounds:

**Financial:** we are in a time of cuts to public services - in this climate particularly the cost of this proposal is unjustified and scandalous.

**Environmental:** The damage to the landscape during the works is not justifiable - recent floods showed that this was unnecessary

**Detrimental to the physical and mental well being of the hundreds or pond users while the pond is closed.** The pond contributes to the health and wellbeing of all its users both physically and mentally. One year without it will impact the health of people in this part of North London.

None of it makes sense. It is not needed. I object to the above application.

Yours,

Amanda Lebus

**From:** ANTHONY KAY - [REDACTED]  
**Sent:** 07 August 2014 14:05  
**To:** Planning  
**Cc:** Markwell, Jonathan  
**Subject:** Dams, planning ref.2014/4332/P

ANTHONY H. KAY LLB.  
SOLICITOR  
Non-practicing

26 Crossfield Road  
Hampstead  
London NW3 4NT  
[REDACTED]

7 August 2014

VIA EMAIL

Jonathan Markwell  
Development Control Team  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 8ND

Dear Sir,

**Hampstead Heath Dams  
Planning ref.2014/4332/P**

Having only returned from abroad last night, I was unable to respond earlier so am now rushing to express my opposition within the deadline to the application from the City of London for vast construction works on the Hampstead Heath Ponds.

Living in walking distance, both my wife and I are frequent walkers on Hampstead Heath, and wish to repeat our opposition, which we already expressed in response to the City of London's own consultation, that it is extremely doubtful that works of this scale are legally required, and modelling on the basis of a 1 in 400,000 year probability is extreme.

The recently lodged detailed Planning Application makes much clearer than before the enormous scale of the proposed construction works with the destruction of 160 trees, and large parts of the Heath being closed for two years with great damage being caused by the heavy engineering plant and the thousands of HGV movements. Accordingly even if there is a real risk of flooding, the many other alternatives to cope with this need to be properly considered before contemplating approving the current application.

Yours faithfully,

A.H.Kay

**From:** janni visman [REDACTED]  
**Sent:** 07 August 2014 16:42  
**To:** Planning  
**Subject:** Objection: Planning Reference 2014/4332/P

This is to object to the proposed building of the dams on Hampstead Heath.

Planning Reference 2014/4332/P

As a Hampstead resident who walks regularly on Hampstead Heath I object on the following grounds:

#### Legality

- Work of this size and scale is not actually legally required (Reservoirs Act 1975)

#### Unrealistic modelling

- The 'giant storm' on which the proposed plans is based on an extreme and hypothetical 1 in 400,000 years worse-case scenario (There has been no uncontrolled escape of water and no deaths in any storms in the Pond's 300 year history)

- Flooding in South End Green, Gospel Oak and Kentish Town has never been caused by the Heath Ponds. It is officially recorded as being due to torrential rainstorms and the failure of the sewers to cope. These works on the ponds will not stop that flooding from happening again.

- c) The models do not take into account weather forecasting, early warning systems, evacuation procedures, or any preventative emergency services or mechanical or electrical equipment

#### The impact on the Heath Landscape

- The huge excavation and the unnatural looking proposed earthworks to create the 5.6 metre dam will ruin the natural appearance of existing landscape of the Heath at the Catchpit and Model Boating Pond (this is in breach of the 1871 Hampstead Heath Act)

- The huge concrete walls at the Men's Bathing Pond and Highgate No.1 Pond will diminish and restrict vistas, creating a sense of claustrophobia in an environment which is supposed to be open heathland.

#### Tree Loss

- In addition to the felling of 160 trees, many large and mature, a significant number of trees will need to be felled to make the giant spillway at Stock Pond. It takes decades, if not half-centuries for trees to get to maturity.

#### Closure and disruption

- The works will mean that for two years very popular parts of the Heath will be closed
- The works will mean that the bathing ponds will have to be closed
- The works will mean heavy engineering plant vehicles and many, many HGV movements bringing unwanted noise to this peaceful part of the Heath (and the neighbouring roads as they gain access and express)
- The consequent disturbance and damage to wildlife and their habitats

Yours sincerely

Janni Visman  
11 New Court  
Lutton Terrace  
London NW3 1HD

**From:** Eileen Willmott [REDACTED]  
**Sent:** 07 August 2014 18:07  
**To:** Planning  
**Cc:** Markwell, Jonathan  
**Subject:** Planning Application 2014/4332/P

64, Woodsome Road,  
London NW5 1RZ.

I am writing as a private individual and not specifically as a member of the DPCAAC.

I have lived in the Dartmouth Park area since 1967 and have witnessed the flooding both in York Rise and Gospel Oak. Obviously I have concerns regarding probable future flooding in our area, especially as raw sewage is involved.

I appreciate what the City of London Corporation is proposing to do to alleviate flooding on the Heath and do not object, in principle, to the works being carried out. Future generations and the Heath will benefit and trees and vegetation would soon re-grow.

However, I do feel that there should be input, not only from the City of London, but also from Thames Water, to prevent any future overflow from inadequate sewers. Both organisations need to formulate a joint plan to prevent any future flooding, both on the Heath and especially the areas to the south of it.

Thank you,

Eileen E.A. Willmott

**From:** helena [REDACTED]  
**Sent:** 07 August 2014 18:30  
**To:** Planning  
**Cc:** helena  
**Subject:** Planning Application number is 2014/4332/P

**The planning application by the City of London Corporation to carry out dam works on Hampstead Heath**

**We are deeply troubled by this proposal to carry out these works on Hampstead Heath:**

- They are unnecessary
- They would have serious impacts on the Heath, which is an incredibly valuable and special place
- There are alternatives to the plan that are far less costly and interventionist, such as enhancing the Heath's capacity to absorb water

**To sum up: this project is unacceptable and should not be allowed to go ahead.**

**A previous consultation showed a majority opposed to the plan**

The City of London carried out a limited consultation exercise (November 2013 – February 2014) which I responded to. Apparently two thirds of respondents were dissatisfied with all of the dam proposals. However, the City of London has apparently failed to take this into account.

**The value of Hampstead Heath**

Just to recap on the value of Hampstead Heath: it balances so many things: thousands use it every day for walking, swimming, resting, being with people, being alone. It manages to satisfy all these deep needs somehow, even though it is so small and greatly used. Its height above London and its springs have made it a destination for people seeking escape from the city for at least 200 years. The ponds are a crucial and beautiful part of it, adding greatly to its diversity in landscape and its biological diversity. Where else could women (speaking from my own experience) swim in a pond among waterlilies, alongside young Canada geese and ducks, with even an occasional kingfisher flashing by?

So for us personally this is a vital space and has been over the years. We know many other people who feel the same way. We love the veteran trees on it and are also grateful for the efforts made to encourage wildflowers that bring butterflies.

And we know that Hampstead Heath balances many things in order to provide all the many things it does.

**This project risks seriously unbalancing these various elements and undermining Hampstead Heath as a whole**

The Corporation of London seems prepared to compromise it with a project that apparently addresses a risk model of a 1 in 400,000 year maximum flood risk at the cost of £17 million. This project would inevitably disrupt enjoyment of the Heath for thousands for a minimum of 2 years and We suspect that it might last much longer than that, because such projects often overrun and cost much more than planned.

It also has the potential to permanently disfigure the ponds and neighbouring parts of the Heath.

We would remind Camden Council that the Corporation of London is meant to be the custodian of Hampstead Heath, while the City of London is required under the Hampstead Heath Act of 1871 to preserve it in its "natural state and aspect". Hampstead Heath is an extraordinarily valuable space that had to be defended over the years and was finally won as an open space for the people:

'The main part of the Heath was acquired for the people by the Metropolitan Board of Works. Parliament Hill was purchased for the public for £300,000 and added to the park in 1888. Golders Hill was added in 1898 and Kenwood House and grounds were added in 1928'

[http://en.wikipedia.org/wiki/Hampstead\\_Heath](http://en.wikipedia.org/wiki/Hampstead_Heath)

also see <http://www.british-history.ac.uk/report.aspx?compid=22644>

**The ponds have been fought over before as well:**

'In 2004 the City of London Corporation, which manages the Heath, tried to close the ponds on the grounds that they were an unsustainable expense and posed a health risk to swimmers. The swimmers challenged this and won in the High Court'

[http://en.wikipedia.org/wiki/Hampstead\\_Heath](http://en.wikipedia.org/wiki/Hampstead_Heath)

Helena Paul

Brendan Davis



**From:** Renate Faber [REDACTED]  
**Sent:** 07 August 2014 19:57  
**To:** Planning  
**Subject:** objection to the Dam proposals on Hampstead Heath

Dear Camden Planning,

I am writing to object, in the strongest possible terms, to the Dam proposals on Hampstead Heath. Their impact on the Heath will be damaging and destructive - in both the

short and the long term. Importantly, I consider the proposals do not take into consideration the reality that the assumed floods are *highly* unlikely to happen. I believe the

proposed scheme is a *seriously bad idea* for all of the reasons below:

1. The plans have been modelled on hyperthetical flooding - highly unlikely to occur - *even with changing weather patterns*. The scale of the proposals are therefore:

- both disproportionate and environmentally damaging in relation to the problem
- *extremely poor use of public funds* for which Camden is accountable - a massive £17 million which could be far better spent, and used for environmental conservation not destruction
- lacking any serious consideration of alternatives that are less costly, in true proportion to needs, and less environmentally damaging

2. The impact on the whole Heath environment and its wild-life will be seriously damaging:

It will take many many years to 'recover' from the works - and I do not believe it will fully, because so much of the Heath's valuable *natural* resources will be lost, such as around 150 mature trees - an irreversible and totally indefensible loss - and replaced with artificial constructions.

3. The impact of the works, on all users of the Heath and on those living / working nearby, will be seriously compromising and detrimental.

There will be massively reduced access for all Heath users for two years, with noise pollution, diesel pollution, disruption and noisy, unsightly destruction.

The Heath is an extremely important 'fresh air space' - not only for north Londoners to use and enjoy, but for many, many more people who find its natural setting

invaluable - this means that health and well-being will be adversely effected during works.

And this is not to mention the impact on local traffic of a huge number of trucks and plant exiting and arriving at the Heath daily.

4. The wider impact on health and well being includes the many pond swimmers who will not be able to access the ponds - notably the Ladies pond for at least nine months - and when they can, it will be very limited, increasing health and safety risks.

5. And the effect on *morale* must not be left unconsidered - the Heath is a *lifeline* for many, many people who depend on its uplifting environment to keep them feeling well on all levels, in a city and in a world where too much is being ravaged and destroyed.

In the light of the *unlikelihood* of a major flooding ever happening, I do wonder for whom and for what the massive and detrimental scale of these works is proposed.

For all the reasons above, I object to the proposal in the strongest possible terms.

**I ask you not to destroy or seriously damage this wonderful natural space, and to reconsider the proposal on all levels.**

Yours sincerely

Renate Faber

**From:** pauline ferry [REDACTED]  
**Sent:** 07 August 2014 21:26  
**To:** Planning  
**Subject:** 2014/4332/P

We who love the Heath and the unique bathing ponds urge you to refuse planning permission to construct dams which would only be necessary in extremely unlikely circumstances.

The large machinery involved would cause terrible damage to the natural environment, and noise and disruption for a long time, wrecking the tranquillity so treasured by many.

We cannot really believe that the City of London Corporation is intending to spend so much money on a scheme which is totally over the top.

Yours in hope Pauline Wong

**From:** Julia giese [REDACTED]  
**Sent:** 07 August 2014 22:05  
**To:** Planning  
**Subject:** Hampstead Heath Dams and Ponds Project Ref 2014/4332/P

I object to this application because the expected benefit from the project is not commensurate with the costs, both in terms of money and in terms of the environmental impact. Moreover, there is no statutory obligation to carry out the works. In my understanding, there has not been severe flooding caused by the ponds in their history and no evidence that the dams are deficient. Yet the proposed works cannot guarantee that potential future flooding would be averted and are modelled on an unlikely 1 in 400,000 years event. Against this uncertain benefit, the costs are immense: both for taxpayers and the environment. Regarding the latter, more than 160 trees will be felled, ponds remodelled and extensive earthworks carried out. I object to the significant disruption caused during the construction for people enjoying the Heath and its ponds as well as the sanitised look that much of the Heath will have once construction is completed. The construction, in particular the proposed dams and cement walls, appears to destroy the natural look of affected parts of the Heath, being out of line with the rest of the heath, considerably reducing enjoyment of those parts. In addition, the effects on wildlife during and after construction are unacceptable with trees felled and ponds drained. Claims to the contrary, ie that the works will help biodiversity are unconvincing in the face of the disruption generated.

I would be grateful if you considered my objections.

Yours sincerely,

Julia Giese

Fellows Road

**From:** Catherine Shelley [REDACTED]  
**Sent:** 08 August 2014 08:12  
**To:** Planning  
**Subject:** Application Number 2014/4332/P - Hampstead Heath

I would like to lodge an objection to the above planning application.  
Catherine Shelley

**From:** Sarah Allen [REDACTED]  
**Sent:** 08 August 2014 09:33  
**To:** Planning  
**Cc:** [REDACTED]

**Subject:** Support for Planning Application No: 2014/4332/P

**For the attention of Jonathan Markwell**

I wish to express my support for this Planning Application No: 2014/4332/P and the Associated Applications, Refs:- 2014/2149/PRE, 2013/7231/P, 2014/0320P.

I applaud the City of London Corporation for having the foresight to strengthen the dams in order to safeguard the well-being of citizens and civic infrastructure.

I have every confidence that the City of London Corporation will implement the works with sensitivity and as little disruption as possible.

I believe it complies with Camden's Core Strategy, Development Policy 23 and will provide increased protection against flooding for much of our community and other downstream communities in certain circumstances

Thank you.

Yours sincerely,

Sarah Allen  
9 Elaine Grove  
London  
NW5 4QG

[REDACTED]

**From:** Annie Southerst [REDACTED]  
**Sent:** 08 August 2014 11:44  
**To:** [REDACTED]  
**Subject:** Objection to planned dams at Hampstead Heath Ref  
2014/4332/P

Dear Camden Planning

I would like to register my objection to the proposed Hampstead Heath dams and ponds project ref 2014/4332/P

My main objection is environmental and the damage it will do this fabulous and special bit of London, in the light of spurious arguments that there is a likely flood. This seems to be entirely fanciful and not backed up with convincing research.

I also wonder if this is to create valuable building contracts unnecessarily.

Don't do it!

Please!!

Annie Southerst (regular Womens pond user)

**From:** simon marcus [REDACTED]  
**Sent:** 08 August 2014 14:14  
**To:** [REDACTED]  
**Cc:** [REDACTED]

**Subject:** Objection to Application 2014/4332/P Construction of Dams by Highgate ponds

Dear Committee,

I am writing to object to the above application.

I also write as a local councillor and resident who has used the Heath and Parliament Hill all my life.

Hampstead Heath is world famous, freely available to all Londoners and visitors. It is used daily by a diverse community of people of all backgrounds; walkers, runners, swimmers, the elderly and families with children. It provides many benefits to physical and mental health and wider economic benefit. The proposed works would take at least 2 years and cause massive disruption to the Heath, with large areas inaccessible during works, followed by permanent disfigurement. Wildlife will be disrupted and a sensitive natural environment damaged by traffic and heavy machinery.

I regard the plans to build dams by the ponds on Hampstead Heath to be deeply flawed and based on unsound evidence. The idea that a 'biblical' level flood from a downpour could kill up to 300 people in Gospel Oak lacks credibility. The figure of a 1 in 400,000 chance of this event happening has been mentioned. As a result many realise this application is totally unnecessary.

**I object to this plan for the following reasons:**

#### **Legality**

The Reservoirs Act 1975 does legally not legally require works to be carried out on this huge scale. The question of 'risk' is misinterpreted. There is no requirement to eliminate risk 100% and there appears to be no precedent for this

However the City of London is required under the Hampstead Heath Act of 1871 to preserve it in its "natural state and aspect" and the proposed works will breach this legislation in the opinion of some local experts.

#### **Scale of works and Disfigurement of Heath landscape**



The works would disfigure the Heath permanently and may be a breach of the City's duties to preserve the Heath.

The new and unnatural earthworks and excavations at Catchpit Valley will measure 5.6m high, up to 40m deep at base and 100m long. The dam by the Model Boating Pond is proposed to be 2.5m high, the Highgate No.1 Pond will see a 1.25m dam and the Mixed Bathing Pond 1m dam. These and the concrete walls at the Men's Bathing Pond and Highgate No.1 Pond would all damage the quality of life that the Heath offers and represent massive loss of amenity.

Over 160 trees are to be felled especially at the Stock Pond to create a giant spillway, many of which are irreplaceable. Works would cost £17million, which is money which could be better spent elsewhere.

### **Unrealistic modelling**

Some of the models for a giant storm assumed, it is believed, a 1 in 400,000 year probability as stated above. In such an event parts of London would be underwater. Why is the Thames Embankment not increased by 5 metres?

The modelling also assumes no warning and no emergency services or procedures that Camden Council or Thames Water is required to have in place. It also assumes the 300 people who might die in floods remain in their homes and take no action to leave. In the public meeting it was even indicated that the City of London Corporation must consider the possibility that residents in Gospel Oak would inexplicably remain in their cellars during a flood.

There is no research into other infrastructure which would fail earlier than the current pond dams, and lead to flooding and deaths e.g. drains and sewers south of the Heath. In over 300 years' existence the Highgate Ponds have not collapsed or caused any major flooding. We have just had wettest winter on record with no ill-effects to the ponds. Such modelling may therefore be based on levels of conjecture that arguably render the evidence unusable.

Such an approach and level of risk aversion, the reduction of risk to zero/nil is illogical approach and not a requirement of the 1975 Reservoirs Act. Further, reasonable alternatives have not been considered.

### **Closure and disruption**

The works will take 2 years at least and require the closure of popular parts of the Heath and ponds. There will be countless heavy engineering vehicles and thousands of HGV movements, huge loss of amenity to heath users and damage to wildlife. I ask Camden Officers and fellow Councillors to turn this application down.

Yours sincerely,

Simon Marcus

**From:** Mike Conneely [REDACTED]  
**Sent:** 08 August 2014 15:08  
**To:** Planning  
**Subject:** Hampstead Heath Dams and Ponds Project Ref 2014/4332/P

Dear Sir

Dear Sir/Madam

I am writing to ask you to reject the City of London's planning application which will have a devastating visual impact on the Hampstead Heath.

The huge dams that are to be created will fundamentally change the character of the area. The dam at the Catchpit will particularly change one of the quietest areas of the Heath, a well-wooded area well suited to songbirds, into a thoroughfare with a major new path and a new cycleway across the top of the dam that will completely change the atmosphere of the area in the long term. There will also result in major tree loss. Whole new cycleways will be needed to link this new cycleway promised for the Catchpit dam with other cycleways on the Heath.

The design of the dams is deeply unsympathetic to the Heath as we know it. Sightlines will be changed; the long views down the chain of ponds on the Highgate side will be lost. The 'soft' slipways that are supposed to allow excess water to bypass the dams are very large and out of proportion with other features on the Heath particularly the natural ones.

The sheer scale of the dams, the largest over 5m high, and another at the Mens Pond at 2m high are by far the highest manmade structures on the Heath. These would be overbearing, way out of scale with an environment that has been consciously designed to mimic nature in a manmade setting in its management. Some visitors to the Heath even believe it is 'natural' when they first come upon the Heath; this charming illusion will be lost.

The Heath has long been at the heart of conservation in North London. Known worldwide it's status as a Conservation Area under many different Acts should protect it from the despoliation proposed by the City Corporation..

Sincerely

Mike Conneely

**From:** Helen Marcus [REDACTED]  
**Sent:** 11 August 2014 11:20  
**To:** Planning  
**Subject:** Objection: Planning Application 2014/4332/P -Case Officer Jonathan Markwell

To whom it may concern

### **Objection**

#### **Planning Application 2014/4332/P Hampstead and Highgate chains of ponds Hampstead Heath London**

Applicant City of London Corporation; Agent Atkins  
Camden Case Officer Jonathan Markwell East Area Team Division

I write to object in the strongest possible terms to the above application to build dams and other structures on Hampstead Heath.

It would be in direct contravention of the 1871 Hampstead Heath Act and there is nothing in the Reservoirs Act 1975 that requires it.

#### **The first great conservation battle of modern times**

The Hampstead Heath Act of 1871 was the culmination of a 40 year campaign waged by generation after generation of Hampstead residents to save Hampstead Heath, and to preserve it from development in perpetuity. This campaign is considered to have been the first great conservation battle of modern times. Out of it came The Commons Preservation Society, set up by the Hampstead campaigners in 1865, Britain's oldest national conservation body (now the Open Spaces Society). Octavia Hill and Sir Robert Hunter, who went on to found the National Trust were also involved. The campaign continued after 1871, adding yet more land to the original Heath.

Hampstead Heath is unique for its provision of a piece of countryside in the heart of a major city. It is unrivalled as a space where people can enjoy natural countryside within a high density urban area, and is a social asset of inestimable value. Its beauty and character are exemplified by the ponds and their surroundings. It is a national and international, asset which must be preserved unharmed.

#### **This application should be refused for the following reasons:**

##### **1. The way in which the City's advisors are interpreting the Reservoirs Act 1975 is misguided.**

The Act requires only *reasonable public safety*. It does not specify the statistical or any other basis on which such safety work should be calculated. It is therefore wrong to claim that it requires works on this huge scale to be carried out.

##### **2. The proposed plans are entirely inventions of computer modelling ignoring any evidence that contradicts the desired outcome. They are completely unrealistic, based on a supposed total and instantaneous dam collapse with flooding on an apocalyptic scale causing loss of life. This is out of all proportion to any possible threat.**

The 300 year old dams on the Heath ponds have never collapsed; no-one has ever been killed by water overflowing from the ponds in any of the torrential rainstorms, and certainly not in the 1975 storm, which is constantly quoted.

Camden and GLC reports of flooding events over many years (all in Camden's archives), make it quite clear that the flooding in the surrounding streets has been due to the failure of the sewers to cope with these torrential rain storms. The reports never mention Hampstead Heath, its ponds or their dams as being in any way involved. Nor do they mention any fatalities as they would have been statutorily obliged to do.

**3. These structures will do nothing to prevent flooding** The consulting engineers themselves have stated that these elaborate, expensive and unnecessary proposals are not a flood alleviation scheme. They are confined solely to preventing a hypothetical dam collapse, and will do nothing to prevent flooding due to other causes which may occur before any dam collapse.

The City itself admits: "..... storms will still cause floods in the area downstream after the work is complete" ... "these works will not prohibit associated flooding from occurring." (City Hampstead Heath Management Committee Reports)

#### **4. Conflicting advice about Industry standard best practice**

The professional guidance behind these extreme calculations is still being questioned within the profession.

No ordinary civil engineering project is predicated on such a remote probability of 1 in 400,000 as being used here. In such an event it is probable that the whole of London would in any case be flooded. The Thames Barrier for instance is said to be designed to cope with a 1 in 1,000 contingency; the Camden Flood Risk Management Strategy noted that even a 1 in 10,000 contingency was 'highly unlikely'; nuclear power stations use a 1 in 10,000 year contingency.

#### **5. Fundamental assumptions of the models questioned**

Peer review reports on these proposals commissioned by the City itself, questioned several of the most fundamental assumptions.

For example the Review by AECOM Technology Corporation, November 2010, stated:

- "The dams withstood overtopping during the 1975 flood event. .... the [Pond] embankments may be more resistant to overtopping than research figures suggest".
- "The uncertainty of the velocity and timing of the breach flood peaks is compounded by the software used for modelling".

##### **In particular:**

- "No specific concerns about the condition of the dams are noted in the inspection reports that might explain such an increase [in the Annual Probability of Dam Failure]".

#### **6. Conflicting risk assessment advice**

The risk to the public has been deliberately talked up by those proposing these plans in order to justify them, even to the point of making unsubstantiated and misleading statements.

The City's Audit & Risk Management Committee (Strategic Risk Report 11, Hampstead Heath Hydrology) admitted:

"The likelihood assessment has been reduced from Likely to Possible following a reassessment by officers. This reassessment reflects that in some scenarios, the dams will have the capacity to receive waters without breach and flooding downstream."

There is wide variation in the figures between different reports:

*Probable Maximum Flood (PMF)*: Risk factors quoted in reports vary from a 1:400,000 yr storm failure being put forward, down to a 1:23 year probability and even a 1 in 5 year storm magnitude.

A study of the 1975 flood has indicated that it had a return period in the order of 16,000 (CARES flood risk study on Hampstead Ponds) (see note 1)

*Standard reservoir overflow requirements* vary from 1:100 year to 1:10,000.

*Evidence of flooding run-off* used by the City in successive hydrology reports, conflict with each other as to the statistical probability of dam failures and consequent flooding.

#### **7. Irreparable damage to the character and appearance of the Heath**

The plans for these building works, which the 1871 Hampstead Heath Act prohibits, would irreparably damage the character and appearance of the Heath, with huge earthworks and excavations, including the creation of a giant spillway, concrete walls and the destruction of over 160 trees many of which are protected by tree preservation orders.

The City itself admits that: "The works will result in long term changes to the appearance of the embankments" (Report – Hampstead Heath, Highgate Wood and Queen's Park Management Committee Flood Management and Water Quality at Hampstead Heath – Evaluation Report 14 July 2011)

They would affect views into and across the Heath, which are one of its notable qualities. They would result in the ponds appearing as man-made reservoirs, rather than natural features. The landscaping measures proposed by the City would be no substitute for the natural environment of the ponds as it exists at the moment.

The applicant's "before" and "after" photographs provided in connection with the planning application are misleading and do not give a true impression of the changes these proposals will make to the landscape.

#### **8. Planning policies, guidance and other material considerations**

Officers and Councillors will be well aware of national and local planning policy, (the National Planning Policy Framework, The London Plan (2013), the Camden Local Development Framework) that will be breached by these proposals. I do not enumerate them here since they are a matter of record, and will be readily available to the planning authority.

#### **9. Flawed legislation - lack of separation of interest**

Camden Councillors should be aware of the following facts about the process which raises questions about its integrity.

The government's appointed Panel of Dam Engineers, who have statutory powers to inspect dams and make recommendations, mostly work for the firms who will do the work they recommend.

The panel engineer advising the City on Hampstead Heath Ponds is Director of Dams and Reservoirs at Atkins who have designed the new dams proposed for the Heath Ponds. The same engineer has also been an Advisor to DEFRA.

The British Dam Society to which most dam engineers belong has been closely involved in preparing reservoir legislation and the national guidance (which is used to justify these proposals) and has actively lobbied government for it. (see note 2)

It is a matter of record – in City reports and in the local press - that the Panel Engineer has informed the City that if they do not proceed with the works in question there are powers under the legislation to force the works through whether the City or the public like it or not. Such an all-embracing power would appear to subvert due democratic process.

Camden should refuse this application.

Helen Marcus

121 Anson Road  
London NW2 4 AH

( My apologies for not being able to send this in by August 7  
I hope it can still be included)

## NOTES

### 1) Uncertainties associated with flood estimation

CARES flood risk study on Hampstead No 1 Pond, Highgate No 1 Pond and Swan Pond (15th January 2008).

#### 1.4. Drawbacks and assumptions in model

A study of the 1975 flood has indicated that it had a return period in the order of 16,000 years. It is interesting to compare this with the current Revitalised Flood Estimation Handbook (RE/FEH), which gives a return period of only 1,857 years. This perhaps illustrates the uncertainties associated with flood estimation.

### 2)

#### i. British Dam Society lobbying

Ian Hope, Chair of the British Dam Society (BDS) wrote to Members of the BDS in AUGUST 2013: I have been working with the ICE to bring pressure to bear on Defra and the government for England to introduce the complete planned changes to the [2010] Act.”

The accompanying BDS press release reveals that public safety is not the sole concern: “The delay is also creating uncertainty within the industry and the ability for both reservoir engineers and owners to make clear cut business decisions”.

#### ii. Question raised in the press

Sir Simon Jenkins, Evening Standard March 2014

The 2010 act, produced with heavy lobbying by the dam industry, looks suspiciously like legislation to make work for a profession long adept at winding public bodies round its little finger. Atkins may have seen the well-heeled City of London as a soft touch. It was right.

Richard Morrison, The Times January 2014,

“This overblown dam scheme, however, strikes me as being an example of a local authority being led up the garden path — rather literally, in this case — by engineers and planners intent on creating years of lucrative work for their own profession.”

**From:** Rachel Cooke <[REDACTED]>  
**Sent:** 11 August 2014 15:16  
**To:** Planning  
**Subject:** Objection to Dam proposals on Hampstead Heath

Dear Camden Planning

I am writing to strongly object to the Dam proposals on Hampstead Heath. The reasons I am objecting are as follows:

1. The plans have been modelled around a hypothetical flooding scenario that is highly unlikely to occur even with changing weather patterns and increased rain-fall. The scale of the proposals are
  - disproportionate in relation to the problem
  - extremely poor use of public funds for which Camden is accountable - huge waste of £17 million which can be far better spent on proportionate water management plans and used for environmental conservation not destruction
  - have not taken into serious consideration alternatives that are less costly, proportionate, less environmentally damaging
2. The impact on the environment and wild-life will be seriously damaging. It will take many many years to recover from the works, 160 mature trees will be felled which in itself is irreversible and indefensible
3. The impact on all users of the Heath will be damaging. Massively reduced access for all for 2 years, noise pollution, diesel pollution. The Heath is an important lung for North Londoners and many more - their health and well-being will be adversely effected.
4. Impact on health and well being of uses includes pond swimmers who will not be able to access the pond - notably the Ladies pond for 9 months - and when they can the access there will be very limited increasing health and safety risks.

Please

- Listen to your constituents
- Think through the Green agenda with care. It is not a something to pay lip service too - it is a vital part of everyone's well-being not only in North London but far beyond
- Please reflect carefully on all the objections that you receive.

**Please do not NEEDLESSLY destroy this wonderful space.**

Thank you

Rachel Cooke

**From:** Helen Parker <[REDACTED]>  
**Sent:** 11 August 2014 16:25  
**To:** Planning  
**Subject:** Hampstead Heath Dams and Ponds Project Ref 2014/4332/P

Hello

Please take this email as confirmation that I am objecting to the planned works on Hampstead Heath Dams & Ponds project.

Thanks

Helen  
Helen Parker  
Another Production  
1st Floor  
11 Poland Street  
London W1F 8QA  
[REDACTED]

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**From:** Markwell, Jonathan  
**Sent:** 12 August 2014 09:49  
**To:** Planning  
**Subject:** FW: Proposed engineering works to the Hampstead and Highgate chains of ponds  
**Attachments:** [PANO\\_20140730\\_103001-EFFECTS.jpg](#)

Please log the attached & email below dated 30/07/2014 as an objection to 2014/4332/P from David Kelly of Royal National Institute of Blind People, 105 Judd Street, London, WC1H 9NE

Thanks,

Jonathan Markwell  
Principal Planning Officer

Telephone: 0207 974 2453

---

**From:** Revah, Lorraine (Councillor)  
**Sent:** 31 July 2014 20:52  
**To:** Bowles, Lisa-Marie  
**Subject:** FW: Proposed engineering works to the Hampstead and Highgate chains of ponds

Can you add this to the ME please and the objectiin, as this is something I myself have not taken into account

Thanks  
Lorraine


Jonathan Markwell  
Principal Planning Officer  
Regeneration and Planning  
Culture and Environment  
London Borough of Camden

Telephone: 0207 974 2453  
Fax: 0207 974 1680  
Web: [camden.gov.uk](http://camden.gov.uk)

6th Floor  
Town Hall Extension (Development Management)  
Argyle Street  
London WC1H 8ND

Please consider the environment before printing this email.

-----Original Message-----

**From:** David Kelly 

Received: Thursday, 31 Jul 2014, 13:43

To: [REDACTED]

Subject: Re: Proposed engineering works to the Hampstead and Highgate chains of ponds  
Thank you Lorraine,

It makes me feel very sad at what we might lose.

The ponds are one of the few places in London you see orthodox jews and muslims, in the single sex bathing ponds ... it is a place that reminds us of our humanity.

I really appreciate your support

Here's a view you (probably) won't see ... from the Men's changing rooms.

Best start to the day!

Best wishes

David

On 30 July 2014 18:52, Revah, Lorraine (Councillor) [REDACTED]

wrote:

Dear David

I will pass on your objections to the relevant officers

I live relatively close to the park myself, and I can only agree with you as to what a precious place we have

Its a unique area, with different ponds, allowing local or non local to swim or fish

It is a natural beauty spot, which I love visiting myself

I dont sit on the planning committee, but by passing on your concerns and objections, this is the first way forward

If you know anybody else feeling as you do, please get them to contact me and I will do my best to help

Regards

Lorraine

Jonathan Markwell  
Principal Planning Officer  
Regeneration and Planning  
Culture and Environment  
London Borough of Camden

Telephone: 0207 974 2453

Fax: 0207 974 1680

Web: [camden.gov.uk](http://camden.gov.uk)

6th Floor  
Town Hall Extension (Development Management)  
Argyle Street  
London WC1H 8ND

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phone using TouchDown ([www.nitrodesk.com](http://www.nitrodesk.com))

-----Original Message-----

**From:** David Kelly [REDACTED]

**Received:** Wednesday, 30 Jul 2014, 13:33

**Subject:** Proposed engineering works to the Hampstead and Highgate chains of ponds

- **Application Number** 2014/4332/P
  - **Site Address** Hampstead and Highgate chains of ponds Hampstead Heath London
  - **Application Type** Full Planning Permission
  - **Development Type** Obs to adjoining, GPDOs.
  - **Proposal** Proposed engineering works to the Hampstead and Highgate chains of ponds comprising dam raising at Model Boating Pond (2.5m) and Mixed Bathing Pond (1m), new walls along dam crest to increase the height of the dams at Men's Bathing Pond (1m) and Highgate No.1 Pond (1.25m), a 0.19m kerb along part of the crest at Hampstead No.2 Pond, a new flood storage dam (5.6m) in the catchpit area, grass-lined spillways at most ponds, dam crest restoration, pond enlargement at Model Boating Pond, a replacement changing room building at Ladies Bathing Pond and associated landscaping, habitat creation and de-silting. This application is accompanied by an Environmental Statement.
- Dear Councillor

I am very opposed to this application.

I cycle to the heath every morning and swim in the Men's Ponds before work.

I love the heath for its naturalness, this scheme is excessive beyond any reasonable measure of maintaining the heath for the people of London.

Like many other swimmers, I gain considerable health benefits from the exercise of both getting to the heath and swimming, but more importantly I gain a measure of nature in a big city.

I work for a large charity in Camden and there are other parks but there is nothing to compare to the heath.

It doesn't need to be corporatised into a park.

Moreover, I challenge the application's Legality.

The Reservoirs Act 1975 does legally not require works to be carried out on this excessive scale.

The process of involvement by the engineers and consultants seems to me to contravene European Law on both State Aid and Competition. I shall raise the matter with the Commission if this application should be granted.

After all the rain of the last year, this unrealistic modelling is not just patently wrong, it is utterly ridiculous.

There is a grave risk of huge disfigurement of Heath landscape, these vast earthworks and excavations at Catchpit and Model Boating Pond.

I am appalled at the prospect of concrete walls at Men's Bathing Pond and Highgate No.1 Pond.

The Heath is a sacred place and this is a sacrilege.

To lose over 160 trees is an act of vandalism.

The proposed giant spillway is a slash across the face of north London.

I can guarantee that the Closure and disruption with heavy engineering plant and thousands of HGV movements will cause huge protest if it is implemented.

The way in which this application has been pushed through will only exacerbate the resentment felt by all the users of the Heath.

The inevitable protests will require a huge amount of security and policing and the costs will soar. This dispute will rage throughout this, until commonsense prevails and some enhanced maintenance and increased vigilance resolves a problem that doesn't exist outside the dubious suggestions of construction companies wanting a fat contract.

This year I watched the swans and they make a beautiful sight, but there are no cygnets. The heath in its vastness is still a small fragile eco system we mess with it at our peril.

This is a dreadful application for the worst of reasons ... It is an abomination and I don't just object to it, I could curse it.

I urge you to oppose it

Best wishes

David

David Kelly



(Judd St. Mon - Thu)

Royal National Institute of Blind People

105 Judd Street

London

WC1H 9NE

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**From:** Ros Lam [REDACTED]  
**Sent:** 12 August 2014 21:20  
**To:** Planning [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** objection to planning permission regarding Hampstead Ponds

As a visitor and former resident of Hampstead, I am horrified to learn of this proposal and wish to object strongly.

1. it does not seem to be justified, in terms of the major works involved in relation to the risk of flooding.
2. The Heath is a historic landscape of which the ponds are an essential part, and a current oasis for the ever growing conurbation. The works proposed would irrevocably alter the natural, rural character of the Heath.

Yours faithfully  
Ros Lam  
1 Copse Edge Avenue  
Epsom KT17 4HT

**From:** sheila banks [REDACTED]  
**Sent:** 15 August 2014 14:49  
**To:** Planning  
**Subject:** objection to major construction hampstead ponds

Sheila Banks  
56 Parliament Hill NW3 2TL

I object on grounds of  
destruction to parts of the Heath  
the disturbance caused by such unnecessary and major  
construction plan  
devastation of this unique environment - historically  
valuable -

Sheila Banks

**From:** [REDACTED]  
**Sent:** 18 August 2014 23:26  
**To:** Planning  
**Subject:** Objection to planning Application 2014/43322/P

Dear Sirs

I am objecting to planning application 2014/43322/P - proposed building of large Dams on Hampstead Heath ponds. My reason to object Are these: The works proposed will devastate this unique Heath ponds environment, there will be loss of Trees, the banks of the ponds will be forever destroyed together with a loss of habitat for many species of migrating birds. The unique wild natural and picturesque appearance of the ponds are also very enjoyable to look at and provide a view for Heath users, including children who have a glimpse of a rare sight of natural pond's environment. These unnecessary works threaten this aesthetic and educational aspect of the existence of the Heath ponds.

It has been rightfully proposed that softer measures such as minor improvements to existing dams would solve any potential future floods on Hampstead Heath ponds.

Please consider these points of my objection,

Yours faithfully

Lenka Alexander  
Swimmer in Ladies pond



**Camden Council Customer feedback and enquiries**  
**Comments on a current Planning Application - Ref. 9585760**

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**Planning Application Details**

Year	2014
Number	4332
Letter	P
Planning application address	hampsted heath bathing ponds

Title	Ms.
Your First Name	Fiona
Initial	
Last Name	Hartnoll
Organisation	
Comment Type	Object

Postcode	
Address line 1	46 offord road
Address line 2	London
Address line 3	
Postcode	N1 1EB
E-mail	
Confirm e-mail	
Contact number	

Your comments on the planning application	<p>I would like to object to this planning application. The ladies pond is an unique and treasured site which should be protected by a preservation order and is part of our heritage. There are other ways to improve the heaths capacity to absorb water.</p>
---	---

**If you wish to upload a file containing your comments then use the link below**

No files attached

Camden Council Customer feedback and enquiries  
Comments on a current Planning Application - Ref. 9585760

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About this form

Issued by

Camden Council  
Customer feedback and enquiries  
Camden Town Hall  
Judd Street  
London WC1H 9JE

Form reference

9585760

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**Timing out**

Title	Mr.
Forename 1	Robert
Forename 2	Edward
Forename 3	Robert
Surname	Rutkowski
Any other name you may be known by	Robert Rutkowski

Address	2527 Faxon Court
Town	Topeka
County	USA
Postcode	66605-2086

Email address

Phone number

Directorate complaint

Your complaint is

Camden Council should reject the planning application from the City of London which seeks permission to build and enlarge dams on Hampstead Heath.

The City of London's proposed dam works on Hampstead Heath will:

Permanently disfigure the Heath

Not eliminate the risk of downstream flooding or loss of life which the City of London claims these proposals will address

The proposed works specify massive dams, spillways, concrete walls and embankments. They include:

Construction of a huge 40m wide by 5.6m high embankment

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in the Catchpit Valley;

Construction of a massive 2.5 m dam at end of the Model Boating Pond;

Felling at least 160 trees;

Taking 2 years to complete;

Estimated costs of at least £17 million;

Inevitable and irreversible damage to the Heath and its wildlife.

The City's rationale for these works involves a dubious interpretation of the law.

It refers to a computer model of a 1 in 400,000 year "probable maximum flood" and works that would "virtually eliminate" the risk of dam collapse in the event of this flood.

The works would contravene the Hampstead Heath Act of 1871 which requires that Hampstead Heath be preserved in its "natural aspect and state".

The City became custodian of the Heath in 1989.

It is now making a planning application to Camden Council to carry out the proposed works.

Thank you for the opportunity to bring these remarks to your attention.

#### Parking

#### Car registration

*<h5>Diversity monitoring</h5>Please answer the following questions to help us meet the changing needs of our customers. Any information you give us will be used in the strictest confidence. Your information will only be used for statistical purposes.</p></i>*

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Timing out

Gender Male

Disability

Age

Background White Other

Other

Supporting documents

No files attached

About this form

Issued by Council and Democracy  
Camden Town Hall  
Judd Street  
London WC1H 9JE

Form reference 9587616

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