

Ward: Hampstead Town

Officer: Charles Thuaire

Address: North Fairground Site, Vale of Health, NW3 (Appeal)

HAM Hampstead Conservation Area

Type of Application: Full Planning Application

Date of Application : 09/05/1997

Application number: PW9702255 Case File : C7/2/6

Proposal:

Erection of a 4 storey block of 15 self-contained flats with basement car parking for 15 cars on the northern half of the site, and change of use of the southern half to public open space.

As shown on Drawing Numbers: H6/1-9

RECOMMENDATION SUMMARY: Would have been minded to Refuse

Type of Application: Full Planning Application

2.

Date of Application : 23/05/1997

Application number: PW9702438 Case File : C7/2/6

Proposal:

Erection of eight 4 storey dwelling houses and a 4 storey block of 8 self-contained flats, together with surface car parking for 16 cars.

As shown on Drawing Numbers: SS96/26/1-6.

RECOMMENDATION SUMMARY: Refuse planning permission

(Application No PW9702255)

Applicant

Vale Amusements North
Northern Fairground Park
Vale of Health
London
NW3 1AT

Agent

Peter Thomson Associates,
Attn. P. Thompson,
19 Holly Hill,
London,
NW3 6QN

(Application No PW9702438)

Applicant

Fairview New Homes PLC
50 Lancaster Road
Enfield
EN2 0BY

Agent

Derek Lawrence Associates
19 Holly Hill,
25 Church Manor
Bishop's Stortford
Herts
CM23 5AF

Analysis Information (Application No FW9702255)

<u>Land Use Details</u>		Sq metres
Existing		
SG	Sui-generis	2243
Proposed		Sq metres
C3	Dwelling House	2524

<u>Residential Dwellings</u>			
		Exist	Prop
F3	Flat/maisonette - 3 habitable rooms	0	9
F4	Flat/maisonette - 4 habitable rooms	0	3

<u>Parking</u>		PG = general parking spaces	PD = disability parking spaces
Existing :	PG	0	
Proposed :	PG	15	

(Application No FW9702438)

<u>Land Use Details</u>		Sq metres
Existing		
SG	Sui-generis	2243
Proposed		Sq metres
C3	Dwelling House	3171

<u>Residential Dwellings</u>			
		Exist	Prop
F4	Flat/maisonette - 4 habitable rooms	0	8
H8	House - 8 habitable rooms	0	8

<u>Parking</u>		PG = general parking spaces	PD = disability parking spaces
Existing :	PG	0	
Proposed :	PG	16	

OFFICER REPORT

1. SITE

- 1.1 The north and south fairground sites consist of two large open semi-vacant sites on the eastern edge of the Vale of Health overlooking the Heath. The south site is vacant and overgrown, and is privately owned. The north site is owned by the Abbott family who live on the site in caravans and use it for occasional fairground purposes. At present, the north site is used for the storage of numerous caravans, lorries, trailers, kiosks and associated fairground equipment, and as such has an untidy and semi-derelict appearance. The site is connected to mains electricity and sewerage.
- 1.2 The western side of the "north fairground site" is bounded by 1-4 East View, four 3 storey cottages immediately facing the site, and the flank wall of 6 The Gables, a 4 storey terrace on the northern edge of the village. To the south is the "south fairground site", adjoining the 6 storey Spencer House, a modern block of flats built in the 1960's. South of this lies the Hampstead pond and east of this is a well-wooded part of the Heath.
- 1.3 Both sites have had a long and complicated planning history. However these 2 applications only concern the northern one. The early planning history of this site is inconclusive and no clear evidence exists of its previous development and use. In 1988, the Secretary of State concluded (see history below), on the balance of probabilities, that before the war there was a dilapidated complex including timber structures and cottages on part of the site. The cottages were originally in residential use but later became used as tea rooms. The whole complex suffered war damage and was later demolished. The site has also been used for fairground purposes since the 1900's by the Abbott family and has been used exclusively for this purpose since the war. This is the current lawful planning use; the owners' argument that the site has a lawful residential use by virtue of their occupation of the caravans since the war is not accepted by the Council.
- 1.4 The site lies within the Vale of Health part of the Hampstead Village conservation area and within the Hampstead & Highgate Ridge Area of Special Character (as defined in Camden's Unitary Development Plan). The site is also designated as Private Open Space and Metropolitan Open Land.

2. PROPOSAL

- 2.1 Application (PW9702255) submitted by the Abbott family (using local architect Peter Thomson) for erection of 4 storey block of flats adjoining eastern flank wall of The Gables. The block contains basement car parking, an open ground floor, and 12 x 4 person flats and 3 x 6 person flats above. The southern part of the site is proposed to be laid out as public open space.
NB. An appeal has now been received against non-determination of this application.
- 2.2 Application (PW9702438) submitted by Fairview Homes (who have an option to purchase the site) for erection of eight 4 storey houses in 3 separate blocks adjoining the flank wall of the gables and on the eastern edge of the site, a 4 storey block of 8 flats on the northwest corner of the site in the form of a rotunda, and a car park adjoining East View cottages.

3. RELEVANT HISTORY

1.9.86 - determination that planning permission was required for reinstatement of cottages following alleged war damage.

25.3.88 - appeal against above decision allowed: documentary evidence proved that 4 cottages did exist and could be rebuilt on part of the site, under GDO provisions. However decision noted that it could only be implemented under the provisions of the GDO then in force; the later GDO (1988) and current one (1995) excluded reference to war damage and therefore the decision is no longer valid.

27.7.88 - appeal by Camden to High Court against decision on point of law. Court of Appeal confirmed that decision letter was quashed and that appeal is dismissed.

27.6.90 - application for both north and south sites submitted, for 10 dwellings and 11 garages and transfer of southern part as open space. Involved lengthy discussions with officers and attracted numerous objections from local people. Later withdrawn.

4. RELEVANT POLICIES

Borough Plan

UD3- design
UD7- bulk
UD11,14,18- conservation areas
UD13- areas of special character
UD32- townscape design

UD40- use of open space
LE8- development on Met. Open Land
LE9- loss of valuable open space
LE10- negotiate public access to open space
EG7- Env. Code guidelines
EG19- resid. use of underused sites
EG21-23- density
EG30-32- family units
PY34,36- Fringes of Heath scale/density, design
(note that the "Fringes of Heath" non-statutory document has
no policies for protection of open spaces adjoining the
Heath).

Draft UDP

The Inspector's report on the Public Inquiry into objections to the deposit draft Unitary Development Plan was published in January 1997. Over the coming months, the Council will be considering the report's findings and preparing modifications to the draft UDP which will then be formally agreed at Committee and published for statutory consultation. In the meantime, the Inspector's report constitutes a material planning consideration to be taken into account alongside the Council's draft UDP policies and the policies contained within the statutory Borough Plan.

EN1- environmental quality
EN12- unstable land
EN16- design
EN17- landscape
EN18- unbuilt space
EN19- townscape design
EN21- site layout and coverage
EN22- bulk
EN25- landmarks and views
EN26- design
EN27- daylight
EN33,35- cons.areas
EN66- devt. on MOL
EN68- devt. on designated open space
EN72- devt. detrimental to setting of open space
EN74- encourage use of vacant land
EG11- res. use of underused land
EG1- density
EG14- affordable housing
EG15- privacy
EG16- space standards
EG20- mix in new build
BR1-7- Hampstead & Highgate Ridge "Area of Special Character"

5. CONSULTATIONS

5.1 Statutory Consultee Comments

The schemes were advertised as a departure from the local plan and were notified to the Secretary of State as a departure under the provisions of the GDO. No response has been received.

HBMC - archaeological evaluation needed.

5.2 Conservation Area Advisory Committee Comments

Hampstead CAAC object to both schemes - no justification to depart from UDP; also objects to Abbott scheme for other reasons: does not enhance cons. area, architecture inappropriate.

5.3 Local Group comments

South End Green Assoc. object to Abbott scheme: disrupt views, encourage traffic, poor aesthetic design, principle of devt. on open space.

Camden Civic Society object to Abbott scheme: blocks views of Heath, destroy village of varied architectural styles, loss of private open space.

Vale of Health Soc. object to both schemes: departure from UDP, devt. on private open space, no architectural merit.

5.4 Other bodies

City Corporation object to both schemes: out of scale, detrimental to Cons. Area, Heath and village, inappropriate detailed design, density excessive, interferes with ground water esp. drainage to adjacent ponds, insufficient car parking, out of character with rural fringe, loss of private open space, precedent set. POS offered in Abbott scheme is of no benefit or usefulness.

5.5 <u>Adjoining Occupiers</u>	Number Notified	Abbott:	Fairview:
		Replies Received	50
	Objections	43	36
	In support	42	36
		01	00

Objections to both schemes: loss of private open space, does not enhance conservation area, sets precedent, especially for south fairground site, blocks views of Heath and ponds, affects Fringes of Heath character, affects geology and water table, including drainage into ponds, no architectural merit, construction nuisance, overlooking, density, traffic congestion during and after construction, obstruction and subsidence, site should be protected as Heath and returned to it, Spencer House should not be seen as excuse for such building density, fairground use accepted as historical part of heritage.

Objection to Abbott scheme: open space gift is irrelevant and useless.

Objections to Fairview scheme: loss of privacy and light.

Comments on Abbott scheme: 3 residents consider that a small block (perhaps 2 houses?) adjacent to The Gables respecting its height and building line could be possible provided rest of site was donated as Public Open Space.

6. ASSESSMENT

Principle of development

- 6.1 Both applications involve the issue of development on designated private open space, contrary to policies in both the Borough Plan and draft UDP.
- 6.2 The site has been designated as open space in several ways:
- (a) Firstly, the site is designated as private open space in the 1962 L.C.C. Initial Development Plan, as principal private open space in the 1979 Camden District Plan and 1987 Borough Plan, and as private open space in the 1993 deposit draft Unitary Development Plan. It is included in the latter's Schedule of Open Spaces as site S102 which states that it should not be used for residential, storage or commercial purposes other than 3 Bank Holidays a year when it could be used a small scale fairground. No objections were made during the consultation process to this designation.
- (b) Secondly, the site, along with the southern site, is also included within the area of Metropolitan Open Land as defined in the 1976 Greater London Development Plan and the above-mentioned Camden plans. Policies aim to protect such land from development.
- (c) Finally, planning guidelines adopted by the Planning and Communications Committee in 1980 for the southern site gave design guidance for residential development here but confirmed that in contrast the northern site should be retained as open space.
- 6.3 It is thus clear that the principle of retaining the site as an open space has been consistently established by the statutory planning framework. It should be noted that the revised PPG1 states that "where an adopted or approved development plan contains relevant policies, section 54A (of the Town and Country Planning Act 1990) requires that an application shall be determined in accordance with the plan unless material considerations indicate otherwise. Conversely applications which are not in accordance with relevant policies in the plan should not be allowed unless material considerations justify granting a planning permission". In this case, officers consider that there are no material reasons to justify a departure from the plan.

- 6.4 Borough Plan policy LE8 and draft UDP policy EN66 protect Metropolitan Open Land; specifically the latter only allows development here which is essential to the use of the land as open space, and which conserves the open nature and character of the area. The policy lists uses that may be considered acceptable, including such items as playing fields, horticulture, allotments, nature conservation, and informal open air recreation and tourism where this cannot be adequately provided in developed areas. In the latter case, it could be argued that in exceptional circumstances such uses essential or ancillary to the Heath could include for instance fairgrounds, toilets, or tearooms if they cannot be satisfactorily located elsewhere. However the policy is absolutely clear in that no commercial or residential development would be acceptable here.
- 6.5 Borough Plan policy LE9 and draft UDP policy EN68 protect designated private and public open spaces from development except in exceptional circumstances. The latter policy explains that the exceptional circumstances only apply where development proposals are ancillary to the open space use of the land and where equivalent open space provision is made elsewhere to replace that lost. The Inspector at the UDP Inquiry supported the content and objectives of this policy but recommended its slight redrafting; he also recommended that the Council carry out additional work on open space deficiency in the borough, a site-by-site justification in the light of this analysis, and a consequent review of the open space schedule as a result of this. The Council has not yet decided whether to agree with the Inspector's recommendations, although officers recognise that the site's proximity to the Heath would make it difficult to justify the open space designation on deficiency grounds alone. However the site contributes to the setting of the Heath in visual and recreational terms, and the site could if desired be used to enlarge the Heath's acreage as the Heath has historically evolved in this manner.
- 6.6 It is also considered that the site fulfils a number of roles in this location. It provides a soft "edge" between the close knit village-like community of the Vale of Health and the vast open rural area of the Heath. The site forms a valuable part of the Heath's setting. Development here, enlarging the existing built-up area, would encroach on views into and out of the Heath woodland adjoining the site and would increase the Heath's visual enclosure and the awareness of built-up surroundings to people enjoying the rural seclusion of the Heath. In particular, any development would impinge upon local views from the southeast, pointing uphill across the pond and both fairground sites. Although the site is somewhat unattractive at present, it could be landscaped to provide a more attractive approach to the Heath and also improve the townscape setting of existing houses in the Vale of Health.

Landscape enhancement could also improve its ecological potential and wildlife value, or could provide new recreational facilities. Finally, from a historic point of view, the site has always been unbuilt space and traditionally viewed as an important visual edge to the Heath. Although the present edge is somewhat ragged and unkempt, the Heath's setting is not preserved or enhanced by having buildings developed in front of it, nor should its current, poor appearance be used to justify unacceptable development.

- 6.7 In conclusion, it is considered that the site should be protected from any form of residential development and that both applications are unacceptable in principle. It is thus recommended that both applications be refused permission on these grounds.
- 6.8 Notwithstanding these fundamental objections, there are also detailed criticisms of the schemes concerning design, layout, density etc. which should be used as supplementary reasons for refusal. These issues are discussed for both schemes in turn below: it is important that they are considered in detail now in the event that an appeal against non-determination is successful. However, it should be stressed that these comments are made without prejudice to the fundamental and in-principle objection to any form of development here, as discussed above.

Abbott scheme- detailed issues

- 6.9 This scheme involves three linked 4 storey blocks on the northern half of the site leaving the rest of the site as open space. Although the block immediately abutting The Gables terrace is acceptable in itself, the other blocks do not respect the building lines and are poorly integrated within the overall townscape of this area. In particular the size and depth of the larger block does not respond to established typical plot widths, sizes and patterns, and consequently this creates a design that is inappropriate in terms of bulk and scale to its context.
- 6.10 The detailed treatment of the facades is very sketchy with little indication of materials to be used. However the proposal involves a series of gabled fully glazed bays with potential balconies, all supported on columns above an open ground floor, in order to give the impression of a lightweight structure. The effect however is considered monotonous and bland with none of the decoration and varied articulation and animation that is part of the uniqueness of the Vale of Health "village", and thus it is considered that the design would be detrimental to the special character of

the local townscape. The ground floor is left open with no uses defined for it (the car parking is beneath this in the basement): this element is particularly damaging to the townscape as it creates a weak public-private interface and does not provide the normal solid boundary edge with entrances and fenestration at ground floor for vitality; furthermore this area could easily deteriorate into a dead or dangerous zone, unsafe to users and the public. In terms of both urban design and community safety, this is a particularly unsuccessful treatment.

- 6.11 The applicants propose to enter into discussions regarding the public use and landscaping of the open space on the southern half; at present, no details are given on its landscaped treatment or indeed its precise function but their intentions are that it would be public open space transferred to the City Corporation for management purposes. Although the proposal for donating half of this site as public open space is welcomed in principle, both officers of the Council and City Corporation have doubts as to the usefulness of this part of the site to be used as an adjunct to the Heath, bearing in mind its proposed size and position bordered closely by buildings on 2 sides, and they consider that it would not be conducive to public use or beneficial to the Heath.
- 6.12 The layout plans are generally inadequate: as indicated above, there is insufficient detail for the intentions of both the proposed open space and the ground floor of the new building. There is no indication of refuse storage/servicing or vehicular access to the car park which presumably would have to cross the proposed open space, further negating its usefulness and amenity value. Furthermore the detailed design of the basement car park, headroom and ramped access does not meet traffic standards, although one space is provided per unit.
- 6.13 The proposal involves twelve 4 person 2 bedroom flats and three 6 person 3 bedroom flats, although again the floorplans are very sketchy. This mix contains insufficient family sized units for this context, bearing in mind the proximity of open space: UDP policy encourages schemes to provide 50% of accommodation as family sized units. The proposed density is 92 ERA- this compares with the UDP maximum standards of 40-70 for the area. Although it is recognised that the local densities are higher than this and that the proximity of open space allows higher densities, it should be borne in mind that the proposed density has been calculated on the basis of the whole site including that part intended for open space purposes: if this is excluded, the density would be almost double. It is concluded therefore that the number and mix of flats is excessive and inappropriate for this area.

6.14 Finally the site lies within an area adjoining the Heath notorious for its unstable geological/subsoil conditions and a history of local subsidences: in particular, this site has a watercourse under it. No information has been provided with the application, as required by UDF policy EN12, to satisfy the Council that measures can be taken to overcome these problems and to protect adjoining properties.

Fairview scheme- detailed issues

- 6.15 This scheme involves four separate 4 storey blocks: an extension to the Gables for 2 houses; 2 blocks for 6 houses on the eastern edge of the site facing East View; an octagonal block of 8 flats turning the NE corner between the above elements. All blocks are 3 storeys high with accommodation in the attic by means of gables and dormers. The remaining space in front of East View is reserved for open car parking.
- 6.16 The general size of the houses is acceptable as they follow the local pattern of plot widths and depths. However the overall impact is too bulky due to the number of units involved and to the size of the "rotunda" corner block. Also the use of four storey buildings throughout with no variation, although matching the height of The Gables, results in dwarfing the other houses such as East View. The facade design is better than the Abbott scheme as it draws from traditional elements of the local character of this "village", such as greater articulation, solid frontages and architectural features; as a result the scheme is more appropriate in design terms to the townscape of the Vale of Heath. However the rotunda form is totally alien to the local character and particularly incongruous and bulky in this context: its height, form and design involving a cupola is considered too grandiose in this Heathside location and does not respect the local grain or architectural vocabulary of this village. As a result this aspect does not preserve the character of the conservation area or the setting of the Heath.
- 6.17 The location of the car park is unfortunate, particularly as it faces East View cottages: their view is currently blocked by caravans and lorries and it would be preferable to enhance this view if the principle of development was considered acceptable here. The car park with no scope for landscaping does not preserve or enhance the character or appearance of the conservation area. The location of the private gardens on the east side adjoining the Heath, and their accompanying boundary fences/walls which will be desired by potential occupiers to maintain privacy, would result in a poor

interface between private space and public open space of the Heath. Furthermore the general layout of development as proposed does not reflect the general street pattern and grain in the area; again, on the assumption that the principle of development was acceptable here, the opportunity should be taken to extend and complete the traditional streetscape in terms of defined public roads/footpaths and private front gardens in front of solid house frontages.

- 6.18 In terms of compliance with specific policies, the scheme is also unsatisfactory in many respects. The housing mix involves 8 large 8-person houses and 8 4-person flats which is acceptable. The density would be 184 HRA is well above the maximum of 70 here and is considered excessive. Single bedrooms proposed in House Type 1 are substandard in size. There is loss of daylight to ground floor living room windows in East View cottages and the minimum privacy standard of 18m is only just respected. The front of these cottages would be now enclosed on all 4 sides by the proposal giving rise to a serious loss of amenity because of the unacceptable sense of enclosure that would result, especially as these cottages have historically enjoyed an open outlook. Car parking standards of one space per unit are complied with but no indication of refuse storage or servicing is given.
- 6.19 The issue of unstable land, discussed in para 6.14 above, also applies to this application.

7. CONCLUSION

- 7.1 It is concluded that, given the consistent and extensive open space designations for this site, the lack of objections during the local plan adoption process, and the current and potential amenity value of the site contributing to the setting of the Heath, the site should be protected from residential development. It is thus considered that the current 2 applications should accordingly be refused permission on this ground in principle.
- 7.2 In addition to the above, it is considered that the schemes should be refused permission on additional grounds, as there are numerous detailed objections relating to form, design, density, site layout, access, amenity, housing mix, etc. It is concluded that neither scheme would preserve or enhance the character and appearance of this part of the Hampstead Village conservation area nor the setting of the Heath. Although certain details of both schemes could have been amended or clarified to comply with detailed policies and standards, officers have considered that there was no realistic prospect of negotiating an acceptable scheme due to the overwhelming unacceptability of the 2 proposals on landuse grounds.

8. LEGAL COMMENTS
None

9. RECOMMENDATIONS

PW9702255- Abbott scheme

- 9.1 That, had an appeal against non-determination not been received, the Council would have refused planning permission for the following reasons:

Reasons for Refusal

1. The proposal involves development on Private Open Space and Metropolitan Open Land, contrary to policies LE8, LE9, EN66, EN68 to protect such open space as contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
2. The proposal would be detrimental to the setting and character of Hampstead Heath, contrary to policies LE8, EN66, BR4 contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
3. The proposed development would result in a total density in excess of that indicated as appropriate in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
4. It is considered that the proposed scheme is excessively bulky and large in relation to the character of the area generally and is thus considered to be overdevelopment of the site.
5. It is considered that the proposal is inappropriate in terms of detailed design, height, layout and massing, as well as its ground floor layout, and as such would be detrimental to the special character and appearance of this part of Hampstead Village conservation area.
6. The proposal does not contain sufficient family sized dwellings, contrary to policy EG20 contained in the draft LBC Unitary Development Plan.
7. The proposal does not meet Development Standards contained in the draft LBC Unitary Development Plan in relation to car parking and servicing.

PW9702438- Fairview scheme

9.2 Refuse planning permission, for the following reasons:

Reasons for Refusal

1. The proposal involves development on Private Open Space and Metropolitan Open Land contrary to policies LE8, LE9, EN66, EN68 to protect such open space as contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
2. The proposal would be detrimental to the setting and character of Hampstead Heath, contrary to policies LE8, EN66, HR4 contained in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
3. The proposed development would result in a total density in excess of that indicated as appropriate in the London Borough of Camden Borough Plan and draft Unitary Development Plan.
4. It is considered that the proposed scheme is excessively bulky and large in relation to the character of the area generally and is thus considered to be overdevelopment of the site.
5. It is considered that the proposal is inappropriate in terms of detailed design, height, layout and massing, and as such would be detrimental to the special character and appearance of this part of Hampstead Village conservation area.
6. The proposal would result in the loss of daylight and outlook to habitable rooms in East View cottages to the detriment of their amenities.

