

Address:	Athlone House Hampstead Lane London N6 4RU		8
Application Number:	2013/7242/P	Officer: Charles Thuaire	
Ward:	Highgate		
Date Received:	28/10/2013		
Proposal: Erection of 8 bedroom dwelling house (Class C3) with basement car park, swimming pool and plant rooms, and associated landscaping, following the demolition of Athlone House.			
Drawing Numbers: Design and Access Statement October 2013 Rev D; Planning statement October 2013; Heritage statement and NPPF analysis October 2013; Landscape and visual impact assessment October 2013; Historical landscape appraisal October 2013; Tree quality survey October 2013; Ecological survey October 2013;; Energy statement October 2013; Code for Sustainable Homes pre-assessment October 2013; Summary condition report Sep 2013; Preliminary budget estimate Oct 2013; Market evidence May 2013; Basement Impact Assessment May 2013 (by Price and Myers); Desk study and BIA report June 2013 (by GEA); Flood risk assessment Rev E October 2013; Transport statement October 2013; Noise survey May 2013; 5201/101A, 102A, 103, 104A, 105, 106, 107, 108, 109, 110, 111A, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 029; JFAL-9135-07/J, 06A/B, 06B/B, 08, 09/B; Planning Statement Addendum 14 th May 2014; 5201/140 (May 2014); Area information-May 2014 (as revision to P.40 of DAS).			
RECOMMENDATION SUMMARY: had an appeal not been lodged against non-determination, the Council would have refused planning permission			
Applicant:		Agent:	
Athlone House Limited c/o Agent		Withers LLP 16 Old Bailey London EC4M 7EG	

ANALYSIS INFORMATION**Land Use Details:**

	Use Class	Use Description	Floorspace
Existing building (as it stands now)	<i>C3 Dwelling House</i>		2263m ²
Approved restored house (2005 pp)	<i>C3 Dwelling House</i>		2451m ²
Proposed	<i>C3 Dwelling House</i>		3209m ²

Residential Use Details:

	Residential Type	No. of Bedrooms per Unit								
		1	2	3	4	5	6	7	8	9+
Existing/approved	<i>House</i>							1		
Proposed	<i>House</i>									1

Parking Details:

	Parking Spaces (General)	Parking Spaces (Disabled)
Existing/approved	15	
Proposed	4	

OFFICERS' REPORT

This application is being reported to the Committee as it entails redevelopment of a prominent building in a conservation area and adjoining Hampstead heath, which has raised a high level of public interest and which, in the view of the Director of Culture and Environment, should be considered by the Committee (Clause 4).

1. SITE

- 1.1 The site is situated on the south side of Hampstead Lane, directly opposite Highgate School's playing fields. The overall site of Athlone House, as it was originally laid out, is bounded to the south and west by Hampstead Heath and to the east by a private residence known as Beechwood and is screened all around by mature trees. Part of the site's northern boundary abuts Hampstead Lane and is screened by a brick wall and mature trees and shrubs. The site entrance is located in the middle of the wall between various ancillary outbuildings. The main house and part of the grounds and other buildings are visible from the Heath and Hampstead Lane. In particular the House is most closely visible from Hampstead Lane and across Highgate School playing fields to the north; it is also substantially visible from the Kenwood estate gazebo and the adjoining Caen Wood Farm Fields to the west. In more long distance views from Hampstead Heath and Parliament Hill to the south, only the tower is visible.
- 1.2 The site has been subject to a planning permission in 2005, subsequently amended (see history below), for its part redevelopment involving refurbishment and change of use of Athlone House itself from previous health use to a 7-bedroom single dwelling together with part conversion and part redevelopment of the remaining buildings for 24 flats and 2 houses. This permission has been partly implemented by virtue of the various postwar extensions and outbuildings all demolished and the 3 new blocks of flats built on the eastern part of the site. Furthermore in accordance with the terms of the S106, the southern and western fringes of the site have been donated to the City Corporation as extensions to the Heath. As a result, the site has been split into two halves, with the eastern part now in separate ownership- this contains the 3 new blocks of flats (Caenwood Court) plus the Coach House. The western site in the ownership of the current applicant contains Athlone House itself in its centre, and Caen Cottage and the Gate House on the road frontage- all these buildings are still vacant and derelict. The west side of the site contains lawns and there is a tree and shrub belt along the southern boundary. The entrance to the house is located between the Gate House and Coach House, and shared with the access to Caenwood Court.
- 1.3 Historically the site contained a single dwelling house set within extensive landscaped parkland. Athlone House was the original main residence of the site, dating from 1871, and is two storeys high with basement and attic accommodation plus a 4 storey high square tower. The original building is built in red brick with a combination of Jacobean gables with a Victorian structure incorporating a tiled roof. A number of unsympathetic 20th C extensions and alterations have been made, as well as various outbuildings in the grounds for wards and staff accommodation, following its occupation by the NHS in 1951 as a post-operative recovery home. As a consequence much of the house's original external detailing has been simplified

or lost. The extensions to the north of the House have been since demolished following the above-mentioned permission. The House however has not been restored yet (as required by the 2005 permission's S106) and still remains vacant and derelict with only minimal maintenance works plus boarding up of all windows to ensure that it is wind- and water-tight.

- 1.4 The topography of the site is varied. The main buildings are located on the north east area of the site. This comprises a relatively flat plateau from which a rolling lawn sweeps south down to a small pond area and slopes in terraces to the west which contains another pond. There is a mixture of significant trees and more moderate trees in arboricultural terms.
- 1.5 The site is located about 1km from both Highgate High Street and Highgate Tube station and is served by regular buses. The surrounding area to the north and east is mainly residential. The northern boundary of the site on Hampstead Lane abuts the borough of Haringey, and lies opposite Highgate School and its playing fields which are designated as a conservation area and Metropolitan Open Land (MOL). To the west on the Heath lies Kenwood House, a Grade 1 listed building, and the Kenwood estate, a Grade 2* registered landscape, both managed by English Heritage.
- 1.6 Athlone House is not statutorily listed nor does it adjoin any listed buildings. However, the site enjoys a strong degree of protection from inappropriate development as it benefits from a number of specific area designations in the adopted LDF:
 - (a) The site and immediate surrounds form part of an extensive area of **Metropolitan Open Land (MOL)** covering Hampstead Heath, Kenwood, Parliament Hill and Highgate Playing fields.
 - (b) The site and surroundings are located within the **Highgate Conservation Area**. Athlone House and the three cottages on the road frontage are identified in the Highgate Conservation Area Appraisal and Management Plan (adopted December 2007) as making a positive contribution and must be retained. In particular the appraisal refers to Athlone House as follows- *"this elaborate property is set into the hillside overlooking the Heath and is visible in long views such as from Kenwood House"*; it also refers to the special interest of the conservation area as follows- *"large and fashionable historic houses from the 17, 18, 19 and 20th centuries stand clustering around the historic core, and imposing properties set in landscaped gardens stand on the hillslopes below the village enjoying the southern aspect"*.
 - (c) The site is designated as **Private Open Space (POS)** (no.135) and a **Site of Metropolitan Nature Conservation Importance (SNCI)**, and adjoins Hampstead Heath, another important area of Public Open Space.
- 1.7 The whole site was the subject of a planning brief approved on 11.2.99. This identified and publicised the planning framework for the site and provided guidance on the Council's view of any proposals to change the use and advice to potential applicants. It stated the preferred use was a mix of residential institution and residential uses or purely residential use. It also set out site constraints and opportunities.

- 1.8 The site was also previously a designated site (no.1) in the saved UDP Schedule of Landuse Proposals, and referred to in the adopted LDF- this stated a preferred use of a mix of C2/C3 or C3 uses with reference to the above planning brief. This designation was valid during the last application and appeal process. However this Schedule has been now replaced by the LDF Sites Allocations Document, adopted in September 2013, which excludes this site on the basis that the previous permission has been largely implemented and that no further special guidance is required for future development here.

2. THE PROPOSAL

- 2.1 Erection of 8 bedroom single dwelling house (Class C3) with basement car park, swimming pool and plant rooms, and associated landscaping, following the demolition of Athlone House.

Revisions (May 2014)

- 2.2
- Basement floor in size reduced by 63sqm;
 - Architects' method of measuring the gross external area changed so that 'virtual floors' at the first and second floors in the central atrium are now omitted;
 - accordingly the floorspace and comparison tables are updated to reflect this situation in the previous appeal scheme and the previous 2005 permission which both had atria/lightwells;
 - Floorspace tables further adjusted to show correct figures for basements in 2005 permitted scheme and in permitted/existing Caenwood Court flats.

Only key local groups plus the GLA were reconsulted on these revisions.

3. RELEVANT HISTORY

- 3.1 **5.10.05-** 2003/2670/P & 2003/2671/C - planning permission and conservation area consent granted for-
Part conversion and part redevelopment of site for 27 residential units including: Alterations, extensions and conversion of Athlone House to 1 x 7 bed house, The Coach house to 2 x 2 bed units, The Gate House to 1 x1 bed house and Caen Cottage to 1 x 3 bed house; Demolition of all remaining post war buildings and erection of 3 new blocks to provide 22 flats with underground parking (9 x 2 bed, 10 x 3 bed and 3 x 4 bed); Donation of 0.98 hectare of land as extension to Hampstead Heath; Significant landscaping content.
- 3.2 This planning permission was accompanied by a complex S106 legal agreement which covered the following matters:
- Delivery of 3040 sqm net internal floorspace Affordable Housing, to be provided off site in phases with phased occupation of on-site private housing dependent upon provision of each affordable phase;
 - Donation of land as an extension to Hampstead Heath including financial contribution of £50,000;
 - Heath Land Landscape Management Plan
 - Retained Land Landscape Management Plan;
 - Restoration of Athlone House internally and externally;
 - Education contribution of £157,803;

- Contribution for costs of necessary bus stop improvements;
- Car capping;
- Renewable energy plan including provision of an energy demand assessment and feasibility work for renewable energy technologies;
- BREEAM report to secure 'very good' standard.

- 3.3 15.5.06- 2006/1418/P- Planning permission granted for- Relocation of existing sub-station to the north east corner of site with construction of new brick enclosure adjacent to Coach House and immediately behind former gate, which is to be reinstated to allow access to sub-station from Hampstead Lane.
- 3.4 19.6.06- 2006/1412- Planning permission granted for- Alterations to new blocks A, B and C including realignment of windows, repositioning of chimneys, part infilling of penthouse terraces in blocks B and C, alterations to roofs of all new blocks including added terraces, access stairs and lift overruns, as a revision to the above planning permission 2003/2670/P dated 05/10/05
- 3.5 27.8.09- 2009/0751- Planning permission granted for- Change of use of Coach House to a single dwelling house and various extensions and alterations, including the remodelling of south elevation by widening 3 wings at ground and 1st floor levels, erection of a bay window and conservatory at ground floor of south elevation, and excavation to create a new basement floor, as an amendment to part of planning permission 2003/2670/P dated 05/10/2005, as further revised by planning permission ref 2006/1412/P dated 19/06/2006.
- 3.6 **12.4.10 – 2009/3413/P- planning permission refused** for- Erection of 8 bedroom single dwelling house (Class C3) together with ancillary staff and guest accommodation and underground parking.

Reasons (without policy refs)-

1. The new building, by reason of its inappropriate and intrusive bulk, form, design and materials, will harm the character and appearance of the Highgate conservation area and streetscene, contrary to policies...
2. The new building, by reason of its bulk, form, design and materials, will be more intrusive in views within and from private open spaces and Hampstead Heath and thus be harmful to the character, appearance and setting of surrounding open spaces...
3. The new building, by reason of it being materially larger than the existing house, is considered to be inappropriate development on Metropolitan Open Land and fails to satisfy the tests of PPG2 for new dwellings on such land...
4. In the absence of adequate and up to date survey information on existing bat roosts within the property to demonstrate otherwise, it is considered likely that the new development may have a harmful impact on protected species and their habitats...
5. In the absence of adequate justification or evidence to show that the maximum reasonable amount of affordable housing has been provided, the proposed development would fail to make a contribution to the supply of affordable housing appropriate to the additional development proposed...
6. In the absence of a legal agreement requiring a post-construction sustainability

review achieving level 3 of the Code for Sustainable Homes and including on-site renewable energy facilities, the proposed development would fail to ensure proper standards of sustainability in the development...

- 3.7 **12.4.10 – 2009/3422/C- conservation area consent refused** for- Demolition of Athlone House.

Reasons (without policy refs)-

1. The demolition of this building in the absence of an approved scheme for its replacement would be likely to result in harm to the character and appearance of the surrounding conservation area contrary to policy...
2. The proposed demolition of the existing building, that is considered to make a positive contribution to the character and appearance of the Highgate conservation area, fails to satisfy the tests of PPS5 for demolition of unlisted buildings in conservation areas and will harm the character and appearance of the Highgate conservation area...

- 3.8 Appeals lodged in 2010 and heard at 3 week public inquiry in Feb 2011.
- 3.9 The 4th reason for refusal of planning permission (see para 3.6 above) concerning bats was withdrawn prior to the public inquiry; the 5th and 6th reasons regarding affordable housing and sustainability reviews were satisfied by an acceptable S106 legal agreement submitted during the inquiry. Thus the only reasons to be contested at the inquiry were the first three of the planning decision and the two of the CA decision, concerning demolition of the existing building, bulk and design of the new house, and impact on MOL, CA, Heath and open space.
- 3.10 **21.4.11- Appeals dismissed**, fundamentally on basis that scheme constituted 'inappropriate development' on Metropolitan Open Land (MOL).
- 3.11 2012 and 2013- Pre-application meetings held with agents to explore alternative options for a smaller and redesigned house that addressed the Inspector's concerns. Officers advised that, inter alia, the Council would continue to object to the size, bulk and design of the proposed replacement house on MOL. Formal pre-application advice was sent to the agents on 5.11.12 and 19.9.13 stating that, although the changes in design and reductions in overall size were welcome, there was still harm caused by the bulk and impact of the building on the openness of MOL and there was still a significant increase in floorspace which was inappropriate in MOL terms.
- 3.12 June 2014- Appeal lodged against non-determination of current application.

4. CONSULTATIONS

(note that all respondents below object)

Statutory Consultees

4.1 Greater London Authority (GLA)

Referred to Mayor as the proposal involves a building with floorspace greater than 1000sqm on MOL. Application site is in very prominent and elevated position; proposed building would be visible from many locations in MOL, ornate and

detailed design would emphasise its prominence. Calculates that the new house's floorspace increases by 21% and footprint reduces by 26% from the original 1999 situation of the house; also that, for the whole site, the new house in conjunction with the built elements of the approved 2005 redevelopment scheme results in overall site floorspace increase by 51% (in contrast with the approved scheme increase in floorspace, which calculated from their tables is 39%). Assessment must take account of development approved in 2005 which was granted on premise that the additional development would help restore Athlone House. GLA concludes that, given scale of proposed house, location on MOL, impact on openness of MOL, and amount of enabling development already permitted and built, proposed replacement building is contrary to London Plan policy 7.17 and applicant has not demonstrated that any 'very special circumstances' exist to justify such a departure.

GLA considers that applicant should retain and restore existing House within bulk and mass of previous approval in 2005 (using a figure of 2643sqm GEA) or provide a smaller replacement building that closely matches scale and size of House that existed when hospital use ceased in 1999 (c. 2750sqm GEA). GLA states that if the Council resolves to grant permission, it must consult the Mayor again and give him 14 days to decide whether to allow the draft decision to proceed or to direct a refusal.

Revision 1-

unclear whether applicant has altered proposal to meet Mayor's concerns; no material provided to demonstrate any very special circumstances to justify a departure from London Plan or NPPF.

4.2 English Heritage

Athlone House makes positive contribution to character of Highgate conservation area and setting of listed Kenwood estate. Demolition of building would cause substantial harm to conservation area and justification for loss must be considered carefully in context of new NPPF policy, especially paragraphs 130-133, which have changed national policy guidance since appeal decision was made in 2011. Remain of the view that proposed scheme, by virtue of its scale, bulk, massing and materials, would cause harm to conservation area and setting of Kenwood estate. Despite improvements since appeal scheme, its overall scale, massing and materials remain largely the same. EH do not agree with Inspector's view that contribution of House to conservation area is limited and recommend that the costings for repairing existing building are fully assessed and that substantial public benefits to offset harm to conservation area are required.

Addendum-

EH sent in July a clarification of their views expressed in their original letter, as follows. 'With regard to the significant change in planning policy, this relates to the overall planning system with the introduction of the NPPF which brings all national policy within one document. My letter identifies the policies within it which you, as the local planning authority, are duty bound to consider in your determination of the application. It does not state whether or not we consider these have been met or not. I appreciate that there are similarities between the policies within the NPPF and previous government guidance. It for you, as the planning authority, to be satisfied that the policies within the new document are met and I understand you

have looked at this in detail to determine where any changes may be relevant in reference to this application.'

4.3 English Heritage (GLAAS)

Proposed development may affect remains of archaeological importance and recommend a condition to be attached requiring a programme of archaeological work.

Conservation Area Advisory Committees

4.4 Hampstead CAAC

no response.

4.5 Highgate CAAC

Application fails to address Inspector's reason for refusal on previous scheme; does not meet NPPF criteria for site and, by reason of assertive design and materials, would scar landscape instead of existing harmonious house; neo-classical pastiche mansion is highly damaging to conservation area; overdevelopment on MOL as it still has significantly larger floorspace than existing building; CAAC maintains that restoration of house is practicable and S106 agreement for this should be implemented.

Revision 1-

Endorse points made by Heath and Hampstead Society. 'The demolition of this iconic building and its replacement by an inferior piece of elaborate pastiche must be resisted. Tinkering with floor areas and the like makes little if any difference to the objectionable nature of this application'.

Local Groups

4.6 Heath and Hampstead Society (HHS)

Public opinion against scheme remains unchanged, new scheme remains unchanged in layout and design and its harm to heath. Overriding issue is of overdevelopment on MOL; refer to Garden House judgements- new house is still materially larger than existing building, involving 67.6% increase over existing floorspace or 38% if excluding basements. Suggest little weight given to previous appeal decision as Inspector is wrong on 2 issues- seriously harmful impact on Hampstead Heath by pretentious pastiche compared to quiet restrained style of Kenwood House; disagree with Inspector views that symmetrical and dominant house and weathering of stone would not harm Heath. S106 agreement to restore House was integral part of old permission and should be implemented; disagree with Inspector views that uneconomic cost of restoration is planning consideration. Challenge inflated figures submitted for restoration which seek to prove that it is unviable. Dismayed that appeal decision does not refer to or take account of objections made by various local and national groups.

Revision 1-

Disagree with figures presented which conflict with both those given in the HHS objection and those presented previously by the applicants. Comparison should be with the building as it exists now, not some hypothetical past remnant of original buildings. Unreasonable to exclude upper level voids of atrium as they can be

infilled later with floors without needing permission. Even taking account of this reduction, comparison with existing building shows that proposed new house is materially larger by 25.5% (excluding basement) or 51.7% (including it). Garden House judgement confirms that basements should be taken into account.

4.7 Highgate Society

Overriding issue is that it ignores clear judgements on development on MOL established by Garden House case; new house is still materially larger than existing House, and, contrary to applicants' assertion, inclusion of basement floorspace is relevant. Consider that application should be refused on this basis alone and be considered as vexatious, and that steps should be taken to enforce S106 agreement. Also previous appeal decision is seriously flawed in the way it reached its conclusions.

Loss of existing building and replacement by new obtrusively assertive building have seriously harmful impact on Heath and Highgate conservation area. Argue that existing building is important Heritage Asset in historical and architectural interest, historical associations, contribution to local scene, conservation area and Heath; new building has no public benefit by economic value or architectural quality, its assertive design and bulk is significantly harmful to heritage asset, conservation area and MOL. Application significantly disregards NPPF requirements regarding protection of heritage assets and MOL and local authority decision-making. National Planning Policy Guidance (NPPG) is new material consideration. Previous S106 was necessary part of granting permission for new flats which was willingly accepted by previous developer.

Does not meet adequate and more ambitious long-term sustainability targets. S106 requirements for restoration still remain in force, are reasonable and capable of implementation. Dispute applicants' reports that restoration is unviable and that building is now beyond restoration.

Appeal decision ignores detailed objections made by national experts and ignores importance of and impact on Heath; makes contradictory concluding statements.

Notes selective reporting of comments in submitted 'statement of community consultation'.

Redevelopment does not meet new stringent standards on CO2 emission reductions and should conserve embodied energy.

'Building Conservation Review' report submitted which demonstrate that demolition of this important historical building is not fully justified.

Revision 1-

Support HHS objections and argument that the applicant's reworking of area figures, in an attempt to establish that new building is not materially larger, is untenable. Para 89 of NPPF states that new building is inappropriate if materially larger than one it replaces. Applicant ignores para 90 of NPPF, which states that appropriate development includes reuse of buildings, and para 126 regarding heritage assets. Repeats earlier objections.

4.8 Vale of Health Society

Scheme not materially different from previous one and thus previous objections to application and subsequent appeal still apply here. New building is out of character with Heath surroundings and Highgate conservation area. S106 agreement was essential part of permission for new flats on this site and must be adhered to.

Increase in size clearly contravenes rules for development on MOL sites.

Revision 1- no response

4.9 Camden Civic Society

Application is in full denial of local opinion and of original planning permission. This exchanged the right to build unattractive but profitable flats for retention of Athlone House. Accusations of deliberate neglect can only be laid against new owners. Erection of new building is totally against views of concerned public and undermines concept of localism.

4.10 Hampstead Garden Suburb Residents Association

Athlone House is one of London's finest remaining Victorian buildings in view of Heath; proposed replacement would harm amenity value of this view, being intrusive in scale, design and detail. Massive building exceeds rules for MOL; permission for new flats was on proviso that existing House was restored, so letting developer demolish now sets an unwelcome precedent.

Other bodies

4.11 City of London (Superintendent of Heath)

Serious concerns relating to impacts on character of MOL, surrounding conservation area and hydrology of Hampstead ponds. Site is in prominent and sensitive area, on fringe of Heath, Highgate Conservation Area and north of ponds owned by City.

Fails to take account of NPPF guidance since Inspector decision- should compare proposal with original building as it existed on 1948 (using NPPF definition) excluding any extensions built afterwards; methodology used to compare proposal with 2003 and 2009 schemes only serve to conceal true extent of additional floorspace. Scheme involves materially larger building with significant greater massing.

Fails to accord with national and local design policies and conservation area guidance. New building will be visible even in summer across Heath; new design exceeds envelope of existing building and with more prominent roofline exacerbates impact of additional bulk. More intrusive in views across heath due to bulkier appearance and brighter materials and intrudes on openness and greenery of conservation area. Most significant views are actually between applicant's viewpoints 1 and 2 and from Athlone House gardens on heath.

Fails to comply with LDF policy on basements. Haycock Associates report on previous scheme in 2009 stated that, due to lack of borehole test pits, it was not possible to assess impact of basement on hydrology of Heath. Athlone House sits within catchment areas of both Bathing Ponds; concern that there is no evidence to show how the basement will affect the hydrological functioning of the groundwater supplying these ponds and that any change to groundwater flows may be detrimental especially in summer months. Need more modelling of groundwater flows which also needs to take account of cumulative impact of other permitted basements in area.

Revision 1-

Reiterates previous objections.

4.12 Haringey Council

Applicant's evidence on condition and heritage value of existing House do not justify its demolition (see NPPF para 130). Replacement building is only marginally different from previous scheme; 'Stalinist wedding cake' style of architecture is out of context with area and cannot be considered as a contemporary 21st C. building; larger height and bulk visually prominent on skyline and harms views in and out of Highgate Conservation Area. No public benefits to outweigh loss of non-designated heritage asset. If Council wishes to approve scheme, the loss of the existing asset should be weighed against public benefits of new house (see NPPF para 135).

4.13 Save Britain's Heritage

Agree with English Heritage assessment that scheme will harm conservation area; loss of heritage asset and harm caused to conservation area not outweighed by benefits from new house. Design in terms of size, massing and materials is at odds with surroundings. Contravenes planning guidance on MOL.

Very significant local opposition to application. NPPF says that 'planning should be genuinely plan-led, empowering local people to shape their surroundings'.

Demolition and replacement of House is cause of local and national outrage and these views should be taken into account.

4.14 Victorian Society

House is a valuable heritage asset and only falls just short of criteria for national listing; has aesthetic and historic value and is a much loved public landmark.

Demolition will cause *substantial* harm to conservation area, a designated heritage asset and its replacement new home would not outweigh harm caused. Not convincingly argued that retention of house is unviable. Even if Council considered it to only cause *less than substantial* harm, public benefits do not outweigh this loss (see NPPF para 134).

4.15 Ancient Monuments Society

Fully agree with Victorian Society that the building is of high architectural and historic merit and agree with English Heritage that the demolition of the building would cause harm to the Highgate Conservation Area and that the proposed development would neither preserve nor enhance its character and appearance. AMS is deeply disappointed that approved restoration work was never carried out; agree with English Heritage that it should be considered whether this constitutes 'deliberate neglect' as defined in NPPF. Clear from the volume of objections that the local community values Athlone House; believe that conserving the building would reinforce the community's sense of pride and identity and enhance the local area's environmental and social sustainability.

4.16 Thames Water

Advice on public sewers and surface water drainage impact; no objection to water infrastructure capacity.

4.17 CABE

no response.

Adjoining Occupiers

Original	
Number of Letters Sent	26

<i>Number of responses Received</i>	5473
<i>Number in Support</i>	03
<i>Number of Objections</i>	5470 (458 individuals, 5012 on petition)

- 4.18 3 support- dilapidated building, which is blot on landscape while waiting and wishing for refurbishment, is not worth keeping; new replacement building, of this design or even a bigger size, should be allowed.
- 4.19 **458 individuals** object on similar grounds as groups above, notably-
- loss of building- existing building is much-loved landmark visible from heath and capable of restoration as dwelling; has architectural and historic interest blending into landscape, need to save heritage;
 - need to enforce S106 requirements for restoration of House- circumstances have not changed since last time; developers reneged agreement to restore house and are flouting law and deliberately neglecting house;
 - size and style of new house- out of scale and keeping with heath and conservation area, bulkier and higher, obtrusive design, architectural abomination;
 - contravention of rules on MOL;
 - construction impact, traffic and parking congestion;
 - impact of basement on stability of neighbours and hydrology of heath; excavation nuisance;
 - house could be converted into flats; need smaller flats, not mansion for mega-rich.
- 4.20 Objectors include- Lynne Featherstone, MP for Hornsey and Wood Green, Councillor Theo Blackwell (Gospel Oak) and Councillor Claire-Louise Leyland (Belsize); great-great-granddaughter of original builder of Caenwood Towers (now Athlone House); granddaughter of last occupier of house.
- 4.21 Objections include specific issues by consultant for Caenwood Court residents - demolition of house, conflict with S106 by allowing House to deteriorate; overdevelopment by floorspace and footprint, inappropriate on MOL; construction impact of development affecting parking and access to flats at shared entrance; tree screening proposed which, by extent and species used, would block residents' views of heath- trees should be more sporadic south of line between flats and House; refuse store located at shared entrance area; ornate entrance gate design out of context; proposed pond and hardstanding resulting in possible water seepage and flooding into flats; insufficient evidence in BIA to ensure that new basement will not harm stability of flats.
- 4.22 **Online Petition** by 5012 people (from throughout UK and the world)-
 "Greetings, I am writing to urge Camden Council to reject any applications to knock down Athlone House in Highgate. Furthermore I believe the original agreement to restore the building should be enforced".

5. POLICIES

Set out below are the LDF policies that the proposals have primarily been assessed

against. However it should be noted that recommendations are based on assessment of the proposals against the development plan taken as a whole together with other material considerations.

5.1 LDF Core Strategy and Development Policies

CS1 - Distribution of growth
CS5 - Managing the impact of growth and development
CS6 - Providing quality homes
CS11 - Promoting sustainable and efficient travel
CS13 - Tackling climate change
CS14 - Promoting high quality places and conserving our heritage
CS15 - Protecting and improving open spaces & encouraging biodiversity
CS18 - Dealing with waste
CS19 - Delivering and monitoring the Core Strategy

DP2 - Making full use of Camden's capacity for housing
DP3 - Contributions to supply of affordable housing
DP5 - Housing size mix
DP6 - Lifetime homes and wheelchair homes
DP16 - Transport implications of development
DP17 - Walking, cycling and public transport
DP18 - Parking standards and the availability of car parking
DP19 - Managing the impact of parking
DP20 - Movement of goods and materials
DP21 - Development connecting to highway network
DP22 - Sustainable construction
DP23 - Water
DP24 - Securing high quality design
DP25 - Conserving Camden's heritage
DP26 - Managing the impact of development on occupiers and neighbours
DP27 - Basements and lightwells
DP28 - Noise and vibration
DP29 - Improving access
DP31 - Provision of and improvements to public open space
DP32 - Air quality

Supplementary Planning Policies

- 5.2 Camden Planning Guidance 2011/2013- CPG1 design, CPG2 housing, CPG3 sustainability, CPG4 basements and lightwells, CPG6 amenity, CPG7 transport, CPG8 planning obligations
Highgate Conservation Area Appraisal and Management Plan (CAAMS) 2007

Other policies

- 5.3 National Planning Policy Framework (NPPF) 2012; NPPG 2014
The London Plan 2011

6. ASSESSMENT

- 6.1 The principal considerations material to the determination of this application are summarised as follows:
- compliance with landuse policies on development on Metropolitan Open Land (MOL), open space, density and affordable housing;
 - demolition of building in conservation area;
 - bulk and design of new building;
 - impact on conservation area, open spaces and heath;
 - landscape and biodiversity;
 - impact on local transport and amenity;
 - sustainability;
 - impact of basement on hydrology and archaeology.
- 6.2 Following the appeal Inspector's decision, the fundamental key issue is the appropriateness of the development on MOL in terms of the building's size and its impact on openness of MOL.
- 6.3 This report follows the same format as the officer's report on the previous scheme for consistency purposes.

Proposal

- 6.4 The current building is dilapidated and is considered by the agents to be not worthy of retention or reuse as a family house for their clients. As with the previous appeal scheme, they propose the demolition of the house and its replacement by a new mansion in a symmetrical neo-classical style designed by Robert Adam architects. It will be on the same footprint and location as the existing house and have a square floorplate and 3 storeys arranged around a central triple-height atrium plus a small basement (recently reduced in size). The atrium roof and the surrounding quadrangle-shaped roof with pitched sides are slightly higher than the ridge of the existing house; the roof also has projecting 2nd floor domes on the 4 corners and a 3rd floor tower with turret feature on the northern side, at about the same height of the existing tower on the southern side.
- 6.5 The house will contain 8 double bedrooms on upper floors and extensive reception rooms plus a double height ballroom on the ground floor. The basement will accommodate a swimming pool, plant room (plus a smaller one in a sub-basement) and carpark for 4 cars with turntable accessed via a car lift from the courtyard. The recent revision to this application entails slightly reducing the size of this basement. Staff accommodation will be provided in the existing outbuildings of Caen Cottage and Gatehouse alongside Hampstead Lane.
- 6.6 The space between these cottages and the main house will be hard-surfaced to form a courtyard and entrance to the new house. The entrance to the site will remain as existing, next to that for Caenwood Court flats, but will be remodelled with new gates and binstore.
- 6.7 Substantial landscaping is proposed throughout the remainder of the estate.

- 6.8 The new scheme is essentially the same in concept and design as the previous appealed scheme but has been revised to address the Inspector's concerns at size and bulk and impact on the MOL. The fundamental differences between this new scheme and the previous appealed one are as follows-
- the previous extensive guest/staff wings surrounding a courtyard are removed and the basement carpark underneath this whole area is also removed;
 - the basement under the main house itself is substantially reduced in size and the external terrace and steps on the west side removed so that the basement is no longer visible; the proposed basement (as recently revised) is now 522sqm in contrast to that of the appeal scheme which was 1918m², which represents a significant reduction by 73%.
 - the 2nd floor accommodation is reduced and its walls on west, east and south elevations replaced by pitched copper-clad roofs to reduce the perceived mass at roof level;
 - minor design changes are made by adding a rounded bay projection to the ground floor east elevation and changing details of fenestration and column design;
 - some minor changes to the landscape design with additional tree planting on the eastern boundary in response to neighbour requests.
- 6.9 The new application is very similar to the last pre-application scheme submitted for advice in 2013 (see para 3.11 above).
- 6.10 For information, in contrast to the appeal and proposed schemes, the approved scheme of 2005 involved retention of the main building to provide a 7 double bedroomed dwellinghouse, with demolition of all postwar extensions on the north side and restoration of all architectural features; erection of a new conservatory addition on the northwest corner; erection of a separate 2 storey garage block to the north comprising 6 carspaces plus staff accommodation above; 9 external carspaces on a forecourt.

Background

Planning brief

- 6.11 The adopted planning brief gave guidance on the future development of this redundant NHS hospital site. Accordingly permission was granted in 2005 (see history above) for retention of the main house and 3 cottages on Hampstead Lane and development of 3 blocks of flats in the grounds; this included a S106 legal agreement ensuring provision of affordable housing and land donated to the heath in accordance with the requirements of the planning brief. In particular the brief and subsequent permission was predicated on the retention and restoration of the main House as a single family dwelling house.
- 6.12 The permission has been implemented by virtue of building the new blocks of flats and demolition of all redundant postwar buildings. However the conversion of the 3 remaining cottages plus Athlone House itself has not taken place. The clauses of the S106 have been discharged in terms of delivery of affordable housing, donation of land to Hampstead heath, and educational financial contributions, but the 2 clauses on submission of a landscape management plan and restoration of the House are still outstanding.

Restoration of House

- 6.13 As a key aspect of the scheme was the restoration of the main House, the S106 required 2 phases of works to be carried out to the House itself:
- Phase 1 works involve making the House wind- and water-tight. However in reality only a minimal amount of maintenance works have been carried out to comply with this and monitoring surveys show that the house's condition is slowly deteriorating.
 - Phase 2 works involve a more extensive programme of renovation works to restore the House back to a dwellinghouse (ie. to implement that part of the 2005 permission relating to the House), which should be completed by 42 months from commencement of development on site. This period expired on November 2010; no such works have taken place as they were put into abeyance during the processing of the previous application (submitted in July 2009 and refused permission in April 2010) and the subsequent appeal.
- 6.14 The previous application (2009/3413/P), as with the current one, involved demolition and redevelopment of Athlone House which clearly conflicted with the legal requirements for restoration of the house as explained above. Furthermore the proposals conflicted with guidance given in the adopted planning brief which states that buildings making a positive contribution to the conservation area, such as Athlone House, must be retained.
- 6.15 Officers have continually reminded the applicants of the requirements of the S106 to maintain and ultimately restore the house. Regular monitoring by site visit has been undertaken by officers and letters sent to the owners reminding them of their duty to carry out various minor repairs as part of Phase 1 works. However officers sought legal advice at that time which confirmed that it would be unreasonable and premature to enforce the Phase 2 requirements for restoring the House during the determination of a planning application. This included negotiations on a replacement scheme, the processing of the application and the subsequent appeal process leading to a final decision. This legal advice has continued to be the case for the ensuing period of pre-application discussions on a revised scheme and for the determination of this current application including the associated non-determination appeal process. This is particularly the case in the light of the Inspector's comments regarding restoration of the house in his appeal decision, discussed further below.
- 6.16 Therefore, in response to continuing local concerns at the lack of enforcement action by the Council to require restoration of the House and at the delaying tactics by the applicants, it must be emphasised that previous legal advice stated that it was inadvisable to pursue such injunction action until the planning process for alternative schemes has been fully concluded and all options before the Council had been closed. Nevertheless, officers are keeping this issue under careful review and are seeking further legal advice as to whether it would now be appropriate to pursue an injunction. Any such advice will be relayed to Members as appropriate.

Public consultation reaction

- 6.17 In terms of public reaction to the scheme, the previous application in 2010 generated significant opposition from over 500 individuals (either neighbours or

users of the heath), local amenity societies surrounding the heath, and many national heritage organisations, primarily for 4 reasons- demolition of an important building in the conservation area; its replacement by a new poorly designed and more intrusive building; inappropriate impact on MOL and heath; and disregard of legal requirements in the previous permission for restoration of the House. The demolition of the House in particular was regarded as going to the very heart of the principles established by the original planning brief and subsequent planning permission for redevelopment of this site which required the restoration of the House plus 3 cottages. Furthermore the erection of new blocks of flats in the grounds was allowed on the basis of this restoration, alongside the contributions made to affordable housing and heath land, as part of an overall balanced and complete package for the whole estate.

- 6.18 In relation to the current application, it can be seen from the tenor and number of public consultation responses that this has generated a similar and indeed greater level of opposition from individuals, societies and bodies, essentially on the same grounds as before - they consider that the existing house must be retained and that the revised replacement building is still unacceptable and does not adequately address the Inspector's concerns.

2011 appeal decision

- 6.19 The previous application and decision by the Council was thoroughly assessed and tested during the lengthy public inquiry in 2011. The Inspector's decision, which was issued only 3 years ago in the context of current local policies (ie. the Council's LDF adopted on 8.11.10), is a material consideration in terms of assessing the current application. Significant weight must therefore be accorded to this decision.
- 6.20 The site circumstances and designations have not changed since this decision. The local policy circumstances have not changed, but national guidance (such as PPS5 on heritage and PPG3 on Green Belts) has since been replaced by the National Planning Guidance Framework (NPPF) in 2012 plus National Planning Policy Guidance (NPPG) in 2014. The NPPF summarises the essential aspects of the previous guidance used for the key issues relating to this application, and it is considered that the new guidance on heritage assets and MOL has not significantly changed in its aims and objectives- these issues will be discussed further below.
- 6.21 The Inspector arrived at the following conclusions on 4 key issues identified by him regarding the previous scheme-
- a) the new house constitutes inappropriate development on MOL as it was materially larger in size than the existing building and its scale and bulk would significantly harm the openness of MOL. By definition, according to PPG2, such 'inappropriate development' on MOL is harmful and unacceptable.
 - b) this harm was not outweighed by any 'very special circumstances'.
 - c) the demolition and redevelopment did not harm the conservation area- the existing building made a limited contribution to its character, demolition would not harm it and the new building would both preserve and enhance the CA.
 - d) the new development would have no harmful impact on surrounding open spaces and the heath.

- 6.22 The Inspector concluded that demolition of the house was acceptable and the principle of a modern classical design was acceptable in itself. However he considered that the increase in floorspace, both above and below ground, and the perceived increase in bulk and mass when viewed from key points on the heath, made the proposed building unacceptable and harmful to the openness of the MOL which was not justified by very special circumstances.
- 6.23 The applicants have endeavoured over a period of time to address these concerns, by redesigning and reducing the size of the house, albeit keeping the essential characteristics and design idiom of the previous scheme. The new scheme has reduced in size compared to the appeal scheme, by removing the staff wings and courtyard basement, as well as some minor design changes such as removing the visible 2nd floor and basement fenestration. The following assessment takes account of not only current national and local policy and guidance but also the above-mentioned conclusions of the appeal decision.

Landuse policy issues

Metropolitan Open Land (MOL)

- 6.24 LDF policy CS15 deals with Metropolitan Open Land and states that the Council will 'protect open spaces designated in the open space schedule including our MOL'. Its accompanying paragraph 15.7 refers to London Plan policy 3D.10 and PPG2 on Green Belts for further guidance. The revised London Plan 2011 policy 7.17 confirms that MOL has the same level of protection as Green Belt, and there is a presumption against inappropriate development. PPG2 has since been replaced by NPPF section 9 on Green Belts.
- 6.25 The fundamental aim of PPG2, repeated in the NPPF, is to prevent urban sprawl and protect the openness of Green Belt from urban sprawl, and there is a general presumption against 'inappropriate development' which by definition is harmful to Green Belt/MOL. Both PPG2 and NPPF gave guidance and criteria against which to test what form of development was deemed appropriate. The NPPF has altered and simplified the wording of the different criteria but essentially the tests and objectives remain the same as before, ie. to protect 'openness'.
- 6.26 The **PPG2** guidance previously listed criteria for new buildings in the Green Belt that must be met in order for them to be not considered as 'inappropriate development'. The 2 relevant to this case are as follows-

Paragraph 3.6 stated in relation to replacement buildings that... *the replacement of existing dwellings need not be inappropriate, providing the new dwelling is not materially larger than the dwelling it replaces.*

Paragraph C4 stated in relation to redevelopment of 'major existing developed sites' (identified in adopted local plans) that *Redevelopment should:*

- a) have no greater impact than the existing development on the openness of the Green Belt and purposes of including land in it, and where possible have less;*
- b) contribute to the achievement of the objectives for use of land in Green Belts;*
- c) not exceed the height of existing buildings;*
- d) not occupy a larger area of site than existing buildings.*

6.27 The **NPPF** now restates these criteria in paragraph 89 as follows-

(4th bullet point) *replacement of a building provided the new building is in the same use and not materially larger than the one it replaces.*

(6th bullet point) *limited infilling or the partial or complete redevelopment of previously developed sites.... which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

6.28 With regard to the previous appeal scheme, officers concluded that the House now has acquired a lawful use as a Class C3 dwelling house by virtue of the implemented 2005 permission for part change of use and part redevelopment of the whole estate from C2 to C3 use, including the erection and occupation of 3 blocks of flats (Caenwood Court). Consequently the Council refused the previous scheme on the basis of the new building being materially larger than the existing house and thus being inappropriate on MOL (see reason for refusal no.3). The Council argued at the appeal that the scheme should be assessed and determined against PPG2 criteria for replacement dwellings. In contrast the appellant argued that the scheme was a variation to the previously approved scheme and thus should be treated as an infill of a previously developed site on a 'Major Developed Site' (MDS) as defined by PPG2 and using its para C4 criteria. Nevertheless, given the differences in opinion between the applicants, Council and local groups, the scheme was assessed by officers and ultimately by the Inspector against both interpretations of PPG2. Accordingly, the applicants have continued to assess the new scheme under these both criteria which are effectively repeated in the NPPF.

Inspector's appeal decision

6.29 The Inspector concluded that the appeal scheme constituted 'inappropriate development' as it was significantly larger in size and bulk and visual impact than previous and existing buildings. In relation to the criteria on Major Developed Sites, he considered that the scheme involved a further increase of 26% total floorspace (or 8% excluding basements) over that which was permitted in 2005 and would result in a '*significantly greater amount of visible bulk which would diminish openness*' (para 22). In relation to the test for replacement dwellings, he compared the new building to other previous scenarios, such as what existed in 2003 (used by the appellants) or what was permitted in 2005 and considered that '*the new dwelling would be very significantly larger*' (para 25). He considered that even the increases in floor area above ground for these baselines (quoting 14% and 39%) '*would not be insignificant or marginal*'. He concluded in para 27 that the '*scale and impact of that harm to the openness of MOL would be substantial and to be weighed in the balance, in addition to the harm caused by inappropriateness.*'

6.30 The Inspector regrettably does not make it explicit in his decision as to which approach from PPG2 (and by implication the later replacement NPPF) should be taken here and which baseline should be used for comparison purposes. The Inspector appears to accept both criteria (ie. replacement buildings and infill of developed sites) for testing the appropriateness of the development. Furthermore he does not confirm which position should be used as a baseline to measure such

increases if one does take the replacement building approach. He does not use the Council's (and local groups') preferred approach, as expressed at the inquiry, of using the existing building as it currently stands in his comparative analysis; instead he uses both benchmarks of the 2003 'redundant hospital' position and the 2005 'new house permission' position (see also para 6.33 below). However equally he does not dismiss or discount the Council's preferred approach.

- 6.31 However the Inspector does clarify 2 matters- he considers in his para 29 that the existing building as it stands can be regarded as a dwelling as *'it clearly resembles a dwelling as opposed to a more institutional use and has an extant planning permission for residential use'*. He also considers by implication in para 26 that basements should be included in any comparison exercise, regardless of whether they are visible or not as they contribute to the overall size of the house for the purposes of the 'materially larger' test for replacement buildings.
- 6.32 As before, the new scheme is tested against the 2 criteria now in the NPPF, which are broadly similar in intent and wording to the previous ones in PPG2.

NPPF test- replacement of a building

- 6.33 The wording of this test is very similar to that used in PPG2 but now refers to all buildings, not just dwellings. As argued in para 6.28 above, the building as it currently stands has lawful use as a residential dwelling and the new building will be in the same use. The Council continues to adopt the approach that this structure as it exists now is the correct baseline to use, because the existing building is the one that will be replaced (to use the test's terminology) rather than some other iteration. In contrast, the applicants favour the 2003 position; however this is an earlier building with rear ward wings which still had Class D1 institutional use, albeit vacant, and had not yet acquired residential use by virtue of the later 2005 permission. Officers also consider it inappropriate for the purposes of this test to use the alternative 2005 baseline (referred to by the Inspector) of the permitted restored house with new extension and garage wing as this is a future scenario, in the sense that the approved extensions and outbuildings have not been built yet. Nevertheless, comparisons will be made below with these 2 other scenarios for sake of completeness and consistency with the Inspector's decision.
- 6.34 Another issue is that there is no clear guidance on the definition of the term "materially larger" or on how much larger a replacement dwelling can be. The High Court judgement on the Garden House case in 2007 concluded that the most relevant dimensions used would be dependent on the nature of the case but could include floorspace, footprint, volume, height, width etc. to give an indication of size and bulk. However it was stated that *"in most cases floorspace will undoubtedly be the starting point, if indeed it is not the most important criterion"*. Officers have in the past informally suggested that up to a 10% increase in floorspace would not be regarded as materially larger. Furthermore this Court case also clarified that basements contribute to the size of a house and, for the purposes of this exercise, should be included in such calculations and comparisons, regardless of whether the basement is invisible or not. Officers thus consider that basements should be included in such comparisons of size.

- 6.35 Analysis of the comparisons of changes in size has been further complicated recently in that the applicant has sought to reduce the scale of increase in the latest revision (see para 2.2) in an attempt to show that the scheme is not materially larger than earlier baselines. As part of a recent revision, the proposed basement has been slightly reduced in size; the central atrium has been excluded from floorspace calculations of both the proposed scheme and the previous appeal scheme, as well as the central lightwells of the 2005 permitted scheme (in contrast to the appeal where they had all been assumed as floor levels); the upper level void of the previous and current ballroom has also been excluded. Furthermore floorspace calculations have been revised to take account of basements that were forgotten or incorrectly measured for the 2005 scheme. Officers have not been able to independently verify these figures and it is trusted that the measurements given are accurate.
- 6.36 The applicants' revised floorspace comparison exercises now exclude the proposed atriums in the current and appeal schemes as well as the lightwell in the previously approved scheme (which broadly reflects the existing lightwell in the existing building). However officers (as well as local groups) consider this exclusion to be misleading. The atrium as an internal triple height void contributes to the mass and volume of the building and cannot be adequately measured as one floor level, in the way that the applicants suggest. Furthermore the atrium can be infilled later either completely or partly by additional floors which would not require planning permission, thus increasing its floorspace. The same applies to the existing/permitted lightwell of the existing house. Officers therefore consider for sake of consistency that such internal voids are treated as floor levels (as they were at the inquiry) to give a more realistic impression of floorspace in the various building scenarios. The only exception is the upper level void of the domed ballroom which clearly cannot be used as floorspace and thus officers have accepted that this can be excluded.
- 6.37 In the case of the previous appeal scheme, its floorspace and footprint were both very significantly increased which the Inspector found unacceptable. For example, the footprint at 1307sqm was 47% more than the existing building and 10% less than the 2003 baseline. The total floorspace including basements (using figures used at the inquiry) was 124% over the existing house, 70% more than the 2003 baseline and 107% over the 2005 approved house. Even excluding basements, the Inspector considered (in para 26) the increases to be still significant (eg. 14% above the 2003 baseline and 39% above the 2005 house).
- 6.38 With the new proposed house, the **footprint** is 1078sqm which is significantly less than the appeal scheme due to the omission of staff wings. It is now 21% larger than the existing building as it stands, 8% more than the 2005 approved house but 25.6% less than the 2003 baseline.
- 6.39 The **height** of the proposed main roof and domes are slightly higher than the existing building's ridge and gables but the new tower is the same height as the existing one. The position of the new house is on the same plot as the existing building. The **length and width** of the new house on its lower floors are broadly similar to these dimensions of the existing house, if one takes account of the latter's maximum extent of projecting bays.

- 6.40 In terms of total **floorspace** (with basements), the applicants' own revised figures show that the new floorspace is only 1.4% larger than the 2003 baseline (and indeed approx 9% less if one excludes basements) but 28% larger than the 2005 scenario.
- 6.41 However officers have recalculated these figures and ratios based on the assumptions of including the atrium and excluding the ballroom void, as explained in para 6.36 above. It is thus estimated that the total floorspace of the new house is almost 42% larger than the existing building as it now stands, 8% more than the original building in 2003 (or 2% less above ground, excluding basements) and 33% more than the 2005 approved house (or 20.6% more above ground).
- 6.42 It is therefore considered that, despite reductions in size from the appeal scheme which are welcomed, the new scheme is still materially larger, in both floorspace and footprint terms, than the existing house as it stands, as well as larger than the restored and extended house as approved. Thus it fails to comply with the NPPF test and is considered to be "inappropriate" development.
- 6.43 As with the previous appeal case, a comparison of **volume** is almost impossible to calculate, due to the complicated profiles of both houses as existing and proposed, including various pitched roofs, gables, domes and canopies, and thus this dimensional criteria is not used. However it is acknowledged that, in this case, volume may be perhaps the best test to use here as it most accurately gives an indication of the overall scale and size of a building including its basement and also an indication of its visual bulk above-ground and its impact on 'openness'- in contrast, using floorspace figures can be deceptive as they do not take account of internal lightwells, atriums, loft spaces and double height voids which all contribute to the height and external envelope of a building.
- 6.44 The Inspector, in considering the size of the new dwelling, also took account of other matters such as design and massing of the new building in his para 27 and concluded that the '*proposal would not be reticent in its appearance*' and that, due to its design idiom, '*even a small increase in size becomes significant*'. Thus it appears that he took the test of 'materially larger' to cover not only quantitative measurements but also qualitative perceptions of size based on its visual appearance and mass. This issue of design and visual impact is discussed further in the Bulk/design (*MOL impact*) section below.

NPPF test- limited infilling or partial redevelopment of developed site

- 6.45 The aim of this test is similar to that in PPG3 but has been significantly simplified in wording. The NPPF now excludes 3 criteria formerly used by making no reference now to height, footprint or objectives for use of land in Green Belts (and by implication MOL). The sole criterion is now that development should not have a greater impact on the openness of the MOL than existing development. There is now no reference made to 'MDS' and only defines 'previously developed sites' as brownfield land. This impact on openness can be thus measured both qualitatively and quantitatively. The Inspector assessed both the actual increased size of the appeal scheme in terms of floorspace and footprint and also the perceived visual impact of its increased bulk on the openness of MOL. He also noted, in relation to defining how size is measured, that floorspace was a reasonable starting point

followed by factors such volume and disposition on site, but he concentrated on above-ground floorspace figures. He concluded that the scale of increased size and visual impact on openness was unacceptable.

- 6.46 Firstly, in terms of increased visual impact, officers consider that the new building still fails to meet this test of openness as did the appeal scheme. This is because of its greater bulk (both actual and perceived), form and design which overall is considered to have a greater and more intrusive impact on the surrounding MOL than the existing house, as well as its restored and extended version as permitted in 2005. This issue of visual impact from increased size is discussed in further detail below under the Bulk/design (MOL impact) section.
- 6.47 Secondly, the issue of actual measurable increases in size is discussed here. The NPPF refers to a comparison with 'existing development' thus the new house can be assessed as a partial redevelopment in the context of the existing overall development on the whole estate that was actually built following the 2005 permission and can be compared with this total current footprint and floorspace. However it is also necessary to measure it against the size of the total approved redevelopment scheme including elements not yet built (ie. the extensions and garage wing to the House), which indicates the totality of development that the Council previously deemed acceptable on MOL. This scheme in itself was a redevelopment of an earlier 'previously developed site' in 2003 which changed significantly the overall footprint and floorspace of the original hospital here, so comparison is also made with this scenario (see para 6.49 below).
- 6.48 The following measurements include the atriums/lightwells as floors (see comment in para 6.36 above). Officers have also calculated and used figures for floorspace above-ground only, on the basis that the existing/proposed basements (eg. assuming 3159sqm for the approved basements) are mostly invisible and thus have no effect on openness which is the key test here. As with the other NPPF test, size can be measured by dimensions such as floorspace, footprint, volume and height.
- 6.49 The 2005 permission involved a decrease in footprint by 23.6% (on account of removal of the large ward blocks) and an increase in floorspace by 37.5% (due to the new blocks of flats), compared to the original situation of buildings on site at the time of the 1999 planning brief survey. This increase in overall built form was considered appropriate by both the Council and GLA (as a consultee for this Major application) at that time, in terms of additional development on a MDS on MOL and compliance with the PPG2 tests.
- 6.50 The previous appeal scheme, replacing the restored house by a new house with staff wings, involved a decrease of 12% in footprint but an increase of 48.5% in above-ground floorspace from the original situation. This represented another 8% over and above the agreed amount of built volume on site which was considered significant and unacceptable by the Inspector.
- 6.51 The officer's figures for the new scheme show that it involves a 22% reduction in footprint which is very similar to that approved in 2005 and is acceptable. It also involves a 43% increase in above-ground floorspace compared to the original situation in 2003. This represents another 4% over and above the 2005 agreed

amount on site (and 6.7% above the actual existing amount on site at present). It is arguable whether this scale of further increase is significant now in floorspace terms alone. However it is considered that its resulting visual impact is noticeable and significant, as noted in para 6.46 above and discussed further below in the design section. It is further noted that GLA consider that this increase in size is unacceptable in the light of the amount of enabling development that has already been agreed and built on this sensitive site.

- 6.52 As with the previous NPPF test (see para 6.43 above), a comparison of volume is almost impossible to calculate due to complexities of shapes involved and lack of data on them; however it is suggested that this may be a more meaningful and accurate measure of size rather than floorspace.
- 6.53 The applicants' own figures for the new scheme (in conjunction with the whole developed site) include basements and exclude atria. This is considered misleading as the basements if totally underground do not affect the above-ground built volume and hence openness of surroundings, while in contrast the atria and lightwells within buildings do contribute to their volume. Nevertheless, using their approach, a comparison of their figures show that the overall development on site with the new building compared to the 2003 situation is 40.4% larger in above-ground floorspace but 22% less in footprint; compared with the 2005 permission, it is 2.7% larger in floorspace and 2% larger in footprint.
- 6.54 It is therefore considered that the new scheme, taken in conjunction with the other existing/approved buildings on site, has a greater impact on the openness of the MOL than the existing overall development. Thus it fails to comply with the NPPF test and is considered to be "inappropriate" development.

Conclusion

- 6.55 In conclusion, it is considered that the revisions to the scheme dismissed at appeal do not go far enough to address the Inspector's concerns. The building, whether treated as a replacement house or a further infill to the previously developed site, fails both tests of NPPF for appropriateness of development on Metropolitan Open Land. 'Inappropriate development' by definition is harmful to MOL and should be refused. This harm is not outweighed by any 'very special circumstances'.

Open space designations

- 6.56 The site lies on Private Open Space. It also adjoins a Public Open Space of Hampstead Heath as well as Private Open Spaces of 2 private residences to the east (Beechwood and The Elms). LDF policy CS15 not only seeks to '(a) protect open spaces designated in the open space schedule' (including MOL) but also seeks to preserve Hampstead Heath and surroundings by '(l) protecting MOL, public and private open space and nature conservation designations of sites' and '(o) protecting views from the heath and views across the heath...'. Para 15.6 states that we will only allow development on sites adjacent to an open space that respects its size, form and use and does not cause harm to its wholeness, appearance and setting or harm public enjoyment of the space. These objectives are very similar to those of the previous UDP policies on private open space.

- 6.57 The Council considered that the previous replacement house, by virtue of its increased scale, bulk and bold design, would be more intrusive than the existing house and would have a harmful impact on the open rural character of both the private open space on which the building sits and also of the adjoining private and public open spaces such as Highgate playing fields and the Heath. Hence the previous application was refused on this basis (see reason for refusal no.2). Nevertheless the Inspector disagreed and considered that the replacement building would not diminish the character, appearance or setting of surrounding open spaces nor conflict with policies aimed at protecting the heath. This conclusion has to be treated now as a material consideration in assessing the current application. This now proposes a smaller building which by definition would reduce its visual impact on surroundings. It is therefore considered, in light of the Inspector's decision, that no further objection can be sustained on this issue of impact on character and setting of surrounding open space and Heath alone. This issue however is distinct from the impact on openness of these surrounding spaces which constitute MOL, a distinction made by the Inspector. This issue is discussed in more detail below in the Bulk/design section.

Density

- 6.58 The LDF policies CS1 and DP2 seek to maximise the use of land with residential use as a high priority. The use of this site for housing is thus welcomed in principle. These policies refer to the London Plan's density matrix (table 3.2), which is the same as that considered for the previous appeal scheme. The density matrix suggests for this site, in a poorly accessible suburban setting, an appropriate density of 150 to 200 habitable rooms per hectare (HRH). This contrasts with the previously proposed density of 9.5 HRH which was extremely low. The new scheme has an even lower density due to the omission of the ancillary staff/guest wings.
- 6.59 Officers previously concluded that, on balance, there may be a case for preferring a single dwelling to an apartment block, and therefore the exceedingly low density of a replacement building would not necessarily constitute a reason for refusal. These conclusions are still relevant now, despite the reduction of the new house's floorspace to nearer 3000sqm, and it is therefore the scheme is acceptable on density grounds. It is noted that the Inspector did not raise density as an issue to be considered here.

Affordable housing

- 6.60 In regard to the previous appeal scheme, officers accepted that affordable housing had been provided to the full extent that was justified in connection with the original 2005 permission but they considered that additional contributions to offsite affordable housing were required following the additional uplift of floorspace above that of the approved scheme – this uplift was considerably in excess of the 1000sqm threshold within the UDP for requiring such contributions, and hence a S106 legal agreement to secure this was sought and agreed at the appeal inquiry.
- 6.61 In regard to this current scheme, the proposed increase in floorspace over and above the 2005 permitted amount on site is now almost 850sqm. This is less than the current LDF threshold of 1000sqm requiring affordable housing as specified in

policies CS6 and DP3. Furthermore the new dwelling merely replaces an existing building with lawful C3 use with no increase in units. Consequently there is no requirement for this development to make provision for additional affordable housing and no further contributions by means of a S106 agreement will be sought this time.

Residential standards

- 6.62 As before, the new mansion amply complies with all CPG standards in terms of floorspace for a 16 person unit, sizes of rooms, adequate daylight and sunlight, outlook and ventilation. Adequate space is also available for refuse and recycling storage.
- 6.63 The proposals are stated by the applicants to meet Lifetime Homes standards owing to meeting Part M plus inclusion of lifts to all floors and corridors and doors wide enough for wheelchairs. However no detailed statement or checklist has been provided to show how the scheme complies with all 16 individual Lifetime Homes criteria and parts of the scheme may not comply, eg. plans appear to show steps at all the entrances to the house. However the internal spaces are generous enough for design adjustments to meet the criteria, and the plans can be easily adapted to omit the stepped access. It is suggested that any approval should have a condition requiring revised plans to be submitted and approved to address this issue.
- 6.64 Financial contributions for provision of educational and public open space facilities would not be required in this case, as the scheme is for a replacement dwelling with no increase in units.

Conservation and design issues

Demolition of existing building

- 6.65 Athlone House was built as a single family house in 1871 by Edward Salomons for Edward Brooke, a prominent industrialist and MP. The house is a picturesque composition of red/brown brick with stone dressings. Its lively roofscape, characterised by a tower, gables and cupola, and well-modulated elevations create significant visual interest. Whilst the house is visible in long views from the Heath and Kenwood, its broken roofline, asymmetric form and the mellow tones of its facing materials allow it to sit comfortably amidst the tree cover. However since its use as a hospital, extensions were added to the north (now demolished) and various unsympathetic alterations made internally and externally, including simplification of the original Dutch gables, truncation of the prominent chimneys and modification of the tower. Despite some loss of architectural detail, the building is identified within the Highgate Conservation Area Statement (2007) as making a positive contribution to the character and appearance of the Highgate Conservation Area. However it has been previously rejected by English Heritage for listing status- its Listing Adviser's Report (Sep 2009) stated that "losses have subsequently been sustained by the exterior, which just tip it over the balance of being listable...One rejects a building of such character for listing with a heavy heart...".
- 6.66 The social, historic and architectural merits of the building were put before an Inspector at the last public inquiry in 2011 by the Council, local objectors and a

variety of expert witnesses. In making his decision the Inspector did acknowledge that the building was of heritage interest and is a heritage asset; however his conclusion at paragraph 35 was that *"Its currently dilapidated, unoccupied state is clearly visible from the Heath, and the loss of fabric and architectural details caused by long term institutional use diminishes its contribution to the wider, designated conservation area."* The objections that have been submitted in relation to the current application once again make a compelling case for the intrinsic qualities of the building, as well as reflecting the strength of feeling for this cherished local landmark. However, the Inspector was clear at paragraph 37 that *"Whilst the aim of national policy is to conserve heritage assets, that is not to be at all costs. The individual contribution made by Athlone House as a damaged unlisted building to the significance of the conservation area is positive, but is limited. Its demolition would harm the conservation area, but if a replacement is of sufficiently high quality, a greater contribution might be possible."* Thus despite the extensive evidence in favour of the house, the Inspector appears to give little weight to its value and significance. He concluded at paragraph 38 that *"As such, in principle, a replacement contemporary building of sufficient quality could preserve and enhance the character and appearance of the conservation area at least as much, if not more than the building which exists at present."*

- 6.67 The Inspector's decision, whilst highly regrettable, is a significant material consideration to which the Council must give appropriate weight during the assessment process. The implications of the adoption of the NPPF in March 2012 have been raised by many objectors. If the policy context under which the appeal was determined could be shown to have materially changed, then this would allow the Council to give the decision less weight. The policy framework that was in place when the original application and subsequent appeal were assessed and determined has been compared in great detail with the new policy regime under the NPPF.

- 6.68 The application was refused by the Council on the 12th April 2010. During the majority of the assessment stages of the application, Planning Policy Guidance 15 (PPG15) was the relevant policy document on matters of conservation and design. Planning Policy Statement 1 (PPS1) was also in place covering overarching planning principles, having been adopted on the 21st January 2005. On 23rd March 2010 immediately prior to the determination of the application, Planning Policy Statement 5 (PPS5) was adopted. The appeal decision was made on the 21 April 2011. PPS1 and PPS5 remained the relevant adopted policy documents, with the latter referred to many times in the Inspector's decision.

- 6.69 English Heritage has submitted a lengthy objection which appears to raise a host of new policy issues and refers to "significant changes" in national planning guidance. However a careful and very detailed analysis of the relevant paragraphs has been undertaken by officers and this concludes that in terms of the retention of the existing building, the key principles, and in the case of PPS5 much of the wording, have been absorbed into the NPPF. Several examples are highlighted below to demonstrate the similarities in the policy position between PPS5 and the NPPF.

- 6.70 English Heritage refer to a key principle at paragraph 17 of the NPPF, namely to ***"conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future***

generations.” This policy is expanded upon at paragraph 126 of the NPPF. However, all of these points are very closely mirrored at paragraph 7 of PPS5 *“The Government’s overarching aim is that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations.”* This includes **“to conserve England’s heritage assets in a manner appropriate to their significance.”** Other key messages from paragraph 126 of the NPPF were also in place in paragraph 7 of PPS5, covering the need to find viable uses for heritage assets, that they are an irreplaceable resource and that the *“wider social, cultural, economic and environmental benefits”* of heritage conservation should be recognised. In fact the statement in paragraph 7 of PPS5 that requires that *“the positive contribution of such heritage assets to local character and sense of place is recognised and valued”*, is somewhat watered down in the NPPF, appearing at paragraph 126 as *“opportunities to draw on the contribution made by the historic environment to the character of a place”*, issues that are particularly relevant to this case given the local objection to the loss of Athlone House.

- 6.71 Paragraph 130 of the NPPF states that evidence of deliberate neglect of or damage to a heritage asset *“...should not be taken into account in any decision”*, as compared to *“..should not be a factor taken into account in any decision”* found in policy HE 7.6 of PPS5.
- 6.72 English Heritage comments that *“Paragraph 132 states that when considering the impact of a proposed development on a heritage asset, ‘great weight’ should be given to preserving its significance.”* Policy HE9.1 of PPS5 had a similar thrust, although it could be argued that a presumption in favour is a stronger policy test than ‘great weight’ – *“There should be a presumption in favour of the conservation of designated heritage assets”* with the added imperative that **“Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact.”**
- 6.73 Paragraph 133 of the NPPF, dealing with ‘substantial harm’ to the significance of a designated heritage asset, closely mirrors policy HE9.2 of PPS5. The NPPF does include the word ‘demonstrably’ in terms of the possibility of grant funding or charitable/public ownership. However PPS5 had the additional policy at HE9.3 which required owners to provide evidence that other potential owners or users of the site had been sought and that reasonable endeavours had been made to seek grant funding. Nonetheless, the Inspector did refer to this at paragraph 44 of his appeal decision stating *“There is no other money available from charities or through public ownership that I have been made aware of”* which confirms that this issue had been considered following evidence from all parties at the inquiry.
- 6.74 Paragraph 134 of NPPF is closely mirrored in policy HE9.4 of PPS5 and requires ‘less than substantial harm’ to be weighed against the public benefits of the proposal, including securing the optimum viable use of a heritage asset. However, once again PPS5 has additional wording, requiring that *“...the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.”*
- 6.75 English Heritage’s objection also refers to design paragraphs 58, 60, 61 and 64 of the NPPF as being of relevance to the proposals. The general thrust and indeed

many of the phrases are reflected in paragraphs 33-39 of PPS1 on design which was the adopted policy document at the time of the appeal. In conclusion, whilst the adoption of the NPPF superficially appears to represent a significant shift in policy (in relation to arguments about the retention of the existing building), a thorough analysis of the principles and exact wording of the policies suggests otherwise. The Inspector used PPS5 as a key document in assessing the heritage and conservation issues relevant to the 2011 appeal. Officers consider that there are no new policies in the NPPF (and indeed there was additional useful wording in PPS5) that would allow the Council to now justify a deviation from the conclusions of the Inspector in regard to the inherent value and contribution of Athlone House.

- 6.76 The Inspector makes clear at paragraphs 37, 43 and 44 of his decision that he has considered the loss of the building to be 'substantial harm' and therefore he applied policy HE9.2 of PPS5. Evidence was given at the Inquiry regarding the condition of the building and the costs of restoring and refurbishing it. The Inspector agreed that these costs would be very substantial and that any new owner would not find it worthwhile to restore an unlisted building with such loss of fabric and interest. He concluded that *".....the loss of the limited contribution the building makes to the conservation area, with all the risks attached to repair and refurbishment, would be outweighed by the long term contribution made by the appeal scheme"* and he thus considered this policy test satisfied. The evidence at the inquiry (see para 61 of appeal decision) showed that restoration would need £14-21 million expenditure. Given the ongoing deteriorated condition of the building and passage of time since then, it is likely that the cost of restoring it would be the same if not somewhat greater. This is demonstrated by the applicants' submitted revised budget estimate for restoration which indicates £21 million. This has not been independently verified on account of the Inspector's comments above which did not dispute the previous costings.
- 6.77 Officers therefore conclude that the Council can no longer reasonably object to the demolition of Athlone House in itself in the light of the appeal decision, provided that there is a suitable replacement building in bulk and design.

Bulk/design of replacement building

- 6.78 As noted in the paras 3.11 and 6.8 above, pre-application discussions ensued after the appeal decision in order to address the criticisms made on the size and visual impact of the new house. The replacement building is now smaller in size than the appeal scheme by removing the staff wings and redesigned in some details to give the impression of being smaller. The conclusions of the Inspector in the 2011 appeal are a significant material consideration in the assessment of this application. In terms of design his comments fall into 3 broad categories: the impact of the building on the character and appearance of the Highgate Conservation Area (both in Camden and Haringey), the impact of the building on surrounding open spaces, and the impact of the building on Metropolitan Open Land (MOL).

Conservation Area impact

- 6.79 The Inspector is clear in his conclusions about the Highgate Conservation Area, citing in his para 41 that *"Notwithstanding its increased bulk and assertive architectural form, the building's influence on the conservation area would be*

positive” and at para 45 “Having said that, its scale and massing would be greater. But the house would not, in my view, be so much larger in visible bulk as to conflict with the aim of preserving and enhancing character and appearance; the building would be on a unique site in substantial grounds.” He also concluded that the development would preserve and enhance the character and appearance of the Highgate Conservation Area in Haringey.

Open space impact

- 6.80 In relation to the impact of the proposed building on the character, appearance and setting of surrounding open space, the Inspector once again concludes that the replacement building would be acceptable. Paragraphs 48-57 of the appeal decision are dedicated to his assessment of this impact and he states that *“I accept that there would be a change that people would notice, but I am not convinced that the impact would be so significant that views from the Heath or nearby open space would be unacceptably affected.”* He seems to give little weight to the Council’s concerns about the discordant visual effect that the proposed Bath stone and copper domes would have in views from the Heath. Regrettably also, he did not raise concerns about the contribution that the palatial scale, symmetry, bulk and repetitive fenestration make to the perceived prominence of the building, particularly when compared with the existing asymmetrical, eclectic and varied appearance and profile of Athlone House.

MOL impact

- 6.81 In essence the appeal was dismissed on the basis of the impact of the development on MOL with the Inspector concluding in his paragraph 22 that *“...there would still be a significantly greater amount of visible bulk which would diminish openness”*; at para 27 that *“The scale and impact of that harm to the openness of the MOL would be substantial”*; and at para 26 that *“The increase in floor area proposed above ground would not be insignificant or marginal.”* Given his choice of wording, it is logical to assume that in order to overcome these objections any revisions to the scheme would need to have a significant effect on reducing the scale and bulk of the proposed building.
- 6.82 Thus, the key issues for the Council to consider are whether the revisions to the scheme overcome the harm identified by the Inspector to the openness of MOL. The fundamental overall architectural design approach to the replacement building has not changed. The house retains its square footprint, classically inspired design, Bath stone elevations, copper roofs and large areas of glazing. There appears to be no change to the overall height or any significant change to the dimensions of the building, except that the previous staff wings have been now omitted.
- 6.83 The revisions to the profile of the roof do assist in creating a more varied roofscape and reducing the bulk of the central section of the building. However, during pre-application discussions, officers raised the issue of the effect and impact of the domed corner towers which have always been an integral part of the design but the applicant has been unwilling to negotiate on this aspect. The prominence of these features in the four corners of the building’s plan serve to define and reinforce its bulk and scale, focusing attention on the extremities of the building – by contrast

the gables, turrets and chimneys of the existing building punctuate the roofscape in an irregular manner with no additional emphasis given to the corners.

- 6.84 On the west elevation the omission of the expressed basement accommodation and associated staircases and the replacement of the 2nd floor facades by pitched roofs now helps in reducing the perceived scale of the building in viewpoints from the west, so that the building appears to have 2 storeys in its central section between domes rather than 4 storeys as before. This was a feature that the Inspector specifically referred to in his decision. However, he does state at paragraph 27 that *“Moving on to take into account other relevant matters such as design, massing and disposition on the site, the proposal would not be reticent in its appearance. Its size would be clearly perceived, not least due to the appearance of 4 main occupied floors all with windows in the west elevation”* (my underlining). Officers’ analysis of this comment is that, whilst the 4 floors contribute to a lack of reticence, they are not the only issue. The applicant also argues that the omission of the service wings to the north of the building assists in addressing the Inspector’s concerns – this is considered further in the assessment of verified views below.
- 6.85 In assessing the south elevation the Inspector states at paragraph 27 that *“...the elevation would lack the variety that the existing tower and roof provides for Athlone House in this view, appearing somewhat monumental as a result.”* Although the changes to the roof profile do improve the design, officers consider that nevertheless the key characteristics of this elevation remain, namely its symmetrical character, recessive nature of the tower, repetitive and grandiose fenestration and the prominence of the domed corner features.
- 6.86 At paragraph 53 of the decision, the Inspector noted that *“Symmetricality adds to an impression of rigidity, bulk and dominance, whereas an asymmetric and/or an eclectic, more romantic scheme could be said to have an opposite effect.”* It is acknowledged that this comment is found in a section where he seeks to demonstrate a lack of harm to the character of surrounding open space; however his analysis is useful in demonstrating the effect of the scheme on the openness of MOL. In describing the harm caused to openness, the Inspector comments at paragraph 27 that *“The deliberately symmetrical, similar appearance of the 3 main elevations, the limited articulation of the facades and relatively unrelieved, flat roofline would tend to reinforce the perception of greater mass.”* Whilst it is acknowledged that beneficial alterations have taken place to the roof profile, the overall design concept remains unaltered and the incorporation of a curved bay on the east elevation at ground floor level does little to fundamentally address the criticism regarding articulation. The design is still intended to draw the eye and to assert itself within its context – the applicant has been unwilling to consider alternative materials or alterations to the basic form or detailed design of the building that would help to break down its massing and bulk.
- 6.87 The Inspector sought at paragraph 59 to give clarity to his assessment of the complex impacts of the proposed scheme, *“The effect on the openness of the MOL is primarily a matter of the nature, scale, bulk and site coverage of the development and its physical effect on the appeal site and the MDS [Major Developed Site], whereas the effect on the character and appearance of the conservation area and the visual amenities of MOL is primarily its impact on the wider area as seen from public viewpoints.”* This would seem to suggest that the extent of the harm to

openness is restricted to the confines of the site, rather than any wider impact. However, Hampstead Heath to the west of the site, Highgate School playing fields to the north, as well as the private residences of Beechwood and The Elms within the conservation area to the east, are also all designated as MOL, in addition to the appeal site itself. Therefore it is right to consider the impact of the revised scheme on openness from any wider viewpoints that fall within the MOL designation. Indeed, the Inspector refers to Viewpoint 1 (Kenwood Gazebo) in his analysis of the impact of the scheme on the openness of MOL and to visibility “...from parts of the Heath” when considering the south elevation of the proposal.

- 6.88 As with the previous appeal scheme, the proposals are also accompanied with a revised **Visual Impact Assessment** of the proposed new building to demonstrate the impact of the proposed new building on the site and its surroundings, notably its visual impact in views from verified viewpoints on the Heath and adjacent Conservation Areas which are all on MOL. The report seems to conclude that, because most views are distant and screened, the heath has a low sensitivity to change “where most types of development of the type envisaged could be accommodated without negatively affecting landscape/townscape character and sense of place or valued views or visual receptors”. It is also worth noting that these views and montages are all taken during the summer when the trees were in full leaf. Winter views have not been provided but would be useful in order to give a complete picture of the impact the development will have; for instance, as demonstrated in the attached photo, the existing building’s western elevation is significantly visible in winter in the view from Kenwood gazebo (viewpoint 1).
- 6.89 Viewpoint 1 from Kenwood gazebo affords the closest and most important public view of the house and is of key significance. Whilst the revisions to the upper storey/roof profile do have a small impact on the bulk of the building, a large section of the pitched roof is obscured by tree cover in the summer months. However, in the winter views the roofscape is far more visible. Nonetheless, from this vantage point, the impact of the corner pavilions is particularly pronounced, defining the massing of the building. Contrary to the Assessment’s assertions, removal of the previously proposed rear service wings would have made little difference as they would have been screened by trees due to their low level and positioning. However it is acknowledged that the previously expressed basement would have been visible in winter months and its removal has reduced the impact of the new house in this view.
- 6.90 In Viewpoint 2 further south of Kenwood, the modifications to the roof profile on the west elevation would be more apparent in this view, reducing the bulk of the building. However, it is still the corner dome features that define the envelope of the building and this would remain readily apparent. Again, as with the above viewpoint, the removal of previous staff wings from the new scheme has no impact on the visual impact of the building.
- 6.91 In Viewpoints 3 - 8 at various locations across the Heath and Kenwood estate, officers are satisfied that there would be no detrimental impact on the openness of MOL from these viewpoints, due to the significant distances from the appeal site and the extent of the vegetation that screens it.

- 6.92 In Viewpoint 9 from Highgate School playing fields to the north, the Inspector considered that the proposal would not have a harmful impact on the character and appearance of the Highgate Conservation Area in Haringey. However he does conclude at paragraph 46 that *“The increase in the volume of built form and the repositioning of the tower nearer to the road would diminish openness.”* The tower remains in the same position as the appeal scheme and thus the harmful impact remains. There are no further changes to the roof profile on the north elevation which would alter the impact when compared with the appeal scheme.
- 6.93 Viewpoint 10 from a footpath west of the site picks up the northwestern corner of the building and the alterations to the roof profile on the west elevation would have no impact during the summer months. As at Viewpoints 11 and 12 below, the proposed house would be more apparent in winter views and the reduced bulk on the west elevation may be appreciable; however the corner tower would remain the dominant feature.
- 6.94 Viewpoints 11 and 12 are from the public garden to the south affording two of the closest views of the house. In both of these views the proposal would appear more dominant, due to the profile and disposition of the bulk on the site. Although the dense tree cover in longer views from the Heath may still obscure the building even during the winter months, this effect would be less pronounced in close views such as these where only one layer of deciduous trees screen the boundary of the site. In these views the alterations to the roof profile on the east elevation would have a barely discernible impact on the building, with the corner tower once again appearing as a dominant feature.
- 6.95 Regarding views from within the site itself, the building would be highly visible on all sides, as evidenced in the Design and Access Statement. The site would remain open around the house, with sloping lawns to the south, east and west, allowing clear views of the building within its setting.
- 6.96 Paragraph 27 of the appeal decision contains the most relevant sections regarding the design, massing and disposition of the building on the site. The Inspector is clear that *“...the proposal would not be reticent in its appearance. Its size would be clearly perceived...”* and that *“...the design is intended to draw the eye; to have a visual impact.”* He considers that the deliberately symmetrical, similar appearance of the 3 main elevations and the limited articulation of the facades *“tend to reinforce the perception of greater mass.”* It is acknowledged that the removal of the expressed basement accommodation on the west elevation and the removal of the service wings to the north of the building will have a positive effect upon the perceived bulk of the building. However, officers consider that the inherent design of the building has not changed sufficiently to overcome these objections. Whilst the comment regarding the unrelieved flat roofline has been addressed through the incorporation of sloping roof planes, in overall terms the monumentality and excessive bulk of the scheme remains.
- 6.97 Although the Inspector did not condemn the use of a classically inspired architecture, he did refer to the building’s “strong architectural presence” and “assertive architectural form”. Officers consider that the fundamental design concept that is proposed, with its symmetry, relentless repetition, and in particular the four corner domes, adds to this impression of scale and dominance.

This contrasts with the existing building with its picturesque design and broken roofline that sits comfortably within its landscaped setting (as described in paras 6.65 and 6.80 above).

- 6.98 It is concluded from the viewpoint analysis discussed above that the new building will still have a harmful visual impact on openness of surrounding MOL in several views, notably viewpoints 1, 2 and 9-12, as well as openness within the site itself.

Conclusion

- 6.99 In conclusion, it is considered that the revisions to the scheme dismissed at appeal do not go far enough to address the Inspector's concerns. The building, by reason of its design, form, bulk and scale compared to the existing building, remains harmful to the openness of MOL, both from within the site and from other longer distance vantage points in the adjacent sections of MOL.

Landscape/trees

- 6.100 As with the previous appeal scheme, the aim of the landscape proposals is to restore historic features with the existing gardens and to provide a setting for the building. The various elements which made up the previous landscape proposals comprised the following:
- the area of woodland to the north of the site is to be rejuvenated with a woodland walk and planting;
 - the pond, associated rockery and fernery are to be restored;
 - additional tree planting is proposed to the south western corner of the site to thicken the woodland boundary and provide screening to the building from view from the Heath;
 - plant espaliered trees to screen a 1.8m hedge on the south western boundary;
 - to plant an area of the garden terraces with fruit trees to redesign the sunken garden as a formal parterre with small ponds;
 - establish an area of acid grassland and also provide additional planting suitable for an acid soil;
 - create a pond for rainwater retention as part of a suitable urban drainage scheme for the site;
 - plant a row of trees along the boundary with Kenwood Place to screen the adjacent development;
 - plant a group of new trees to the north eastern corner of the building to screen views from Hampstead Lane.
- 6.101 The previous ecology, landscape and tree reports and plans have been updated and revised for this new application following more surveys, research and refinement. The main changes are- creation of new courtyard with central fountain feature at entrance to main house; changes to the restored Pulhamite pond to the west; a new large pond created on the east side near Caenwood Court flats; removal of some scattered trees and shrubs to west and south of the house, resulting in more acid grassland to benefit biodiversity; new orchard to west of sunken garden to be in a formal design; removal of new amenity grassland to the north to avoid harm to the grass snake; change in height and species of tree planting screen along eastern boundary with Caenwood Court; additional tree

screen planting along southern boundary with Heath. As before, all trees of high amenity value are being retained.

- 6.102 As before, these elements are generally considered to enhance the landscape character of the site and overall the new design changes will positively affect the nature conservation interest of the site and that of the adjoining Heath.
- 6.103 It should be noted that the revised landscape proposal in relation to extended tree planting along the eastern boundary was partly in response to concerns expressed by residents of Caenwood Court at a consultation exercise carried out by the applicant. The tree species and planting positions and density was altered to take account of their concerns regarding pine needle fall and protection of views to the heath from certain flats. In response to the continuing objections made by these residents, officers consider that the tree screen planting is acceptable for both this site and the wider area of the Heath, that it does not harm the views from the heath nor openness of the MOL, and that it is inappropriate to adjust landscaping to suit private views from residents' properties.
- 6.104 The residents also object to the entrance gate design but no details have been submitted regarding their design; such details can be reserved by condition.

Biodiversity

- 6.105 It is noted that the site is categorised as a Site of Metropolitan Nature Conservation Importance (SNCI). Accordingly ecological surveys undertaken by the applicant for the previous scheme have been updated to take account of updated surveys and legislation. The changes overall are not significantly different from the previous scheme. The previous reason for refusal on bat protection was later withdrawn following submission of more information on these protected species.
- 6.106 The Council's nature conservation officer confirms that the applicant's ecological survey and appraisal is up to date and appropriate and that the scheme in biodiversity terms appears to be generally acceptable. However there is a preference for a greater area of lawn to be restored as acid grassland (as previously considered with the last application) and for the use of green roofs on the new building. It is noted however that the area of acid grassland has been increased somewhat from the previous scheme and that the incorporation of biodiverse roofs would depend on the availability of roofspace after the inclusion of PV panels and on the visual appropriateness of such areas on the proposed classical design. Nevertheless the feasibility and details of such green roofs can be secured by condition.
- 6.107 Further advice is given by the Council's Nature Conservation officer, in terms of seeking appropriate surveys, management plans, lighting strategies, protection of protected species during construction, and biodiversity mitigations and enhancements. These can be secured by condition in the event that the scheme was otherwise acceptable.

Transport issues

- 6.108 Although no specific space is designated for cycle parking, adequate space is available in the basement and ground floors or around the courtyard. More details of a secure covered facility would be normally required by condition.
- 6.109 The provision of 4 carspaces in the basement, as well as additional scope for them in the ground floor courtyard, is well over the LDF standard for 1 space per dwelling. However, even if no basement carpark was provided, it would be possible to park numerous cars in the courtyard as well as generally on this large estate. As a result, it would be very difficult to control substantial carparking on the estate. Finally it should be noted that the existing building has a large open area allowing uncontrolled carparking and that the previous 2005 permission involved 15 carspaces. No objection was raised to the 18 carspaces in the extensive basement of the previous appeal scheme. This new scheme is an improvement over the permitted scheme as the carspaces would be at basement level thus ensuring the parking does not visually dominate the ground level and landscape. Furthermore the use of a discreet carlift, as opposed to a long ramp proposed previously, further reduces the landscape impact. It is thus considered in the circumstances that this amount of carparking is acceptable.
- 6.110 The site only has a PTAL of 1b (very poor) as it is not within any Controlled Parking Zone. Therefore it is not appropriate to require this development to be car-free as there is no viable transport alternative to the use of private vehicles parking on-site.
- 6.111 The site is extremely large and access to the site is very good from Hampstead Lane. Therefore construction vehicles will be able to stop on site and will cause little traffic disruption. In the light of this, and the reduced size of the scheme compared to the previous one which had extensive basement excavations, it is considered as before that the scheme does not warrant a Construction Management Plan.
- 6.112 Refuse stores are shown at the entrance to the road and their location and size appears appropriate subject to more detail on their design.

Other issues

Archaeology

- 6.113 English Heritage advises that the site lies in an area where archaeological remains are anticipated dating from the prehistoric and post-medieval periods. The new house with basement as well as garden landscaping has the potential to affect remains of archaeological importance. EH thus recommends that a condition be placed on any permission to secure the implementation of a programme of archaeological work.

Neighbour amenity

- 6.114 The new house will not result in any impacts on neighbouring residential amenity, due to the distances involved from other dwellings, the nearest one being the new flats in Caenwood Court over 45 metres away to the east. There will be no loss of daylight, sunlight, outlook or privacy from the new house's windows and terraces, especially bearing in mind the existing situation. The proposed plant at basement

level will also not result in harming local amenity and has the potential to comply with the Council standard of being 5 decibels below background noise levels.

Sustainability

- 6.115 LDF policies CS13 and DP22, with associated CPG3 advice, seek new buildings to achieve Code for Sustainable Homes Level 4 by 2015, with at least 50% of available credits for energy, water and materials, plus reductions of CO2 emissions of 40% to meet the new 2013-16 target, including 20% from the use of onsite renewable energy technology.
- 6.116 A Code for Sustainable Homes pre-assessment has been submitted. This predicts Code Level 4 overall, with 61% for energy, 65% for water and 50% for materials. This acceptable and meets the above targets. In the event of granting permission, it would be subject to a S106 to secure a design stage assessment and post-construction review.
- 6.117 The Sustainability and Energy statement submitted demonstrates that a reduction of 36% CO2 emissions below the baseline can be achieved with 65% of predicted energy to come from renewable facilities. It proposes the use of ground source heat pumps, solar thermal panels and photovoltaic panels. These measures are welcome and almost meet the latest more stringent energy target of 40%. They are acceptable in principle, subject to more detail on the precise location and design of the panels to ensure they do not create visual clutter at roof level and do not harm the appearance of the building nor the character of the surrounding open space.
- 6.118 The absence of a S106 agreement to secure level 3 of the Code for Sustainable Homes, with associated renewable energy facilities, would constitute a reason for refusal.

Hydrology

- 6.119 The previous application involved extensive basements under the mansion as well as the courtyard and staff wings. In response to concerns raised at that time by the City of London, the applicants provided further reports to address the issues of impact of development on local hydrology and ground water. These were reviewed by the Environment Agency at that time and considered to be broadly acceptable subject to drainage measures to mitigate impact on groundwater flows.
- 6.120 The new application includes a much smaller basement excavation under the house only. In accordance with new requirements of LDF policy DP27 and CPG4, a full Basement Impact Assessment (BIA) has been submitted including a Flood Risk Assessment. The BIA has been undertaken by suitably qualified professionals; it follows the procedure of screening, scoping and investigation stages for surface water, groundwater and slope stability, as recommended by CPG4.
- 6.121 The basement follows basic recommendations on size and location contained in policy DP27 by being one storey deep (apart from one small sub-basement plant room) and confined within the footprint of the house. The basement will be 522sqm in area and 7m below ground level.

- 6.122 The BIA undertook a desktop study and several borehole tests and trial pits to investigate ground and hydrological conditions. It also takes account of other studies undertaken by other consultants for this site over the last 10 years. The BIA shows that the site is underlain by the aquifer of Claygate beds of London Clay, that the proposed basement will not be below the groundwater level measured at 20m deep and that the site is within an area of hillslopes greater than 7 degrees. The site is not in an area at risk of flooding. The groundwater contributes to the surface water streams and ponds lower down on the heath. The BIA concludes that the proposed basement will not affect groundwater flows nor result in an increase in groundwater levels upstream and will not affect the stability of neighbouring properties or of the slopes. It recommends that suitable measures are taken to control surface runoff. Finally it recommends that continued monitoring of the boreholes takes place and further analysis carried out of likely heave movements.
- 6.123 The basement will be constructed of reinforced concrete in an open cut excavation with the soil battered back during construction. Free-draining material will be installed immediately around and below the basement to ensure any groundwater reaching the basement structure will flow around and below it and will have little effect on upstream or downstream water. Neighbouring buildings are over 40m away from the new house and the excavation will not affect their stability. The proposed building and hard surfaces on the site will not increase the area of impermeable surfacing here and thus not increase runoff rates. Nevertheless Sustainable Urban Drainage Systems (SUDS) are proposed to attenuate any stormwater runoff.
- 6.124 The BIA, as well as the objections by the City of London, have been reviewed by external engineering consultants (GCG) appointed by the Council. GCG in their review have identified some deficiencies and errors in the screening and scoping stages of the BIA. In particular these relate to groundwater monitoring and assessment of impacts on water environment so that the conclusions of the BIA are not based on all reasonable evidence- although the likelihood of any adverse impacts on water flows both locally and cumulatively appears to be low, this is not proven. The review however accepts that there will be no impact on flooding or land stability. The review concludes that the BIA fails to fully meet the requirements of policy DP27 relating to water environment, but that it can be revised to address this, as well as various minor errors; it also recommends that a condition be attached to any permission requiring recommencement of groundwater monitoring until construction progresses. The review considers that the points made by the City Corporation are satisfactorily addressed and assessed in the BIA.
- 6.125 The applicant has confirmed that the BIA is being currently revised to take account of this, so that the Council can send it to the consultants for a final review and confirmation that it is acceptable. However at the time of writing this report, a revised BIA has not been received or reviewed yet. It is concluded that, in the absence of an acceptable BIA, the development has a possibility of adversely affecting local groundwater conditions and this should form a reason for refusal.

Mayor's Community Infrastructure Levy (CIL)

- 6.126 The scheme would attract contributions to the Mayor's CIL as it involves replacing a building that has been empty for over 3 years by a new dwelling with uplift of floorspace.

7. CONCLUSION

- 7.1 A key consideration is the recent appeal decision in 2011 regarding a similar but larger scheme for a new house and the Inspector's comments carry great weight. The reductions in size are welcomed but it is considered that the revised scheme does not go far enough in addressing the Inspector's comments. The key concerns of the Council regarding the proposal can be summarised as follows.
- 7.2 Demolition of the existing building was considered acceptable by the appeal Inspector. In the absence of any change in circumstances of the building's quality or designation and of any material changes in local and national policy, it is considered that the Council can no longer resist demolition.
- 7.3 The new house is considered to be materially larger than the existing building it replaces on MOL, in terms of its size, mass and design. The new house, as part of a previously developed site on MOL, is also considered to be more intrusive than the existing development in views from both within the site and from the surrounding landscape and open spaces, in terms of its size, bulk, form and design, and thus harmful to the openness of MOL. The scheme is thus considered to be 'inappropriate development', as defined by the NPPF, and harmful to Metropolitan Open Land. No justification has been provided to show that this harm is outweighed by any 'very special circumstances'.
- 7.4 In the absence of an adequate Basement Impact Assessment that has been verified as fully acceptable by consultants, it is likely that the new development may have a harmful impact on hydrology of the surrounding area and Heath.
- 7.5 In the context of a refusal, the proposal is also unacceptable due to the absence of a S106 legal agreement securing the scheme's sustainable construction with renewable energy facilities.

7.6 LEGAL COMMENTS

- 7.7 Members are referred to the note from the Legal Division at the start of the Agenda