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Planning and Built Environment
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Camden Town Hall Extension
Argyle Street
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Our Ref: 0043/MJO/Waterhouse
Your Ref: 2011/4390/P and 2011/4392/C
By Email

F.A.O: Charles Thuaire

30 April 2015

Dear Charles

**Objection to Planning and Conservation Area Consent Applications
The Waterhouse (Ref: 2011/4390/P and 2011/4392/C)**

I write on behalf of my client The City of London Corporation (The City), who manages Hampstead Heath, to submit a further objection to the planning and conservation area application (ref: 2011/4390/P and 2011/4392/C) regarding re-consultation by Camden Council on a number of additional documents submitted by the applicant, including the following:

- Hydrology:
 - Site section Rev C 633(PL)005;
 - Hydro Geological Schematics 901/SK/020 Rev P11;
 - Hydro Geological Section E-E 901/SK/023 Rev P1;
 - Topographical Survey Boundary Levels 14624_01_P;
 - RSK Letter dated 13th October 2014;
 - SWP Micro Drainage Calculations; and
 - HRW Response to CGL dated 21st October 2014.
- Revised plans:
 - Ground Floor Plan 633(PL)021 Rev H; and
 - Section AA and BB 633(PL)301 Rev G.
- Construction Management Plan Rev i.
- Arboricultural impact assessment revised 8.12.14 by Landmark Trees;
- Preliminary ecological assessment 3.2.15 by MKA.

Please note that these latest comments on behalf of the City are supplementary to additional objections previously submitted, including:

- Objections to Planning Application (detailed report) – January 2012;
- Objections to Planning Application (further detailed report) – October 2013;
- Objections to Planning Application (correspondence and supplementary report) – July 2014; and

- Objection to the Revised CMP – prepared by Milestone Transport Planning – February 2015.

Background

The City of London Corporation provides local government services for the City but has responsibilities that extend far beyond the Square Mile. It also provides a host of additional facilities, ranging from its Open Spaces such as Hampstead Heath to the Barbican Centre.

In the 1870s the City was concerned that access to the open countryside was being threatened and therefore promoted two Acts of Parliament. The Epping Forest Act and the City of London (Open Spaces) Act were passed in 1878 and enabled the City to acquire and protect threatened Open Spaces from future development. Since that time the City has acquired further Open Spaces under this and other legislation.

The City is statutorily obliged by virtue of various Acts of Parliament and, specifically, the provisions of the London Government Reorganisation (Hampstead Heath) Order 1989 as follows:-

- i. for ever to keep the Heath open, unenclosed, unbuilt upon and by all lawful means prevent, resist and abate all encroachment on the Heath and attempted encroachment and protect the Heath and preserve it as an open space;
- ii. at all times preserve as far as maybe the natural aspect of the Heath and to that end protect the turf, gorse, heather, timber and other trees, shrubs and brushwood thereon;
- iii. not to sell, lease, grant or in any manner dispose of any part of the Heath; and
- iv. to provide active and passive recreational facilities and information for members of the public.

The City took over title ownership and the responsibility for the management and protection of Hampstead Heath in 1989, and for making it available as open space. In addition the Local Government Reorganisation (Hampstead Heath) Order 1989 establishes a Trust Fund, the proceeds of which may be used to defray, in part, the cost of enhancing or replacing amenities on the Heath. The balance is met out of the City of London funds, at no cost to the public.

Section 3 of The Health and Safety at Work Act 1974 places general duties on employers and the self-employed to conduct their undertakings in such a way as to ensure, so far as is reasonably practicable, that persons other than themselves or their employees are not exposed to risks to their health or safety. This includes the public and other workers who may be affected by The City's work.

The Health & Safety Executive has set out guidance for Protecting the Public and HSG 151 requires those responsible for construction sites to "segregate pedestrians and vehicles wherever possible". It further requires vulnerable groups such as the elderly, children and people with certain disabilities to have special attention.

Objections

It should be noted that Millfield Lane is co-owned by the City of London Corporation (to the centre line on Hampstead Heath side) as well as local residents (to the centre line on their frontage). It is in this context, and in light of the above statutory duties, that the City's objections to the Water House planning application, are to be noted. The principal matters to which these objections relate are summarised in turn below under the following headings:

- Transport / Construction Management Plan;
- Stormwater and groundwater impacts on the hydrology of the Heath ponds;
- Ecology; and
- Arboriculture / trees.

Please note, however, that a number of comprehensive reports, with further details on these key headings are appended to this letter, as follows:

- Technical Note on Submitted Construction Management Plan (April 2015) – by Milestone Transport Planning. (Further supplementary report to objections submitted regarding the CMP in February 2015);
- The Water House, Millfield Lane, N6 Review of the Revised Planning Application (April 2015) by Alan Baxter Limited;
- The Water House impact on ecology (April 2015) by Dr M Game at the City of London;
- Notes on Landmark Trees Arboricultural Impact Assessment Report (AIA) for The Water House, Millfield Lane, London, N6 6HT (April 2015) by Jonathan Meares at the City of London.

Transport / Construction Management Plan

Previous objections to the applicants CMP were submitted in February 2015, which concluded that the submitted Construction Management Plan should be revised to provide further details to address a number of issues and concerns on behalf of the City. Subsequently, Milestone Transport Planning has undertaken a further review of the CMP and notes a number of further omissions and concerns which need to be addressed. These are summarised as follows:

- Further details on the implication of vehicles passage on soil compaction and surface structure including considerations of root compaction on protected trees, hydrology and surface water run-off and associated vehicle cleaning / contamination of water.
- Further details and clarification regarding the level of construction vehicle movements in addition to the level of light-goods, trade and delivery vehicles and further consideration of requirements for trades-people to have access to tools / vehicles given the proposed Travel Planning measures.
- Further details and assessment of the volume of excavated and crushed material able to be stored on site and subsequent assessments of the level of material required to be removed from the site.
- Further details regarding the range of construction, delivery and lifting / excavating vehicles which would require access to the site, demonstration that these vehicles can safely access the site within the useable width of the lane and that these vehicles can safely operate within the site.
- Review the extent of these construction vehicles access through the Lane in reflection of the actual useable width of the Lane and whether safe passage / passing of other Lane users, particularly vulnerable users can be achieved within this area.
- Further assessment of the range of construction vehicle movement into and out of the site access in a forward gear and demonstrate safe turning within the site in relation to the constraints of the wider construction site layout and requirements.

- Demonstration that construction vehicles would not be required to reverse the length of Millfield Lane on exiting the site.

It is recommended that Planning Permission is not granted until the details set out above have been addressed to the satisfaction of both the Highway and Planning Authorities for reasons principally relating to highway safety implications for typical users of the Lane in reflection of the ability for HGV's to pass and re-pass without unduly impacting on pedestrian and cycle safety and the lack of information demonstrating the required construction vehicles can safely access, enter and exit the site in a forward gear and would not be required to reverse the length of Millfield Lane.

Stormwater and groundwater impacts on the hydrology of the Heath ponds

As noted in the detailed review by Alan Baxter Limited, *“there are a series of fin drains to pick up the flow of groundwater which occurs at the interface of the impervious London Clay and the overlying fill or Head Deposits. These drain to a soakaway which is in the impervious London Clay and so will be ineffective. This means that the flow will discharge via a gravel filled trench passing under Mill Hill Lane onto the Heath. This would result in an overland flow towards the Bird Sanctuary Pond. This discharge needs to be agreed by the City of London as it is very unusual to discharge groundwater onto an adjoining owners land... ..if there is a significant flow of water, it will result in overland flooding towards the Bird Sanctuary Pond with the accompanying risks that it could pollute the pond by washing fines towards the pond”*.

The City would like to emphasise, however, that an agreement to discharge water into the Heath, and the ecologically sensitive ponds in particular, would certainly not be possible. This is a serious issue that the applicant has failed to address.

Ecology

The City raises serious concerns regarding the impacts of this application on the ecology of the Heath and Millfield Lane. It is considered that Phase 1 Habitat Survey by MKA Ecology Ltd, which was completed on 20 January 2015, is flawed. This is essentially because the survey was undertaken in January, which is outside of the months from May-September for ‘optimal’ ecological survey results due to seasonal changes.

The report also fails to address the wider impacts of the proposals on the Heath, which are outlined in the attached Ecology Report by the City of London’s Dr M Game. This report notes the following impacts on the ecologically sensitive ponds, which need to be addressed:

“Inflow of contaminated water could seriously affect the ecology of the pond, for example causing turbidity and raising nutrient levels. This could cause algal blooms, reduced levels of oxygen in the water, and fish deaths in the pond itself, and pollution of important damp terrestrial habitats through which the water flows. Therefore, this possibility needs to be investigated and thought about thoroughly and carefully...”

...The applicants state ‘As part of the proposed redevelopment works, additional survey works will be commissioned to further investigation any potential drainage lines or springs at the site to ensure that no drainage lines are severed and that, if necessary, appropriate mitigation measures can be employed.’ It is concerning that this work is only to be done during the development works and not before consideration of the planning application”.

In addition to the above the City ecologist is also concerned regarding “possible pollution, noise and shaking caused by heavy vehicles using Millfield Lane and possible dust during

construction”, which has also been overlooked in the applicant’s supporting documents. In the absence of any evidence to the contrary the City has serious concerns regarding the ecological impacts that the redevelopment of the Water House will have on Millfield Lane, the ponds and the Heath itself. The City, therefore, strenuously objects to the application from an ecological perspective.

Arboriculture

The City’s Conservation and Trees Manager has undertaken a review of the applicant’s revised Arboricultural Report and raises a number of concerns and objections which need to be addressed. These are summarised as follows:

- Multiple heavy vehicle construction movements will cause compaction damage to underlying tree roots on Millfield Lane. There are a number of significant trees growing in very close proximity to the road on City of London land including three boundary veteran oaks which will be seriously impacted by the proposed vehicle movements;
- The oak tree (T5) should be referred to as a veteran tree, as this is probably a survivor of a remnant of woodland that still existed in the 1870’s. Failing to recognise the oak tree as veteran mean that the applicant is failing to recognise its heritage and conservation value;
- Tree T17, the large hornbeam growing to the rear of the existing property, is possibly also an old woodland tree. The diameter of the tree’s main stem (640mm) suggests a tree of 120-140 years;
- Failing to recognise these veteran and significant trees means that they have been overlooked in terms of their level of protection. In the section about RPA’s there should be some reference to veteran trees and their rooting environments;
- The RPA should be seen as the minimum rooting area required for the tree to survive;
- The potential conservation and wildlife benefits that the oak and possibly some of the other trees provide has been overlooked, which is an issue also noted by the City’s ecologist.

The City is also disappointed to note that the supporting documents do not address the harm to landscape character that the above impacts will have on the Heath, particularly when viewed cumulatively. A recent letter from England’s Minister for Housing and Planning, Brandon Lewis, to the Chief Executive of the Planning Inspectorate (PINS), Simon Ridley, re-emphasised the importance of landscape character as a factor in considering planning decisions. The letter states:

“While National Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts quite rightly enjoy the highest degree of protection, outside of these designated areas the impact of development on the landscape can be an important material consideration”.

It is the City’s view that the important landscape character of Millfield Lane and Hampstead Heath itself are significant material considerations which the applicant has overlooked in terms of the wider adverse impacts in this important landscape setting.

Summary and Conclusion

In summary the application proposals are still not in accordance with planning policy guidance and do not constitute a high quality proposal specific to its use, site, conditions, opportunities and constraints. The aforementioned paragraphs have clearly demonstrated that the proposal will have detrimental impacts on the landscape character and arboriculture of Hampstead Heath (Metropolitan Open Land); the ecological value of the Heath and the ponds; and the safety of pedestrians using Millfield Lane to access the Heath during the construction phases in particular.

I therefore respectfully, but strongly, urge the Council to move forward with the application, refusing the development on the reasons that have been provided in this and previous objections, and any other the Council considers appropriate. The proposed development is clearly contrary to planning policy and there appears to be no material considerations that mitigate this. A conclusion to the application will allow the City to have some confidence in the immediate future of the site based on the Council's considered decision, which has remained undetermined for so long.

I trust this is satisfactory but please contact me if you have any queries on the above information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mary-Jane O'Neill', with a large, sweeping flourish underneath.

Mary-Jane O'Neill

Director

For **Renaissance Planning Ltd**

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