



Objection to Planning Applications

The Water House

Planning References: 2011/4390/P and 2011/4392/C

On behalf of The City of London Corporation



October 2013

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1. Introduction

1.1 We are instructed by The City of London Corporation (The City), who manage Hampstead Heath, to submit objections to planning and conservation area applications (ref: 2011/4390/P and 2011/4392/C) following the submission of additional information by the applicant, including the following:

- Arboricultural Report;
- Aerial perspectives;
- Basement Impact Assessment;
- Construction Management Plan;
- Covering Letter;
- Design & Access Statement;
- Existing and proposed site plans;
- Hydrology Correspondence;
- Model imagery; and
- Proposed perspectives.

1.2 This report contains the basis of objections, which relate to both current applications in respect of Conservation Area Consent for demolition of the existing building and Planning Permission for the replacement development and is to be considered alongside previous objections submitted on behalf of The City in January 2012. In summary it is considered that the latest information submitted, which has been reviewed by the City's own consultant team who have identified a number of significant issues that lead The City to conclude that the application cannot be supported.

1.3 The City still has a number of serious concerns relating to inadequacies and discrepancies in respect of the documentation submitted in support of the applications including issues regarding access, hydrology, arboriculture, impacts on the character of the adjoining Metropolitan Open Land, demolition of the existing building and the indicative volumes of materials and vehicle movements referred to in the amended Construction Management Plan and the Basement Impact Assessment. There are also a number of deficiencies in terms of the documents submitted, and in particular the failure by the applicant to submit an assessment of the impacts on local biodiversity and the nearby Hampstead Heath ponds.

1.4 All of the points raised above are considered in further detail within this submission and also assessed against the current planning policy framework for the London Borough of Camden. In summary the proposals represent a gross overdevelopment of the site and fail to adequately address a number of access, hydrology and environmental issues including the relationship of the site with Hampstead Heath, The Ladies Pond and Millfield Lane; the latter in terms of its popularity and high use by pedestrians and cyclists as a way of gaining access to the Heath and Ponds.

The Development Plan

1.5 The objections are set out within this report by first considering the Development Plan and then other relevant material considerations.

1.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, "*if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise*". The Development Plan in this case is the

London Borough of Camden Local Development Framework (November 2010), including the Core Strategy and Development Policies.

- 1.7 The Core Strategy and Development Policies were adopted on 8 November 2010 and replace many policies in the former Unitary Development Plan (UDP). Appendix 3 of the Camden Development Policies document sets out the Policy Replacement Schedule which contains information on the policies of the UDP that have been kept, those that have been replaced by the policies in the Core Strategy and the Development Policies as well as those that have expired.
- 1.8 Set out below is a summary of the chapters and objections contained within this report:
- **Chapter 2:** Sets out the Statutory Obligations and duties of the City of London in respect of Hampstead Heath, which sets the context for the City's objections;
 - **Chapter 3:** Sets out objections regarding the quantum of development and how it fails to respect the private open space (which the land is designated) and how much materially larger the proposed building is than existing footprint;
 - **Chapter 4:** Sets out objections regarding demolition and the Conservation issues associated with existing house;
 - **Chapter 5:** sets out objections regarding the impact on trees both within the garden and along Millfield Lane and their important contribution to the Metropolitan Open Land and its immediate environs;
 - **Chapter 6:** Details objections regarding the Construction Management Plan (CMP).
 - **Chapter 7:** Details objections regarding a series of erroneous assumptions within the supporting documentation which will have a significant adverse impact on local geology, ground stability and groundwater.
 - **Chapter 8:** Sums up the conclusions from the aforementioned chapters, which would have an adverse impact on the designated open space, the local Conservation Area, access and pedestrian safety along Millfield Land particularly during the construction phases and adverse impacts on local ground stability and groundwater including impacts on The City's nearby ponds.
 - **Chapter 9:** Sets out the planning policy reasons why the application must be refused.

2. Background

Statutory Requirements for the City

- 2.1 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.
- 2.2 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.
- 2.3 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;
- iv. to provide active and passive recreational facilities and information for members of the public;

- 2.4 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.
- 2.5 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.

Hampstead Heath

- 2.6 Hampstead Heath is rich wildlife and home to extensive sports and recreational facilities which are used by a significant amount of visitors each year. There is a zoo, an athletics track, an education centre, extensive children's facilities, three swimming ponds and a Lido. The City has managed all of Hampstead Heath, apart from the Kenwood Estate which is maintained by English Heritage, since 1989.

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- 2.7 Hampstead Heath's landscape is varied with woodland, meadows, fragments of heathland and strings of ponds along its valleys. This grassy public space sits astride a sandy ridge, one of the highest points in London, running from Hampstead to Highgate, which rests on a band of London clay. With its origins in former countryside, long-established features such as hedgerows and ancient trees provide links with the past. Hampstead Heath receives more than seven million visitors a year and is nationally and internationally renowned. There are 320 hectares (790 acres) of publicly owned land (including the Kenwood Estate).
- 2.8 Open-air swimming on Hampstead Heath is long-established and takes place at the Men's Pond, the Kenwood Ladies' Pond, the Mixed Pond and the Lido. The swimming ponds are internationally famous. The Men's Pond and the Kenwood Ladies' Pond are unique in the United Kingdom in being the only life-guarded open-water swimming facilities open to the public every day of the year. The Kenwood Ladies Pond, which opened in 1925, is situated approximately 75 metres from the Waterhouse application site (see attached plan at Appendix A). The pond is not within the Kenwood Estate but is managed by the City. It is heavily used, during the summer months in particular, and is accessed via Millfield Lane.

3. Objections: Impact on Designated Open Space

- 3.1 The site itself is designated within the Camden Local Development Framework (LDF) Proposals Map (2010) as Open Space (Fitzroy Open Space) - see Appendix B: LDF Proposals Map. Given the Open Space designation, Core Strategy Policy CS15 is relevant:

CS15 - Protecting and improving our parks and open spaces and encouraging biodiversity

The Council will protect and improve Camden's parks and open spaces. We will:

a) protect open spaces designated in the open space schedule as shown on the proposals map, including our Metropolitan Open Land, and other suitable land of 400sqm or more on large estates with the potential to be used as open space;

- 3.2 The revised plans and documents submitted do not address The City's previous objections that the proposals represent a significant over development of the site within an allocated Open Space.
- 3.3 The gross floor area of the current house is 336.57 sq.m although the proposed house will be 550 sq.m, which represents significant increases the current floorspace by more than 60%, which takes the total site coverage of the buildings up from 15.6% to more than 25.5% of the land. This is unacceptable in land designated as an area of Open Space, which is also adjacent to the Metropolitan Open Land of Hampstead Heath.
- 3.4 Page 13 of the Design and Access Statement states that plot ratios range from 35% at Dormers to as little as 8.18% at No55 Fitzroy Park. The Design and Access Statement, however, fails to recognise that Dormers is not designated Private Open Space and that all the other neighbouring properties, including the Water House, are designated open space.
- 3.5 The relevant properties within the designated Open Space, in order to make a like for like comparison, are:
- Fitzroy Farm - 12.72%
 - The Wallace House - 16.46%
 - 51 Fitzroy Park - 32.27%
 - 53 Fitzroy Park - 15.10% (includes the recent increase in footprint granted planning consent)
 - 55 Fitzroy Park - 8.18%
 - The Water House – 15.6%
- 3.6 The average plot ratio is, therefore, 16.73%, which already takes account of recent increases due to permitted development in the last two years. All the houses on the opposite side of the road in Fitzroy Park are not designated as Open Space and therefore should be discounted from any calculation. This means that the Design and Access Statement's own assessment estimate of 25.5% of the plot ratio would result in a materially larger

development compared with other like for like properties within the designated Open Space.

- 3.7 Accordingly the proposals are not in accordance with policy Camden's policies for protecting Conservation Area, gardens and open space (*CS15. Protecting and improving our parks and open spaces and encouraging biodiversity*).

4. Objections: Adverse Impacts on the Designated Conservation Area

Camden Highgate Conservation Area

- 4.1 The Water House is situated within the Camden Highgate Conservation Area (see Appendix C) and also specifically referenced within the Council's *Highgate Conservation Area Appraisal and Management Strategy*, which was adopted in October 2007, which states:

"The Water House, to the south of the Wallace House, is set in generous grounds and has its main entrance in the northern stretch of Millfield Lane (there is a small pedestrian entrance between Nos 51 and 53 Fitzroy Park). The property was originally built in the 1950s, but was remodelled by the architect Richard Paxton. It is a two-storey house, with gables and a shallow pitched roof, an angled stone-clad feature chimney reminiscent of the post-war period, and large areas of glazing at ground-floor level. The landscaped grounds include a pond (giving the house its name). There is a separate studio building on the site".

- 4.2 The identification of the site within the Conservation Area Statement suggests that it is a building that contributes positively to the character of the conservation area. Accordingly we disagree with the applicant's assertion that the building does not make a positive contribution to the existing Conservation Area. The proposal to demolish the existing building would, therefore, be contrary to Development Policy DP25 *Conserving Camden's Heritage*, which states that:

"In order to maintain the character of Camden's conservation areas, the Council will:

- a) **take account of conservation area statements, appraisals and management plans when assessing applications within conservation areas;***
- b) **only permit development within conservation areas that **preserves and enhances** the character and appearance of the area;***
- c) **prevent the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area where this harms the character or appearance of the conservation area, unless exceptional circumstances are shown that outweigh the case for retention..."***

- 4.3 It is considered that the proposed and replacement building will not make a positive contribution to the Conservation Area but will harm it in terms of scale and bulk which will have an adverse impact on the local context and special architectural, historic interest and the character and appearance of the Conservation Area. The proposals are therefore not in accordance with Camden's Development Policy DP24 – *Securing high quality design* and DP25 – *Conserving Camden's heritage*.

5. Objections: Adverse Impacts on Trees

Arboriculture

- 5.1 The City of London has instructed their own internal arboriculturist to review the information submitted within the applications and in particular the Arboricultural Impact Report by Landmark Trees as well as the CMP (see Appendix D) and the points are summarised again here.



Figure 1: Circa 1860's ordinance survey map of Millfield Lane showing existing trees superimposed over current aerial photograph (2009)

Historical Context of Millfield Lane and Tree-scape

- 5.2 The image above provides evidence of the tree-scape in the 1860's and allows identification of the trees that have survived from that period including a number of what are now classified as Veteran Trees. In the 1860's these trees were part of remnant woodlands and old field boundaries. The map is overlaid over a recent aerial photograph (2010) and the existing properties in the Millfield Lane area can be clearly seen. This information is provided to give some historical reference to the area and to highlight the importance of the remaining veteran trees still growing along Millfield Lane and also in a number of the properties, including the fine oak growing in the garden of the Water House.

Veteran Trees on Millfield Lane within Hampstead Heath land

- 5.3 There are three veteran trees growing on the south side of Millfield Lane, within the perimeter fence line that protects the Bird Sanctuary. The trees are clustered around the Eastern end of the lane just south west of the intersection with Merton Lane. Two of the trees are growing on the south east corner of the Bird Sanctuary, an area that is recognized as probably the most valuable conservation area on the Heath, due to its rich mosaic of both terrestrial and aquatic habitats. The third tree is located just behind the existing Millfield Lane toilet block.
- 5.4 Hampstead Heath has approximately 800 Veteran trees scattered across its 275 hectares, many of which are old field boundary trees, dating back to the eighteenth century and earlier when the Heath was still farmland. The City of London's Open Spaces Department manage some of the most important sites for veteran and ancient trees in and around the London area, including Epping Forest, and Burnham Beeches and are recognized internationally for their expertise in this area of tree management. Hampstead Heath's own population of veteran trees is the one of London's most important natural assets and a significant amount of resources are expended every year maintaining and conserving these trees.

Impact of proposed Water House development on Millfield Lane tree population (City of London owned)

- 5.5 A survey was carried out on 18/09/2013 to look at the trees growing on the western side of the perimeter fence line that borders Millfield Lane. There are 15 significant trees that will be directly impacted by the proposal; the three veteran oak trees near Millfield Lane toilets, a line of six ash trees, and a further group of six horse chestnut trees growing up to the Ladies Pond entrance. All the 15 trees surveyed have an important amenity value as they provide screening and a rural setting for the Millfield Lane environment, and define the character of Hampstead Heath. The line of self-set native ash trees provides additional conservation value to the eastern perimeter of the Bird Sanctuary. The group of horse chestnut trees growing opposite the entrance to the Water House property also provided an important screening function as well as adding to the woodland edge feel of this part of Millfield Lane

Survey and findings

- 5.6 The table below, prepared by the City's own arboriculturalist provides information on the most significant trees nearest the lane, giving their distance from the fence line bordering the lane, and their stem diameter (DBH) measurements and calculated radius of Root Protection Areas (RPA).
- 5.7 **All the trees surveyed have their respective assumed root protection areas under, and in many cases, beyond the limits of Millfield Lane. The three veteran oak trees (T1,T2 and T3) due to their considerable stem diameters, have the largest root protection areas (RPA) and are especially vulnerable to damage.** Veteran trees are especially vulnerable to compaction as their root systems are often very localised and any remaining supportive

lateral roots are very vulnerable to damage and decay. It is absolutely imperative that these trees be protected from any degree of disturbance or development.

Tree no	Species	DBH (cms)	RPA (metres)	Distance from fenceline (metres)
T1	Oak,English	80	9.6	0.8
T2	Oak,English	110	13.2	0.5
T3	Oak,English	95	11.4	0.4
T4	Ash, Common	53	6.36	0
T5	Ash, Common	50	6	0.5
T6	Ash, Common	60	7.2	0
T7	Ash, Common	37	4.4	0
T8	Ash, Common	32	3.8	0.75
T9	Ash, Common	70	8.4	0.45
T10*	H. Chestnut	80	9.6	3.5
T11*	H. Chestnut	70	8.4	4.2
T12*	H. Chestnut	70	8.4	4.3
T13	H. Chestnut	75	9	4
T14	H. Chestnut	70	8.4	4.1
T15*	H. Chestnut	70	8.4	1.6
T* indicates estimated DBH due to access issues			RPA = Root Protection Area radius	
DBH = Diameter at 1.5 metres above ground level				

- 5.8 The newly revised BS:5837 (2012) standard ‘Trees in relation to demolition and construction – Recommendations’ places particular emphasis on the treatment and protection of veteran and ancient trees that could be potentially effected by planned development, and the measures that should be considered to conserve them.

Comments on the Construction Management Plan, and Arboricultural Method Statement submitted for Water House development and implication for trees on Millfield Lane

- 5.9 The Construction Management Plan submitted by Motion Transport Planning (March 2013) on behalf of the Mr and Mrs Paul Munford refers to construction vehicles with weights of up to 24 tonnes using the stretch of Millfield Lane between Merton Road and the Water House property up to 12 times every day. The vehicles used will exert massive loadings on the already poor surface of the lane, and the inevitable outcome of such intensity of sustained heavy commercial vehicle traffic is partial collapse of the wearing course of the lane and compaction and damage to the underlying soil and tree roots, which will lead to decline and death of the trees.
- 5.10 On page 24 of the CMP document there is a reference to the construction of Millfield Lane and an assumption that the existing wearing course will withstand sustained heavy vehicle traffic. It should be emphasised that the lane has never been regularly maintained nor has it had any form of reinforcement built into the existing fabric other than areas of concrete installed periodically by local residents, attempting to reduce rutting. Much of the material below the surface of the lane is aggregate based and will have been colonised extensively by the roots of nearby trees. On page 10. Section 3 (3.3.3) of the Arboricultural Method Statement (June 2013) there is another reference to the condition of Millfield Lane, suggesting that previous excavation works to install and maintain the sewer that runs below

the surface will have disturbed any roots present and therefore there is no requirement to impose any root protection areas for trees growing along the lane. This statement assumes that road side trees that have experienced a degree of root disturbance do not require any root protection.

- 5.11 The Arboricultural Method Statement also specifies pruning of all overhanging branches along the access route to allow for operating clearance for the vehicles. This work would have a *dramatic* impact on the rural setting of Millfield Lane, and would lead to a number of the trees losing substantial branches and the loss of the special atmosphere of this route. Pruning of the veteran trees at the southern approach to the access route would lead to potential long term damage to the trees and could trigger a spiral of decline.

Comments on the Construction Management Plan, and Arboricultural Method Statement submitted for Water House development and implications on trees within the Water House site and immediate area.

- 5.12 The City monitors very closely all proposed development within the buffer land that surrounds Hampstead Heath, and the residential area to the north east of Millfield Lane rising to Highgate Village and the associated tree-landscape is of particular importance as it forms an important backdrop to the views out of the Heath. The existing trees provide important screening, continuity, and amenity as well as wildlife and conservation value. Any substantial changes or losses to this 'urban woodland' fabric are of concern and it is felt that the City is justified in making comments on individual property developments that impact on this important natural fabric.

Planning status and potential tree protection

- 5.13 In the Arboricultural Impact Assessment Report provided by Landmark Trees (18/05/2011) in section 3.3, page 10 the author states that the Water House property site does not have any trees with Tree Preservation Orders, but notes that the site does fall within a Conservation Area, and therefore the Camden Tree Team could consider the value of imposing Tree Preservation Orders on any trees on the site that merit this protection. **It is the opinion of the City that the veteran oak tree should be protected with a TPO as a matter of urgency.**

The veteran oak tree (T5)

- 5.14 In the previous report submitted on behalf of the City in January 2012, objecting to the Water House development, a number of concerns were expressed about the impact of trees within The Water House property, based on the information provided in the Arboricultural Impact Assessment Report provided by Landmark Trees (18/05/2011). It was pointed out that the measures to protect the most important and valuable tree on the site, a veteran oak tree (T5) of approximately 250 years of age, were not adequate and reading through the Arboricultural Method Statement (23/06/2013) this tree will almost certainly be adversely affected by the intensity of activity during both the demolition and construction phases.
- 5.15 Given the existing density of existing trees growing around the oak on the Millfield Lane side, the oak's roots are likely to have colonised the lawn area in front of the existing house. Any excavation or disturbance to the topsoil in this area will have a negative impact on the

tree. As already mentioned above, veteran tree root systems are often relatively small and their extent difficult to identify. The principle of excluding any form of ground disturbance or excavation within the root protection area is particularly important for trees of this age. It is noted that the June 2013 Arboricultural Method Statement recommends a 'no dig' anti compaction access road constructed to protect both the oak and the retained trees at the back of the property but given the vulnerability of the oak and the extensive demolition and construction phases of the project this is not adequate protection and it is felt that the trees rooting area will be irreparably damaged, if not at this stage then subsequently during the construction of the library wing with its basement (phase 2) as this also ingresses into the root protection area.

Comments on other recommended tree works on retained trees

- 5.16 **T17 Hornbeam:** this tree has already suffered from a degree of root damage in the past when the existing studio building was constructed. The construction of the proposed new building will further compromise the RPA of the tree and will undoubtedly place additional stress on this important tree, which is possibly part of the old field boundary that was marked on the 1860 map. In addition the re-grading of the area and increase in ground levels by as much as 3.5 metres (see Demolition below) will place further stress on the tree.
- 5.17 **T18 Beech, common:** this tree is growing in the garden next door and has been recommended for a substantial crown lift of 5 metres for access reasons. The tree is early mature, with a height of 12 metres, and a crown lift of this severity will remove almost half the canopy, resulting in stability issues and a huge loss of photosynthetic capability. Beech trees do not respond well to heavy pruning of any description and this prescription will significantly affect this trees potential to develop into an important landscape tree in the surrounding tree-scape.
- 5.18 **T12 Apple, cultivated:** this tree has been described as having major decay in the main stem, and is recommend for removal. Orchard trees of this size have important conservation value and it if there are safety concerns about what appears to be a tree of considerable vitality, the crown could be reduced and the wind loadings and potential for branch failure reduced. There are still remnant orchard trees in the surrounding gardens including a number in no 53, and it is possible that this particular tree is part of the same orchard. Traditional orchards are now highly valued especially in urban areas, and they have been reclassified as Priority Habitat under the UK Biodiversity Action Plan. Camden's Nature Conservation team recently carried out a survey to identify orchard sites in the Borough and the London Orchard Project are in the process of mapping traditional orchards within the London area.

Services and utilities

- 5.19 The report states in section 3.4.2 page 11 that service runs are still to be determined. This is a major concern as there will be design pressures on installing service runs through the RPA's of a number of the retained trees notably the oak at the front of the property. Trenching operations through or under the root zones of trees have to be supervised closely by an arboriculturist and are impossible to carry out without damaging some of the root

mass. In the case of the oak tree these operations could again prove to be disastrous to the trees long term health.

Demolition stage

- 5.20 In such a restricted site this stage of the proposed work is going to be very difficult to manage without causing damage to nearby trees, if not impossible. The degree of material to be excavated from the site for the swimming pool and the basement areas, and also the recycled building materials from the crushing process are going to be substantial and the area where they are going to be 'stockpiled' at the rear of the property will put all the retained trees at risk. The volume of combined excavated soil and rubble will be several metres high.
- 5.21 The proposals are therefore not in accordance with Development Policy DP25 – *Conserving Camden's Heritage*, which requires the Council to:

"preserve trees and garden spaces which contribute to the character of a conservation area and which provide a setting for Camden's architectural heritage".

6. Objections: Impacts on local ecology and wildlife

Impact on the Bird Sanctuary of the proposed development

- 6.1 Hampstead Heath features a number of priority species identified in the UK Biodiversity Action Plan and Sites of Special Scientific Interest (SSSI). The attached Conservation Information at Appendix E sets out further details regarding the importance of the Heath in terms of local flora and fauna.
- 6.2 The Bird Sanctuary has been carefully managed by the City to optimise the diversity of both terrestrial and aquatic habitat, with areas of riparian woodland, reedbeds, and damp meadows which support a growing grass snake population. The 2.5 hectare site is closed to public access and provides an excellent opportunity to develop habitat that is particularly sensitive to disturbance. The planning application documents, however, fail to consider the cumulative impacts that the development will have on this important ecological resource.
- 6.3 The City considers that the degree of vehicle activity and the combined negative impacts of excessive noise, dust and likely pollution from the vehicles themselves present an unacceptable threat to one of the most important conservation areas on Hampstead Heath.
- 6.4 In addition, diesel engine exhaust emissions have the potential to cause a range of health problems. Commonly known as 'diesel fumes' these emissions are a mixture of gases, vapours, liquid aerosols and substances made up of particulates, which cumulatively with the reduction of trees and tree crowns will have a negative impact on the ecology and wildlife of the Heath.
- 6.5 The Water House proposals are, therefore, not in accordance with policy Camden's policies for protecting Conservation Area, gardens and open space (*CS15. Protecting and improving our parks and open spaces and encouraging biodiversity*) and cannot be supported by the City.

7. Objections: Access and pedestrian safety

Access / Construction Traffic

- 7.1 Millfield Lane is the only access route to and from the Water House site, which is a single carriage route with no footways. The Lane is privately owned by a number of individuals and the City of London.
- 7.2 It is the City's view that the Construction Management Plan (CMP) submitted with the application contains a number of serious errors and flaws. In this regard the City has commissioned its own topographical survey of Millfield Lane (see Appendix F) to demonstrate that there are serious concerns regarding the ability of Millfield Lane to accommodate the considerable pedestrian flows along Millfield Lane alongside the HGV and LGV movements and that the plans within the CMP Access Strategy are not a true reflection of the widths and constraints along this route.
- 7.3 The City also has two pedestrian counters in this part of the Heath. One is located at the eastern entrance to Ladies Pond so it is a good measure of all those who access the facility via Millfield Lane. Whilst it does not pick up other pedestrians using Millfield lane, nor dogs, it nevertheless gives a very helpful sense of the scale of movements. The other counter is located on the path down to the Boating Pond and Bird Sanctuary causeway so it will pick up a good number of movements from people walking up or down the unmade part of Millfield Lane. Pedestrian movements were monitored between 16 April and 30 September 2013 and are summarised in the tables at Appendix G. It should be noted that on average there is a daily maximum of 4,801 people movements at the Ladies Pond and a daily maximum of 4,282 people movements at the Boating / Bird Sanctuary Pond.
- 7.4 In addition the Alan Baxter Report (see Appendix H) confirms that the Construction Management Plan underestimates the volume of excavation material and over estimates the amount of material which can or needs to be stored on site. The number of HGV's for the removal of excavated materials could increase by a factor of 2.5.
- 7.5 With this in mind and the fact that the topographical survey of Millfield Lane shows that a 36.7% of it is less than 3.5m wide, which equates to a pedestrian zone of less than 1m during the extensive periods of construction traffic movements along this constrained route. It is the City's view that this does not comply with the Health & Safety Executive's 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.

Summary on Access and Construction Traffic

- 7.6 The City has a number of serious concerns regarding the implications suggested within the current CMP, including loss of amenity of the lane due to construction traffic; the proposed pruning of vegetation which is alien to the Hampstead Heath Act 1871; adverse impacts resulting in the Millfield Lane surface completely breaking up because it will not be able to tolerate excessive use by such large vehicles; damage to trees and their roots; impact of

vehicles on the ecology of the Bird sanctuary and people; health and safety concerns regarding the non-segregation of public and construction traffic.

- 7.7 It is concluded that many of the previous concerns identified on behalf of the City have still not been adequately addressed and warrant a reason for refusal in terms of both applications. Whilst it may be worth considering the use of conditions to secure key commitments, or including them within a Travel Plan or as part of a Unilateral Undertaking, possibly with contractual penalties for infringements. In the absence of these commitments or a unilateral undertaking to secure the required mitigation measures the proposals are deemed unacceptable. In addition the physical constraints of Millfield Lane itself means that the proposals within the CMP are flawed as well as not being in accordance HSE requirements as they would fail to secure adequate provision for and safety of pedestrians contrary to policy CS19 (delivering the Core Strategy).

8. Objections: Adverse Impacts on Geology and Groundwater

- 8.1 Alan Baxter and Associates (ABA) LLP has been appointed by the City of London (in conjunction with neighbours to the development, Mr and Mrs Beare and Mr and Mrs Dale), to review the latest engineering, geotechnical and hydrogeological issues associated with the planning application for the redevelopment of the Water House, Millfield Lane (ref No. 2011/4390/P & 2011/4392/C). The ABA review is based on information prepared for the Planning Application during 2011 and additional information submitted for the revised Planning Application in June 2013, and takes account of information obtained by ABA relating to recent developments in the area including No. 51 and No. 53 Fitzroy Park. A full copy of the ABA Report is attached at Appendix H.

Geology and Groundwater Summary

- 8.2 The geological and groundwater conditions in the area are complex but there is considerable evidence of springs and underground water flow in the area.
- 8.3 The comments relate to London Borough of Camden's current planning guidance CPG4 and in particular DP 27:
- a) Structural stability issues
 - b) Groundwater issues
 - c) Cumulative Effects
- 8.4 The documents submitted for planning do not address the most critical boundary condition which is adjacent to the garden boundary with No49 Fitzroy Park. The recently constructed basement on the site of No51 Fitzroy Park had similar level difference and subsequently required three substantial trees to be removed and has caused significant damage to the drive. This is a significant omission in the documents, contrary to DP 27a.
- 8.5 The form of temporary works retaining structure – a king Post wall with precast panels will result in a degree of ground movements which can cause local instability issues, which is contrary to DP 27a.
- 8.6 The proposals require the retaining wall structure to be permeable to allow any groundwater flows to pass through it but the proposed solution is unlikely to permit this to happen and is therefore contrary to Policy DP 27b.
- 8.7 The fin drainage system around the house cannot be maintained and so will silt up, again contrary to DP27 b.
- 8.8 The ground and surface water drainage drawings do not indicate how water is drained off-site. They are extremely misleading.
- 8.9 The surface water disposal system drains all the rainwater off site at a rate far in excess of the greenfield run off rate and significantly increases the total volume of water drained into the sewer. It does not meet the stated aims of their own appointed consultant (Haycock) and will result in a reduction of the ground water supply to the ponds contrary to Policy DP 27b.

- 8.10 The drainage proposals during construction could be inundated leading to over ground flooding to the Bird Sanctuary Pond, which presents a serious concern for the City.
- 8.11 The land drainage system collects rainwater falling on the gardens and diverts it to a soakaway which the applicant advises is unlikely to provide any significant re-infiltration. It then directs excess groundwater via the rainwater harvester to the combined sewer. This is a major flaw in the design and this approach will not be acceptable to the local drainage authority and contrary to Policy DP 27b.
- 8.12 The proposal for dealing with surface water and groundwater on the site concentrates them all together into the main drainage sewer. This is totally contrary to the PPS25, good practice, and the stated principles of the design. The diversion of the groundwater into the main sewer is completely unacceptable in this situation and is a fundamental flaw in the design. It will upset the balance of groundwater in the area and could lead to the pond in the garden of No. 55 drying up.
- 8.13 The BIA only considers cumulative effects in a cursory way and appears totally inadequate, which is contrary to Policy DP 27c.
- 8.14 The Haycock Environmental Consultancy do not appear to have reviewed the proposal critically as the proposals fail to achieve the principle of maintaining greenfield run off rates. (See section 7.3)
- 8.15 In summary there are a number of significant environmental and hydrological quality concerns which have not been adequately addressed within the existing planning submission. The proposals are therefore not in accordance with Core Strategy CS13 – *Tackling climate change* through promoting higher environmental standards and DP27 – Basements and *lightwells*, which states that:

“The Council will only permit basement and other underground development that does not cause harm to the built and natural environment and local amenity and does not result in flooding or ground instability”.

9. Conclusions

Planning Policy Summary

- 9.1 In summary the application proposals are 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 all the relevant issues have been considered and that the proposal has failed to preserve the appearance and character of the Conservation Area and will have detrimental impacts on the Hampstead Heath Metropolitan Open Land, the safety of pedestrians using Millfield Lane to access the Heath during the construction phases in particular.

Other Material Considerations

- 9.2 There are no other material considerations that warrant the grant of planning permission or conservation area consent in these locations.

Conclusions

- 9.3 We have considered these applications for Conservation Area Consent and Planning Permission against the terms of the Development Plan and other material considerations.
- 9.4 We conclude that the proposals are not consistent with National Planning Policy Guidance and the general terms of policies within the Camden Development Plan. We have considered the relevant material considerations, none of which outweigh the reasons why planning permission should be allowed.
- 9.5 The applications are still deficient in detail and contrary to the Council's planning policies. There are no planning merits and no justification whatsoever for the grant of planning permissions and the only decision that a reasonable local planning authority could possibly make is a decision of refusal. Reasons for refusal are plentiful.
- 9.6 Caution and common sense needs to prevail with this development. It is therefore respectfully requested that both applications are refused. Recommendations regarding the reasons for refusal are set out in the next section.
- 9.7 The City of London Corporation reserves the right to supplement the above objection in respect of specific matters relating to the applications and to be re-consulted regarding any further amendments or additional documentation submitted.

10. Recommendations

10.1 As demonstrated above, the proposals fail to accord with the terms of the Development Plan and other relevant material considerations.

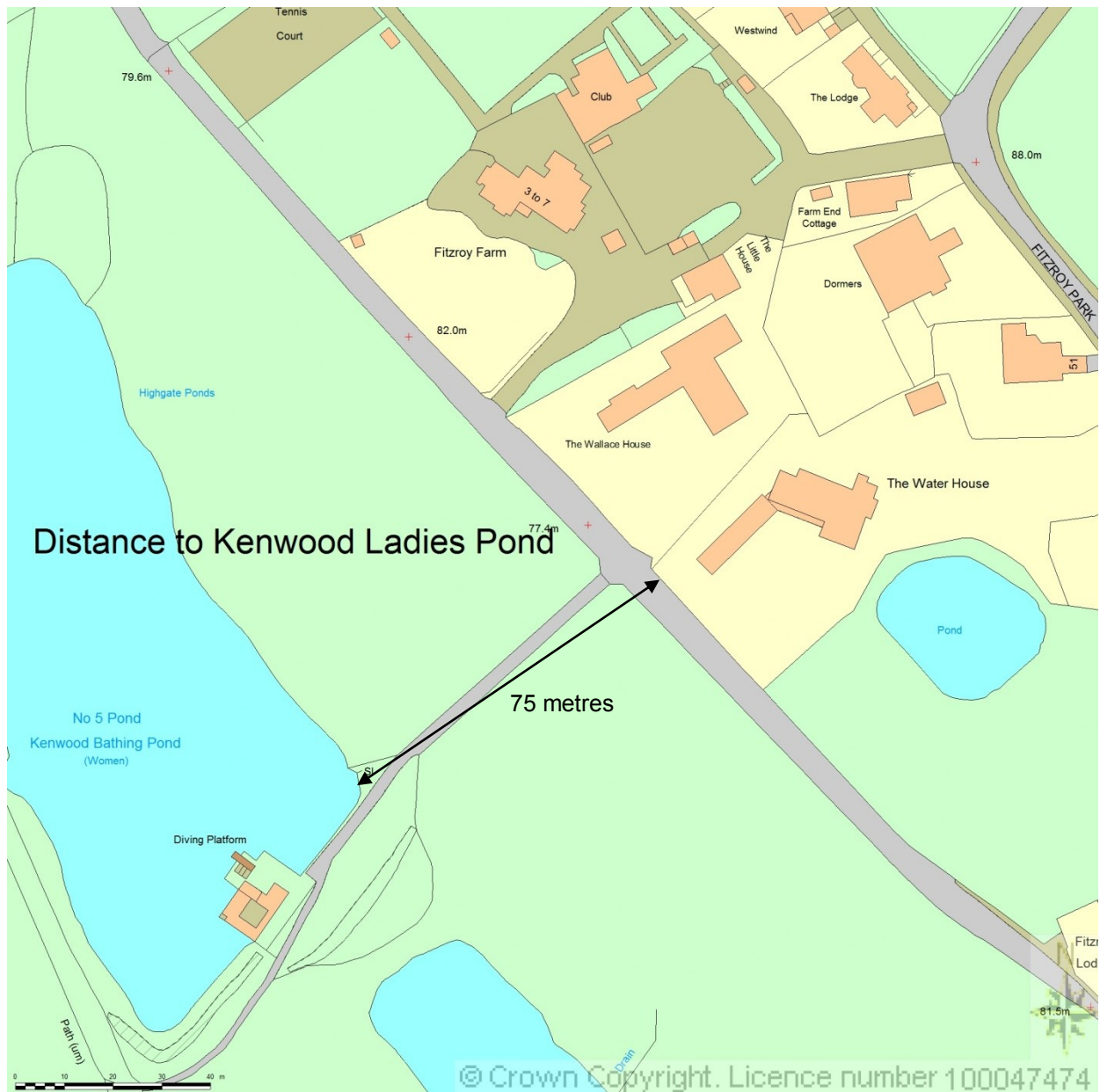
10.2 We offer the following reasons for the refusal of planning permission in this regard:

- i. *The cumulative impact of the proposals by virtue of their combined bulk, mass and design would over dominate the original site, which would have an unacceptable impact on the character and appearance of designated Open Space, the local Conservation Area and the area generally contrary to policies CS14 (Promoting high quality places and conserving our heritage) and CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) of the London Borough of Camden Local Development Framework Core Strategy) and policies DP24 (Securing high quality design) and DP25 (Conserving Camden's heritage,) DP27 – Basements and lightwells, of the London Borough of Camden Local Development Framework Development Policies.*
- ii. *The proposed development, in the absence of a legal agreement to incorporate environmental sustainability measures, in its use of energy, water and resources, would fail to take sufficient measures to minimise the effects of, and adapt to, climate change contrary to policy CS13 (tackling climate change) of the London Borough of Camden Local Development Framework Core Strategy of the London Borough of Camden Local Development Framework Development Policies.*
- iii. *The proposed development, in the absence of a legal agreement securing a robust construction management plan, would be detrimental to the amenities of neighbouring residential area, contrary to Policy DP17 – Walking, cycling and public transport, DP20 (movement of goods and materials) and DP26 (impact on occupiers and neighbours) of the London Borough of Camden Local Development Framework Development Policies.*
- iv. *The proposed development, in the absence of a legal agreement securing necessary adequate provision for and safety of pedestrians contrary to policy CS19 (delivering the Core Strategy) of the London Borough of Camden Local Development Framework Core Strategy and DP17 (walking, cycling and public transport) of the London Borough of Camden Local Development Framework Development Policies.*

10.3 That conservation area consent be refused for the following reason:

- i. *The substantial demolition of the building in the absence of an approved scheme for its replacement would result in harm to the character and appearance of the surrounding Conservation Area contrary to policies CS14 (Promoting high quality places and conserving our heritage) and DP25 (Conserving Camden's Heritage) of the London Borough of Camden Local Development Framework Core Strategy and Development Policies.*

Appendix A: Distance to Kenwood Ladies Pond




Appendix B: Camden LDF Proposals Map

Planning policy map

Find planning policies by clicking the map or using the address / postcode search

Map key

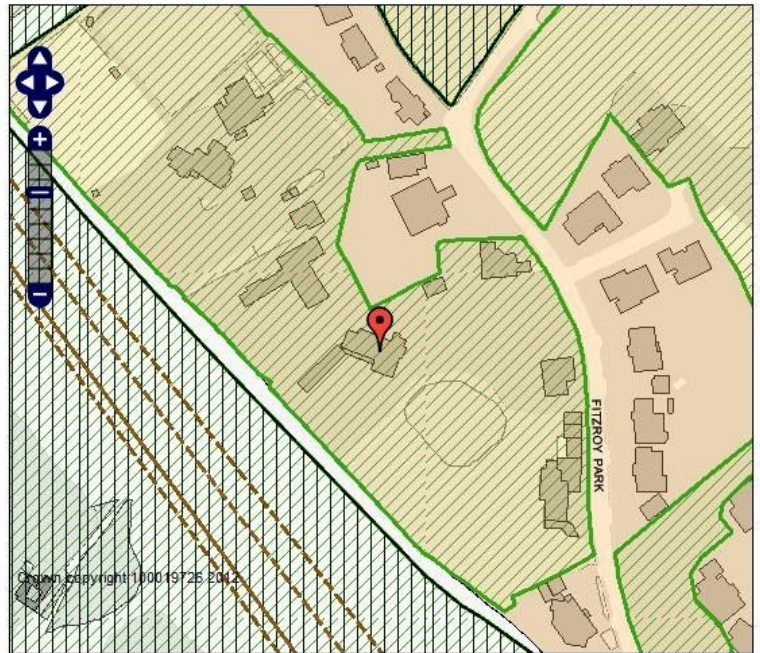
 Conservation Area
Highgate Village

 Open Space
Fitzroy Open Space

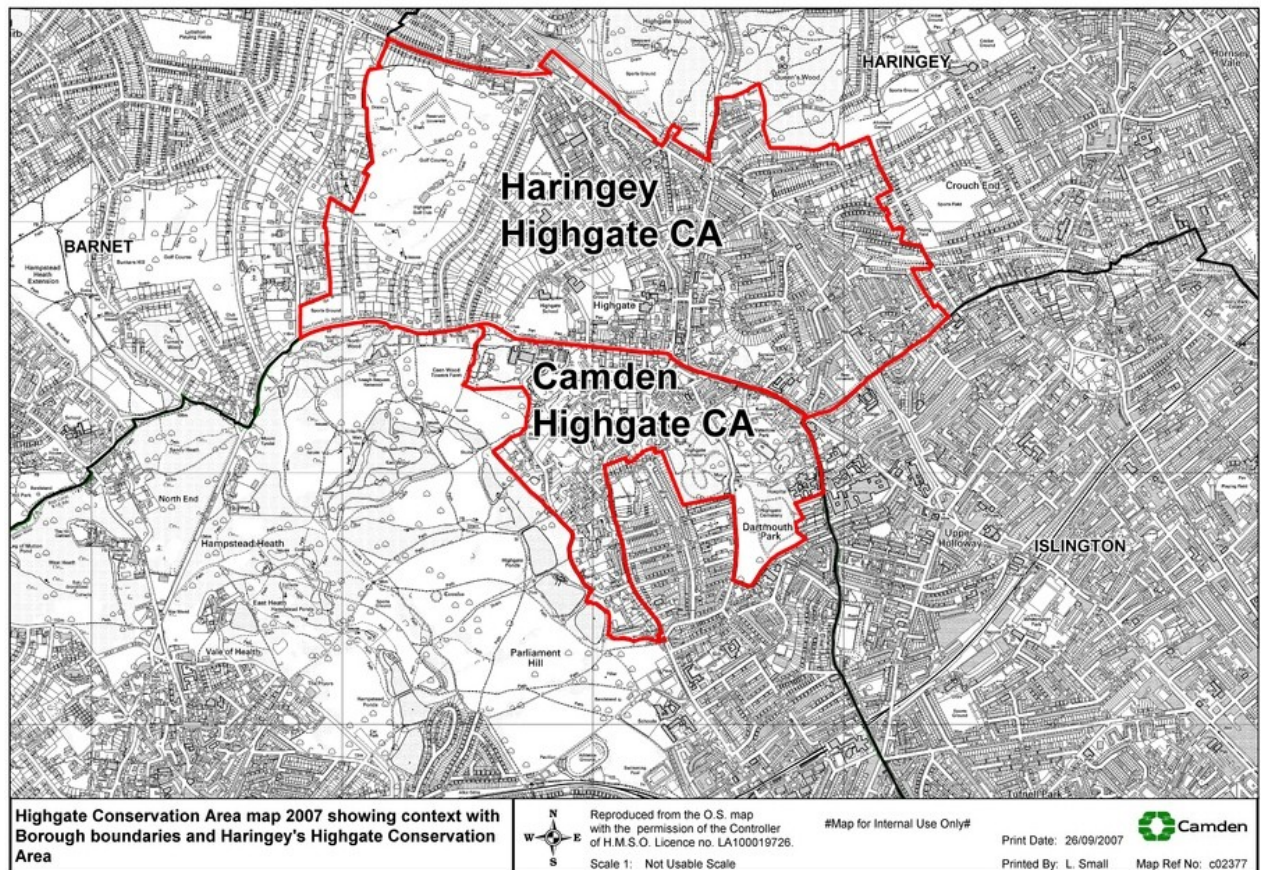
For more information, or if you are unable to view the map, please contact the [Forward Planning and Projects Team](#)

Find an address

Please enter a Camden postcode or street:



Appendix C: Camden Highgate Conservation Area



Appendix D: City of London Arboricultural Report

Appendix E: Hampstead Heath Conservation Information

Appendix F: City of London Topographical Survey of Millfield Lane

Appendix G: People Movements – 16 April to 30 September 2013

Boating Pond / Bird Sanctuary pond Maximum

Hour	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Grand Total
0	6	13	8	6	13	48	19	48
1	3	14	3	5	8	11	48	48
2	6	5	5	5	6	5	30	30
3	8	5	2	2	5	5	16	16
4	2	0	3	0	2	5	16	16
5	2	0	2	2	2	3	10	10
6	10	11	6	5	6	5	5	11
7	27	27	29	24	26	14	22	29
8	94	88	94	85	74	53	53	94
9	139	158	138	141	120	130	138	158
10	208	173	123	166	125	237	296	296
11	277	152	150	259	158	272	416	416
12	355	149	138	155	118	309	440	440
13	370	128	130	118	115	410	360	410
14	379	152	125	114	125	344	416	416
15	443	134	131	126	146	400	398	443
16	506	163	130	134	139	472	491	506
17	509	152	138	162	162	518	528	528
18	430	171	150	141	126	414	477	477
19	360	186	168	160	141	342	446	446
20	214	261	174	194	190	325	456	456
21	211	170	147	171	141	251	219	251
22	126	123	80	88	59	160	118	160
23	26	22	26	29	26	56	29	56
Hourly Max	509	261	174	259	190	518	528	528
7am - 7pm Max	509	186	168	259	162	518	528	528

**Boating Pond / Bird Sanctuary pond
Average**

Hour	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Weekly Avg
0	2.5	1.6	2.0	2.0	2.1	5.1	3.6	2.7
1	1.0	1.5	0.6	1.0	1.2	2.1	3.6	1.6
2	0.5	0.5	0.4	0.8	0.7	0.7	2.6	0.9
3	0.6	0.5	0.1	0.1	0.5	0.5	1.0	0.5
4	0.1	0.0	0.1	0.0	0.3	1.1	1.3	0.4
5	0.1	0.0	0.1	0.2	0.2	0.5	0.9	0.3
6	1.9	3.3	2.3	1.7	1.3	1.6	1.1	1.9
7	12.5	12.1	12.5	11.1	12.5	5.4	5.4	10.2
8	41.0	46.1	48.7	46.7	38.7	30.9	26.4	39.7
9	82.0	83.8	81.0	87.2	71.6	76.0	71.9	79.0
10	103.7	88.5	85.9	90.5	74.5	117.5	166.9	104.3
11	101.3	83.1	78.2	85.3	73.9	141.5	228.0	113.7
12	101.1	76.2	70.8	69.7	67.6	165.5	259.9	116.6
13	97.6	67.7	70.9	68.1	64.7	164.2	251.5	112.9
14	97.9	73.4	71.2	64.5	67.5	150.2	222.5	107.4
15	106.9	72.3	75.5	64.2	59.8	156.4	242.5	111.8
16	111.0	77.6	77.4	66.3	69.3	183.8	282.3	124.9
17	124.2	75.7	81.7	70.0	83.3	197.3	256.7	127.9
18	108.1	78.3	82.7	71.1	71.2	184.9	225.2	118.1
19	111.0	88.0	84.3	74.0	72.6	148.9	188.8	110.2
20	116.8	122.4	104.3	91.8	71.8	106.0	154.3	109.7
21	82.2	85.5	74.4	71.5	54.6	59.1	78.0	72.1
22	32.7	35.8	28.0	26.0	20.8	26.8	28.9	28.4
23	7.1	6.3	7.4	7.8	7.8	8.5	9.5	7.8
Weekday Avg	1443.6	1180.2	1140.7	1071.7	988.1	1934.3	2712.8	1502.8
7am - 7pm Avg	92.2	71.0	70.8	66.8	63.6	132.5	186.8	98.2

**Ladies Pond
Maximum**

Hour	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Grand Total
0	34	16	8	11	8	0	19	34
1	6	21	5	8	5	3	5	21
2	5	18	48	3	6	3	16	48
3	3	5	0	0	5	2	6	6
4	0	0	5	0	2	3	6	6
5	0	0	5	0	2	2	5	5
6	0	13	0	0	0	5	0	13
7	10	26	10	13	24	10	24	26
8	118	98	122	122	125	99	102	125
9	104	112	112	157	101	187	218	218
10	115	130	112	142	186	198	298	298
11	149	155	150	181	216	328	376	376
12	211	176	206	274	296	408	456	456
13	176	155	174	264	181	326	366	366
14	160	85	147	253	147	158	131	253
15	182	162	195	333	214	294	302	333
16	277	264	242	432	277	739	584	739
17	363	280	278	451	325	675	634	675
18	374	349	283	371	314	522	520	522
19	443	341	323	390	267	418	515	515
20	378	294	291	344	277	362	336	378
21	142	112	142	131	88	122	83	142
22	24	16	45	22	27	10	11	45
23	11	5	3	10	5	3	14	14
Hourly Max	443	349	323	451	325	739	634	739
7am - 7pm Max	443	349	323	451	325	739	634	739

**Ladies Pond
Average**

Hour	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Weekly Avg
0	1.9	0.9	0.6	1.7	0.9	0.0	1.5	1.1
1	0.4	0.9	0.4	0.3	0.5	0.2	0.4	0.5
2	0.2	0.9	2.2	0.1	0.7	0.5	0.9	0.8
3	0.2	0.2	0.0	0.0	0.3	0.1	0.3	0.2
4	0.0	0.0	0.2	0.0	0.1	0.1	0.4	0.1
5	0.0	0.0	0.3	0.0	0.1	0.1	0.2	0.1
6	0.0	0.8	0.0	0.0	0.0	0.2	0.0	0.1
7	4.8	6.4	4.7	5.1	5.9	4.7	5.1	5.2
8	29.7	32.8	35.4	35.2	33.3	26.9	29.3	31.8
9	35.0	40.1	42.7	39.9	38.9	54.9	65.0	45.3
10	47.2	45.3	43.1	43.4	49.7	69.0	87.3	55.2
11	45.8	34.7	35.6	45.0	42.9	71.7	97.5	53.6
12	53.9	44.5	44.2	53.6	50.1	75.4	99.4	60.4
13	58.5	43.4	57.7	59.3	45.8	68.8	89.0	60.5
14	37.8	33.4	41.5	39.9	36.3	49.5	57.2	42.3
15	57.0	47.1	59.6	64.9	52.1	70.8	86.4	62.6
16	74.3	57.7	77.6	81.0	66.3	103.5	141.5	86.2
17	89.4	62.7	76.8	88.7	74.9	115.8	139.1	92.8
18	86.9	64.9	75.1	89.4	73.7	89.1	121.0	85.9
19	90.2	70.4	80.0	88.8	65.1	70.8	99.8	80.7
20	67.2	52.6	63.4	69.6	53.5	45.3	60.1	58.8
21	25.1	22.0	25.9	24.6	20.2	16.6	18.5	21.8
22	3.3	1.4	3.7	2.9	4.0	1.3	1.0	2.5
23	0.9	0.9	0.8	1.7	0.7	0.2	1.9	1.0
Weekday Avg	809.5	663.9	771.5	835.1	715.8	935.4	1202.6	849.5
7am - 7pm Avg	54.6	44.9	51.8	56.5	48.8	67.0	86.0	58.7

Appendix H: Alan Baxter Water House Report – October 2013