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DATE: 01 March 2016

YOUR REF:

OUR REF: WZF/T267-1

Dear Ms Phillips

The Old Court House, North End Way, London NW3 7ES ("the Property")
Proposal: Erection of single storey timber outbuilding ("the Development") - 2015/6993/P

We act for Old Court House (London) Management Company Limited, (the company responsible for the management of numbers, 1, 2 and 3, The Old Court House, North End Way – "the Properties") in connection with the above. The Properties are Grade II listed and situated in the Hampstead Heath Conservation Area and the Hampstead Heath Metropolitan Open Land. The rear gardens of the Properties directly adjoin land comprised in and forming part of the Development (as to which see above). We write to record our client's objections to planning application 2015/6993/P on the following grounds:

1. Size, Height, Scale and Design of the Development and Impact on Amenity

The Development falls within the Hampstead Heath Conservation Area and the Hampstead Heath Metropolitan Open Land, one of only four main areas of Metropolitan Open Land within Camden. It is also lies within the curtilage of a Grade II listed building. Our client has reviewed the plans and considers that the height, scale and bulk of the Development is overbearing and will result in substantial, adverse and unacceptable impact on and to the amenity of occupiers of the Properties. The residents of numbers 1, 2 and 3, The Old Court House currently enjoy the benefit of looking out onto green open space. The sense of space and light currently enjoyed by these properties will be materially and detrimentally compromised by the location and scale of the proposed Development. The visible wall directly facing numbers 1, 2 and 3, The Old Court House will be the highest part

setting of the Hampstead Heath Conservation Area and the Hampstead Heath Metropolitan Open Land.

2. Relevant Planning History

Planning permission 2003/2777/P ("the 2003 Permission") granted permission for the "change of use with works of conversion from former nursing home to 3 self-contained dwelling houses, internal and external alterations, creation of 2 new basement floors and associated front and rear garden excavations, demolition of 2 storey front extension to north wing and erection of 3 storey plus attic rear extension to north wing, and provision of car parking spaces and dustbin enclosure in the front courtyard".

Condition 4 of the 2003 Permission required details of hard and soft landscaping and means of enclosure of all un-built open areas to be submitted to the Council for approval. Approval of details required by Condition 4 was granted on 1 November 2004 under reference (2004/3887/P). This condition discharge application was accompanied by a Landscape Statement which contained an indicative planting schedule and confirmed that the application site was to be retained as **communal open space**. Paragraph 4 of the Landscape Statement stated that "**the landscape proposals will provide for a comfortable transition from private to communal open space and will respect the existing historical importance and character of the site**".

A variation application reference (2006/1617/P) was submitted in 2006 to vary the details approved pursuant to application 2004/3887/P. Amended landscape layout plans and detailed planting plans were submitted as part of the variation application. The variation application was approved on 19 May 2006 ("the 2006 approval") and approved drawing 1873-LA-01 noted that an existing shed, which was a much lower and less intrusive structure than the proposed shed and located in the same position, would be removed. The removal of that structure preserved the visual amenity and openness of the setting. This annotation set the context for and informed the parameters of planning permission 2006/1617/P. The current application offends those parameters by promoting the introduction of an intrusive, unsightly and visually offensive structure. The underlying rationale for the 2006 approval is as valid now as it was then and no material change in planning circumstances has occurred since 2006 to justify the current proposal.

The officer's Delegated Report for variation application 2006/1617/P explained the background to the revised landscape proposals which respect the setting of the listed building and the surrounding green open space as follows:

"The current proposals are the result of negotiations with the applicants to provide a satisfactory layout and planting of the surrounding gardens **which is appropriate to the setting of the listed building and the relationship of the site to Hampstead Heath**. The principle concern was the division of the lawn area closest to the rear of the house into three separate compartments. Earlier proposals failed to maintain the integrity of this space and its role in proving the setting of the building. It is considered that the current proposals provide a satisfactory means of maintaining the integrity of the space and its relation to the building. The detailed planting design is also considered to be satisfactory in terms of its relation to the building and its relationship to the Heath

by providing a defined and appropriate degree of structure within the gardens and additional screening to views from the Heath. The planting is also considered to be a reasonable proportion of planting which will enhance the biodiversity of the site...”

The variation application was approved on 19 May 2006. We are instructed that the applicant has consistently failed to comply with the terms of the approved planting schedule, landscaping scheme and layout comprised in the variation application 2006/1617/P, **which required the communal area to be landscaped for the enjoyment of the owners of numbers 1, 2 and 3 The Old Court House**. The applicant is clearly in breach of the planning condition relating to the implementation of the approved landscape scheme and the Council should take enforcement action to remedy the breach and the harm caused.

3. Impact on the Setting of the Listed Building

When considering whether to grant planning permission for a development which affects a listed building or its setting, a Local Planning Authority is required to have special regard to preserving or enhancing the setting of the listed building (section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990). The Development completely blights the setting of the listed building due to its size, height and scale and fails to preserve or enhance the setting of the listed Old Court House building due to its size, height and scale and fails to preserve or enhance the setting of the listed building.

Paragraph 132 of the National Planning Policy Framework (“NPPF”) provides that when considering the impact of a proposed development on the significance of a designated heritage asset such as a listed building, great weight should be given to the asset’s conservation. Significance can be harmed through development within its setting. As heritage assets are irreplaceable, any harm or loss requires clear and convincing justification and substantial harm to a Grade II listed building, park or garden should be exceptional. The Development would adversely impact on the setting of the listed building and result in substantial harm to and loss of significance of the listed building.

Where, as in this case, a proposal will result in substantial harm or total loss of significance of a heritage asset, paragraph 133 of the NPPF provides that the Local Planning Authority should refuse the application, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the loss or harm caused. The applicant has failed to demonstrate or identify any countervailing public benefits which would be provided by the Development and the application should therefore be refused.

4. Impact on the Conservation Area and the Metropolitan Open Land

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to preserving or enhancing the character or appearance of the conservation area. The test in paragraph 133 of the NPPF rehearsed above also applies in this case to the Hampstead Heath Conservation Area which is also of course a heritage asset.

The Development fails to preserve and enhance the character and appearance of the Hampstead Heath Conservation Area and will cause substantial harm to the character and appearance of the Hampstead Heath Conservation Area and the Hampstead Heath Metropolitan Open Land due to its unsympathetic design and disregard for the setting of the ancient Old Court House Estate.

5. Camden Planning Policy

We have considered policies of the Camden Development Policies 2010-2025 and Camden Core Strategy 2010 of the Local Development Framework which are most relevant to this application.

Policy DP25 'Conserving Camden's Heritage' of the Camden Development Policies 2010-2025 is relevant and states:

"Conservation Areas - 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;
- e) preserve trees and garden spaces which contribute to the character of a conservation area and which provide a setting for Camden's architectural heritage

Listed Buildings – To preserve or enhance the borough's listed buildings, the Council will:

- (g) not permit development which it considers will cause harm to the setting of a listed building."

Policy CS15 'Protecting and improving our parks and open spaces and encouraging biodiversity' of the Core Strategy 2010 is also relevant and states:

"The Council will preserve and enhance the historic, open space and nature conservation of Hampstead Heath and its surrounding area by:

- (l) protecting the Metropolitan Open Land, public and private open space and the natural conservation designation of sites
- (n) taking into account the impact on the Heath when considering relevant planning applications
- (o) protecting views from Hampstead Heath and views across the Heath and its surrounding areas

6. Future Development

Our client has grave concerns that the applicant will use this application as "a Trojan horse" device to establish the principle of development on the site and then apply for planning permission to

develop the site further in the future for residential development. There is no plausible explanation, use or need for the proposed shed.

The applicant has a track record of carrying out development without planning permission, flouting the conditions of previous consents circumventing planning policy then applying for retrospective planning permission to regularize the planning position. This is evidenced by the garden gate which he installed without planning permission for which he then applied for permission later in 2008 (2008/0723/P). The application for the garden gate was granted on 8 May 2008 notwithstanding that it compromises the security of the residents of numbers 1, 2 and 3, The Old Court House, by allowing strangers and domestic animals potential access to the rear of these properties. The applicant also erected a tall fence without consultation or planning permission around the site which he was later forced to remove by the Council. An unsightly low wire fence has however now been erected. Please confirm the planning status of the low wire fence.

Last year, the applicant erected a garden shed overnight in the same location as the Development without planning permission. Following complaints from the residents of numbers 1, 2 and 3, The Old Court House, the Council required the applicant to remove it.

7. Conclusion

The Development would cause substantial harm to the setting of the listed buildings, and to the character and appearance of the Hampstead Heath Conservation Area and Hampstead Heath MOL. It will also result in permanent and unacceptable loss of amenity to the occupiers of the Properties.

Accordingly and in light of the above the application should be refused.

Yours faithfully

A black rectangular redaction box covering the signature of the sender.

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