

Planning Application No: 2011/4390/P – The Water House, Millfield Lane N6

My name is Karen Beare. I am requesting the right to speak at the meeting of the DCC on 7 April 2016 in my capacity as a direct neighbour at 49 Fitzroy Park, and on behalf of the stakeholder group known as The Friends of Millfield Lane (“FoML”) representing 8 local amenity groups including the Heath & Hampstead Society, Kenwood Ladies Pond Association, Highgate Society and Highgate CAAC, 2 other direct neighbours at the Wallace House & 55 Fitzroy Park and all 4 Millfield Lane private landowners.

Furthermore, the Friends of Millfield Lane organised a petition calling on the Council to protect Millfield Lane and the adjacent Heath from construction impacts. ***This petition has been signed by 4018 signatories, but this fact has not been reported by Officers.***

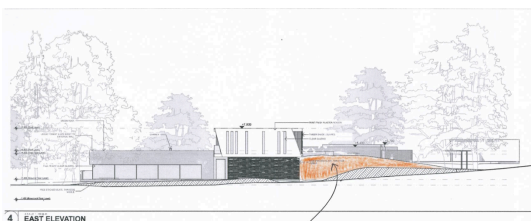
Whilst the Council’s decision to recommend refusal is welcome, there remains a number of material considerations that have not been reported by Officers contrary to due process. These, along with those being raised by the City Of London in their deputation, represent additional reasons for refusal that I would like to draw your attention to here. Thank you.

1. DEMOLITION & OVER-DEVELOPMENT:

By way of background, the Applicant bought this property opposite the Ladies Pond in 2008 in the full knowledge that it had vehicle access only along Millfield Lane with no rights of way past his boundary with the Wallace House. He was also aware that two previous redevelopments of the site, in the 70s after a fire and, thereafter in the 90s by the renowned architect Richard Paxton, had both been very modest resulting in a plot/build ratio of 15% in keeping with the local average of 17%. Unlike this Applicant, both those owners opted for “light builds” where literally only a handful of HGVs were necessary, where foundations and external walls were retained and no basement excavations undertaken, because they chose to strike a respectful balance between their development plans and the limitations of an extremely sensitive environmental site that includes two veteran trees – an Oak (T5) and a Hornbeam (T17) – and severe site access constraints onto an unmade, narrow single carriage track running adjacent to Hampstead Heath that serves 1000s of pedestrians each day. Furthermore, unlike this Applicant, they involved neighbours and landowners in an active, on-going dialogue and consequently enjoyed universal support for both schemes. ***This relevant historic information has been provided by way of witness statements from neighbours and private landowners but has not been reported by Officers.***

****** ADDITIONAL Reason for Refusal: Inappropriate demolition of a dwelling that, as part of a trio of adjacent houses, all designed and renovated by the eminent late architect Richard Paxton makes a significant and positive contribution to the character and appearance of the area.***

This current scheme doubles both the footprint (97%) and floor space (109%) of which 10% is basement level. It includes a semi-basement gym complex under a new grass bund that Officers have determined should not be included in the plot/build calculations because it is their opinion that this part of the footprint will not be “visible” (para 6.25) despite it rising up ***artificially*** from ground level to the first floor, as shown in the cross-section below. Common sense, let alone RIBA best practise, suggests otherwise, resulting in the visible footprint increasing accordingly and an accurate plot/build ratio of 34% not 28%.



****** ADDITIONAL Reason for Refusal: At 34%, a plot/build ratio represents an unacceptable over-development of the site in Private Open Space adjacent to Metropolitan Open Land, resulting in the loss of 365m² of mature garden that will permanently reduce the verdant character of the area and harm this part of the Highgate Conservation Area.***

2. HGV ACCESS TO/FROM SITE, LOSS OF FURTHER TREES & PHYSICAL INFRASTRUCTURE CHANGES:

On 15 March 2016 the Applicant submitted a copy of a Statutory Declaration showing that he has no rights of way past his boundary with the Wallace House to use the entrance of the Ladies' Pond in order to reverse his HGVs into site. Reversing into site is critical to his CTMP as it enables HGVs to exit site in forward gear, in accordance with the Highway Code, without having to turn around in the front garden where the extensive root protection zone of the veteran Oak T5 makes this manoeuvre untenable.

This Declaration was dated January 2011. Despite having had this information in his possession for 5 years, the Applicant produced no fewer than 12 draft CTM Plans **ALL** showing proposed HGV swept path analyses ("SWA") trespassing onto those parts of Millfield Lane over which he knew he had no rights. The consequence of his actions is that untold amounts of public money have been wasted with Officers, in good faith, continuing to consider these fatally flawed plans during a 4.5 year consultation period.

Following submission of this Declaration, FoML commissioned WSP Parson Brinkerhoff to undertake a further review of the Applicant's SWAs. WSP concluded that in all scenarios (standard & small HGVs) unlawful access to the Ladies Pond would be needed to enable HGVs to manoeuvre in and out of site safely. WSP determined that access to site in forward gear would only be possible if Heath railings are moved back and/or the existing property entrance widened significantly with the loss of at least three trees along that boundary, including a mature Ash. Furthermore, in order to turn-around on site, all HGVs would need to encroach into the extensive RPA of veteran Oak T5, causing significant sub-surface compaction of its roots.

***** CLARIFICATION Reason for Refusal No2: to include unacceptable physical infrastructure impacts and potential loss of three trees along front boundary that act to screen development site from the Heath.**

***** CLARIFICATION Reason for Refusal No3: to include further unacceptable HGV construction impacts to RPA of the veteran Oak tree (T5).**

3. USE OF GROUND GUARDS TO MITIGATE CONSTRUCTION IMPACTS:

In para 6.84 the Officer wrongly states that: *"The installation of ground guards along the Lane would be acceptable as a sufficient measure to protect tree roots and road surfaces in themselves."* In para 6.7 he also mentions a proposal by the Applicant to mitigate construction impacts along the Lane that has not been made available to stakeholders, despite repeated requests.

In response to these remarks, FoML commissioned WSP to comment on the potential use of Ground Guards to mitigate construction impacts along Millfield Lane in the context of the recent weight loading tests carried out by the City of London. These tests found that the Lane has a CBR ratio of 5%, not 30% as had been consistently asserted (over a period of 4 years) by the Applicant and his tree consultants, Landmark Trees. For those not familiar with a CBR ratio, it is a measure of the weight bearing capacity of the sub-structure of the road to sustain HGV traffic. As a comparative reference, WSP have confirmed that the industry standard for the level of HGV traffic as proposed in this CTMP should be 30%.

In the latest WSP note which is available on the Council website but not reported by Officers, WSP explain that Ground Guards are used primarily to protect the surface of the existing ground and do **NOT** increase the weight-bearing capacity of the ground beneath. WSP consider that with recorded CBR's in the region of 5%, Millfield Lane would need to be permanently re-engineered and re-constructed to bring the base and sub-base up to a CBR of 30%, to avoid permanent degradation and sub-surface damage to the root zones of 14 mature trees, including 3 veteran boundary Oaks, all sited on Hampstead Heath adjacent to the Lane.

***** CLARIFICATION Reason for Refusal No 1: Ground guards alone would not be sufficient to mitigate HGV construction impacts to Millfield Lane. Mitigation measures would require the re-engineering and re-construction of the Lane, which would be permanently harmful to the rural landscaped character and appearance of Millfield Lane and the wider conservation area.**

***** CLARIFICATION Reason for Refusal No3: Ground guards alone would not be sufficient to mitigate HGV construction impacts to T5 without a significant increase in ground bearing capacity within the RPA.**