



Our Ref: MJO/LE/LN3166

mary-jane.oneill@wyg.com  
2 September 2016

Charles Thuaire  
London Borough of Camden  
2nd Floor, 5 Pancras Square  
c/o Town Hall, Judd Street  
London  
WC1H 9JE

Dear Mr Thuaire

**Address:** Heath House North End Way London NW3 7ET  
**Proposal:** Conversion of existing single dwellinghouse to 6 self-contained residential units; erection of new west side wing comprising basement, lower ground, ground and first floors; erection of rear conservatory extension; remodelling roofs of main house and east side wing; provision of 8 carspaces in side garage wing and on front forecourt; various external alterations and associated landscaping (ref. 2015/6280/P and 2015/6447/L)

I write on behalf of my client, the City of London Corporation ("the City"), to make a further representation to the above planning and listed building applications, based on the revised plans that have recently been submitted to the Council by the applicant. The City submitted an objection to the original planning application in correspondence dated 19 February 2016, expressing concerns relating to impacts on the character of the adjoining Heath, the designated Metropolitan Open Land and the historic fabric of the Grade II\* Listed Building. Having reviewed the revised drawings, the City welcomes the changes that have been made in regards to the omission of the underground forecourt parking, however, it still has some reservations in relation to the proposals. Further detail is provided below.

#### 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.

9 Mansfield Street, London, W1G 9NY  
Tel: +44 (0)20 7631 9050  
Email: london@wyg.com Website: www.wyg.com

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Registered Office: Arndale Court, Otley Road, Headingley, Leeds, LS6 2UJ



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The City is statutorily obliged by virtue of various Acts of Parliament and, specifically, the provisions of the Hampstead Heath Act, 1871 to:-

- 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.

In total, the City owns and manages over 10,700 acres (4,330 hectares) of Open Space in and around London. The sites are used and enjoyed by millions of visitors each year. They are important wildlife habitats but also provide many facilities for visitors, including swimming and other sports, play areas, fishing and much more.

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.

#### **Comments on the Application**

The gardens up to the footprint of Heath House are designated as Open Space and Metropolitan Open Land (MOL) and form part of a wider area of MOL including Hampstead Heath, Kenwood, Parliament Hill and Highgate playing fields. The City's previous objection focused on the proposed development's impact on Metropolitan Open Land and the extent of the increase in floor space in comparison with the existing building. Therefore, the City welcomes the omission of a large proportion of the underground car park in the proposals which originally occupied a large proportion of the MOL.

However, the City still has reservations over the extent of excavation required for the proposals, as well as the encroachment of the proposals on the MOL which, whilst are to a lesser extent than the originally submitted plans, will result in a fairly considerable amount of MOL land being built on.

As established in our previous representation letter, national and local planning policy prescribe that MOL be protected as a permanent feature, and afforded the same level of protection as the Green Belt. In particular, Policy CS15 of Camden's LDF refers to the protection of MOL and paragraph 15.7 states:

*"Camden's designated open spaces include Metropolitan Open Land. This is open space of London-wide significance that provides a break in the built up area and receives the same presumption against development as green belt land." (our emphasis).*

Further to the above, the London Plan (March 2015) echoes Camden's LDF, stating that the strongest protection should be given to London's Metropolitan Open Land and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt.



Paragraph 87 of the NPPF reiterates this and identifies that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.

Therefore, the key question in this instance is not whether the replacement dwelling would be more visually intrusive from the public realm, but whether it would be materially larger than the existing dwelling, as is evidenced within *Heath & Hampstead Society v London Borough of Camden* [2007] EWHC 977 (Admin) (3<sup>rd</sup> April 2007).

The application documents set out to compare the floor space of the proposals with the floor space of a previously consented scheme at Heath House (ref. 2008/0661/P) and the original house (including outbuildings) in 1948 in an attempt to demonstrate that the proposed increase in floor space is not materially larger. However, the City perceives this to be a flawed approach as the Consultant does not make a comparison with the existing situation on site and therefore wrongly assesses whether the proposals are materially larger. The comparison calculation should consider the existing floor space on site versus the floor space of the proposed development to demonstrate the true impact. The City considers that if this comparison was made, the results would demonstrate that the proposed result in a materially larger building, much of which encroaches onto the MOL.

The fundamental aim of Green Belt and MOL policy is to prevent urban sprawl by ensuring that land remains permanently open. The distinguishing characteristic of Green Belts are their openness and their permanence. The proposed development would result in an increase in floor space in comparison with the existing building, therefore it is evident that the proposal would result in a materially larger development.

Having regard to the omission of the underground car park in the forecourt area, the City recognises that the applicant has taken steps to reduce the overall impact on the MOL, in comparison with the originally submitted plans. The reduction in size of the extensive underground car park is welcomed, however, the City does not support the provision of car parking spaces on the front forecourt in place of this. This would result in a negative visual impact when viewed from the surrounding Heath.

### **Summary**

The City is statutorily obliged by virtue of various Acts of Parliament and, specifically, the provisions of the Hampstead Heath Act, 1871 to *“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”*. It accordingly has concerns relating to the gradual encroachment of development on the Heath.

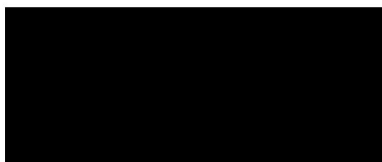
The City welcomes the reduction in size of the extensive underground car park from the plans and acknowledge that this is a step change in comparison with the original proposals. However, we uphold our previous concerns relating to the additional massing of the building extension and the impact this will have on the Heath MOL.

The proposed development would result in a material increase in floor space in comparison with the existing building, and it can therefore be considered that the proposal would result in a materially larger development. No special circumstances have been put forward in the applicant’s case which would justify a grant of planning permission.



The City of London Corporation reserves the right to supplement the above representation in respect of specific matters relating to the applications and to be re-consulted regarding any further amendments or additional documentation submitted. Therefore, we would be grateful if you could keep us informed of any further amended plans in relation to this application.

Yours sincerely



**Mary-Jane O'Neill**  
Regional Director  
**For WYG**  
mary-jane.oneill@wyg.com  
Tel: 020 7631 9050