

Regeneration and Planning
London Borough of Camden
2nd floor
5 Pancras Square
London
N1C 4AG

FAO: Mr Charles Thuaire

Date 27 September 2016
Our ref 12766/04/SB/JLa/12147212v3
Your ref PP-05447866

14 Regent's Wharf
All Saints Street
London N1 9RL

020 7837 4477
london@nlpplanning.com

nlpplanning.com

Dear Mr. Thuaire

Installation of air conditioning units and screening at Heath Park, North End Way, NW3 7ET

On behalf of our client, Mr. Vikrant Bhargava, we have today submitted an application via the planning portal (PP-05447866) in respect of the above. The application is for full planning permission for the installation of air conditioning units and wooden trellis screening in the grounds of a residential property (under construction) at Heath Park.

The Application

The application submission consists of the following:

- 1 Application Form and Certificates;
- 2 CIL Planning Application Additional Information Requirement form;
- 3 The following drawings:
 - i Site Location Plan at 1:1250 (drawing ref. IL12766/001), prepared by Nathaniel Lichfield & Partners;
 - ii Site Plan 1:500 (drawing ref. 1204-PL-200 Rev D), prepared by Wolff Architects;
 - iii North End Way Sightline Elevation (drawing ref. 1204-PL-206), prepared by Wolff Architects;
 - iv Condenser Units Compound layout (at 1:20) and elevation plans (at 1:20 and 1:5) (drawing ref. 1699-13-30), prepared by Bowles & Wyer;
 - v Condenser Unit Setting out Plan (drawing ref. 1:100), prepared by Bowles & Wyer;
 - vi A/C unit specification details (drawing ref. REYQ14-20T).
- 4 Noise Impact Assessment, prepared by Clarke Saunders;
- 5 This Cover Letter which includes a planning assessment of the proposals, prepared by NLP.



The application fee cheque, for £385.00, payable to “London Borough of Camden” is also enclosed.

Site and Proposed Development

The application site lies to the west of and within the grounds of Heath Park, a large single dwelling currently under construction (Application Ref: 2008/0663/P, amended 2012/4397/P, 2012/5871/P, 20131342/P and 2015/6671/P). It is located to the north of the grade II* listed mansion, Heath House, as identified on the enclosed Site Location Plan. The application site is bounded by Spaniards Road on the east, North End Way on the west side and Hampstead Heath on the north; on the southern point of the site is the roundabout between both roads.

The site is surrounded by Hampstead Heath on all 3 sides, i.e. to the west, east and north, which is also designated as Metropolitan Open Land (MOL) (see policy map extract in appendix 1). To the northwest is Inverforth House, converted into flats and listed grade II. To the southwest lies Jack Straws Castle and Old Court House, both recently converted into flats. The former is 1960's pastiche of a 18th C coaching inn and the latter is a 1780's Georgian house; both are listed grade II. Immediately adjoining the south entrance of the site facing the roundabout is a war memorial built in 1922. All these buildings and structures are also within Hampstead Conservation Area.

The whole site, including Heath House and Heath Park, is bounded by a high brick wall on 3 sides with railings frontage facing the roundabout. The boundary wall is separately listed (grade II).

The application site lies between the western boundary wall and the new driveway to Heath Park, which provides access to the basement car park, and lies within the vicinity of a former staff house, which was demolished prior to the construction of Heath Park. Please refer to the enclosed Site Location Plan.

The whole site is within Hampstead Conservation area. It is also designated in the Hampstead Heath Archaeological Priority Area, Open Space Garden of Heath House and Metropolitan Open Land (except for the footprints of both houses), as identified on the LB Camden Planning Policy Map.

The development comprises the installation of four air conditioning condenser units, ancillary to the new property Heath Park. Each condenser unit is approximately 1.7m tall and 1.25m by 0.75m in area. These will be screened by a single 2m tall trellis fence, which would be suitable for climbing plants. This single compound would not be visible from North End Way, as the elevation drawing (ref. 1204-PL-206) prepared by Wolff shows. From Heath House the development will appear in the context of the new driveway and against a background of the boundary wall and trees behind.

The air conditioning units cannot be located on the roof of the new dwelling at Heath Park as there would be no space with the requirements for existing plant and the sedum roof.

Planning History

The relevant planning history associated with Heath Park is set out below.

On 19 January 2009 full planning permission was granted for



“Demolition of existing dwelling house and ancillary structures and erection of a new basement and 2 storey dwellinghouse with basement double garage, access ramp, and associated landscaping and vehicular access off North End Way” (LPA ref. 2008/0663/P).

This permission was then varied by two non-material amendments. On 18 September 2012, the Council granted a S96A Non Material Amendment to planning permission ref: 2008/0663/P, to add a new condition to ensure that the development is carried out in accordance with the approved plans (ref: 2012/4397/P). On 23 November 2012 a second S96A Non Material Amendment to planning permission ref: 2008/0663/P was granted in order to delete the word “double” from the description of development (ref: 2012/5871/P).

On 21 May 2013 planning permission (LPA ref. 2013/1342/P) was granted for a Minor Material Amendment under S. 73 to vary the original permission (LPA ref. 2008/0663/P) as follows:

“Variation of condition 14 (development built in accordance with approved plans) of planning permission dated 19/01/2009 (ref 2008/0663/P) for erection of a new basement and 2 storey dwellinghouse (Class C3) with basement garage, access ramp, and associated landscaping and vehicular access off North End Way, as subsequently amended by Non- Material Amendments dated 18.9.12 (ref 2012/4397/P) and 23.11.12 (ref 2012/5871/P), involving revised elevations and roofplan and additional/alterd lower ground and basement floor accommodation to house.” (2013/1342/P).

On 21 December 2015 a Non Material Amendment to planning permission 2008/0663/P as amended by 2013/1342/P (Application 2015/6671/P) was granted for the installation of a rooftop satellite dish to Heath Park.

Planning Policy Context

The determination of planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2)) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act (2004).

The statutory development plan for the Property comprises:-

- The London Plan (March 2015), including Minor Alterations to the London Plan (March 2016);
- London Borough of Camden Core Strategy (2010);
- London Borough of Camden Development Policies (2010); and
- Site Allocation Document (2013).

Relevant Supplementary Planning Guidance includes:

- Camden Planning Guidance (CPG 1 Design (May 2016) and CPG 6 Amenity)
- Conservation Area Statement Hampstead

Camden’s emerging Local Plan has been submitted for examination and therefore attracts limited weight as a material consideration.

The location of the site within the Hampstead Conservation Area and proximity to the grade II listed boundary wall; requires that special regard must be given to the deliverability of preserving



the settings of these designated heritage assets as set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

National Planning Policy Framework (NPPF) (March 2012)

The NPPF sets out the government's overarching objectives for the planning system and how these are expected to be applied. Paragraph 14 states that:-

"For decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- *Specific policies in this Framework indicate development should be restricted."*

The NPPF includes policies on Green Belt (chapter 9), design (chapter 7) and the historic environment (chapter 12), which are material to this application.

London Plan (March 2015), including Minor Alterations to the London Plan (March 2016)

The London Plan (LP) comprises the strategic component of the development plan and provides London wide policy and guidance.

The LP advises that *"The policy guidance of paragraphs 79-92 of the NPPF on Green Belts applies equally to Metropolitan Open Land (MOL)"* (para. 7.56). These paragraphs of the NPPF therefore provide the development control policies against which development in the MOL should be assessed.

There are a number of design policies within the LP. The most relevant to this application is Policy 7.4 (Local Character), which requires design to be informed by and respect their context.

These design principles also inform heritage policy. LP Policy 7.8 states (inter alia) that:

"C Development should identify, value, conserve, restore, re-use and incorporate heritage assets, where appropriate.

D Development affecting heritage assets and their settings should conserve their significance, by being sympathetic to their form, scale, materials and architectural detail."

Camden Core Strategy (2010)

Policy CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity) provides some guidance on development in the MOL:

"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;"

Policy CS14 (Promoting high quality places and conserving our heritage) states

"The Council will ensure that Camden's places and buildings are attractive, safe and easy to use by:

a) requiring development of the highest standard of design that respects local context and character;



- b) preserving and enhancing Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains, scheduled ancient monuments and historic parks and gardens;*
- c) promoting high quality landscaping and works to streets and public spaces;*
- d) seeking the highest standards of access in all buildings and places and requiring schemes to be designed to be inclusive and accessible;*
- e) protecting important views of St Paul's Cathedral and the Palace of Westminster from sites inside and outside the borough and protecting important local views."*

Borough of Camden Development Policies (2010)

The above provides the following relevant guidance to the application.

Policy DP25 – Conserving Camden's heritage 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;*
- 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;*
- d) not permit development outside of a conservation area that causes harm to the character and appearance of that conservation area; and*
- 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:

- e) prevent the total or substantial demolition of a listed building unless exceptional circumstances are shown that outweigh the case for retention;*
- f) only grant consent for a change of use or alterations and extensions to a listed building where it considers this would not cause harm to the special interest of the building; and*
- g) not permit development that it considers would cause harm to the setting of a listed building.*

Archaeology

The Council will protect remains of archaeological importance by ensuring acceptable measures are taken to preserve them and their setting, including physical preservation, where appropriate.

Other heritage assets

The Council will seek to protect other heritage assets including Parks and Gardens of Special Historic Interest and London Squares."



Policy DP28 – Noise and vibration states:

“The Council will seek to ensure that noise and vibration is controlled and managed and will not grant planning permission for:

- a) development likely to generate noise pollution; or*
- b) development sensitive to noise in locations with noise pollution, unless appropriate attenuation measures are provided.*

Development that exceeds Camden’s Noise and Vibration Thresholds will not be permitted.

The Council will only grant permission for plant or machinery if it can be operated without cause harm to amenity and does not exceed our noise thresholds.

The Council will seek to minimise the impact on local amenity from the demolition and construction phases of development. Where these phases are likely to cause harm, conditions and planning obligations may be used to minimise the impact.”

Additional Local Guidance

The site is located in the Whitestone Pond sub area of the Hampstead Heath Conservation Area. The Hampstead Heath Conservation Area statement describes the character of the area, provides an outline of the key issues and identifies development pressures which are currently a cause of concern.

Supplementary planning guidance on design (CPG 1) and amenity (CPG 6) is also relevant.

Planning Assessment

The planning considerations for this development arising from the law, policy and guidance framework are as follows:-

- 1 Principle of development in MOL and its visual impact;
- 2 Design and amenity;
- 3 Effect of development on the significance of the heritage assets (Conservation Area and Grade II listed boundary wall).

Metropolitan Open Land

An exception to inappropriate development

The site is located within MOL. Policy guidance of paragraphs 79-92 of the NPPF on Green Belts applies equally to MOL. The NPPF states that:

“A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are: [inter alia] limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.” (NPPF para. 89)

The location of the air conditioning compound is in a similar location to the now demolished former staff house and tennis court and is adjacent to the new driveway to Heath Park. It therefore qualifies as a partial redevelopment of a partially previously developed site.



The combined footprint of the AC units is just 3.75sq.m, these sit on a concrete slab measuring 15.7sq.m and the whole compound, measuring 19sq.m. These are all considerably smaller than the 41sq.m built footprint of the staff house which previously partially occupied the site.

Openness means ‘an absence of buildings or development’ [Timmins v Gedling BC and Westerleigh [2014] EWHC 654 (Admin)]. It is therefore reasonable to conclude that there would not be a greater impact on the openness, given the reduced built and development footprint.

As this garden space surrounding Heath Park is private the main wider benefit is associated with its tree-lined, mostly open appearance from North End Way and Spaniard’s Road and other locations within the MOL. The external appearance of the site will remain unchanged, as the compound (1.7m high AC units with 2m high trellis fence) will not be visible above the boundary wall (drawing ref. 1204-PL-206), or from other locations within the wider MOL. The only visual impact would therefore be within the private garden area.

The proposed development satisfies the test set out in para. 89 and would therefore be an exception to inappropriate development.

Very Special Circumstances

Notwithstanding the above, should Officers consider that the development does not classify as an exception to inappropriate development in the MOL, we consider that there are very special circumstances clearly justifying this very minor development within the MOL. The NPPF states that:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”

There are three elements to this test: 1) the magnitude of harm to the MOL; 2) the extent of ‘any other harm’ and 3) other considerations which would outweigh the first two. We consider these in turn.

- 1 There would be in principle harm caused by development in the MOL if the development is not recognised to be an exception to inappropriate development in the MOL. The AC compound will be located partially on an area of previously developed land. The footprint of the staff house previously at this location, which was demolished in 2012 was 41sq.m, this was adjacent to an enclosed tennis court of c. 570sq.m. The footprint of the proposed AC units would be 3.75sq.m and the whole compound would cover 19sq.m, though the concrete slab supporting the AC units will be inset from the trellis screening and have a footprint of 15.7sq.m. Openness primarily concerns the extent of development. The limited footprint compared with what was previously onsite means the impact on openness would be less than that which previously existed.

The volume of the compound would be substantially less than a building and importantly it would not be visible from public land. Therefore the visual amenity associated with the area would remain the same for external viewers. Furthermore the development would not be a building and would be designed appropriately for the garden setting and as such would not diminish the visual amenity within the private space.



- 2 For the reasons set out in the subsequent sections (design, amenity and heritage assets) we do not consider that ‘any other harm’ would be associated with the proposed development.
- 3 Two important considerations weigh in favour of the proposed development:
 - a The principal alternative location would be the roof of the Heath Park house where other plant is located. As the majority of the house is inset from the MOL it would not have any impact on the openness of the MOL. However, such a location would clearly be more conspicuous and this would impact the setting of the MOL. Furthermore, this would require a reduction in the extent of the sedum roof, which contributes to the highly sustainable design of Heath Park. For these reasons an alternative location was sought at ground level.

The proposed location is optimal. It is on an awkward, small, roughly triangular shaped plot of land between the driveway and the boundary wall. It has limited use value and its contribution to the openness and garden setting of the house is minimal due to the drive way to the basement and retaining wall in the foreground.

- b The proposed development would ordinarily be permitted development under Class E, Part 1, Schedule 2 of the General Permitted Development Order (2015, as amended). It is not in this instance as the original permission for Heath Park included the below condition:

“Condition 11: Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development Order) 1995 or any Order revoking and re-enacting that Order, no development within Part 1 (Classes A-H) and Part 2 (Classes A-C) of Schedule 2 of that Order shall be carried out without the grant of planning permission having first been obtained from the Council.

Reason: To safeguard the visual amenities of the area and to prevent over-development of the site by controlling proposed extensions and alterations in order to ensure compliance with the requirements of policies SI/ S2, B1 and SD6 of the London Borough of Camden Replacement Unitary Development Plan 2006.”

This condition was concerned with over development and design, not development within the MOL. It does not preclude further development, but rather requires planning permission to be obtained from the LPA. Without this condition in place, the same development would be permitted and by definition be acceptable in the Green Belt / MOL. The fact that ordinarily such development would fall under permitted development rights should therefore count substantially in favour of the acceptability of the proposed development.

For these reasons it is considered there are very special circumstances to justify the proposed very minor development within a private garden, should the Council not treat the proposal as an MOL ‘exception’.

Design and Amenity

The air conditioning units cannot be located on the roof as there would be no space with the requirements for existing plant and the sedum roof, and it would be conspicuous in views of the property. The proposed location is inconspicuous, in a corner location next to the driveway. The site has no immediate neighbours, with Heath House, the nearest, located approximately 100m south.

London Plan and Camden planning policy (CPG 1 – Design) places considerable emphasis on the importance of consideration of surrounding area in assessing the design of a development.



The design is low key, using natural materials, in a relatively inconspicuous corner location. It is entirely appropriate in design for this garden setting and does not distract attention away from the nearby heritage assets nor impinge on the openness of the site. The visual impact is very limited.

The Development Policies Document states that “The Council will only grant permission for plant or machinery if it can be operated without cause harm to amenity and does not exceed our noise thresholds” (DP28).

CPG 6 (Amenity) requires an acoustic/noise and vibration report to accompany any application which proposes *“the installation of plant, ventilation or air conditioning equipment”* (para. 4.10). Accordingly this application is accompanied by a Noise Impact Assessment (NIA).

The NIA concludes that compliance with the noise emission design criterion has been demonstrated and that no further mitigation measures are required for external noise emissions. The air conditioning would not adversely impact amenity and satisfies Policy DP28 by meeting relevant noise thresholds.

Heritage Assets

Listed building

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

It is not considered that the proposal has any impact upon the setting of Heath House, given the size of the compound and its location over 100m to the north, the furthest possible distance away. It is however located within the setting of the grade II listed boundary wall. The development will not be visible from outside of the site and so the external appearance of the wall would remain unchanged. Internally it would be visible against the wall, though this would be in the context of Heath Park right and to the driveway in the foreground. The natural materials used for the screening would be appropriate in the garden setting and not adversely affect the setting of the wall.

Conservation Area

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that *“In the exercise, with respect to any buildings or other land in a conservation area, of any [functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*

The proposed development would not be visible from the wider Hampstead Conservation Area. Furthermore the materials used for the screening would be appropriate for this garden setting. The appearance of the Conservation Area would therefore be maintained.



Archaeology

The site lies within an archaeological priority area. However the foundations of the proposed would be limited to a concrete slab and four wooden posts sunk in concrete to a depth of less than 1m below ground level. In a different context similar works could be completed in a domestic garden under permitted development rights. Given the scale of the works an archaeological assessment is not considered necessary.

Conclusions

The proposed development therefore accords with the development plan and statutory tests set out in the legal and planning policy framework for the following reasons:

- 1 The proposed development amounts to an exception to inappropriate within the MOL and, in any event, very special circumstances exist to clearly justify the proposal if considered to be inappropriate development within the MOL;
- 2 It would be sensitively located at the corner of the site so as not to be visible in public views from the MOL. The trellis screening is appropriate in this the garden setting and the noise generated complies with LB Camden criteria; and
- 3 The use of natural materials for the screening coupled with the careful siting would ensure that it would not harm the setting of the conservation area or grade II listed boundary wall, and not harm their significance.

As such we respectfully request that the application is granted planning permission.

We trust that you have everything required to validate the application and we look forward to receiving confirmation of this. However, should you have any questions in relation to the application, please do not hesitate to contact me or my colleague Rebecca Caines.

Yours sincerely

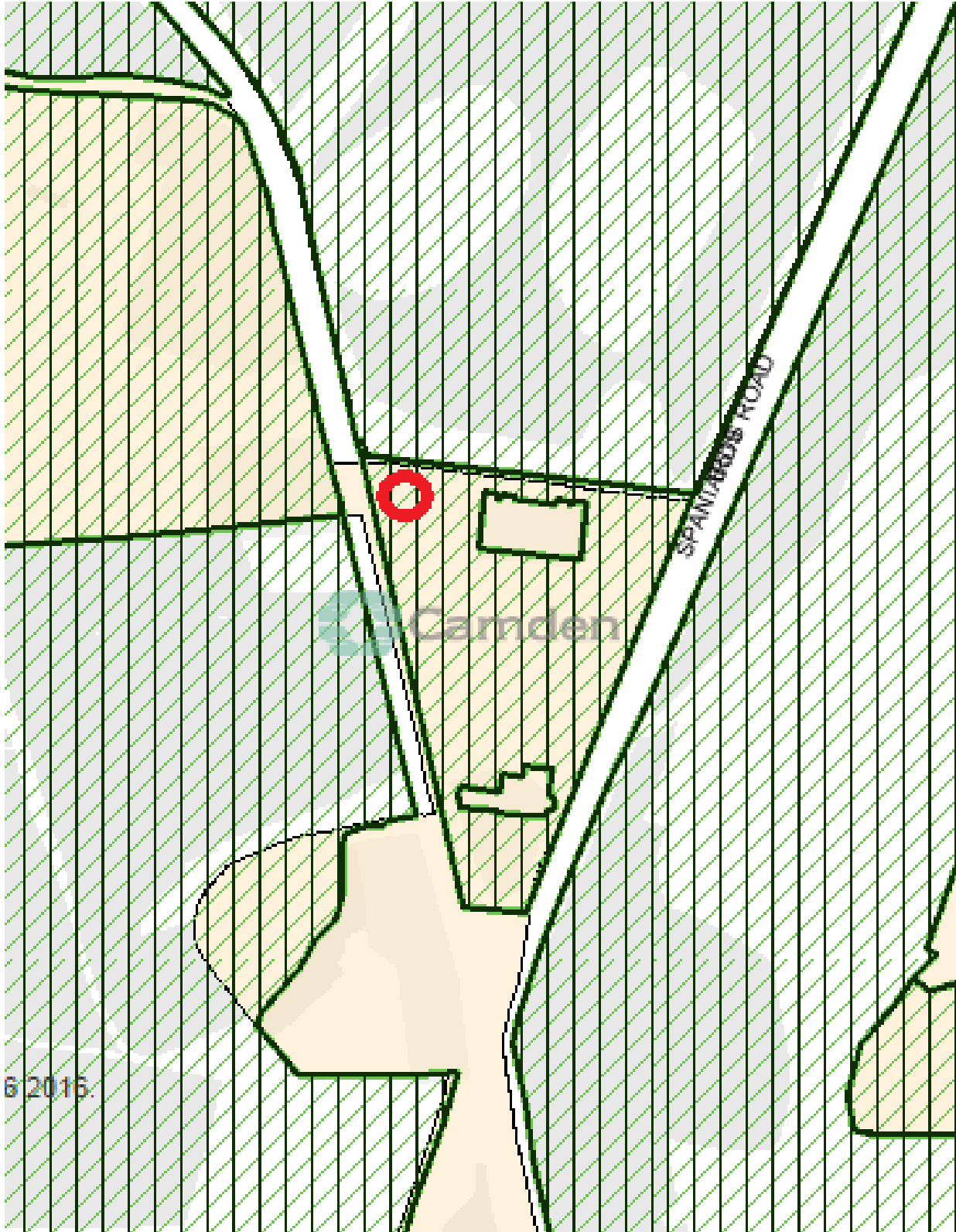
A handwritten signature in blue ink, appearing to read 'Joe Larner'.

Joe Larner
Planner

copy. Mr. Louis King, Adair Associates



Appendix 1: LBC Planning Policy Map Extract



Approximate site location shown in red.