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Dear Mr Thuaire

Applications 2017/2064/P, 2017/2211/L and 2017/2171/P – Response on behalf of the City of London Corporation

Nexus Planning is acting on behalf of the City of London Corporation ('the City'), in response to three current applications concerning the erection of two four bedroom houses (2017/2064/P and 2017/2211/L) and a variation of condition application to facilitate a reduction in the number of existing parking spaces (2017/2171/P) ('the Proposed Development'). The site address is land adjacent to Jack Straws Castle, North End Way, London NW3 7ES ('the Site'). This response is primarily concerned with the impact of the Proposed Development on Hampstead Heath.

Background

The City of London Corporation ('the City') owns and manages over 10,700 acres (4,330 hectares) of Open Space in and around London, which are enjoyed by more than 23 million visitors each year. The open spaces owned and managed by the City include Hampstead Heath, Highgate Wood, Queen's Park, Epping Forest, and West Ham Park.

The open spaces managed by the City are important wildlife habitats but also provide many services and facilities, including outdoor swimming, sports pitches, tennis courts, play areas, fishing and much more.

This role was established in the 1870s, when the City was concerned that access to the open countryside was being threatened by development and therefore promoted two Acts of Parliament. The Epping Forest Act and the City of London (Open Spaces) Act received assent in 1878 and enabled the City to acquire and protect threatened Open Spaces from future development. Since this time, the City has acquired further open spaces, including Hampstead Heath.

The City took over title ownership and the responsibility for the management and protection of Hampstead Heath in 1989, as set out in the Local Government Reorganisation (Hampstead Heath) Order 1989.

The City is statutorily obliged, by virtue of various Acts of Parliament, and specifically by 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;

- 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;
- not to sell, lease, grant or in any manner dispose of any part of the Heath; and
- to provide active and passive recreational facilities and information for members of the public.

Site context

Figure 1 Site Location Plan (from the Applicant's submission)



Jack Straw's Castle is located to the west of North End Way, adjacent to the junction with Spaniards Way. The Grade II Listed Building (UID: 1113189) is a large and imposing three-storey above ground former Public House, now comprised of a number of residential units (eight flats, three townhouses and an additional studio flat in The Lodge) and commercial uses. It was designed by the classical architect Raymond Erith and built between 1962-64; some alterations were undertaken as part of its conversion, but the building largely resembles its original design. The building is noteworthy for its mock c18 coaching inn style, with timber-framed construction on brick plinth clad with painted weatherboarding. The current applications relate to a parcel of land located to the north of the existing building, which is currently used as a surface car park for the use of residents of Jack Straws Castle. The Site is closely bound by Hampstead Heath on all sides, sitting between West Heath and the main body of Hampstead Heath. It is around 200m north of the built up area of Hampstead. To the immediate west of the Site is a surface car park owned and operated by the City (Hampstead Heath Car Park).

Proposals

The Proposed Development involves the erection of two new residential units attached to the north elevation of Jack Straws Castle extending across the rear (west) of the surface car park owned by the Applicant. This would result in the loss of four existing car parking spaces (from 11 to seven) currently used by residents of Jack Straw's Castle (change from one space per unit to 0.65 space per unit – not including The Lodge). The proposed dwellings would be three storeys above ground plus a pitched roof and basement level. The basement works would affect the Listed Building. The proposed dwellings would be in a Neo-Georgian style and comprised of brick, with the inclusion of a lightwell and balconettes on the first floor, both with traditional railings.

Development Plan and other material considerations

We consider the policies of the following Development Plan documents to be of relevance to this application:

- The London Plan (2016, as amended);
- Camden Core Strategy (2010);
- Camden Development Policies (2010); and
- Camden Planning Policy Map (2010).

We consider the following to be material considerations to the determination of this application:

- National Planning Policy Framework ('NPPF');
- Emerging Camden Local Plan;
- Camden Validation Requirements; and
- Hampstead Conservation Area Appraisal.

While the Core Strategy and Development Policies are currently Development Plan Documents, we note that there is an expectation that the Local Plan will be adopted prior to the determination of the applications, given it is currently predicted for June 2017. On that basis, this letter gives the emerging Local Plan policies as much weight as the Development Plan policies. This document considers the Submission Local Plan policies and, where relevant, the modifications of those policies proposed by the Inspector, Katie Child, in the Report of the Examination of the Camden Local Plan (10 May 2017).

LB Camden's core commitment to protection of the Heath

LB Camden commits to protection of Hampstead Heath in its Core Strategy Policy CS15 ('Protecting and improving our parks and open spaces and encouraging biodiversity'), which states that:

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

- k) working with the City of London, English Heritage and Natural England to manage and improve the Heath and its surrounding areas;*
- l) protecting the Metropolitan Open Land, public and private open space and the nature conservation designations of sites;*
- m) seeking to extend the public open space when possible and appropriate;*
- 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 area;*
- p) improving the biodiversity of, and habitats in, Hampstead Heath and its surrounding area, where opportunities arise.*

The emerging Local Plan proposes a similar level of protection to Hampstead Heath with emerging Policy A2 ('Open Space') stating the following under point i), which is unmodified:

Preserve and enhance Hampstead Heath through working with partners and by taking into account the impact on the Heath when considering relevant planning applications, including any impacts on views to and from the Heath;

The above commitment is valuable and is a crucial pledge that will underpin the assessment of the impact of the Proposed Development, as discussed through a number of key issues, below.

Key issues

We are concerned about the impact of the Proposed Development on Hampstead Heath and consider the following to be key issues:

- The impact of the Proposed Development on the setting of the Heath, including key views;
- The encroachment on Metropolitan Open Land that would arise from the Proposed Development;
- The impact of the Proposed Development on the biodiversity of Hampstead Heath; and
- The impact on parking pressure arising from a reduction in parking space numbers.

We consider the key issues set out above throughout this letter in the context of the adopted LB Camden Development Plan and any other material /considerations, in line with the expectations of the National Planning Policy Framework.

The impact of the Proposed Development on the setting of the Heath, including key views

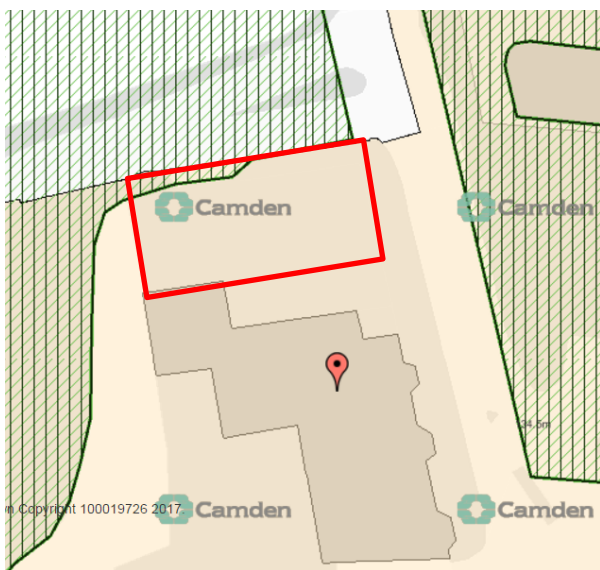
The Applicant has not demonstrated in its submission how the Proposed Development protects and enhances key views from the Heath. Without this information, which could be provided in the form of composite images from key viewpoints, it is not possible to understand the full impact of the Proposed Development on the Heath. The City expect that, as a minimum, there would be an impact upon the closer views from West Heath. The City request that the Applicant is asked to provide some additional information on the impact of the Proposed Development on views from within Hampstead Heath. Without that information, it is not possible to demonstrate that the protection of views set out in part o) of Policy CS15 and part i) of emerging Policy A2, (as set out in the previous section) is satisfied.

The amount of information provided in the drawings and design and access statement is limited and therefore it is somewhat challenging to understand the visual impact of the Proposed Development. It is clear that the architect, Quinlan Terry, has adopted a neoclassical style and the build would use high-quality materials. However, while this approach may result in a Proposed Development that complements the design of Jack Straw's Castle, the City is concerned about the impact of an imposing design on the setting of the Heath. It is the opinion of the City that a more comprehensive set of drawings and a design and access statement showing massing of the Proposed Development from key locations must support an application in such a sensitive location. In the absence of this information, it is difficult to understand the impact of the Proposed Development on the Heath. Although some tree screening exists, the City is concerned that the

Proposed Development will be visible from many locations on West Heath and on the main body of Hampstead Heath. If so, the Proposed Development will contravene the requirements of Policy CS15 and emerging Policy A2.

The encroachment on Metropolitan Open Land that would arise from the Proposed Development

The Camden Planning Policy Map shows the Proposed Development would be directly adjacent – if not partially within – Metropolitan Open Land ('MOL'), as shown on the exert below (the green hashed area is MOL). The red line approximates the application site, although it is not easy to clarify the extent on the Policies Map. If correct, this would suggest that the application site is partially in MOL.



London Plan Policy 7.17 ('Metropolitan Open Land') sets out 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. Essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL."

The London Plan approach in line with Paragraph 87 of the NPPF, which states that:

"As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."

The Applicant's Planning Statement is of the opinion that the site is not in MOL due to a tree buffer to the west (paragraph 8.33), but the report does not acknowledge MOL to the north. The City notes that the pre-application advice note did not refer to the location of the site being within MOL, but suggests it is worth reviewing.

New buildings are considered inappropriate in MOL/Green Belt by the NPPF except in certain exceptions, defined in NPPF Paragraph 89 as follows:

- *buildings for agriculture and forestry;*

- provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- 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.

The Proposed Development does not fall within the above categories as it is not affordable and, although the site may be regarded as previously developed, it would clearly affect the openness of MOL given the existing use is a sunken surface-car park designed to appear like a moat from outside of the Site. Therefore, should LB Camden determine the site is within MOL, the City would expect the Applicant to supplement the application with a case for very special circumstances, which, although undefined, we expect would not be possible given the Proposed Development will not make a significant contribution towards housing need.

Notwithstanding the possibility of the Proposed Development being within MOL, it's location directly adjacent to MOL would negatively affects the openness of MOL through encroachment, in contrary to point g) of emerging Policy A2 and Core Strategy Policy CS15. This is primarily due to the location of the site, which is closely bound by MOL on the west and north and will block views from West Heath to the main body of the Heath.

The impact on parking pressure arising from a reduction in parking space numbers

The Proposed Development is car-free for the two new family sized dwellings and would also result in a loss of four existing residential parking spaces reserved for residents of Jack Straw's Castle, from 11 spaces to seven. The location is regarded by Transport for London as having a moderate level of public transport accessibility (PTAL of 3/6). For the new residential units, the parking addendum to the London Plan (at Table 6.2) is applicable:

Suburban	150–200 hr/ha	Parking provision	150–250 hr/ha	Parking provision	200–350 hr/ha	Parking provision
3.8–4.6 hr/unit	35–55 u/ha	Up to 2 spaces per unit	35–65 u/ha	Up to 1.5 spaces per unit	45–90 u/ha	Up to one space per unit
3.1–3.7 hr/unit	40–65 u/ha		40–80 u/ha		55–115 u/ha	
2.7–3.0 hr/unit	50–75 u/ha		50–95 u/ha		70–130 u/ha	
Urban	150–250 hr/ha		200–450 hr/ha		200–700 hr/ha	
3.8–4.6 hr/unit	35–65 u/ha	Up to 1.5 spaces per unit	45–120 u/ha	Up to 1.5 spaces per unit	45–185 u/ha	Up to one space per unit
3.1–3.7 hr/unit	40–80 u/ha		55–145 u/ha		55–225 u/ha	
2.7–3.0 hr/unit	50–95 u/ha		70–170 u/ha		70–260 u/ha	
Central	150–300 hr/ha		300–650 hr/ha		650–1100 hr/ha	
3.8–4.6 hr/unit	35–80 u/ha	Up to 1.5 spaces per unit	65–170 u/ha	Up to one space per unit	140–290 u/ha	Up to one space per unit
3.1–3.7 hr/unit	40–100 u/ha		80–210 u/ha		175–355 u/ha	
2.7–3.0 hr/unit	50–110 u/hr		100–240 u/ha		215–405 u/ha	

We determine that this sets out an expectation for two parking spaces per unit, based on its suburban location, the number of habitable rooms per unit (six) and the PTAL rating. Depending on the size of units in Jack Straw's Castle, it is likely that the London Plan expectation would be 1-1.5 parking spaces per those existing units. This seems appropriate, as the Parking Survey detailed in the Transport Assessment identified near comprehensive usage of the current car park, with a minimum of eight vehicles and a maximum of ten vehicles (overnight) using the car park over a 24 hour period. This suggest at least three existing vehicles would be displaced.

Streets around the vicinity of the Proposed Development are within a Controlled Parking Zone, so there is no opportunity for on-street parking. On that basis, the Transport Assessment submitted in support of the application states that the only viable parking option for new residents and displaced existing residents would be to use the adjacent Hampstead Heath public car park (paragraph 2.5.6). While there is some mention of car clubs, the Applicant is not proposing to proactively facilitate use of these, say through membership payments. We anticipate that given the nature of the Proposed Development, as a pair of luxury townhouses, new residents are very likely to want to use private vehicles.

The City does not support the proposal to use the Hampstead Heath Car Park as it is for the use of visitors of the Heath and not for overspill residential car parking. The car park function is for short-stay parking and it is locked between 8.30pm and 7.00am, which we presume would be unfavourable to new residents. Therefore, we would like to make clear that ongoing use of the car park is not a viable option as set out in the Transport Assessment. On that basis, we have concerns about the amount of parking available for the use of new residents.

The impact of the Proposed Development on the biodiversity of Hampstead Heath

The site is directly adjacent to the Hampstead Heath Site of Importance for Nature Conservation (SINC) and therefore a Preliminary Ecological Appraisal has been submitted, which details a moderate to low anticipated impact on species, with some potential for bat roosts on Jack Straw's Castle and some nesting potential in existing ivy and trees.

London Plan Policy 7.19 (Biodiversity and Access to Nature) sets out the following hierarchy that must be adhered to when considering proposals that would affect directly, indirectly or cumulatively a site of recognised nature conservation interest:

1. *avoid adverse impact to the biodiversity interest*
2. *minimize impact and seek mitigation*
3. *only in exceptional cases where the benefits of the proposal clearly outweigh the biodiversity impacts, seek appropriate compensation.*

Despite the findings of the survey, the site is clearly in a sensitive biodiversity setting, given its closeness to the SINC. We expect that, should the application be granted permission, a Construction Management Plan is required by condition, setting out stringent procedure for the mitigation of impact on biodiversity. We would also expect design features, such as bat and bird boxes, to be comprehensively incorporated in to the scheme.

The Applicant has provided a Tree Survey Report, which details 11 trees on-site. These are all semi-mature and of comprise a number of species. The report identifies two dead Wild Cherry trees, which it proposes to remove. It further proposes to remove ivy and prune trees that infringe on the proposed location of the

dwellings. There is no information on the protection of trees on the north boundary of the site, which adjoin the boundary of Hampstead Heath. We are unsure of whether the proximity of those trees warrants protection during construction and would expect the Applicant's tree consultant to confirm whether additional work is required. We expect that the Construction Management Plan would also set strict procedure for the removal of existing trees and ivy, in order to protect nesting birds.

The Tree Survey Report recommends the planting of new trees to the west of the application site. This approach is in line with London Plan Policy 7.21, which expects removed trees to be replaced and additional trees to be planted wherever possible. The Applicant is proposing to plant new Yew hedging and topiary, but we have not identified new tree planting to the west of the Site. Any planting should be native and in harmony with the Heaths treescape.

Summary

We ask that the application site is reviewed to ascertain whether the Proposed Development lies within MOL. If it is determined to, then we consider that the Proposed Development comprises inappropriate development as defined in Paragraph 89 of the NPPF. The City does not envisage how a very special circumstances case can be made and therefore suggests that should the Proposed Development be deemed to lie within MOL, that Planning Permission is refused in line with London Plan Policy 7.17 and Paragraph 87 of the NPPF.

Notwithstanding the above, the City is concerned that the issues identified in this letter are not sufficiently addressable and contravene Policy CS15 and emerging Policy A2, which prioritise protection of the Heath and its setting. These include the expected visual impact on the openness of the Heath and views from it, the encroachment of a new built structure on to boundary with the Heath and the parking pressure that would arise, for which no acceptable solution is proposed. Therefore, the City recommends that the application is refused on the basis of the grounds set out above.

Yours sincerely,

Nexus Planning

On behalf of the City of London Corporation