

# APCAR SMITH PLANNING

Chartered Town Planning Consultants



Development Management  
Department of Regeneration and Planning  
London Borough of Camden  
5 Pancras Square  
London  
N1C 4AG

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For the attention of A Bushell Esq/C Thuaire Esq.,

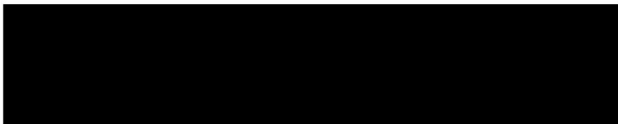
Dear Sirs

**55 FITZROY PARK, LONDON, N6 6JA**  
**APPLICATION REF: 2018/3672/P**

## **1.0 Introduction**

- 1.1** We are instructed by Fitzroy Park Residents Association (the Membership of which comprises 42 households on Fitzroy Park, The Hexagon, Fitzroy Close, Dancers End and Bowling Club Lane plus a further 24 on Highfields Grove). As Officers are already aware FPRA are very concerned with regard to the proposals and their impact on the area, in particular on the environment of the road. These representations are limited to the matters that FPRA are entitled to comment on as collective body (individuals are not so constrained and, it is understood, are submitting separate personal and individual objections). FPRA themselves, and therefore this practice and other professional practices who are advising them, are constrained by the Rules of the Association, in particular Rule 2(vii) which limits their involvement as a collective body to submitting representations regarding matters affecting the environment of the road (ie; Fitzroy Park). This has been interpreted as covering matters relating to the use of the road, the structural integrity of the road and the character of the road. The latter is affected by the built form as well as the landscaping (including wildlife, biodiversity and habitats) that all contribute to the general environment of the road.
- 1.2** We comment below on concerns relating to the application submission itself (errors and inadequacies of application documentation), the background to the planning application, the historic context of Fitzroy Park itself and the important role it plays

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in the overall character of Highgate Conservation Area, followed by a consideration of the main issues arising from the proposed development that FPRA's Rules permit them to make representations on. As part of our considerations of these issues we include reference to the various policies and supplementary planning guidance (at national, strategic and local level) that the proposals fail to comply with.

## **2.0 Concerns Regarding Application Documentation**

**2.1** We are familiar with the detailed 7-page document as submitted to the Council by key stakeholders including FPRA on 28 September 2018 listing the application omissions. These are summarised as follows:

- Inconsistencies regarding the site area. Documentation provided to FPRA as a result of the Freedom of Information Act Request refers to the site having an area of 4539sqm (1.12 acres). The application form refers to 5070sqm (ie; 1.25 acres). However other application documentation refers to a site area of 1.75 acres. As a result, the plot ratio information submitted on behalf of the Applicant misrepresents the figures and suggests that plot ratio will be significantly lower than will actually be the case.
- The Agent for the application is a former Head of Development Management at LB Camden. This is ignored in response to Question 25 on the application form so giving rise to concern about the transparency of the process.
- A full Basement Impact Assessment has not been provided despite the fact that some 50% of the site will be excavated reducing ground levels by 2m to 3m. The impact on hydrogeology and stability still needs to be considered in depth.
- No foul water and surface drainage plans have been submitted.
- Omissions in structural engineering documentation.
- Omissions/errors in Tree Survey which ignores some 40+ existing trees on the site and trees along the boundaries.
- Omissions in ecological assessments (in particular with regard to the impact of the proposals on the Bird Sanctuary Pond Nature Reserve, the orchard within the site (a Habitat of Principal Importance in England), no consideration of impact on rare birds, no Phase 2 Habitat Survey despite the site being an "Unlisted Heritage Asset" and missing documentation in respect of stated DNA testing for Great Crested Newts.
- Omissions/errors in Transport Statement.
- Omissions/errors in Construction Management Plan.
- Various significant misrepresentations in the Statement of Community Involvement.

**2.2** We are aware that updated and additional documentation was subsequently submitted to the Local Authority on 7 November 2018. However, the above-mentioned omissions, inadequacies and errors have yet to be fully satisfied with significant omissions and anomalies remaining after 7 months of consultation and 2.5 years of Pre-Application meetings. In view of this the Council should be refusing planning permission on the basis of the Applicant having failed to provide the necessary information to enable a proper consideration of the application to be undertaken. Despite this, and for the sake of completeness, we set out below our comments on the proposals insofar as FPRA can make comments (being governed by their Rules) as referred to above.

**3.0 Background to Planning Application**

**3.1** We are aware from the submission documents as well as the Freedom of Information Act Request that there have been pre-application discussions with the local Authority regarding the proposals since October 2016. The application documentation seeks to give the impression that the formal application is submitted in a manner that responds to the Local Authority's advice. However, this is not the case. The formal submission ignores many comments made by the Design Review Panel. We would particularly draw attention to the following:

- 5 houses were not supported.
- Concerns raised with regard to spacing/gaps between houses along Fitzroy Park.
- Concern raised with regard to density and plot ratio.
- Concern raised with regard to proximity of proposed house on Plot 5 to the pond.
- Shared gardens suggested.

**3.2** The community involvement that took place prior to the submission of the application is exaggerated in the Statement of Community Involvement. The consultation was not as far reaching or involved as suggested. It is not correct to assume that the absence of feedback indicates that attendees at the Consultation Engagement were satisfied with the proposals.

**4.0 Historic Context of Fitzroy Park and its relationship with the wider Conservation Area**

**4.1** The Highgate Conservation Area Appraisal and Management strategy describes Fitzroy Park (the roadway) in the following terms:

- "...an important green pedestrian approach to the Metropolitan Open Land of Hampstead Heath". From this it is clear that the roadway and the wider area known as Fitzroy Park are important not just in terms of the contribution made to the character of the Conservation Area but also in terms of the adjacent Metropolitan Open Land.

- “ a winding lane that falls from Highgate Village and The Grove to Millfield Lane through the former grounds of Fitzroy House built c1780”. It acknowledges that the network of roads, lanes and footpaths, including Fitzroy Park, remain largely unchanged from the late 18<sup>th</sup> Century.

**4.2** The character of the Fitzroy Park development (ie; not just the roadway but also the properties along it) is described in the Conservation Area Statement in the following terms:

- “...the close relationship between the typography, the soft landscape and the groups of individual houses built within it”.
- “...overriding impression of heavy foliage and mature trees as well as the sense of open space denoted by the Heath at the bottom of the hill”.
- Retaining its original atmosphere “of houses set in large gardens with many mature trees and boundaries in keeping with the rustic character of the lane”.
- “...informal, unmade style, which gives it a rustic appearance rare in the London suburbs”.
- Reference is made to the houses on the south side of Fitzroy Park, in that part of Fitzroy Park within which the application site is located, as appearing to turn away from the road and face the Heath. With regard to No.55 itself reference is made to the house being set in generous gardens containing a sizeable pond which stretches down to Millfield Lane as it skirts the Heath.

**4.3** It is of fundamental importance that these characteristics of the Conservation Area are not harmed by any aspect of the proposed development as is clear from the following legislation, policy and guidance:

- Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 specifies the general duty in respect of the exercise of planning functions within Conservation Areas as the need to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- Section 16 of the National Planning Policy Framework (NPPF). Para 184 refers to heritage assets as being an irreplaceable resource that should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Para 192 refers to the desirability of not sustaining, but enhancing, the significance of heritage assets and the desirability of new development making a positive contribution to the local character and distinctiveness.

- London Plan Policy 7.8 requires development affecting heritage assets and their setting to conserve their significance by being sympathetic to their form, scale, materials and architectural detail.
- LB Camden Local Plan Policy D2 refers to the Council not permitting the loss of or substantial harm to any designated heritage asset, or harm that is less than substantial to the significance of the designated heritage asset, unless the public benefits outweigh the harm that would be caused. In this respect, the desires of two families to redevelop part of the Conservation Area for private residential purposes does not provide any public benefit.
- Policies DH1 and DH2 of the Highgate Neighbourhood Plan are relevant. Policy DH1 refers to proposals to demolish buildings and structures that are non-designated heritage assets being subject to a balanced judgement. In this respect, there is no objection raised to the demolition of the existing buildings (provided the proposed replacement development is acceptable). However, the policy continues by referring to proposed replacement making a positive contribution to the Conservation Area (which the current proposals fail to do). Likewise, Policy DH2 refers to development proposals preserving or enhancing the open, semi-rural or village character where this is a feature of the area.
- Part 2 of the Highgate Conservation Area Appraisal and Management Strategy (this being the Management Strategy element) refers to the eclecticism, the pressure to develop from redevelopment of detached houses within garden plots, the need for high quality design and execution for all new development and all new development being expected to respect, complement and enhance the special character and appearance of the Highgate Conservation Area.

## **5.0 Impact of the Site Layout and Proposed Buildings**

**5.1** The scale and form of the proposed new build (the site layout generally, the 5 houses, the hard landscaping and boundary treatment) is considered to be relevant to the consideration of the environment of the road (that aspect of the character and appearance of the Conservation Area which FPRA are permitted to comment on as referred to above). The development will be harmful for the following reasons:

- A single-family dwelling on the Fitzroy Park frontage of the site is to be replaced by 5 detached dwellings spread across the site with 3 fronting Fitzroy Park and 2 in a backland position (plans showing pedestrian access only from Fitzroy Park to the 2 Millfield Lane Plots 4 and 5, with no access road across the site as had previously been proposed because of the Public Open Space designation. The submitted plans, however, more recently show vehicle gates to Millfield Lane serving Plots 3, 4 and 5, when originally they had been shown as pedestrian only.

- A single point of vehicular/pedestrian access from Fitzroy Park (towards the southern end of the street frontage) is intended to be replaced with 3 pedestrian/vehicular access points (1 serving Plots 1, 4 and 5 and then individual accesses for Plots 2 and 3). This will result in a significant loss of vegetation along the Fitzroy Park frontage with the percentage of the Fitzroy Park frontage taken over by gaps in the boundary treatment for access increasing from approximately 10% to approximately 32%.
- With the current site layout, there is limited visibility of hard surfacing from Fitzroy Park – solely that through the 1 vehicle access; the majority of the existing hard surfacing is screened by the existing front boundary and vegetation. With the proposals there will be 3 large areas of hard surfacing – particularly that adjacent to the northern boundary of the site where car parking is proposed for Plots 4 and 5).
- It is noted that there have been a variety of plot ratio figures put forward on behalf of the Applicant with this variety being as a result, in part, of the different site areas that have been referred to. The Design and Access Statement refers to plot ratios having been calculated on the basis of a site area of 4,720sqm. However, when the five plot areas are added up they equate to a total of 4,554sqm (the figure agreed with LB Camden in 2016). On this basis, the overall proposed plot ratio would be 14.6%; not the 14.1% referred to in the Design and Access Statement (the proposed combined plot ratio referred to on Page 23 of the D & A S is based on the incorrect site area). This is a very considerable increase from the existing plot ratio which we calculate as being 7.3% (not the 7.9% referred to in the D & A S). We have also undertaken the calculation if the pond is excluded from the site area. On that basis, the existing plot ratio is 8.5% and the proposed 18.5%. Looking at the plots individually on the basis of both the plot areas and footprint areas referred to in the D & A S the proposed plot ratios will be 18.5% for Plot 1, 16.5% for Plot 2, 16.7% for Plot 3, 17.1% for Plot 4 and 10.9% for Plot 5. It is the latter that includes the pond. When this is deducted the plot ratio for that plot increases to 23.4%. For Plots 1 to 4 there can be no argument that the plot ratio will be more than double that which exists on the site. For Plot 5, once the pond has been deducted, the plot ratio trebles. It is inappropriate for the D & A S to include comparisons with Fitzroy Close properties as part of the assessment of plot ratio as Fitzroy Close does not fall within the designated area of Private Open Space; nor does Fitzroy Lodge or Dormers. Comparisons of plot ratio with these properties is therefore not relevant. It is considered that this very significant increase in plot ratio on the site, with the resultant loss of designated and protected Private Open Space is wholly unacceptable. We are aware that increases in plot ratio have previously been a significant concern of the Council's when determining other applications in the vicinity.

- There will be gaps of only 5m between the 3 Fitzroy Park frontage properties. Whilst this may be acceptable for a typical Inner London Street it is wholly out of keeping with existing spacing between dwellings on the western side of Fitzroy Park between its junction with Millfield Lane to the south and where the lane turns a 90 degrees to head up towards its junction with The Grove. Furthermore, the houses on Plots 4 and 5 will be visible through the gaps, as a result of which the uninterrupted views over to Hampstead Heath (Metropolitan Open Land) will be lost.
- The 3 houses fronting Fitzroy Park are very similar to each other in terms of design detail which affects the environment to Fitzroy Park. The lane is currently characterised by an eclectic mix of design, as recognised in the Conservation Area Character Appraisal. Whilst it is acknowledged that this is not the case for some recent development that forms cul-de-sacs accessed off Fitzroy Park the Fitzroy Park frontage properties themselves are all very varied.
- Along the Fitzroy Park boundary, the proposals incorporate railings to a height of 1.24m within a hedge. This is out of keeping with informal rustic character to which the Conservation Area Appraisal refers. Furthermore, the Design Panel minutes in response to the pre-application advice highlight the importance of retaining existing boundaries as they actively contribute to the area.

**5.2** As a result of the above points it is considered that the proposals fail to comply with all of the above policies (of the NPPF, the London Plan, LB Camden's Local Plan, the Highgate Neighbourhood Plan and the Highgate Conservation Area Appraisal and Management Strategy). It is also considered that the proposals fail to comply with the following more detailed policies/guidance:

- The supporting text to this policy makes clear the importance of Private Open Spaces; not just open spaces that are accessible to the public. The increased plot ratio/loss of open space on the site is contrary to LB Camden Local Plan Policy A2 as the site is designated Private Open Space (thereby contrary to A2(a)). It is also contrary to A2(c) as it is detrimental to the setting of adjacent areas of open space (neighbouring sites covered by the same Private Open Space designation and also the Heath with its Metropolitan Open Land designation). The proposed development does not fall within the exception criteria referred to at A2(d), where a loss of open space may be considered acceptable, as it does not provide for any demonstrable need. The reduced openness of the area, harmful to the environment of Fitzroy Park, results in the development also being contrary to A2(f) as the open space makes a significant contribution to the character and appearance of the Fitzroy Park Conservation Area Sub-Area.

- Given the uniform character of the houses on Plots 1, 2 and 3, fronting Fitzroy Park, the development is contrary to Local Plan Policy D1(e) in that the detailing/materials do not complement the local character and also contrary to D1(f) in that the development does not integrate well with the street. The reduced green frontage to Fitzroy Park as a result of the increased openings in that boundary result in the development being contrary to D1(k).
- Highgate Neighbourhood Plan Policy DH10 – contrary to Part 1 which refers to a presumption against the loss of garden land; contrary to Part 2(I) as the proposals result in the loss of many existing mature trees (discussed further below); contrary to Part 2(II) as there would be a significant increase in the proportion of hard surfacing of the front garden areas; and contrary to DH10 Part 2(IV) which refers to new development being required to take account of existing front and rear building lines (this latter point particularly relates to the positions of the houses on Plots 4 and 5 which ignore the rear building line on the western side of Fitzroy Park).
- The Highgate Conservation Area Appraisal and Management Strategy refers to resisting the loss of historic boundaries, planting and soft landscaping associated with the introduction of hard standing. It also refers to resisting inappropriate boundary treatment.

## **6.0 Impact of Proposals on the Natural Environment**

**6.1** We consider below the impact of the proposals on trees and ecology. Unfortunately, at this stage there is insufficient information to properly assess these issues. For example there is insufficient information to assess the impact on protected species (in particular bats). Unlike some other areas of designated Private Open Space in the Borough the site and all of the designated Fitzroy Open Space is covered by the SINC Metro designation, making the loss of open space and impact on nature conservation of fundamental importance. The new SINC Metro designation is referred to on the January 2019 Proposals Map as a result of a review undertaken by the Wildlife Trust. The site is also of great importance to the Bird Sanctuary Pond Reserve which is not considered in the submission documents in any meaningful way.

**6.2** The submitted Ecological Appraisal makes passing reference to the site being a locally designated nature conservation site (the SINC Metro designation), but refers only to the Hampstead Heath SINC which it acknowledges is located only 15m from the site. It makes no reference to the fact that this is a site of interest for nature conservation in the metropolitan context (rather than just in the local context) as well as Metropolitan Open Land. The site is considered to be a particularly important buffer to Hampstead Heath (which is protected by the two designations). It provides a transition between the Heath and the more urban area of Fitzroy Park and beyond. The Ecological Appraisal submitted on behalf of the Applicants alleges



that mitigation proposals have been developed to address the potential impact on the SINC. However, those “proposals” are not robust and indeed have been formulated without any thorough understanding of the importance of the site and its surroundings. The impact of the proposals on the SINC Metro land and the MOL should not be understated. We are aware that the City of London have raised concern that the proposals would not maintain the natural habitats of the Heath, particularly as a result of the potential effects of water flowing from the development site. Any proposal that could harm such important designated areas is wholly inappropriate.

- 6.3** A significant number of trees that exist on the site and which will have to be felled to enable the development (as they conflict with footprint of the proposed houses) are simply ignored with some 40 trees, 2 of which are covered by a TPO, not being referred to; no consideration is given to off-site trees including a tree covered by a TPO at 53 Fitzroy Park; there are significant inconsistencies in the Arboricultural Impact Assessment; and the existing biodiversity interests on the site are not properly considered (in particular there is no assessment of the orchard). In addition the significant lowering of ground levels by 1.5m to 2.5m across some 50% of the site has not been considered in terms of the impact on retained trees nor has the creation of bunds around the pond and adjacent to the Millfield Lane boundary been considered in this respect; the drainage proposals have not been considered in terms of impact on retained trees; there been no consideration of the construction traffic on the root protection areas of retained trees or trees along Fitzroy Park; there has been no evaluation of the orchard trees; nor does the AIA consider the impact on any trees outside the application site itself.
- 6.4** Landscape Planning have produced a review of the proposals in terms of trees and ecology which expands on the above.
- 6.5** For the reasons summarised above and discussed by Landscape Planning we consider the proposals fail to comply with the following:
- Section 15 of the NPPF. Para 170 parts (a) and (d) are particularly relevant given the biodiversity and ecological values of the site and its surroundings. Para 175 parts (a) and (c) makes it clear that permission should be refused given the unavoidable harm to biodiversity interests.
  - Policies 7.19 and 7.21 of The London Plan. The development fails to comply with Policy 7.19 given the impact on biodiversity and nature conservation and with Policy 7.21 as a result of the significant loss of trees and likely harm to intended retained trees.
  - LB Camden Local Plan Policies A2 and A3. As regards Policy A2 we have referred above to those aspects of this policy that relate to the protection of private open space. The particular aspects of relevance in respect of nature conservation, trees, biodiversity and ecological matters and on

which basis planning permission should be refused are Parts (a), (c), (e), (f), (g) and (j). The failure to protect or enhance the site's nature conservation and biodiversity value results in the development being contrary to Policy A3, in particular parts (a), (b), (c), (d), (e), (f), (g), (j), (k) and (m).

- Highgate Neighbourhood Policies OS2 and OS4. With regard to Policy OS2 the impact on trees results in the proposals failing to comply with Parts (I) and (II). With regard to Policy OS4 the proposals are harmful to the local ecological network and bring with them no benefits to the local area.
- The proposals also fail to comply with those elements of Part 2 of the Highgate Conservation Area Appraisal and Management Strategy in respect of gardens, planting, soft landscaping, trees, open spaces and biodiversity.
- Camden Planning Guidance: Biodiversity. In particular, the proposals fail to comply with the requirements contained in Section 3 with the development not addressing the "5-point mitigation hierarchy" as set out in that document and which is based on Section 5.2 of the BS 42020:2013 Biodiversity – Code of Practice for Planning and Development. The failure to comply with this 5-point mitigation hierarchy is, in part, as a result of inadequate submissions to address the relevant issues, as well the clear impact of the proposals.

#### **7.0 Issues Relating to the absence of a full Basement Impact Assessment**

- 7.1** We are aware that the Council have already been provided with a copy of a letter dated 18 October 2018 from Alan Baxter (ABA) to FPRA regarding issues relating to the application submission in terms of the assessment of the proposed development on hydrogeological, hydrological and land stability issues. Whilst some additional information has been provided since their original letter as is clear from the further ABA comments (of December 2018) that many uncertainties and concerns remain. Indeed Campbell Reith, who have carried out a BIA audit for the Council, conclude similarly to ABA. The failing in terms of the application documentation relates to both the background site investigation information and unsubstantiated assertions in respect of the impacts of the proposals.
- 7.2** As referred to above the proposals incorporate extensive excavation of between 2m and 3m to approximately 50% of the site. This is an addition to the excavation necessary for the partial basement/lower ground floor to each of the proposed houses. Indeed, the Applicants acknowledge that over 2000sqm of spoil will be created. This represents excessive engineering which the minutes of the Design Panel Review makes clear should be avoided. The Council have not been provided with any detailed information to enable an assessment of these works in terms of impact on ground water movements and land stability.
- 7.3** There is also concern in respect of sheet piling, particularly given that the on-site pond is spring fed (not surface water fed as is clear from the fact that there are always continuous and steady flows of water across Millfield Lane, even despite the

heat and drought of summer 2018). In addition, temporary retaining structures adjacent to Fitzroy Park are proposed which could potentially impact on the construction of the roadway itself.

**7.4** It is clear that the concerns relate to impact during construction as well as post-construction.

**7.5** In view of the above it is considered that the proposals fail to comply with the following aspects of the Development Plan Framework:

- NPPF Para 178(a) in terms of the impact of the proposals on ground conditions; Para 179 in respect of land stability issues; and Para 180 in respect of the impact on the natural environment.
- LB Camden Policies A5 and CC3. The proposals fail to comply with Policy A5 in that they do not incorporate a thorough assessment of the impact on drainage, flooding, ground water conditions or structural stability. The Council therefore have insufficient information to satisfy themselves that these proposals will comply with Part (b). The impact on trees as a result of the excavation generally fails to comply with Parts (m) and (u). The impact on the water environment off-site fails to comply with Part (o). Additionally, the absence of sufficient site investigation and information means that the Council cannot satisfy themselves that there will be no harm to neighbouring properties and thus the proposals fail to comply with Part (n). As regards Policy CC3 the concern particularly relates to Part (b) given the harm that will be caused to the local water environment.
- Highgate Neighbourhood Plan Policy DH7. Part 1(I)(i) as it has not been demonstrated that the excavation/basement construction will have no adverse effect on the structural stability of adjacent properties or on Fitzroy Park itself and Part 1(I)(ii) as it has not been demonstrated that there would be no irreparable damage to the local water regime in terms of ground water diversion and surface water flooding. Furthermore, as the Local Authority are aware, there have been past problems with drainage/flooding in close proximity to the site and thus the submission fails to comply with Part 1(II). There is no information provided to demonstrate whether or not damage to neighbouring properties would exceed Burland Scale 1 and therefore the proposals may also fail to comply with Part 1(III) of this policy.
- Camden Planning Guidance: Basements. It is clear from Para 1.7 that despite there being no complete basements as part of the proposals the assessment needs to be considered against prevailing ground levels. The extent of excavation means that the lower levels of the proposed houses should be considered as basements. Indeed Para 1.8 specifically refers to excavations. The information submitted in support of the

application does not comply with the requirements of this CPG as detailed in the Alan Baxter submissions dated October 2018 and December 2018.

**8.0 Transport Related Issues**

- 8.1** The site is not in a sustainable location having a PTAL rating of only 1B – therefore poorly served by public transport. The submitted Transport Assessment over-states the reality of the site’s accessibility. There is only one bus stop within the PTAL accepted walking distance and that at the top of a steep hill. Whilst the application documentation includes a Sustainability Statement this is completely lacking in any consideration of whether the site is in a sustainable location; no doubt because it is clearly not. The location is as unsustainable as can be imagined, anywhere within Camden.
- 8.2** The proposals provide 1 car parking space per dwelling. Given the poor accessibility and size/bed spaces of all 5 dwellings this is grossly insufficient and would inevitably result in increased pressure for on-street parking. As Fitzroy Park is a private road there are no on-street parking controls (unlike the surrounding streets which fall within a Controlled Parking Zone CA-U CPZ). Property owners with properties fronting Fitzroy Park own the land to the middle of the road and are therefore entitled to park in front of their own houses. Given the space taken up by driveways this means that occupants of the 3 frontage houses would not be able to park more than 1 car on the street. As Plots 4 and 5 have no street frontage the occupants of those 1 houses would not have any right to park on Fitzroy Park.
- 8.3** Occupants of the proposed houses plus visitors to these houses are likely to park on Fitzroy Park, potentially in front of other properties and not just their own as they are entitled; it is also probable that there will be overspill parking on to the surrounding road network which is already heavily parked with inevitable harm to the free and safe flow of vehicles in the area. A car free Legal Agreement will not assist as this will simply result in even more unauthorised parking in front of other properties on Fitzroy Park (as the CPZ does not cover this private road).
- 8.4** A layout that incorporates in excess of a 30m walk from the off-street car parking spaces for Plots 4 and 5 to the dwellings themselves is unfeasible, particularly for delivery vehicles (typical supermarket deliveries, for example, would inevitably mean the delivery vehicle parking on Fitzroy Park, and blocking traffic, potentially for in the region of 30 minutes, whilst unloading and with the delivery driver having to walk up and down the path on numerous occasions). Furthermore, the layout is almost identical to that submitted previously for pre-application advice that showed a driveway for Plots 4 and 5 going around the southern side of the pond – in exactly the same manner as the now proposed pedestrian route. It would take very little to change the pedestrian route into a vehicular driveway given the shown width and alignment of the pedestrian path.

- 8.5** The 2 parking spaces for Plots 4 and 5 are not independently accessible. The layout will result in all cars for all 5 plots having to either reverse into the site or out of it with poor visibility at the points of access. This will give rise to danger to pedestrians, cyclists and other vehicles utilising Fitzroy Park.
- 8.6** Traffic numbers on Fitzroy Park are known have been understated. Data collected by Tracis (on behalf of FPRA) in June/July 2018 recorded an average of almost 500 vehicle movements at the junction of Fitzroy Park and Merton Lane per day – approximately 60% higher than stated on behalf of the Applicant. This equates to some 40,000 movements every 3 months at Merton Lane which the reversing HGV's will have to interact with for the 12 weeks of anticipated demolition works – as referred to in the Appendices to the Construction Management Plan (albeit these Appendices are contradicted within the narrative of that document). FPRA are able to provide the Tracis Data if required.
- 8.7** In view of the above the proposals fail to comply with the following:
- Section 9 of the NPPF. In particular Para 103 as the location is not sustainable nor can it be made so with there being no real choice of transport modes. Similarly, it is contrary to Para 110 given the conflicts between pedestrians, cyclists and vehicles at the 3 entrances to the site on Fitzroy Park, along Fitzroy Park and at its junction with Merton Lane. Also it is contrary to Para 110 in respect of the layout not allowing the efficient delivery of goods or access by service and emergency vehicles; this particularly relates to Plots 4 and 5.
  - London Plan Policy 6.1A(a) given that the site is not in a location that reduces the need to travel by car. Also Policy 6.3 given the adverse effect of safety on the immediate transport network including Fitzroy Park itself and its junction with Merton Lane.
  - LB Camden Local Plan. Allowing the development will be contrary to the objectives of Policy T1 which states that the Council will promote sustainable transport by prioritising walking, cycling and use of public transport. The 1 off-street parking space per dwelling shown on the plans is contrary to Policy T2 which requires all new development to be car free. This is a real dilemma given the location of the site and its poor public transport accessibility. A “car free” development could not be achieved in this location as Fitzroy Park is a private road and the Council can therefore not do anything to prevent future residents parking on the street. Not issuing on-street parking permits would put even more pressure on unauthorised parking on Fitzroy Park itself. Therefore, allowing the development would mean that individual residents and FPRA would have to “police” the parking situation, this putting an unreasonable burden on local residents.
  - Highgate Neighbourhood Plan. With regard to Policy TR1 the development is not sited where it could promote walking, cycling and

public transport use. Similarly, the proposals do not comply with Policy TR3 by failing to minimise the impact of traffic associated with the 5 proposed houses. The proposals also fail to comply with Policy TR4 given the harm to vehicular/pedestrian safety and increased pressure for on-street parking. Additionally, the proposals are contrary to Policy TL4 as the new off-street parking will have an unacceptable impact on the character of Fitzroy Park as a result of the visibility of the four separate areas of hard standing for car parking.

- Highgate Conservation Area Appraisal and Management Strategy. Part 2 specifically raises concern about hard surfacing of front gardens to create new forecourt parking. The houses on Plots 1, 2 and 3 will all have their front gardens areas completely taken up by such hard surfacing other than what remains of the front boundary areas, between the three points of access.

## **9.0 Construction Impact Concerns**

**9.1** Concern primarily relates, once again, to insufficient information having been submitted with the application for this to be assessed. There is no schedule of condition of Fitzroy Park itself; no repair/reinstatement conditions proposed; no consideration of tree roots beneath the road or tree canopies overhanging the road that could be affected by construction traffic; incorrect swept path analysis; no allowance for sheet piling vehicles in HGV numbers; no hydrological impact statement on the effect of sheet piling to support the road; no mention of road closures for the sheet piling; no consideration of the effect of sheet piling on neighbouring properties (indeed it is noted that the intention is to use 25m piles for Plots 4 and 5 along Millfield Lane; no consideration of maintaining access for emergency vehicles; no details of the retaining wall proposed to Fitzroy Park; incorrect calculations of soil bulking (which, it is believed, exclude the piling spoil) which could potentially increase HGV numbers by some 50%; the use of many 17 or 24 tonne vehicles which is specifically contrary to Neighbourhood Plan Policy (if it is possible to avoid the use of such large/heavy vehicles this will result in a significant increase in construction traffic); no proscription on using The Grove entrance to enter Fitzroy Park; reference to some vehicles unloading from Fitzroy Park which would block the road given its narrowness; no mention of tarmac laying vehicles or skip lorries in the vehicle movements; no assessment of noise levels during construction and thus no way of assessing impact on neighbouring occupiers; no way of assessing vibration that would affect neighbours; no asbestos report; and no hydrological assessment to enable consideration to be given to the effects on the slope above Fitzroy Park.

**9.2** For these reasons the proposals are contrary to the following:

- LB Camden Local Plan Policy A1. In particular Part (i) which refers to the Council including consideration of the impact of the construction phase on neighbours when considering planning applications.

- Highgate Neighbourhood Plan Policy TR2 which specifically relates to matters concerning significant movements of goods and materials by road during the construction phase of a development. It is evident from the Construction Management Plan that it is intended to utilise many vehicles in excess of the 7.5 tonne limit that the policy refers to.

**10.0 Summary of Conflict with the Local Development Framework**

**10.1** The proposals fail to comply with the following:

- Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- National Planning Policy Framework – generally Sections 9, 15 and 16 and, more specifically, Paras 103, 110, 170, 175, 178, 179, 180, 184 and 192.
- London Plan Policies 6.1, 6.3, 7.8, 7.19 and 7.21.
- LB Camden Local Plan Policies A1, A2, A3, A5, D1, D2, CC3, T1 and T2.
- Highgate Neighbourhood Plan Policies DH1, DH2, DH7, DH10, OS2, OS4, TR1, TR2, TR3 and TR4.
- Highgate Conservation Area Appraisal and Management Strategy.
- Camden Planning Guidance: Biodiversity.
- Camden Planning Guidance: Basements.

**10.2** The proposed development is considered unacceptable on many grounds. We have limited our comments above to those which affect the FPRA and its Members. Therefore, the above list of policies etc should not be taken as comprehensive to a thorough consideration of the merits of the proposals.

**10.3** Para 47 of the NPPF requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. It is clear from our analysis of the issues relevant to FPRA that the proposed development fails to comply with numerous policies – at national, strategic and local level. There are no material considerations that indicate that these policies should be ignored. We therefore trust that the Local Authority will be refusing planning permission for this wholly inappropriate development.

Yours faithfully



**Carolyn Apcar**