



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

London
1 Poultry
London EC2R 8EJ

nexusplanning.co.uk

29 April 2019

Application Ref: 2019/1553/P

Dear Mr Thuaire,

Representations made in relation to Application No. 2019/1553/P submitted over Athlone House, Hampstead Lane, London, N6 4RU

Nexus Planning is acting on behalf of the City of London Corporation ('the City'), in response to a current planning application concerning details of a new pedestrian gate access on the southern boundary of the site directly adjoining Hampstead Heath, which provides partial details of Condition 7 of Application No. 2017/4156/P.

The site address is Athlone House, Hampstead Lane, London N6 4RU ('the site'). This response is primarily concerned with the impact of the proposed development on Hampstead Heath. The City objects to the proposed development on the grounds set out within this letter.

Background

The City of London Corporation is custodian of 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 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.

[London](#)

[Birmingham](#)

[Manchester](#)

[Thames Valley](#)

The Heath had been previously managed by a number of bodies, ranging from the 19th-century Metropolitan Board of Works and the London County Council, through to its successor body, the Greater London Council (GLC), from 1965 – 1986. With the abolition of the GLC in 1986, the London Residuary Body took interim control of the Heath while its future was determined. Between 1986 and 1989 they undertook consultations on the future of the Heath, which resulted in a recommendation that it should be passed to the City of London Corporation.

The London Government Reorganisation (Hampstead Heath) Order 1989 added the Heath to the City Corporation's portfolio of open spaces in and around London, which already included Epping Forest, Burnham Beeches, the Coulsdon Commons, Spring Park, West Wickham Common, Highgate Wood, Queen's Park and West Ham Park.

Over the past 30 years, Hampstead Heath has been run as a charity with the City Corporation as sole trustee. The objective of the charity is 'the preservation of Hampstead Heath for the recreation and enjoyment of the public'.

In 2018, the City Corporation acquired additional statutory powers set out in the City of London Corporation (Open Spaces) Act 2018. This clarified and supplemented the existing management powers, including in relation to land management, letting of buildings, holding events, control of commercial activity and enforcement.

The Hampstead Heath Act of 1871 brought the Heath into public ownership and established the principles that it should be protected from encroachment or development, preserved as a natural open space and used for health, exercise and recreation and specifically, by the provisions 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

The site is bounded by Hampstead Heath to the south and west, Highgate Lane to the north and private residential development to the east. The application site is adjacent to the north-western corner of Hampstead Heath. Directly opposite the application site, on the northern side of Hampstead Lane is the Highgate School's Playing Fields (Figure 1). The application site is visible from Hampstead Heath.

The application site comprises of approximately 2.9ha, and contains Athlone House, Caen Cottage, the Gate House and the surrounding garden and property grounds.

Athlone House is not locally or statutorily listed, though the gardens surrounding the building are locally listed.

The site falls within the Highgate Conservation Area.

The application site is designated Metropolitan Open Land.

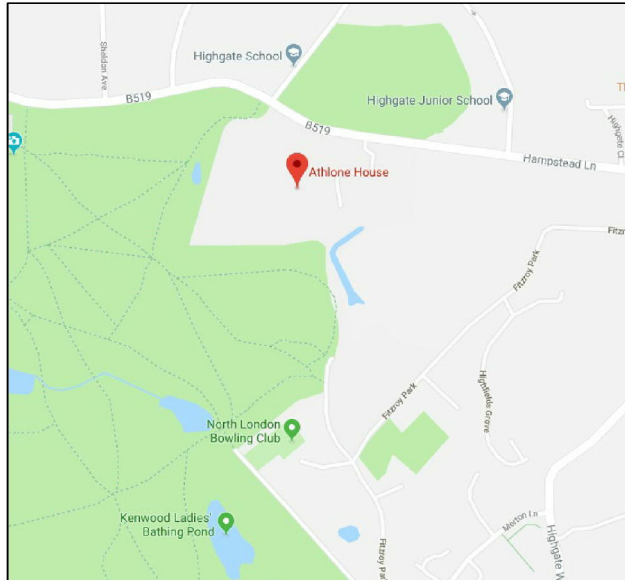


Figure 1: Site Location

Planning History

These representations relate to Application No. 2019/1553/P which provides details pursuant to Condition 7 of Application No. 2016/3587/P and Application No. 2017/4156/P. Table 1 below provides an overview of these three planning applications.

Table 1: Planning Applications

Application No.	Proposal	Decision	Date
2019/1553/P	Details of part condition 7 (new pedestrian gate access on the southern boundary of the site adjoining Hampstead Heath) of planning permission dated 21.9.17 ref 2017/4156/P (for Variation of condition 2 of planning permission dated 9.9.16 ref 2016/3587/P for restoration and extension of Athlone House for use as a 6 bedroom single dwelling house and other works)	Assessment ongoing	N/A
2017/4156/P	Variation of condition 2 (approved plans) of planning permission dated 9.9.16 ref 2016/3587/P (for Restoration and extension of Athlone House for use as a 6 bedroom single dwelling house; creation of new vehicular/pedestrian entrance from Hampstead Lane and associated part demolition of	Variation / Removal of Condition(s) Granted	21/09/2017

	boundary wall; refurbishment and extension of Caen Cottage and refurbishment of the Gate House, both to be used as ancillary residential accommodation; erection of a summer house on disused tennis court within the grounds; and associated landscaping works and restoration of historic garden)- namely to allow minor rewording of all conditions (except no.s 3, 4, 5, 6, 7, 8, 10, 11, 18, 20); variation of conditions 27, 28 and 29 relating to energy and sustainability matters; minor amendments to basement and ground floor layouts including erection of a new secondary porch and new plant enclosures on the north side.		
2016/3587/P	Restoration and extension of Athlone House for use as a 6 bedroom single dwelling house; creation of new vehicular/pedestrian entrance from Hampstead Lane and associated part demolition of boundary wall; refurbishment and extension of Caen Cottage and refurbishment of the Gate House, both to be used as ancillary residential accommodation; erection of a summer house on disused tennis court within the grounds; and associated landscaping works and restoration of historic garden.	Full Planning Permission Granted	09/09/2016

Condition 7 of Application No. 2016/3587/P and Application No. 2017/4156/P states:

‘Details of all new railings and gates, including the new vehicular entrance on Hampstead Lane, at a scale of 1:10 denoting the colour, finish and materials, shall be submitted to and approved in writing by the Council before the relevant part of the work is begun. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.’

Application No. 2016/3587/P provides the following reason for Condition 7:

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London borough of Camden Local Development Framework Core Strategy and policies DP24 and DP25 of the London Borough of Camden Local Development Framework Development Policies.

Following the adoption of the new Camden Local Plan in 2017, Application No. 2017/4156/P subsequently provided the following reasoning for Condition 7:

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policies D1 and D2 of the London Borough of Camden Local Plan 2017.

Development Proposal

Application no.: 2019/1553/P provides the proposed details of a new pedestrian gate located on the site's southern boundary, providing direct access out onto Hampstead Heath. The proposed gate has been designed to match the existing rear fence in terms of height, material, and finish colour. The gate is proposed to open outwards, onto the Heath, as shown in Figure 2 below.

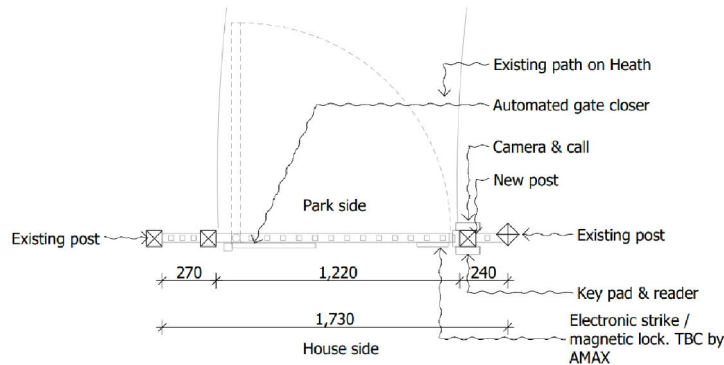


Figure 2: Extract of Proposed Gate

Relevant Policy Considerations

The site falls within London Borough of Camden, for which the adopted Development Plan is comprised of the following documents:

- Camden Local Plan (2017);
- Policies Map (2019);
- Adopted Site Allocations Plan (2013).

In addition to the above, we consider the following to be material considerations to the determination of this application:

- National Planning Policy Framework ('NPPF') (2019);
- Highgate Conservation Area Character Appraisal & Management Plan (2013);
- London Plan (2016)

The Hampstead Heath Act 1871 and the Hampstead Heath Byelaws as made on 1st November 1932 (by the London County Council in pursuance of the provisions of the *London Council (General Powers) Act 1890*, the *London County Council (General Powers Act 1898)*, and the *London County Council (General Powers) Act 1923* and now having effect by virtue of *The London Government Act 1963*, Article 33 of the *London Authorities (property, etc.) Order 1964* and Articles 9 and 30 of the *London Government Order 1965* as made by the Greater London Council in relation to Parks, Gardens and Open Spaces vested in or under the control of the Greater London Council), are also of relevance to the assessment of any application likely to impact the Heath.

Key Issues

The City is concerned that the proposed development is inappropriate in terms of impacting land within the Heath that is not under the applicant's control, creating an obstruction in Hampstead Heath, and being out of keeping.

We consider the key issues set out above and throughout this letter in the context of the adopted Camden Local Plan, the Hampstead Neighbourhood Plan and the emerging London Plan, and any other material considerations, in line with the expectations of the National Planning Policy Framework. The following sections further discuss the key issues identified above.

Land outside of the Applicant's Control

As demonstrated on Figure 2 above, the Pedestrian Gate is proposed to open outwards onto Hampstead Heath. Accordingly, the gate would be opening onto land outside of the applicant's control, and this arrangement is considered to be unacceptable, and does not benefit from any agreement from the City to open in this manner. It is noted that an Ownership Certificate should have supported the application, with Certificate B completed to show the application involved land not directly owned by the applicant.

Obstruction in Hampstead Heath

Paragraph 12 of The Hampstead Heath Act 1871 prescribes that the Heath will for ever be kept *'open, unenclosed, and unbuilt on'*, and that the Act *'shall by all lawful means prevent, resist and abate all attempted encroachments on the Heath, and protect the Heath, and preserve it as an open space'*.

Furthermore, Hampstead Heath has 47 byelaws. These are laws which exist in addition to UK law, pertain specifically to the Heath, and support us in preserving it and the interests of its users. Byelaw 11 is considered to be of particular relevance to the proposal, which states

'No person shall in any open space, without first obtaining or otherwise than in accordance with the terms of a permit from the Council, erect or place or retain any post, rail, fence, photographic stand apparatus, tent, booth, screen, stand, swing or other building, erection or structure or any obstruction of any kind whatever.'

As discussed above, and clearly shown in Figure 2, the proposed pedestrian gate would open outwards onto Hampstead Heath. This proposal would create an obstruction on the Heath, which would directly conflict with Hampstead Heath Byelaw 11.

It is further considered that the proposal would be at odds with Policy A2 of the Camden Local Plan (2017) seeks the protection of open spaces within the Borough. Specifically, Policy A2 states the Council will:

'c. resist development which would be detrimental to the setting of designated open spaces;

g. give strong protection to maintaining the openness and character of Metropolitan Open Land (MOL);'

It is considered the proposal, which would create an obstruction within Hampstead Heath, would be detrimental to the setting of a Designated Open Space, and would not maintain the character of the Metropolitan Open Land.

For these reasons, it is considered that the proposal is not acceptable.

Character

Policy A2 of the Camden Local Plan (2017) also outlines that the Council will:

'j. 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;'

It is acknowledged that the proposed pedestrian gate would be consistent in appearance with the application site's existing rear fence, as demonstrated by the submitted photograph. However, it is unclear from the photograph submitted whether the existing fence included a gate, or if it simply a solid boundary fence with no opening onto the Heath. Furthermore, no existing plans were submitted to demonstrate whether or not a pedestrian gate is in situ within the rear boundary fence presently.

Furthermore, the proposal plans demonstrate that the gate would be electronic, with a camera & call feature, as well as an automated gate closer. It is considered that these details of the proposal could be out of keeping and detrimental to the peaceful character of the Heath.

For these reasons, it is not considered that the proposed gate would be consistent with item (j) of Policy A2 of Camden's Local Plan (2017), as the development would not preserve or enhance the Heath, and would impact on views from within the Heath.

Informative

Notwithstanding the objection contained within this letter, any gate or opening onto Hampstead Heath, even if open into the application site itself and not the Heath, would require a 'wayleave licence' from the City. Should the application be amended, with the proposed gate to open inwards onto the application site rather than the Heath, the City requests that an Informative be attached to any subsequent discharge of conditions, as below:

"INFORMATIVE: You are advised that any gate or opening onto Hampstead Heath, which should not open outwards on the Heath, requires a wayleave licence from the City of London Corporation. The applicant should apply to the Superintendent of Hampstead Heath at Heathfield House, 432 Archway Road, London N6 4JH".

Conclusion

For the reasons outlined above, it is considered the proposal is out of character and would create an obstruction within the Heath, which would be contrary to Hampstead Heath's open character. The proposal conflicts with Policy A2 of Camden's Local Plan (2017), and is contrary to the Hampstead Heath Act 1871, and to the Hampstead Heath byelaws. We urge Camden Council to reject this proposed pedestrian gate, which opens outwards onto Hampstead Heath.

Yours sincerely,

A black rectangular box redacting the signature of the representative.

Nexus Planning

on behalf of City of London Corporation