

Delegated Report		Analysis sheet	Expiry Date:	14.6.17 (extended by agreement to 4.6.18)
		N/A	Consultation Expiry Date:	25.5.17
Officer		Application Number(s)		
Charles Thuaire		2017/2064/P, 2017/2211/L		
Application Address		Drawing Numbers		
Land Adjacent to Jack Straws Castle North End Way London NW3 7ES		See decision notice		
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
2017/2064/P- Erection of two x 4 bedroom 3 storey plus basement residential dwelling houses on rear part of carpark, and associated landscaping, refuse and cycle stores and reconfigured carparking on remainder of carpark.				
2017/2211/L- Erection of two dwelling houses on rear part of carpark plus associated underpinning of adjacent basement of existing listed building of Jack Straws Castle.				
Recommendation(s):	Had appeals not been lodged against non-determination, the Council would have refused planning permission and listed building consent			
Application Type:	Full Planning Permission and listed building consent			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	00	No. of responses	04	No. of objections	04
Summary of consultation responses:	<p>Press advert published 4.5.17 to 25.5.17 Site notice displayed 3.5.17 to 24.5.17</p> <p><u>Objections from 2 residents of 67 North End Rd-</u> Site is surrounded by Hampstead heath as a wild natural environment- buildings must not be allowed to be built on this land; underpinning is invalid.</p> <p><u>Objections from 2 residents of Jack Straws Castle-</u> Out of character, would give substandard outlook to the proposed houses facing car park; carpark is already congested. Disagree with the applicant's contention that the current application is different from previous schemes, as it is higher and bulkier than the previous refused one and thus should be refused again in line with the Council's earlier clear and unambiguous advice given in its decisions' informatives; applicant's planning statement ignores key findings from earlier 2003 appeal decision about harmful impact on listed building and these have not been addressed. Loss of 4 carspaces will displace existing residents' cars onto local streets which are already congested; unrealistic that 2 new family homes will be car-free; applicant's transport statement's proposal to remove rights to carpark and CPZ spaces is bizarre, unclear, unfair and unworkable; Heath carpark at rear does not have capacity for overspill parking; no disabled parking; loss of turning space from carpark to allow cars to exit without reversing into highway; no space for communal bins; noise disturbance and traffic congestion from construction works as well as impact on use of residents' carpark.</p>					
CAAC/Local groups* comments: *Please Specify	<p><u>Heath and Hampstead Society object-</u> Application should be refused in order to discourage future applications to build on this important, prominent and sensitive site; it should be refused because it is on the boundary of Metropolitan Open Land (MOL) and affects the Heath adversely; if this application for two dwellings is approved, another application will follow for a bowdlerised, poor quality and/or entirely different application for two dwellings which the Council will find difficult to refuse. Proposal is deficient as follows- 2 houses inserted uncomfortably within carpark, does not meet conditions required for family houses with unsafe polluted access and outlook across carpark, no external space, poor daylight and outlook, cramped interior spaces, west facing windows not permissible on boundary wall with heath. Applicant's intentions is for urban form to echo that of houses to south side; however the exact ordered Georgian/Regency style chosen and setting behind an open carpark is inappropriate and entirely different from informal varied character of houses to south side which are set behind generous front gardens and front walls. 'In summary we consider that this deficient Application should be firmly refused, making it clear that the site is unsatisfactory for development and should be maintained as an open carpark and servicing yard as originally approved'.</p>					

City of London Corporation object-

Impact on setting of heath at rear- no information to assess the impact on key views from the heath and visibility from West Heath, concern at visual impact of imposing design on setting of heath.

Site plan suggests that development will be on MOL which is unacceptable and 'inappropriate' according to NPPF; if not on MOL, its location adjoining the MOL would harm its open setting.

Development will displace existing residents' cars onto surrounding roads which are in a CPZ or on the Heath carpark- however this option is unviable as it is only for short stay visitors, not overspill residential carparking and is locked between 8.30pm and 7am.

Impact on biodiversity of heath which is a SINC- expect mitigation on such impacts by construction and design features (eg. bird/bat boxes), more info needed on protection of adjoining trees and ivy.

Hampstead CAAC- no response.

Historic England comment-

"HE was involved in pre-application discussions regarding these proposals, and our advice letter is included in the submitted Planning and Heritage Statement. The development site is located next to the Grade II listed Jack Straw's Castle and opposite the Grade II* listed Heath House. As expressed in our pre-application advice letter, we consider it unlikely that the scheme would significantly impact on the setting of these neighbouring listed buildings, due to the subservient scale and contextual design of the proposed development, and its set back positioning along the streetscape. Also, due to the relatively poor presentation of the existing site, we consider that this development presents an opportunity to enhance the character of the Hampstead Conservation Area as encouraged under Paragraph 137 of the NPPF. In light of this, your Council may wish to impose conditions regarding the front landscaping and building materials, should you be minded to approve the application."

HE (GLAAS) comment-

Proposal is unlikely to have a significant effect on heritage assets of archaeological interest and thus no further assessment or conditions are necessary.

Site Description

1. Jack Straws Castle is a well-known substantial building on a prominent hilltop position overlooking Heath and Whitestone Pond. It is designed in a castellated Gothic style, like a 18th C. coaching inn folly, built in 1962 to a Raymond Erith design. It was originally built as a large public house but since converted and extended following permission in 2002 to create a restaurant on the ground and basement floors and 10 residential units including 6 flats on upper floors, 3 houses in stable wing and 1 house in new 2 storey rear wing. The Class A3 use was later converted to a Class D1 gym and is now vacant.
2. The applications relate to the ancillary open carpark to its north side, which is level with the basement of the main block and contains 11 carspaces for the dwellings. The carpark is accessed from a small side road, Heath Brow, leading to the Corporation of London's Heath public carpark.
3. Jack Straws Castle itself is Grade II listed and is also flanked by the Grade II listed Old Court House to its south. Opposite is Heath House, its boundary wall and War Memorial, which are also listed buildings and structures. It is within Hampstead conservation area. The immediate area is further described as Sub-area 7 'Whitestone Pond' in the Hampstead Conservation Area Statement (CAS) on page 43. It refers to Jack Straws Castle as being 'a unique example of its period of a structural timber frame used in a public building'.
4. The site adjoins Hampstead Heath on its north and west sides by the Heath and the heath public carpark respectively, and thus the block and its ancillary carpark is prominent in long views, both from the north and south. The Heath is Public Open Space and Metropolitan Open Land, as well as the Heath House garden opposite.
5. Finally the site also lies within the new Hampstead Neighbourhood Plan area, adopted in October 2018.

Relevant History

Whole site:

PWX0102190- pp/lbc granted 25.7.02- Extension/conversion to Class A3 use and 10 dwelling units plus carparking on open carpark.

Carpark site only:

PWX0302151- pp/lbc refused 10.4.03- Erection of roofed enclosure over carpark and two 2 storey houses with rooftop conservatories above.

Appeal dismissed 3.12.03.

2003/1396/P- pp/lbc refused 25.9.03- Erection of roofed enclosure over part of carpark and two 2 storey houses with pitched roofs.

Appeal dismissed 3.12.03

2004/0705/P- pp/lbc refused 14.5.04- Erection of 2 storey house with garden and parking at rear of carpark and new boundary treatments to carpark.

Reason- The house and associated boundary walls, by reason of its size, height, bulk, location and detailed design, and the consequent partial enclosure of an open space adjoining a listed building, would be harmful to the setting and appearance of the adjoining building, to local views in the streetscene and from the Heath, and to the character and appearance of the conservation area.

Appeal dismissed 21.12.04

2016/0630/PRE- pre-application advice issued by letter dated 17.1.17- two 3 storey plus basement houses on rear part of carpark. *The advice note is included as an appendix to this report.*

2017/2064/P, 2017/2211/L- 10.4.17- applications received for erection of 2 dwelling houses on rear part of carpark and associated works (subject of this report).

2017/2171/P- 14.4.17- application received for variation of condition 4 (construction in accordance with approved plans) of planning permission ref PWX0102190 dated 25th July 2002, namely to reduce size of carpark and provide only 7 carspaces. *The application has yet to be determined.*

6.8.18- Appeals lodged against non-determination of both current applications 2017/2064/P & 2211/L.

Relevant policies

National Planning Policy Framework 2019

London Plan 2016

Camden Local Plan 2017

G1 Delivery and location of growth
H1 Maximising housing supply
H4 Maximising the supply of affordable housing
H6 Housing choice and mix
H7 Large and small homes
C6 Access for all
A1 Managing the impact of development
A2 Open space
A3 Biodiversity
A5 Basements
D1 Design
D2 Heritage
CC1 Climate change mitigation
CC2 Adapting to climate change
CC3 Water and flooding
CC4 Air quality
CC5 Waste
T1 Prioritising walking, cycling and public transport
T2 Parking and car-free development
T4 Sustainable movement of goods and materials
DM1 Delivery and monitoring

Hampstead Neighbourhood Plan 2018

DH1 Design
DH2 Conservation areas and listed buildings
BA1 Basement Impact Assessments
TT1 Traffic volumes and vehicle size
TT4 Cycle and car ownership

Supplementary Guidance 2018-19

CPG Access for all (2019)
CPG Amenity (2018)
CPG Basements (2018)
CPG Biodiversity (2018)
CPG Design (2019)
CPG Developer contributions (2019)
CPG Energy efficiency (2019)
CPG Interim Housing (2019)
CPG2 Housing (2016, amended 2019)
CPG Transport (2019)
CPG Trees (2019)
CPG Water and flooding (2019)

Hampstead Conservation Area Statement 2001

guidelines H21, 22, 23, 24

Assessment

1. Proposal

1.1 Erection of two 4 bedroom dwellinghouses on existing car park adjacent to Jack Straws Castle, including associated redesign and landscaping of remaining car park.

1.2 Lengthy negotiations have ensued to address concerns raised by officers and consultees. The scheme was revised and additional information submitted regarding the following matters- balcony/canopy structure added, widened lightwells and rearranged layout of kitchen/diners; re-landscaped carpark, new refuse and bin stores in carpark, revised cycle stores, impact on existing carspaces; revised BIA; impact on trees & ecology, bat survey; revised sustainability report.

1.3 The 2 houses will be designed as a symmetrical 3 storey (plus basement) terrace in a Georgian style with a shallow pitched roof behind parapets. At front will be 1st floor metal balcony/canopy structure overhanging the front entrances and 2 narrow lightwells. Each house has 2 double and 2 single bedrooms and a large kitchen/diner in the basement. The houses will match the parapet height and floorplate depth of the adjoining 3 storey rendered rear wing that was added to the main listed building in 2002. The carpark will be landscaped with permeable paving, boundary hedges, cycle store, 2 binstores and 7 delineated carspaces.

2. Background

2.1 This application follows from pre-application request for advice on 2 new houses ref 2016/0630/PRE, which entailed a series of meetings with officers (see history above). Officers concluded that there was no objection to the principle of some form of development on the carpark here but that the size, form and design of the proposed houses adjoining the listed building was inappropriate. The current application scheme has not significantly changed in concept or design since this initial proposal or responded to the subsequent formal pre-application advice (attached in an appendix to this report).

2.2 The most recent and relevant decisions for the carpark are listed in the history section above, which shows how 3 successive applications for development of this carpark site have been consistently refused and dismissed on appeal. The Council's previous refusals in 2003 and 2004 all had an informative that advised that 'the Council is of the opinion that no further development would be possible on this open carpark site' except for ancillary minor structures.

2.3 However in the last appeal decision of 21.12.04, the Inspector concluded that 'it would be wrong of me to suggest that no further development should take place in the carpark as I can never know what ideas an imaginative architect, perhaps one as skilled as Erith, might dream up.' Although the Inspector considered that the appealed scheme harmed the listed building and conservation area due to the site's visibility, he also did not completely discount the possibility of any further development on the carpark. The issue is further discussed in the design and heritage section below.

3. Assessment

3.1 The main issues of consideration are

- Principle of development
- Design and heritage impact
- Open space impact
- Landscape and ecology
- Land use and residential standards
- Affordable housing
- Amenity
- Basement impact
- Sustainability
- Transport

4. Principle of development, design and heritage impact

Policy context

4.1 Camden Local Plan policy D1 on Design states that the 'Council will seek to secure high quality design in development. The Council will require that development:

- a. respects local context and character;
- b. preserves or enhances the historic environment and heritage assets in accordance with "Policy D2 Heritage"...etc.

Para 7.2 of this policy is particularly relevant here as it says-

The Council will require all developments, including alterations and extensions to existing buildings, to be of the highest standard of design and will expect developments to consider:

- character, setting, context and the form and scale of neighbouring buildings;
- the character and proportions of the existing building, where alterations and extensions are proposed;
- the prevailing pattern, density and scale of surrounding development;
- the impact on existing rhythms, symmetries and uniformities in the townscape;
- the composition of elevations;
- the suitability of the proposed design to its intended use;
- inclusive design and accessibility;
- its contribution to public realm and its impact on views and vistas; and
- the wider historic environment and buildings, spaces and features of local historic value.

4.2 Local Plan policy D2 on Heritage states that 'the Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings, including conservation areas, listed buildings, archaeological remains...etc'; later it says-

'The Council will not permit development that results in harm that is less than substantial to the significance of a designated heritage asset unless the public benefits of the proposal convincingly outweigh that harm.'

4.3 Hampstead Neighbourhood Plan (NP) policy DH1 supports the above policy D1 and notably, in criteria 2, states- Development proposals should demonstrate how they respect and enhance the character and local context of the relevant character area(s) by:

- c. Responding positively and sympathetically to the existing rhythm, proportion, height, scale, massing, materials and storey heights of surrounding buildings.

4.4 Hampstead NP policy DH2 states that-

1. Planning applications within a Conservation Area must have regard to the guidelines in the relevant Conservation Area Appraisal(s) and Management Strategies.
2. In reference to NPPF paragraphs 131 to 136, the Plan provides further guidance on the application of these policies.

4.5 Hampstead Conservation Area Statement (CAS) guideline H21, although predating the current Local Plan, again supports the thrust of the Local Plan policies-

New development should be seen as an opportunity to enhance the Conservation Area and should respect the built form and historic context of the area, local views as well as existing features such as building lines, roof lines, elevational design, and where appropriate, architectural characteristics, detailing, profile, and materials of adjoining buildings.

Background

4.6 The history of this site, in terms of the original design intentions by Raymond Erith for Jack Straws Castle and its carpark and the successive rejections on appeal of later schemes for residential development of this carpark, are important material considerations in assessing this scheme. The applicants have provided a very useful analysis of the significance of the existing listed building and its setting, the rationale behind its original design concept, the advantages of the currently proposed scheme compared to previous unsuccessful development schemes for this site, and the justification

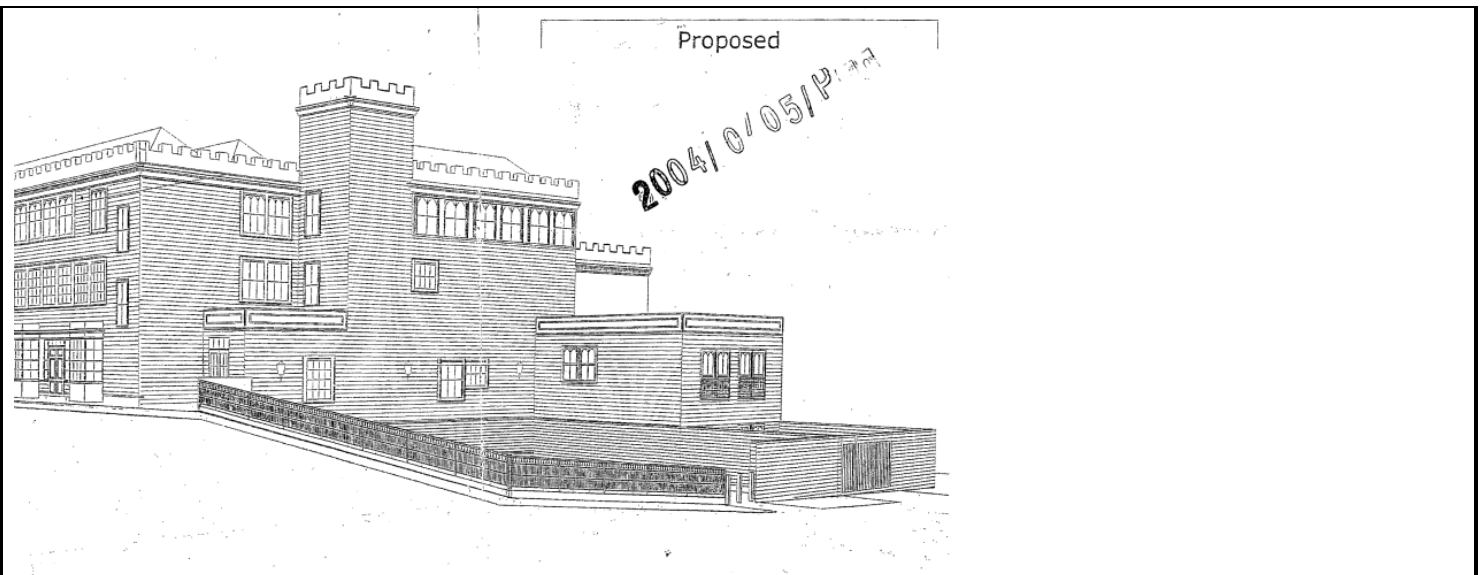
for the design concept and impact of the current proposal. As noted above, the key issue here is the impact of the scheme on heritage assets, notably the setting and significance of the adjoining listed building of Jack Straws Castle itself and the other listed buildings nearby, and the character and appearance of the surrounding conservation area.

Principle of development

4.7 The 2004 appeal decision is important in that the Inspector was concerned about retaining the 'cliff-like wall' (of the north facade) facing the carpark which had been likened by some to a castle moat (for instance, see Lucy Archer's objection quoted in para 4.12 below) and that he thought the appealed scheme diluted the drama of this space. However he also did not discount the possibility of any further development on the carpark. His comments are a material consideration. Officers consider that this does amount to agreeing accommodation on the site 'in principle' subject to detailed design. However the Inspector was clear that any proposals for the site would require exceptional skills to design by an imaginative architect.

4.8 The Council's previous refusals were based on the premise that it considered no further development of the carpark was possible here as it would harm the setting of this listed building where its northern elevation and lower ground carpark contributed to the impression of a castle and moat. The officer's report for the latest 2004 scheme stated that 'Discussions with Erith's daughter (Lucy Archer) who is an authority on his work reveal that he had no plans to build upon this site, that the Castle was designed as a unique freestanding entity with no side extensions planned for a later date, and that it was always the intention to provide the carpark as an open site to provide offstreet parking and loading facilities as required by the Council at that time. Furthermore the Castle was designed to appear like a castle with the sheer battlemented wall on its north side rising sheer from the basement carpark, giving the impression of having a moated edge. It is considered that any building over this carpark for further residential/commercial floorspace would amount to overdevelopment, and only small ancillary structures such as garages at basement level would likely to be acceptable'. Although the car park is of limited visual quality itself, it performs an important role as an open area of curtilage surrounding the main building which maintains the setting and prominence of the 'Castle', appearing as a single entity on the hilltop.

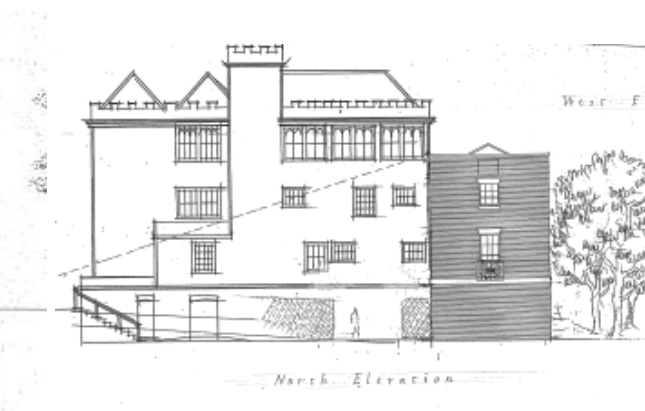
4.9 Consequently the refusal decisions all had an informative that advised that 'no further development would be possible on this open carpark site'. It is noted that the Inspector for both 2003 schemes for a large 2 storey house (see history above) considered that a new house would protrude into the openness of the surroundings and unduly intensify the amount and scale of the development in the curtilage of a listed building. In particular, he stated that the layout of the site with the carpark left undeveloped 'contributes significantly to openness of the surrounding area and ...setting of the listed building'. The 2004 scheme involved a smaller 2 storey house set back behind the open carpark (see perspective sketch below) and this was again deemed unacceptable by the Inspector, although in this case he suggested that some form of development could be possible here.



4.10 In comparison, the current proposal for a taller and wider development, 3 storeys high across the whole carpark's back edge, is clearly larger than the previous 2004 scheme. This is demonstrated by the comparison extracts of front and side elevations of both previous and current schemes shown here:



2004/0705/P



2017/2064/P

4.11 On the face of it and in light of these appeal decisions, the current proposal would have a greater unacceptable impact in enclosing the open space of the carpark. Thus it could be argued that the currently proposed houses, and indeed any structure larger than a single storey garage, would continue to erode the distinctive quality of the carpark in its role as an open area of curtilage around the main castellated block, as discussed in para 4.8 above.

4.12 However officers also acknowledge that there are 3 subtle but important differences between the past and current schemes that help sway the balance. As demonstrated in the comparison images above, the latest 2004 appeal scheme projected beyond the junction between the rendered rear

section of the building and the main weather-boarded façade, it was designed as an extension in matching pastiche design, and the carpark had a solid boundary around part of it. In contrast the new scheme is set back further and respects the junction between both elements of the main building, it is conceived as a distinctive separate building with contrasting design idiom, and the carpark is left largely open as existing. These are considered to be positive moves in design terms.

4.13 On balance, bearing in mind the last Inspector's comments and the submitted analysis of design differences as well as subsequent stakeholder comments (see below), officers consider that the principle of a residential development on this site can be now supported. A building in this setback location can be viewed as a subsidiary terrace of houses in the same way as the array of houses that flank the main castle building on its south side, ie. the Old Courthouse, which has a similar setting. Such a building should also have a contrasting design and form that does not compete with or dilute the significance and dominance of the main Jack Straws Castle building in its castellated Gothic style. It is considered that in principle the new scheme's significant setback, contrasting design and open carpark boundary preserves views of the main north facade of the castle building and thus these features in themselves would not significantly harm the setting of this listed building. Similarly, the setback location of a new building here against a backdrop of existing trees would not in principle harmfully protrude into views from the surrounding conservation area and heath and thus would not significantly harm their open setting and character.

4.14 It is acknowledged that more recent consultation by the applicants with stakeholders has resulted in an important level of support for this new approach which is a material consideration. The application includes supporting letters from daughter of the original architect Raymond Erith (Lucy Archer who is an authority on his work), 2 commentators on 20thC architecture, the Twentieth Century Society and Historic England. Interestingly Lucy Archer had previously objected to the principle and design of development on this site in relation to the earlier 2003 and 2004 schemes. In her objection letter of 24.4.04 to the latter, she said that 'Raymond Erith's Jack Straw's Castle was listed as a complete entity and it should stand alone. Architecturally the greater height of the north elevation provided him with an opportunity to play up the light-hearted idea of a castle, as implied by the battlements. A comparison of the north side of Jack Straw's Castle with the Norman keep at Castle Hedingham in Essex, suggests the sort of thing he must have had in mind.' Also the 20thC. Society and Historic England (HE) had objected to previous schemes.

4.15 In relation to the current proposal, HE in their supporting letter to the applicants have now said- "We consider that these proposals are unlikely to significantly impact on the setting of the Grade II listed Jack Straw's Castle. This is because the development would be of a subservient scale and attached to a later extension at the rear of the building. In contrast to the previous schemes for this site, the design and materials would allow the development to be read as a separate building and not interpreted as an extension to the listed building. This change in approach is welcomed by Historic England." It is noted that HE have subsequently written to the Council to support the application (see consultation section above).

Design/bulk

4.16 The Council accepts that the previous appeal Inspector gave some encouragement to some form of development on the site; however, the overall design of the proposed scheme is unacceptable which gives a perception of obtrusive bulk and inappropriate formality here, and which does not address the Inspector's assessment of the character and importance of the open carpark space and north facing façade of the listed building. These issues were referred to in the Council's pre-application advice but have not been addressed in the subsequent application scheme (see advice in appendix). The result is that the overall bulk, height and form of the new houses would detract from the significance of the Jack Straws Castle building, with its north façade appearing as a 'cliff-like wall facing over the carpark', and would 'dilute the drama of this space' (quoting from the last Inspector's decision).

4.17 It is considered that the proposal would be of out character with the more informal and semi-rural character of the road and immediate area more generally, the entrance into the car park and beyond

into the heath. For the same reason, the design would be out of character with the setting of Jack Straws Castle as a vernacular 18thC styled coaching inn. The Georgian styling of the houses proposed does not respond to the setting of the isolated cluster of dwellings remote from urban development. For example the introduction of Regency-style ironwork to the front facades speaks of a style and era not generally found in the immediate area which is more rural and has a vernacular setting which speaks to an earlier time. The styling of the houses is also not considered to respond to its own immediate exposed context which is sandwiched between two car parks and highly visible from the public realm and heath on all 3 sides.

4.18 Officers remain unconvinced of the applicant's argument that a Georgian style is appropriate in this semi-rural setting and that the examples given of other similar houses in London and elsewhere set a precedent here. The examples given appear to be mainly Georgian houses that have since been surrounded by later urban expansion or were designed as set pieces facing formal parkland. In this case, the setting and history of Whitestone Pond is different which has an informal grouping of houses organically developed over time and loosely arranged around a junction and surrounded by a natural heath landscape.

4.19 The applicant's rationale behind the proposed houses here seems to be that they would reflect in height and depth the houses of the Old Courthouse terrace to the south and thus provide a balanced form of development on either side of the Jack Straws Castle, thus creating an appropriate setting to the prominence of the 'Castle'. However officers consider that the proposed style and form is misconceived here and actually does not provide this balanced setting nor an appropriate response to the setting of Jack Straws Castle. The current Old Courthouse terrace is characterised by irregular facades, a modest and domestic scale, a varied roofline of both ridge and eaves heights, articulation of massing and a vernacular aesthetic. In contrast the proposed new houses have a very precise and symmetrical design, with a regular high roofline, single parapet height, matching Georgian-styled facades and fenestration and a very urban form; these all combine to give a perception of greater bulk and inappropriate formality in this semi-rural setting. This impression is heightened by the fact that the site is highly visible and prominent on all 3 sides from the public realm, which defines its setting, more so than the Old Courthouse to the south which is set behind high boundary walls. Overall these new houses do not reflect those on the south side by providing a balanced setting of small scale vernacular cottages attached to a higher castle wall.

4.20 It is thus considered that the very formal and urban arrangement of the proposed façades does not suit this setting of either the adjoining listed buildings or character and appearance of the conservation area. The regular height and symmetry of both houses adds to the overall perception of bulk and mass adjoining the main block. Furthermore the design of the houses is not considered to be scholarly. Whilst the architect has obvious skills, one would expect to see the landing windows off-set on the rear facades. Consequently it is considered that the façades and forms should be alternated and made more contextual and vernacular to suit the more rural setting in this regard and to reflect the organic and informal character of the Old Courthouse properties to the south.

4.21 In conclusion, the proposed overall bulk, form and design of the new houses is considered harmful to the setting of the adjoining listed buildings and character and appearance of the surrounding conservation area. It would not comply with policies D1 and D2 and Hampstead NP policies DH1 and DH2.

Heritage impact

4.22 An assessment and evaluation of the scheme needs to be carried out in accordance with the requirements and tests within chapter 16 of the NPPF 2019 (especially paras 192-202) regarding any impact and level of harm caused to the significance of designated heritage assets, ie. the adjoining listed building and the surrounding conservation area.

4.23 NPPF para 192 requires that those assessing applications take account of 'the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.' Para 193 states that, 'When considering the impact of a proposed

development on the significance of a heritage asset, great weight should be given to the asset's conservation', and para 194 states that 'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification'. Substantial harm to a grade II listed building of any grade should be exceptional. Where the harm to a designated heritage asset is less than substantial, para 196 advises that 'this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'

4.24 The significance of the listed Jack Straws Castle partly arises out of its semi-rural setting and its appearance as a large imposing castle-like building on the hilltop flanked by an open moat-like carpark on the north side and the low rise vernacular cottages of Old Courthouse to the south. The proposed new houses would harm this significance by providing a bulky, symmetrical designed and inappropriately formal pair of Georgian-style town houses which upset the setting and prominence of the adjacent Castle, the setting of the neighbouring listed Courthouse and the semi-rural character of this part of the conservation area.

4.25 It is considered that the harm here to designated heritage assets is 'less than substantial'. This applies to the adjacent listed Jack Straws Castle, the listed Old Court House and Heath House nearby and the surrounding conservation area. On the basis that there is less than substantial harm, paragraph 196 of the NPPF is applicable here, as noted above. No public benefits have been identified by the applicants as relevant here. Despite the delivery of new housing being a Local Plan priority (see para 7.1 below), the provision of 2 new large houses in itself, as well as the additional payment required for offsite affordable housing provision, is not considered to be such an overriding factor to outweigh any harm caused to a heritage asset.

4.26 It is therefore concluded that there are no significant benefits to outweigh the 'less than substantial' harm caused by this form and design of housing development, in accordance with the balancing exercise as set out in the NPPF. Thus the scheme would result in harm to the character and setting of the adjacent listed building without adequate justification and would not comply with policy D2 and Hampstead NP policy DH2.

Listed building works

4.27 As part of the scheme, mass concrete underpinning will be required below the adjacent retaining side wall foundation of the rear wing of the main building. This has been deemed acceptable to maintain stability of the listed building by Campbell Reith consultant engineers (see basement impact section below). The works will have no impact on historic fabric and, being totally subterranean, will not harm the setting and appearance of the listed building. It should be noted that the 2 storey rear wing above this retaining wall at lower ground level is not original to the listed building and was built following permission in 2002.

4.28 Special attention has been paid to the desirability of preserving or enhancing the character or appearance of the conservation area, and of preserving the listed building, its setting and its features of special architectural or historic interest, under s.66 and s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

5. Open Space impact

5.1 The site adjoins Public Open Space and Metropolitan Open Land (MOL). In response to the City's concerns (see consult section above), the applicants have confirmed that the site does not fall within MOL. It is acknowledged that the building would be highly visible from 2 public highways, the Heath carpark at rear, and Heath open space on north and east sides. Nevertheless, it is considered that the building in this significantly setback position here will have limited impact on views from the boundaries, on account of the substantial screening by trees, intervening hard surfaced carparks and backdrop created by the existing Jack Straws building. Thus it is considered that the scheme will not harm the open character and setting of the adjacent Heath open space and it will preserve the openness of this MOL.

6. Landscape and ecology

6.1 The landscaping and boundary treatment of this carpark has been revised and enhanced to address officer comments as well as those by Historic England (HE). The open fence boundary treatment is retained around the entire site. A hawthorn hedge and low shrub planting beds are introduced along the 2 edges to help soften existing car parking; 2 green screens are provided to mask the new bin and bike stores from public views. The carpark tarmac surface will be replaced by permeable block paving and a dedicated pedestrian zone for access to the houses and bin/bike stores will be delineated by different coloured paviers. Overall these measures will significantly enhance the current poor visual appearance and biodiversity of the carpark, the setting of the adjoining listed building, and the safety of future residents of the houses here.

6.2 The proposed development only involves the removal of 2 dead small cherry trees and some minor pruning of trees on the neighbouring City carpark, which is considered acceptable. The submitted tree protection report shows that trees will be adequately protected from damage throughout development in line with BS5837:2012.

6.3 An ecology statement has been submitted, and further refined to address the Council's ecology officer's comments, as the site adjoins Hampstead Heath, a Site of Nature Conservation Importance (SNCI). Access will be required along the rear strip of land adjoining the carpark to enable construction. As this area contains trees, ivy and vegetation at the rear, a construction methodology is proposed with raised scaffolding which will avoid touching the trees and ivy on the City side. Although some ivy will be lost on the carpark site, a new trellis system will be erected on the new west façade of the houses to encourage existing ivy to grow upwards and provide compensatory ivy growth.

6.4 A bat survey now been undertaken to an acceptable standard and mitigation and enhancements are proposed, although roosting bats are likely to be absent on the Jack Straws building and the carpark itself has limited value for bats. Bat and bird boxes are now proposed; details of these would be required for approval by condition on any permission. A green roof is now proposed for the cycle storage shed- again details of this green roof would be required for approval by condition on any permission. These measures will enhance the biodiversity of the site. An informative should be added to any permission to advise that site clearance and demolition should be undertaken outside the bird nesting season (Feb-August inclusive).

7. Land use and residential standards

7.1 The provision of new residential units here is welcome in principle and accords with Local Plan priority within policy H1 to maximise housing supply.

7.2 The 2 houses are 4 storey 4 bedroom 6 person units which comply with national housing space standards, London Plan standards, and Camden's own guidance. The internal and external design of the houses has been amended to ensure compliance with national standards for new build dwellings in Part M4 (2) of the Building Regulations. Notably the balcony structure has been introduced to provide canopies over the entrance doors. A condition would need to be imposed on any permission to ensure compliance with Part M4 (2). The provision of 2 family sized units is 'medium priority' according to the Local Plan policy DP5 Dwelling Size Priorities Table. Although no 'high priority' 2 bedroom units are provided, given the constraints of the site and heritage designations, it is considered that this is acceptable in this context.

Amenity

7.3 The houses will be double aspect and will receive adequate daylight, sunlight, outlook and privacy. In particular the plans have been amended by reconfiguring the basement kitchen diners and widening the associated narrow front lightwells, so that the basement rooms now meet minimum daylight standards for kitchens using the Average Daylight Factor (ADF) criteria as recommended by the BRE.

7.4 Very little private amenity space is provided, apart from a narrow basement lightwell and 1st floor entrance balcony at front, which is not ideal for these large family sized houses. The function of these spaces was to provide daylight and entrance door cover and do not provide adequate effective amenity space. However, given the constraints of the site and heritage designations, as well as the need to retain carparking at front which precludes any greater external amenity space, it is considered that this is acceptable in this context. It should be noted that in addition there is ample public open space available for future residents to enjoy on the Heath immediately at the rear.

Refuse

7.5 Adequate refuse storage is provided in compliance with CPG standards on site by means of 2 timber- clad binstores in the front corner of the carpark. This area will also accommodate the existing paladin bins that will need to be relocated from the rear edge where the houses are due to be located.

Contaminated land

7.6 The site lies on potentially contaminated land and there is the possibility of high levels of lead and asbestos found in made ground. The Council's Environmental Health (Contaminated Land) Officer is concerned that the submitted Ground Investigation Report refers to only 2 samples of soil taken for analysis from the made ground and that further sampling is required to provide suitable coverage of the site. Therefore a standard condition is recommended on any permission to ensure an appropriate programme of ground investigation for the presence of soil and groundwater contamination and landfill gas, details of which should be submitted to the Council for approval.

8. Affordable housing

8.1 Policy H4 on maximising affordable housing states that 'The Council will aim to maximise the supply of affordable housing and exceed a borough wide strategic target of 5,300 additional affordable homes from 2016/17 - 2030/31, and aim for an appropriate mix of affordable housing types to meet the needs of households unable to access market housing. We will expect a contribution to affordable housing from all developments that provide one or more additional homes and involve a total addition to residential floorspace of 100sqm GIA or more'.

8.2 In this case, the additional floorspace by 2 new houses is 280sqm GIA (361sqm GEA) which will trigger this requirement. For schemes of fewer than 10 additional units, the Council will expect a contribution calculated based on a sliding target as a percentage of floor area starting at 2% for one home (measured as 100sqm GIA of C3 floorspace) and increasing by 2% for each 100sqm of additional GIA added to capacity. The expected provision will then be the calculated percentage of the overall uplift (GEA) of residential floorspace. In this case, the site has a capacity of 3 units at 100sqm (280sqm GIA rounded up to 300sqm). Using the sliding scale formula and multiplier used in CPGs on Housing (6% of 361sqm GEA x £2650 per sqm), this means that £58,300 is required as payment-in-lieu for affordable housing. This should be secured by a S106 clause on any permission here.

9. Amenity of neighbours

9.1 It is considered that there will be no serious impact on the amenity of adjoining neighbouring properties. The new houses will sit behind a ground floor toilet window and a 1st floor secondary bedroom window on the north facade of Jack Straws Castle itself and will not harmfully obstruct their light or outlook. The houses will however obstruct a small ground floor window on the north facade of the later rear wing which contains a 2 bedroom house. According to the approved plans, this serves an integral kitchen within a large lounge which has large windows facing west over the heath. No daylight report has been submitted to quantitatively assess the impact of the development on this room. Nevertheless it is considered that on balance the loss of this small secondary window is unlikely to seriously harm the daylight and outlook to this room. It should be noted that this house, along with all other flats within this building, is owned by the applicant; also that all previous decisions for 2 storey buildings on the carpark here did not refer to harm to neighbour amenity in their reasons for refusal and thus the principle of blocking up this window was accepted.

10. Basement impact

10.1 A Basement Impact Assessment (BIA) has been submitted and reviewed by the Council auditors Campbell Reith. It was further revised to address some queries raised by them. Policy A5 on Basements and associated CPG guidance requires all new basements to be assessed to ensure they maintain the structural stability of the building and any neighbouring properties, avoid adversely affecting drainage and run-off or causing other damage to the water environment, and avoid cumulative impacts on structural stability or the water environment in the local area. This is supported by policy BA1 of the Hampstead NP which requires BIAs to be submitted.

10.2 The BIA shows that the ground conditions comprise Made Ground over the Bagshot Formation. Groundwater was not encountered during drilling, indicating any groundwater is more than 6m below ground level. However the BIA recommends that groundwater monitoring should be continued to confirm groundwater conditions. Ground movement analysis (GMA) and building damage assessment calculations indicate Category 0 damage (Negligible) to neighbours. Considering the immediately adjacent listed building, the auditors recommend that structural monitoring should be undertaken during the works to ensure damage to neighbours is maintained within the limits predicted. The current site is fully hard surfaced thus there will be no increase in the impermeable site area. An outline surface water drainage/SUDS strategy has been provided. The site is not located within a Local Flood Risk Zone and is at very low risk of flooding. The audit concludes that there should be no impact to the wider hydrological and hydrogeological environment and that the criteria of CPG Basements have been met, subject to a recommendation to undertake structural monitoring during the works.

10.3 The basement complies with the size and locational criteria f-m of policy A5- it is single storey only, approx. 3.5m deep and solely under the footprint of the new houses. The front lightwell is very small and only projects forwards by 1.1m, less than 25% of the house's depth, and does not involve loss of any garden space or trees. The basement lightwell, on account of its size and setback position, will be almost invisible and will have no impact on the appearance of the new building, adjoining listed building and conservation area.

10.4 It is concluded that the basement excavation is acceptable as it will not harm groundwater flows, surface water flows or stability of the adjoining listed building. It will also comply with the more detailed local requirements for BIAs in Hampstead NP policy BA1.

10.5 The site lies within an Archaeology Priority area of Hampstead Heath. Historic England have advised that the proposal is unlikely to have a significant effect on heritage assets of archaeological interest and thus no further assessment or conditions are necessary.

11. Sustainability

11.1 In line with policies CC1 and CC2, the Council will require development to incorporate sustainable design and construction measures.

11.2 An Energy & Sustainability Statement has been submitted and further revised to address officer comments. All minor applications for new dwellings should demonstrate that they meet sustainable design principles and are also required to meet a target of 19% reduction in carbon emissions below Part L of the Building Regulations, of which 20% is achieved by on-site renewable technologies. The revised energy statement shows that the scheme achieves an almost 21% overall reduction in CO₂ and 20.6% by renewables which meet and exceed these targets. An array of 10 PV panels will be placed on the west facing roofslope, discreetly hidden behind the parapet and thus barely visible in long views from the heath. They will not be overshadowed by nearby trees. More details on their design and layout would need to be secured by condition.

11.3 The sustainability measures and anticipated targets outlined in the submitted statement are considered acceptable by the Council's sustainability officer and should be secured by appropriate

conditions on any permission.

11.4 No green roof is proposed on the building; it is accepted that green roofs will be difficult to achieve on the traditional pitched roofs, so is not objectionable in this instance.

11.5 All new build dwellings should achieve a maximum internal water use of 110 litres per person per day (this includes 5 litres for external water use), to be secured by condition. Permeable paving on the carpark surface and Sustainable Urban Drainage systems are proposed which are welcomed and should be secured by condition.

12. Transport

Parking

12.1 The carpark currently accommodates 11 carspaces plus paladin refuse stores, all available to tenants of the flats within the main building. The applicant owns both the main block and the carpark. The proposal will result in a reduction of on-site car parking spaces from 11 to 7.

12.2 The site is located in the North End Controlled Parking Zone (CA-V) which operates between 1100 and 1300 hours on Monday to Friday. In addition, the site has a PTAL rating of 3 which means it is moderately accessible by public transport.

12.3 Policy T2 requires all new residential developments in the borough to be car-free. Parking is only considered for new residential developments where it can be demonstrated that the parking to be provided is essential to the use or operation of the development (e.g. disabled parking). Accordingly it is recommended that the 2 new houses here should be 'car-free' to be secured by S106 legal agreement. The applicant is willing to enter in such an agreement.

12.4 It should be noted that Policy T2 is wide ranging and is not merely about addressing parking stress or traffic congestion. It is more specifically aimed at improving health and wellbeing, encouraging and promoting active lifestyles, encouraging and promoting trips by sustainable modes of transport (walking, cycling and public transport), and addressing problems associated with poor air quality in the borough. Thus car-free housing is required in the borough, regardless of any parking stress that may or may not locally exist.

12.5 Transport officers were initially concerned about the loss of 4 existing and well-used parking spaces which would result in displacement of parking onto the local Controlled Parking Zone (CPZ). However it is noted that policy T2 (in point c) states that the Council will support the redevelopment of existing car parks for alternative uses. Also Council records suggest that the North End CPZ (CA-V) does not appear to be highly stressed, with a ratio of permits to parking spaces of 0.6 (ie. 60 permits issued per 100 parking spaces). Contrary to the suggestion in the applicant's Transport statement, it is not considered appropriate for displaced residents' cars to rely on using the adjoining Heath carpark, run by the City, which is closed at night time.

12.6 The applicant by letter dated 28th September 2017 has agreed to remove 4 carspaces to allow the release of land for the new houses. These spaces are currently attached to tenants' units which are Assured Shorthold Tenancies (ASTs). He proposes to:

1. remove the rights to these parking bays from the relevant units in ASTs; and
2. commit within a Section 106 Legal Agreement that no future ASTs will be entitled to these spaces; and
3. insert a clause in subsequent ASTs to restrict the owners of these bays from applying for CPZ permits.

12.7 Transport officers have no objection in principle to this strategy. However it is rather unclear as to exactly how it will operate in detail, eg. which 4 parking bays are referred to points 1 and 2, given that they are all being rearranged within the new carpark layout? Point 3 seems unworkable as the

developer cannot prevent existing residents from obtaining CPZ parking permits. Nevertheless, it is unlikely that those residents displaced from the 4 bays would harm local onstreet parking conditions here as the area is not highly stressed. Furthermore localised restrictions in hours of operation of parking, both on the public highway and in the City carpark, may also discourage these displaced residents from parking there anyway. It is not considered that a S106 legal agreement is required for the management of the carpark by private tenants, as suggested by the applicant, as any overspill onto the public highway is not likely to be harmful. The key issue is that the new houses are completely car-free, without access to CPZ permits or onsite parking, so that there is no additional parking pressure created by new residents as opposed to 'displaced' existing residents who already have rights to CPZ permits.

12.8 On balance, the loss of carspaces on this site is considered acceptable and will not significantly impact on onstreet parking facilities, given the context and on the basis that the proposed additional units are made car-free by a S106. The revised car park design, showing 7 carspaces and adequate manoeuvring space, is also now acceptable in transport terms.

Cycles

12.9 Policy T1 requires cycle parking facilities to be provided in accordance with the London Plan. In this case, a minimum of 2 covered, secure and fully enclosed cycle parking spaces per dwelling would be required to meet the policy requirement. The revised cycle parking proposals are now considered acceptable. A cycle store in the form of double bike lockers will be provided next to the new binstores in the front corner of the carpark and a dedicated paved route will allow safe pedestrian access from the new houses. It will provide covered, secure and fully enclosed cycle storage facilities for 4 bicycles (2 per locker) and complies with Hampstead NP policy TT4 on cycles. The provision and retention of these cycle storage facilities should be secured by condition.

Highway matters

12.10 Policy A1 on Amenity states in para 6.12 that 'Disturbance from development can occur during the construction phase. Measures required to reduce the impact of demolition, excavation and construction works must be outlined in a Construction Management Plan.' It is considered that in this case a Construction Management Plan (CMP) would be required, in the light of the location and constraints of this site whereby it adjoins a busy highway and roundabout as well as 2 carparks that need to continue functioning during the construction process. It is important to ensure that construction traffic does not cause significant traffic congestion and does not obstruct access to the 2 adjacent carparks nor obstruct the pedestrian and cycling route along Heath Brow. In addition the CMP will need to address any temporary arrangements needed to reprovide existing tenants' car spaces if the current carpark is required to be wholly used as a construction site. Paragraph 6.13 of Policy A1 also suggests that CMPs should be secured where sites are adjacent to listed buildings.

12.11 The Council would therefore want to secure a CMP and a CMP implementation support contribution of £3,136 for these reasons, even although the development would be quite modest in scale. Both would be secured by S106. The provision of a CMP will also comply with Hampstead NP policy TT1 on traffic volumes.

12.12 Policy A1 also states in para 6.11 that Highway works connected to development proposals will be undertaken by the Council at the developer's expense. A highways contribution is required to pay for repairing any damage to the public highways of both Heath Brow and North End Way following construction. A cost estimate is being sought from the Council's highway engineers. All these items need to be secured by a S106.

13. Community Infrastructure Levy (CIL)

13.1 The scheme will be liable to Community Infrastructure Levies for both Mayor of London and London Borough of Camden. The Mayor's CIL will apply to all development which adds one or more dwellings or more than 100sqm of floorspace at a rate of £50 per sqm. The Council's CIL will equally

apply to all new dwellings at a rate of £500 per sqm in the Hampstead/Highgate area.

14. Conclusion

14.1 The scheme for new houses here is significantly different from the previous series of schemes for housing which were refused and dismissed on appeal. In light of the differences in form and design, support from certain stakeholders and comments made by the previous appeal Inspector in 2004, it is now concluded that there is no objection to the principle of some form of development on the carpark here. However it is considered that the bulk, form and design of the proposed houses, with a very formal urban Georgian style adjoining this listed building and the heath, is inappropriate and misconceived. Their unarticulated mass and roofline and incongruous architectural treatment result in an overly dominant visual impact on both the listed building and its surroundings. The proposal would thus harm the setting of the listed building and its massing and composition; it would also harm the character and appearance of the conservation area and character and setting of the Heath.

14.2 The scheme has been revised to address all the other concerns by the Council and is now considered acceptable in terms of residential standards, amenity, landscape and ecology, impact on open space, sustainability, basement impact, transport and carparking. The associated foundation underpinning required for the adjoining listed building is acceptable in itself.

14.3 A S106 Legal Agreement would be required to secure certain matters to ensure the scheme does not cause any harmful impact on highways, parking and affordable housing provision. If planning permission were to be granted, a S106 will need to cover the following Heads of Terms: car-free housing, highway repairs contribution, Construction Management Plan, CMP implementation support contribution, affordable housing payment-in-lieu. However since the application is being refused, these matters will form 4 separate reasons for refusal.

15. Recommendations

15.1 Refuse planning permission-

1. The proposed 2 new houses, by virtue of their overall bulk, symmetrical form and incongruous detailed design, would harm the setting of the adjoining listed buildings of Jack Straws Castle and Old Courthouse and the character and appearance of the surrounding conservation area and streetscene, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and policies DH1 (Design) and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

2. The proposed development, in the absence of a legal agreement securing contributions to affordable housing provision, would fail to ensure the provision of the required amount of affordable housing for the scheme, contrary to policies H4 (Maximising the supply of affordable housing) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

3. The proposed development, in the absence of a legal agreement securing car-free housing, would be likely to contribute unacceptably to parking stress and congestion in the surrounding area and fail to promote more sustainable and efficient forms of transport and active lifestyles, contrary to policies T2 (Parking and car-free development) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

4. The proposed development, in the absence of a legal agreement securing necessary highway works, would fail to secure adequate provision for and safety of pedestrians, cyclists and vehicles, contrary to policies A1 (Managing the impact of development), T1 (Prioritising walking, cycling and public transport) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

5. The proposed development, in the absence of a legal agreement securing a Construction

Management Plan (CMP) and associated contributions to support the implementation of the CMP, would be likely to give rise to conflicts with other road users and be detrimental to the amenities of the area generally, contrary to policies A1 (Managing the impact of development), T4 (Sustainable movement of goods and materials) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

15.2 Refuse listed building consent-

The proposed 2 new houses, by virtue of their overall bulk, symmetrical form and incongruous detailed design, would harm the setting of the adjoining listed buildings of Jack Straws Castle and Old Courthouse, contrary to policy D2 (Heritage) of the London Borough of Camden Local Plan 2017 and policy DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

APPENDIX 1

2016/0630/PRE- pre-application advice issued by letter dated 17.1.17

Date: 17th January 2017
Our Ref: 2016/0630/PRE
Contact: Charles Thuaire: 020 7974 5867

Email: Charles.thuaire@camden.gov.uk

David Taylor
Montagu Evans
5 Bolton Street
London
W1J 8BA

Dear Sir,

Planning Pre-application Advice:

Jack Straw's Castle 12 North End Way London NW3 7ES

Thank you for submitting a pre-planning application enquiry on 4.2.16 for the above properties. This document represents the Council's initial view of your proposals based on the information available to us at this stage. It should not be interpreted as formal confirmation that your application will be acceptable nor can it be held to prejudice formal determination of any planning application we receive from you on this proposal.

Proposal

Erection of two Class C3 dwellinghouses on existing car park adjacent to Jack Straws Castle, including associated redesign and landscaping of remaining car park.

The proposal was discussed with officers at 2 meetings on 22.3.16 and 30.6.16. The scheme has been subsequently amended and justified to address officers' comments and concerns. Notably a Second Addendum dated November 2016 was submitted which provides a statement of significance of the existing Jack Straws Castle, assessment of the scheme's impact on this significance, analysis of Raymond Erith's original design concept for the north facade of this building, justification for a formal urban design idiom here, revision from 3 houses to 2 houses, and evidence of more consultation with stakeholders. The revised plans are drwg nos. 1370/1D, 2C, 3.

Site and surroundings

The site comprises the carpark serving the adjoining Jack Straws Castle comprising Class D1 gym on the basement and ground floors and Class C3 flats on upper floors above. The carpark is accessed off Heath Brow, which also serves the City Corporation of London carpark behind. The building constructed in 1962 is listed Grade II and lies within sub-area 7 of the Hampstead conservation area.

The site adjoins Hampstead Heath to the north and west and is visible from it across Whitestone Pond to the east. The Heath is Public Open Space and Metropolitan Open Land, as well as Heath House opposite. Old Courthouse to the south and Heath House opposite, along with its wall and War Memorial, are also listed buildings and structures and within the conservation area.

Planning History

The most recent and relevant decisions for the carpark are listed below which show how successive applications for development of this site have been refused and dismissed on appeal.

PWX0302151- Erection of roofed enclosure over carpark and two 2 storey houses.

Refused 10.4.03; appeal dismissed 3.12.03

2003/1396/P- Erection of roofed enclosure over carpark and two 2 storey houses.

Refused 25.9.03; appeal dismissed 3.12.03

2004/0705/P- Erection of 2 storey house at rear of carpark and new boundary treatments. Refused 14.5.04; appeal dismissed 21.12.04

Relevant policies

[National Planning Policy Framework 2012](#)

[The London Plan 2016](#)

[LDF Core Strategy](#)

CS1 (Distribution of growth)

CS5 (Managing the impact of growth and development)

CS6 (Providing quality homes)

CS11 (Promoting sustainable and efficient travel)

CS13 (Tackling climate change and promoting higher environmental standards)

CS14 (Promoting high quality places and conserving our heritage)

CS15 (Protecting and improving our parks and open spaces and encouraging biodiversity)

CS16 (Improving Camden's health and well-being)

CS19 (Developing and monitoring the Core Strategy)

[LDF Development Policies](#)

DP2 (Making full use of Camden's capacity for housing)

DP5 (Homes of different sizes)

DP6 (Lifetime homes and wheelchair homes)

DP15 (Community and leisure uses)

DP16 (The transport implications of development)

DP17 (Walking, cycling and public transport)

DP18 (Parking standards and limiting the availability of car parking)

DP19 (Managing the impact of parking)

DP22 (Promoting sustainable design and construction)

DP24 (Securing high quality design)

DP25 (Conserving Camden's heritage)

DP26 (Managing the impact of development on occupiers and neighbours)

DP27 (Basements and lightwells)

Other Planning Guidance

[Camden Planning Guidance](#)

CPG1 Design (2015)
CPG2 Housing (2016)
CPG3 Sustainability (2015)
CPG4 Basements and lightwells (2015)
CPG6 Amenity (2011)
CPG7 Transport (2011)
CPG8 Planning Obligations (2015)

Hampstead Conservation Area Statement 2001

Emerging policy:

It should be noted that the Camden Local Plan will replace the Local Development Framework (LDF) Core Strategy and Development Policies in 2017. The submission draft has now been approved by Cabinet and Full Council after a period of public consultation. The Local Plan and associated documents were formally submitted to the Secretary of State for public examination. The public hearings for the Examination were held at the Camden Town Hall during October 2016.

The submission draft is a material consideration in planning decisions. At this stage the Plan has weight in decision making and is a statement of the Council's emerging thinking. Emerging policy is therefore a relevant consideration to this pre-app advice.

Assessment

The main issues of consideration are

- Heritage impact
- Open space impact
- Landscape
- Land use and residential standards
- Amenity
- Basement impact
- Sustainability
- Transport
- Community Infrastructure Levy

Heritage impact

The history of this site, in terms of the original design intentions by Raymond Erith for Jack Straws Castle and its carpark and the successive rejections on appeal of later schemes for residential development of this carpark, are important material considerations in assessing this scheme. The 2nd Addendum report dated November 2016 is welcome in providing a very useful analysis of the significance of the existing listed building and its setting, the rationale behind its original design concept, the advantages of the currently proposed scheme compared to previous unsuccessful development schemes for this site, and the justification for the design concept and impact of the current proposal. As noted above, the key issue here is

the impact of the scheme on heritage assets, notably the setting and significance of the adjoining listed building of Jack Straws Castle itself and the other listed buildings nearby, and the character and appearance of the surrounding conservation area.

The 2004 appeal decision is important in that the Inspector was concerned about retaining the 'cliff-like wall' (of the north facade) facing the carpark which had been likened by some to a castle moat and that he thought the appealed scheme diluted the drama of this space. However he also did not discount the possibility of any further development on the carpark. His comments are a material consideration.

The Council's previous refusals were based on the premise that it considered no further development of the carpark was possible here as it would harm the setting of this listed building where its northern elevation and lower ground carpark contributed to the impression of a castle and moat. The 2004 scheme involved a small 2 storey house set back behind the open carpark and this was deemed unacceptable by the Inspector, although he suggested that some form of development could be possible here. In comparison, the current proposal for a taller and wider development, 3 stories high across the whole carpark back edge, is clearly larger than this appeal scheme and, on the face of it and in light of this appeal decision, it would have a greater unacceptable impact in enclosing the open space of the carpark. However officers also acknowledge that there are subtle but important differences between the past and current schemes that help sway the balance. The appeal scheme projected beyond the junction between the rendered rear section of the building and the main weather-boarded façade, it was designed as an extension in matching pastiche design, and the carpark had a solid boundary around part of it. In contrast the new scheme is set back further and respects the junction between both elements of the main building, it is conceived as a distinctive separate building with contrasting design idiom, and the carpark is left largely open as existing.

On balance, bearing in mind the Inspector's comments and the submitted analysis of design differences as well as subsequent stakeholder comments, officers consider that the principle of a residential development on this site can be now supported. The new pair of houses can be viewed as a subsidiary terrace of buildings in the same way as the array of houses that flank the main castle building on the south side, ie. the Old Courthouse, which has a similar height, setback and setting. The new building has a contrasting design in a Georgian style which does not compete with or dilute the significance and dominance of the main Jack Straws Castle building. It is considered that the new scheme with its setback and open carpark boundary preserves views of the main north facade of the castle building and does not seriously detract from its significance in the original design concept appearing as a 'cliff-like wall facing over the carpark' and does not seriously 'dilute the drama of this space' (quoting from the Inspector). Thus it is considered that the illusion of a sheer castle wall with moat is still readily apparent and that the setting of the adjoining listed building will not be significantly harmed.

Furthermore it is acknowledged that more recent consultation with stakeholders has resulted in an important level of support for this new approach which is a material consideration. The daughter of the original architect Raymond Erith, 2 commentators on 20thC architecture, the Twentieth Century Society and Historic England have all written to support it.

Nevertheless, officers will need to carry out an assessment and evaluation of the scheme in accordance with the requirements and tests within chapter 12 of the NPPF (especially paras 129-134) regarding any impact and level of harm caused to the significance of designated heritage assets, ie. the adjoining listed building and the surrounding conservation area. If 'less than substantial' harm is identified, then a balancing exercise will be required to weigh the harm caused against the public benefits of the proposal.

It is considered that the recent changes to the scheme since the last meeting are an improvement and the 2 houses look less cramped than the 3 house scheme and more reflective of the Old Courthouse plot widths. The footprint, height, depth and location of the houses are acceptable in principle. However there are 2 aspects of the scheme that require further consideration.

It is considered that the very formal and urban arrangement of the proposed façades does not suit this setting here. Officers still remain unconvinced of the argument presented that a Georgian style is appropriate in this semi-rural setting and that the examples given of other similar houses in London and elsewhere set a precedent here; the examples given appear to be mainly Georgian houses that have since been surrounded by later urban expansion or were designed as set pieces facing formal parkland. In this case, the setting and history of Whitestone Pond is different which has an informal grouping of houses organically developed over time and loosely arranged around a junction and surrounded by a natural heath landscape. Officers would recommend that the front façades are alternated subtly to suit the more rural setting in this regard and to preserve the character and appearance of the surrounding conservation area.

No details are given of the proposed boundary treatment around the carpark. Given the above analysis, it is important that the open space is not further enclosed by solid structures such as walls and fences and that the details are shown at an early stage with any application submission. The design and use of materials should be influenced and informed by the significance of the listed building and the idea of the castle moat.

Open Space impact

The site adjoins Public Open Space and Metropolitan Open Land (MOL). It is considered that, given the building will be set back from the front behind the carpark and will be mainly screened from the rear by trees, the scheme will not harm the open character and setting of the adjacent Heath open space and it will preserve the openness of this MOL.

Landscape

As indicated above, it is important that details for the landscaping and boundary treatment of this carpark are discussed and agreed before any formal submission. A solid boundary around the entire site, such as walls, fencing or high hedges, and a formal design of entrance gates and piers (as suggested on previous draft elevations) will not be acceptable, although it is acknowledged that a hedge will help soften and screen any car parking, refuse stores etc. from public views. Surface materials for the carpark should be considered at an early stage.

Existing trees within the City carpark at the rear of the site should be retained and protected during construction. An assessment must be made as to how they will be impacted, both in terms of roots by the proposed basement excavation and of crowns by the above-ground construction.

An ecology statement will need to be submitted as the site adjoins Hampstead Heath, a Site of Nature Conservation Importance (SNCI).

Land use

The latest plans for 2 houses show two 4 storey 4 bedroom 6 person units, although floorspace figures are not given. The sizes for the double and single bedrooms and for the units overall as shown appear to comply with new national housing space standards, London Plan standards, and Camden's own guidance contained in CPG2 Housing. The design of the houses should be accessible to occupiers over time by meeting national standards for new build dwellings in Part M4 (2) of the Building Regulations. The provision of 2 family sized units does not comply with the Dwelling Size Priorities Table in policy DP5 in that no 'high priority' 2 bedroom units are provided; nevertheless, given the constraints of the site and heritage designations, it is considered that this is acceptable in this context. The revised design for 2 houses is better than the previous 3 house scheme as the layout appears less cramped and now has a more orthodox staircase arrangement.

The plan of the houses appears to show adequate receipt of daylight, sunlight, outlook and privacy. However the basement kitchen diners are only lit by a very narrow lightwell and there is concern that they may not receive adequate daylight and sunlight. A full light assessment should be undertaken and if necessary, the lightwells enlarged to ensure adequate light and outlook.

The plans do not show any private amenity spaces for these large family sized houses. It is expected that some amount of private amenity space should be provided, in the form of gardens or balconies in line with London Plan standards, as it would be unreasonable for the occupants to totally rely on the public open space of the Heath behind for their domestic needs. Such provision of private space may impact on the layout and design of the carpark in front.

Adequate refuse storage needs to be provided on site.

Amenity

It is considered that there will be no impact on the amenity of adjoining neighbouring properties. However it is noted that the new building will sit closely alongside 2 ground and 1st floor windows on the north facade of Jack Straws Castle itself and, if they serve habitable rooms, any impact on their light and outlook should be checked.

Basement impact

In line with policy DP27, all new basements will be assessed to ensure they maintain the structural stability of the building and any neighbouring properties,

avoid adversely affecting drainage and run-off or causing other damage to the water environment, and avoid cumulative impacts on structural stability or the water environment in the local area. It is considered that the new single storey basement proposed here under the footprint of the houses will be acceptable in principle and will have little impact on the appearance of the new building and conservation area. However it must not harm the stability of the adjoining listed building or the function of local underground water courses, given the special topographical and geological context of this site on sandy soils at a hill summit adjoining Hampstead Heath. Any application will need to be supported by a full Basement Impact Assessment which will be reviewed and audited by the Council's external engineering consultants. Depending on the outcome of the audit and sensitivities of the site, the excavation methodology may need to be subject to a Basement Construction Plan, secured by S106 legal agreement.

A site-specific flood risk assessment is unlikely to be required here, as the site is not on a street identified as being 'at risk' from surface water flooding, according to the local plan maps.

The site lies within an Archaeology Priority area of Hampstead Heath, thus an assessment will need to be submitted with any application to identify if the site has a potential for archaeological remains underneath.

Sustainability

In line with policies DP22 and CS13, the Council will require development to incorporate sustainable design and construction measures. CPG3 provides more information on how schemes will be assessed to meet these criteria. Notably the national standard of Code for Sustainable Homes for new dwellings has now been withdrawn and replaced by the Government's new technical standards for new dwellings.

The Council will continue to require new residential development to submit a sustainability statement demonstrating how the development mitigates against the causes of climate change and adapts to climate change. Thus all applications for new dwellings should demonstrate that they meet sustainable design principles and are also required to meet a target of 20% reduction in carbon emissions below Part L of the Building Regulations by means of the installation of on-site renewable technologies where feasible. Moreover applications of 5 or more residential units or 500m sqm or more of any floorspace (gross internal) will also be required to submit an energy statement demonstrating how the development has followed the energy hierarchy. The total floorspace of the proposed scheme is not known at this stage which may trigger this threshold.

All applications must demonstrate this through the submission of appropriate sustainability and energy statements, the detail of which to be commensurate with the scale of the development, and this will be confirmed by a post-construction review secured by either condition or a S106 agreement.

All new build dwellings should achieve a maximum internal water use of 110 litres per person per day (this includes 5 litres for external water use). Permeable paving and Sustainable Urban Drainage systems should be used on the carpark surface.

Transport

The site is located in the North End Controlled Parking Zone (CA-V) which operates between 1100 and 1300 hours on Monday to Friday. In addition, the site has a PTAL rating of 3 which means it is moderately accessible by public transport. Accordingly it is recommended that the scheme be 'car-free'; the documents submitted suggest that the houses would be, which is welcomed. However if car parking is provided within the existing carpark (at a maximum of 2 spaces for the 2 houses), then the scheme should be 'car-capped' to prevent any harmful overspill of cars onto the public highway, given that on-street parking will be still possible in the afternoons and evenings as well as during the day in 'pay and display' bays on-street and in the City carpark. This will be secured by S106.

It is also proposed that a condition is imposed requiring final details of the forecourt parking arrangements, to control the use and layout of car spaces and to ensure it is acceptable in landscaping and heritage terms. It is not clear from the latest submitted plans how the carpark will be organised, how many car spaces are retained and whether the car-stacker arrangement with new basement level parking is still proposed as in earlier draft plans. If this is still proposed, it will need to have no impact in design and land stability terms on the adjoining listed building. An assessment is also needed of the current car parking provision and how the scheme will impact on existing spaces used by the flats in Jack Straws Castle itself. Finally the carpark layout needs to take account of any new amenity space needed for the new houses as well as any impact of parked cars and refuse storage areas on the amenity of the new houses (in terms of light and fumes).

Cycle parking should meet the minimum requirements of the London Plan and be designed to meet Camden's cycle parking design specifications as set out in Camden Planning Guidance (CPG7- Transport).

As the site is located on a roundabout, any deliveries and servicing activity should take place within the site. Also given this location and site constraints, a Construction Management Plan would be required.

Community Infrastructure Levy (CIL)

The scheme will be liable to Community Infrastructure Levies for both Mayor of London and London Borough of Camden. The Mayor's CIL will apply to all development which adds one or more dwellings or more than 100sqm of floorspace at a rate of £50 per sqm. The Council's CIL will equally apply to all new dwellings at a rate of £500 per sqm in the Hampstead/Highgate area. Please refer to the Council's website for further information on the Borough's CIL.

S106 obligations

As per the preceding report, a S106 Legal Agreement will be needed to cover the following Heads of Terms:-

- Car-free or car-capped housing
- Post-construction sustainability and energy reviews

- Basement Construction Plan if necessary
- Construction Management Plan

Planning application information

If you submit a planning application, I would advise you to submit the following for a valid application:

- Completed forms.
- The appropriate fee
- An Ordnance Survey based location plan at 1:1250 scale denoting the application site in red and other land in applicants' ownership in blue.
- Floor plans, elevations, sections at a scale of 1:50
- Carpark plans and sections
- Landscaping plans for carpark
- Planning statement
- Heritage statement
- Energy/sustainability statements
- Basement Impact Assessment
- Archaeological report
- Daylight/sunlight report
- Ecology report
- Arboricultural report
- Please see [supporting information for planning applications](#) for more information.

Given the location and sensitivities of the site, together with the scale of the scheme, it is recommended that the applicant conducts its own consultation with surrounding neighbours, relevant councillors and local groups prior to the submission of any formal planning application.

We are legally required to consult on applications with individuals who may be affected by the proposals. We no longer notify neighbours by post, but we still display a notice on or near the site and advertise in a local newspaper. The Council must allow 21 days from the consultation start date for responses to be received.

This document represents an initial informal officer view of your proposals based on the information available to us at this stage and would not be binding upon the Council, nor prejudice any future planning application decisions made by the Council.

If you have any queries about the above letter, please do not hesitate to contact me on 0207974 5867.

Thank you for using Camden's pre-application advice service.

Yours faithfully,

Charles Thuaire

Senior Planning Officer
Planning Solutions Team

It is important to us to find out what our customers think about the service we provide. To help, we would be very grateful if you could take a few moments to complete our [pre application enquiry survey](#). We will use the information you give us to monitor and improve our services.