

## STATEMENT OF COMMON GROUND

**APPLICATION REFERENCES:** 2017/2064/P and 2017/2211/L

**SITE ADDRESS:** Land adjacent to Jack Straw's Castle, North End Way, London NW3 7ES (the "Site")

### DESCRIPTION OF THE DEVELOPMENT

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 (2017/2064/P)

Erection of two dwelling houses on rear part of carpark plus associated underpinning of adjacent basement of existing listed building of Jack Straws Castle (2017/2211/L)

**APPELLANT:** Albany Homes UK Limited ("the Appellant")

**LOCAL PLANNING AUTHORITY:** London Borough of Camden ("the Council")

This statement addresses the following areas of common ground:

1. Description of the site and area
2. Designations
3. Planning history of the site and the application
4. Development plan (including relevant policies)
5. Relevance of any supplementary planning guidance published by LPA
6. Relevant national policy
7. Evidence
8. Areas of agreement
9. Areas of disagreement
10. Conditions
11. Section 106 agreements
12. CIL

#### 1 Description of the site and area

- a. Jack Straw's Castle is a large landmark building, built in 1962 and designed by Raymond Erith, in the style of 19thC coaching inn at the brow of the hill near Whitestone Pond adjoining Hampstead Heath. Originally built as a public house with function rooms, it is now primarily residential with vacant commercial on basement and ground floors. There is a consent at ground and basement levels for B1 or D2 use.
- b. The Site is a carpark comprising 11 car parking spaces for permit holders of flats within the abutting Jack Straw's Castle. The car park is accessed to the north via the Heath Brow slip road, located off North End Way (A502) running to the east of the Site. The car park sits below grade established by North End Way; accordingly, a 1.5m concrete bank bounds the Site to the east.

- c. The lowered car parking originally facilitated vehicular access to the public house cellars. The building has subsequently been converted to residential dwelling units and the doors are used as access for refuse.
- d. A low-rise wooden fence bounds the Site to the north and east at grade.
- e. The northern elevation of the Castle presented to the Site comprises a one storey brick plinth (lower ground floor) with timber weatherboarding from ground floor up to second floor. The elevation is fenestrated with several sash windows of varying proportion. The rear (west) section of the elevation is rendered and fenestrated with a singular sash window.
- f. To the rear (west) the car park is bounded by a low-rise brick wall and dense hedge, and mature trees. Immediately beyond is a pay and display public car park for Hampstead Heath operated by the City of London. The car park opening hours are generally between 7am and 8:30pm.
- g. The Site is bordered by Hampstead Heath to the west and north comprising open grassland and woods. The Grade II listed boundary wall of Heath House bounds the east side of North End Way. The Grade II\* Listed Heath House is set back within its respective plot. The Grade II listed Old Courthouse abuts Jack Straws Castle on its south flank wall.

## 2 Designations

- a. Jack Straw's Castle is listed Grade II.
- b. The Site is located in the Hampstead Conservation Area.
- c. The Site is not located within Metropolitan Open Land (MOL) but the adjoining Hampstead Heath and associated carpark is on MOL and public open space.

## 3 Planning History of the site and the application

- a. In 1962, planning permission was granted for the demolition of the remaining part of the early Jack Straw's Castle and its rebuilding to designs by Raymond Erith.
- b. In 2002 planning permission and listed building consent was granted to convert the building into residential use (Council refs PWX0102190 and LWX0102191).
- c. In 2003, permission/lb consent was refused for the "Erection of roofed enclosure over existing car park, and erection of 2 two storey houses with rooftop conservatories and paved roof terrace above this enclosure" (PWX0302151 / LWX0302156) and also for the "Erection of roofed enclosure over existing car park, and erection of 2 two storey houses with pitched roofs and paved roof terrace above this enclosure." (2003/1396/P, 2003/1397/L). Appeals against these refusals were dismissed in December 2003.
- d. In 2004 permission was refused for the "Erection of a 2 storey dwelling house with associated garden and forecourt car space in rear part of car park, and new boundary railings/walls and relocated entrance to remaining car park at front of site" (2004/0705/P / 2004/0707/L). An appeal against this refusal was dismissed in December 2004.

- e. The current applications for planning permission and listed building consent were submitted in April 2017. These applications had not yet been formally determined by the Council at the time of the appeal, but letters stating the Council's intended decisions were issued on 3<sup>rd</sup> May 2019.

#### 4 Development plan policies and designations

- a. For the purposes of Section 38 of the Planning and Compulsory Purchase Act 2004 the Development Plan for the London Borough of Camden comprises:
  - i. The London Plan (2016)
  - ii. Camden Local Plan (2017)
  - iii. Hampstead Neighbourhood Plan (2018)
- b. The Council has also adopted a number of Planning Guidance documents.
- c. The following Local Plan policies are relevant to this appeal

<b>Camden Local Plan (2017)</b>
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
<b>Hampstead Neighbourhood Plan (2018)</b>
DH1 Design DH2 Conservation areas and listed buildings BA1 Basement Impact Assessments TT1 Traffic volumes and vehicle size TT4 Cycle and car ownership

## 5 Supplementary Planning Guidance

- a. Camden adopted Planning Guidance
  - i. CPG Access for all (2019)
  - ii. CPG Amenity (2018)
  - iii. CPG Basements (2018)
  - iv. CPG Biodiversity (2018)
  - v. CPG Design (2019)
  - vi. CPG Developer contributions (2019)
  - vii. CPG Energy efficiency (2019)
  - viii. CPG Interim Housing (2019)
  - ix. CPG2 Housing (2016, amended 2019)
  - x. CPG Transport (2019)
  - xi. CPG Trees (2019)
  - xii. CPG Water and flooding (2019)
- b. Camden Other Supplementary Planning Guidance
  - i. Hampstead Conservation Area Statement (2001)

## 6 National Policy

Both the National Planning Policy Framework and the Planning Practice Guidance are material considerations in the determination of this application. While none of the content can be dismissed as irrelevant, it is considered that specific parts of each one are particularly relevant as follows:

- a. NPPF
  - i. Paragraph 8, which defines ‘sustainable development’ as having three dimensions; economic, social and environmental
  - ii. Paragraph 10 and the presumption in favour of sustainable development, which states that “For decision-taking this means: approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed ; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.
  - iii. Paragraph 59 which sets out actions for local planning authorities to “boost significantly the supply of housing”.
  - iv. Paragraph 68 which requires local planning authorities to plan for a mix of housing based on current and future demographic needs, market trends etc.
  - v. Paragraph 124 which states that “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve”.

- vi. Paragraph 131 which states that “In determining applications, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings”.
- vii. Paragraph 189 which provides guidance to applicants on the approach that should be taken to assessing the potential impact of a proposal on a Heritage Asset.
- viii. Paragraph 192 which sets out the approach local planning authorities should take to determining planning applications that affect a Heritage Asset.
- ix. Paragraphs 193-196 which advises on considering impacts on heritage assets and states that, when planning decision makers are considering the impact of a proposed development on the significance of a designated heritage asset, weight should be given to the asset’s conservation.
- x. Paragraphs 200-201 which explains the approach to be taken by LPAs to development within Conservation Areas

b. PPG

- i. Paragraph: 008 Reference ID: 18a-008-20140306 Paragraph: 009 Reference ID: 18a-009-20140306 and the guidance on ‘significance’ in terms of heritage;
- ii. Paragraph: 013 Reference ID: 18a-013-20140306 and the guidance on the setting of a heritage asset;
- iii. Paragraph: 023 Reference ID: 18a-023-20140306 and the guidance on the designation of a conservation area;
- iv. Paragraph: 018 Reference ID: 18a-018-20140306 and the contribution of unlisted buildings to conservation areas;
- v. Paragraph 018 (Ref: 3-018-20140306) which sets out the importance of “assessing a site’s suitability, availability, and achievability”.
- vi. Paragraph 019 (Ref: 3-019-20140305) which provides guidance on the factors that should be considered when assessing the suitability of sites for development. It identifies considerations of physical limitations or problems such as access or infrastructure.
- vii. Paragraph: 020 Reference ID: 18a-020-20140306 and public heritage benefits derived from developments.

## 7 Evidence

- a. The Council intends to produce evidence in relation to the following areas:
  - i. Planning
  - ii. Architecture and design
  - iii. Heritage and conservation
- b. The Appellant intends to produce evidence as follows:
  - i. Planning
  - ii. Architecture and design

### iii. Heritage and conservation

#### 8 Areas of Agreement

- a. The principle of some form of development is acceptable in this location.
- b. The proposed dwellings meet the relevant space standards.
- c. There will be no impact on any trees or their Root Protection Areas resulting from the development.
- d. The proposed landscaping scheme and biodiversity measures are acceptable.
- e. The proposed sustainability targets and measures are acceptable.
- f. The proposed cycle storage is in an appropriate location and complies with London Plan standards.
- g. There will be no negative impact on the public highway through displacement of existing parking from the carpark.
- h. It is unlikely that there will be significant adverse impact on bats in the local surrounding area and the proposed ecological mitigation measures are sufficient.
- i. The Basement Impact Assessment meets the Council's requirements and the proposed underpinning of the adjacent listed building is acceptable.
- j. The proposals will not have an adverse impact on the openness of Metropolitan Open Land.
- k. The proposals are acceptable in terms of access to daylight, sunlight and outlook.
- l. The Twentieth Century Society, Historic England, Ken Powell, Alan Powers and Lucy Archer (daughter of Raymond Erith) objected to the previous appeal schemes; all have now written to the applicants to express their support for the current proposals.

#### 9 Areas of disagreement

- a. Whether the proposals are appropriate in terms of bulk, form and detailed design;
- b. Whether any harm would be caused by the proposals to the setting of the listed building;
- c. Whether any harm would be caused by the proposals to the conservation area;

#### 10 Conditions

Draft conditions for both schemes will be agreed in advance of any hearing, with any outstanding disputes to be discussed at the hearing itself.

#### 11 Section 106 Agreement

- a. The following heads of terms have been agreed:
  - i. Car-free development
  - ii. Affordable housing contribution
  - iii. Construction Management Plan and associated CMP implementation support contribution
  - iv. Highway repairs contribution
- b. Both sides are confident that a final version of the document will be submitted to the Inspector prior to the hearing.

## 12 Community Infrastructure Levy

The anticipated Mayoral and LBC CIL charges are approximately £14,020 and £140,200 respectively, totaling approximately £154,220, subject to final calculation.

### **Document List**

#### Legislation

Town and Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

Planning (Listed Buildings and Conservation Areas) Act 1990

#### National Guidance

National Planning Policy Framework (2018)

National Planning Practice Guidance (Online)

#### Greater London Authority

The London Plan (2016)

#### Camden

Camden Local Plan (2017)

Hampstead Neighbourhood Plan (2018)

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)

LBC CIL Charging Schedule and Regulation 123 List

### **Agreed by-**

Charles Thuaire, senior planner

on behalf of London Borough of Camden, dated 23.5.19

Jessica Craske, senior associate at Asserson

on behalf of Albany Homes UK Limited, dated 23.5.19