



Charles Thuaire Esq.,  
Development Management Department,  
London Borough of Camden

August 7, 2019

Dear Mr. Thuaire,

**55 Fitzroy Park, London N6 – 2018/3672/P**

The Highgate Society has participated in detailed discussions about this development, both prior to and since the submission of the current application, and has been copied in on the prolific correspondence resulting from it.

The development raises concerns on many fronts, but, having seen the comprehensive analyses and reports commissioned by the City of London and the Fitzroy Park Residents' Association from expert professional consultants, we feel that there is little which we can add which would contribute new factors to the debate. We would, however, express our dismay at what we understand to be the applicant's failure to provide all the detail required by the City of London and FPRA in a timely manner in order to enable the impacts of the development to be clearly assessed. We can therefore affirm that we fully support all the submissions from the City of London and FPRA which, in our view, clearly demonstrate that the application should be refused.

We would therefore make the following more general observations in support of the objections.

**1. Character of Fitzroy Park:**

Fitzroy Park has a distinct rural character. It is lined with smaller buildings that are closer to the road interspersed with larger ones that are set well back in an irregular fashion. The application has larger buildings that are regularly spaced close to the road side of the site that would be typical of a suburban street. It is considered that this would therefore be out of character with the area in a way that would be inappropriate for a winding hillside development served by a narrow lane

**2. Character of Millfield Lane**

The above comments apply with significantly greater force to Millfield Lane. Although it is bounded on its eastern edge by private properties, and those adjoining owners have possession and shared usage of the eastern half of the Lane (the western half of the lane being Heath land, and therefore Metropolitan Open Land), Millfield Lane is an ancient route which is now established as an integral part of the footway system across Hampstead Heath. It is used by large numbers of the public and is regarded by them as integral to the amenities and character of Hampstead Heath. There is currently no development on any of the privately-owned land on the eastern side of the trackway abutting or close to Millfield Lane, thus preserving its essential rural character. The proposed housing for the western edge of the site, and the increased vehicular usage which will inevitably result, will cause substantial harm to the amenities of one of London's most important open spaces. The western half of the Lane is owned by Hampstead Heath, which is protected under 1871 and subsequent legislation from development which will adversely affect its character.

**3. Metropolitan Open Land**

Hampstead Heath, which the application site abuts, is designated as Metropolitan Open Land (MOL). This is, by definition, land which contributes to the physical structure of London by being clearly distinguishable from the built-up area; includes open air facilities which serve the whole or significant parts of London; contains features or landscapes of historic, recreational, nature conservation or habitat interest, of value at a metropolitan or national level; and/or is land forming part of a Green Chain. Meeting any one of these criteria qualifies land for MOL designation; Hampstead Heath meets all four. In addition, the Mayor of London has formally stated that he will, and Boroughs should, maintain the protection of Metropolitan Open Land (MOL) from inappropriate development.

The construction of three large semi-detached dwellings close to the boundary with this MOL will cause substantial harm to the character and amenities of Hampstead Heath, and will establish a highly damaging precedent for other gardens abutting the Heath.

In the Athlone House appeal decision of 20th June, 2015 (APP/X5210/A/14/2220872) refusing that development, and subsequently upheld by the High Court, the Inspector concluded, on summary, that "I have found the proposal to be inappropriate development in the MOL which is, by definition, harmful and should not be approved except in very special circumstances. I have also found harm to the openness of MOL. As Framework 88 confirms, substantial weight must be given to any harm to MOL." The proposed development along the Millfield Lane edge of Hampstead Heath is significantly closer to the Heath than was the proposed development at Athlone House, and because of its proximity would be even more difficult to screen. It is therefore clear that the proposed new housing along the Millfield Lane frontage would cause significant Harm to Hampstead Heath. There are no "very special circumstances" which could justify granting permission for a development which would cause significant harm and set an irresistible precedent for development elsewhere in the area on garden space abutting Hampstead Heath. If we understand correctly, one of the reasons given to justify the application is that the applicants and their families wish to live close to each other. This is irrelevant in planning terms, and cannot outweigh the harm it would cause to an ecological and heritage amenity of national importance.

#### **4. Private Open Space**

The site is on land designated in Camden's own policies as Private Open Space. Policy OS1 of the Highgate Neighbourhood Plan (2017) stipulates that development adjacent to Highgate's major open spaces should not be detrimental to the integrity, appearance or setting of the open space in terms of height, scale or massing; this is addressed below under 5(Overdevelopment).

Policy OS2 requires that "Developments will be expected to preserve or enhance... the setting of the major open spaces. This should include, where necessary, the provision of new or replacement planting. There should be no net loss of trees... and pro rata replacement will be expected. The development should not harm the local network of ecological corridors... unless the need for, and benefits of, the development in that location clearly outweigh the loss."

As demonstrated by the recently-submitted report by JFA Environmental Planning on behalf of FPRA, the proposals fail to meet these requirements. This report establishes that the ecological aspects of the development have been inadequately addressed by the applicants.

#### **5. Overdevelopment:**

The calculations submitted appear to include the area of the important natural pond, the impact of the development on which has been covered in detail by other objectors, to reduce the proportion of the land which will be developed, but the reality is that it would constitute significant overdevelopment. The impact will be to transform the site from a heavily planted and treed area into what would effectively be a private housing estate with roads weaving through, it rather than houses sitting in a heavily planted area which constitutes a transition to the Heath.

The proposal endeavours to indicate the site being reformed so that, together with the slope of the site, it will give the impression that additional levels are not contributing to the massing. However,

such extensive earth moving and the digging of what are effectively substantial basements would disrupt the hydrology of the spring-fed pond and its drainage onto the surrounding land. The harm which this would cause to the important Bird Sanctuary Pond and enclosure abutting the western edge of the site is addressed in detail by the City of London.

The application similarly fails to observe the requirements of policies of the Highgate Neighbourhood Plan, including DH2 which requires the 'open semi-rural' nature of the area to be maintained, and DH10, which specifically prohibits development in back gardens, the site currently forming the back garden of 55 Fitzroy Park.

#### **6. Access and Vehicles:**

The over development has given rise to concerns over the number of vehicles being added to Fitzroy Park. It seems most unlikely that the restriction of one car per dwelling can or will be adhered to by residents and impractically difficult to enforce; nor, despite any requirement for cycle spaces, can we accept that access to the site by bicycle will realistically be more than for recreational use, given its distance from public transport facilities

#### **4. Ecology:**

The site has an established grouping of trees, many of them mature and self-seeded long enough ago to be an integral part of the local ecology. Further, the pond is an ancient feature present on 19th century maps and, the City of London consider, is fed by under ground spring water which in turn feeds into the Bird Sanctuary Pond and is a major source of water for that. The felling of trees, reforming of the levels on the site, and installation of roads, paths and other new hard standing render it impossible that the ecology of the site, or of Hampstead Heath, would be enhanced by the proposals. The proposal for solar panels on green roofs might make the situation look better, but the species on the roof would not reflect, or be compatible with, the local ecology and it seems doubtful that the greenery on the roof would thrive if the sunlight is blocked by solar panels. The abovementioned report by JFA Environmental Planning on behalf of FPRA shows that the ecological aspects of the development have been inadequately addressed. In this connection, we would draw your attention to a report in the *Sunday Times* for July 22, 2019 that housing secretary James Brokenshire has announced new guidance laying out steps which developers must take to protect native species. While we have not as yet seen the guidance itself, the report states that "new homes should include roosts for bats and birds... and gardens should feature 'wildlife highways'." It adds that failure to comply with this guidance will be a reason for refusing planning permission. The JFA Environmental Planning Report clearly shows that the application fails in this respect too.

It therefore seems clear to us that this application fails to conform with local and national policy in a range of fundamental ways and must be refused.

Finally, we would refer you to appeal decision APP/N5090/W/18/3205948, dated 8th April, 2019, dismissing an appeal against refusal of permission for two semi-detached houses at 48 Chestnut Grove, East Barnet, EN4 8PU. Although this is not even in a conservation area, or adjacent to or within protected open space, strong reasons for dismissal were given and there are, we consider, significant parallels between this and 55 Fitzroy Park, particularly with regard to the Inspector's reasons for dismissal on grounds of harm to local character and to biodiversity, including to a Pond. In particular, para. 17 and 18 state that "ponds are one of the habitats which are of principal importance for the conservation of biodiversity in England and... priority habitats in the London Biodiversity Action Plan. The appellant's proposal is to provide a much smaller pond, albeit one specifically designed as a habitat" but the Inspector casts doubt on whether the proposals would provide an adequate substitute. A copy of this relatively short, but highly relevant, appeal decision is attached, and we would urge you to study it carefully with a view to applying its conclusions on amenity and ecology to the current application.

Yours faithfully,

Michael Hammerson

for and on behalf of the Highgate Society Planning Group

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