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**From:** English, Rachel  
**Sent:** 13 July 2020 14:15  
**To:** Planning  
**Subject:** FW: 2020.03.13 An Addendum to a Report on Landscape and Ecological Constraints Land at 55 Fitzroy Park (Final 13.03.2020).pdf

Please log with 2018/3672/P

Rachel English  
Senior Planner

Telephone: 020 7974 2726

-----Original Message-----

[REDACTED]  
Sent: 30 March 2020 19:00  
To: Thuair, Charles <Charles.Thuair@camden.gov.uk>; English, Rachel <Rachel.English@camden.gov.uk>  
Cc: [REDACTED]  
Subject: Re: 2020.03.13 An Addendum to a Report on Landscape and Ecological Constraints Land at 55 Fitzroy Park (Final 13.03.2020).pdf

[EXTERNAL EMAIL] Beware – This email originated outside Camden and may be malicious Please take extra care with any links, attachments, requests to take action or for you to verify your password etc. If in any doubt contact InformationSecurityTeam@camden.gov.uk please note there have been reports of emails purporting to be about Covid 19 being used as cover for scams so extra vigilance is required.

Apologies-this replaces the email I sent at 18-11

John Kennedy for and on behalf of maximus agency limited Sent from my iPad

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> On 30 Mar 2020, at 18:59, John Kennedy <john@maximusagency.co.uk> wrote:  
>  
> Good evening  
>  
> I hope you and your families are well in these strange times -attached  
> is an addendum by JFA Environmental Planning to their earlier report  
>  
> I apologise for sending this at a time like this but I do not know if  
> your decision making process is suspended or is about to reach a conclusion in respect of this application and I  
> only recently noticed the new Luc report .  
> This is filed in response to the Luc report addressed to Geoff  
> Springer at London and Regional dated 13/11/19 and uploaded to the  
> website 17/12/19  
>  
> In spite of the new Luc report the numerous omissions and anomalies  
> from the original LUC report remain and in particular with with key  
> inaccuracies in the original open space assessment  
>

- > Critically there remains an ongoing failure to assess reliably potential habitats for species such as bats and Great Crested Newts (GCN) .Where data and methodologies are provided certain methodologies have not been undertaken correctly.
- >
- > As an example LUC have relied on anecdotal evidence that the pond in number 55 is unsuitable for GCN and claim that this assertion is supported by lack of records in the area. I am told that this is completely incorrect as the City of London have undertaken numerous ecology surveys in the adjacent Highgate Ponds ,that are readily available in the public domain ,yet LUC have not referred to them . To summarise- the inter-relationship between this site and the adjacent MOL of the Heath continues to be ignored.
- >
- > The footprint of the development remains largely the same .An additional vehicular access has been applied for so that the impact on the frontage of Fitzroy Park is increasing rather than reducing .There has been minor tinkering to the parking bays for plots 1 2 and 3, with proposed grassland softening but the vast majority of the development proposals for the site remain unchanged.
- >
- > A total of at least 500m2 of high quality habitat will be lost from
- > the site as a result of the development.It is disingenuous to compare
- > the addition of green roofs -where indeed there should be no roofs
- > with the equivalent loss of high quality broad leaved woodland and
- > orchard a Priority Habitat of Principle Importance under the NERC Act
- > 2006
- >
- > The Design and Access Statement notably continues to downplay both the current ecological value of the site and overstates the benefits of the development proposals .
- > The limited biodiversity enhancement proposals are NOT sufficient to compensate for the loss of important existing habitats .
- >
- > The development continues to not comply with numerous policies
- > including but not limited to Policy A2 (loss of open space ) ,Policy
- > A3 (biodiversity) and London Plan 2018 policy 7.19 biodiversity and
- > access to nature (please refer to paragraphs 1.6 and 1.7 in the JFA
- > July 2019 report)
- >
- > The original conclusions as set out in paragraphs 1.4 to 1.8 in JFA
- > July 2019 have not been addressed or mitigated
- >
- >
- >
- >
- > Also as you know there has been a recent decision of the Supreme Court
- > which effectively dismissed the idea of the approach to open space
- > promulgated by the applicants QC Natalie Lieven
- >
- > Indeed the Supreme Court has quashed the court of appeal decision
- > which seemed to inform Ms Lieven's opinion
- >
- > It has also been argued in support of this application that the quality of the open space at 55 is so poor that it does not merit protection-in itself this was a very poor argument because as photos attest this is an extraordinarily beautiful open space with a heritage orchard and an incredible ecologically valuable and historical pond but the Supreme Court dismissed the approach that the applicants in this application suggest -the Supreme Court said :
- >
- > '... the visual quality of the landscape is not in itself an essential part of the openness ...'
- >
- > The judgement quoted from the NPPF
- >

> 'Openness is counterpart of urban sprawl ....it is not necessarily a statement about the visual qualities of the land ...'  
>  
> And then quoted Lindblom LJ  
>  
> 'The concept of openness here means the state of being free from built development,the absence of buildings-as distinct from the absence of visual impact "  
>  
> This Supreme Court decision was about land in Yorkshire but closer to home you will of course be familiar with the Garden House case which involving Camden Planning  
>  
> In that case the court of appeal approved of the approach taken by mr justice Sullivan  
>  
> He in turn said the following approach by the chairman of the camden planning committee was SPOT ON  
>  
> 'The reason why this particular section was metropolitan open land is that it is a buffer between the houses in the Vale and the pond .It wasn't anything to do with it being part of the Heath as it were ,it didn't have to run over it ,it didn't matter whether it was a private garden ,it didn't matter that the public weren't admitted to it ,that isn't really the point ... ' Of course that is in relation to metropolitan open land but it was 'SPOT ON there and is SPOT ON also in relation to private open land' and is particularly SPOT ON for this site which is indeed a buffer  
>  
> Mr justice Sullivan said  
>  
> '...it is difficult to see how that fact that this particular MOL was a private garden which is not available to the public was relevant .....the MOL designation protects the openness of private open space that is subject to designation just as much as it protects the openness of open space to which the public have access and is subject to the designation.'  
>  
> And finally -Mr justice Sullivan expressed the fear that the green belt or metropolitan open land 'will suffer the death of a thousand cuts 'I would argue that is an even greater risk for 'private open land ' especially if it is not ,as required,replaced .  
>  
> THIS APPLICATION REMAINS CONTRARY TO BOTH PLANNING POLICY AND PLANNING LAW -AGAIN I URGE YOU TO REFUSE THIS PROPOSED DEVELOPMENT  
>  
>  
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