

An Addendum to a Report on Landscape and Ecological Constraints – Land at Fitzroy Park

Prepared on Behalf of Mr. John Kennedy

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Client	Mr. John Kennedy
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Author	Jaquelin Clay BSc MSc CMLI FAE

1.0 INTRODUCTION

1.1 I am Jaquelin Clay BSc MSc CMLI FAE. MY background and experience can be found in the July 2019 I reported to Mr John Kennedy. This was written in response to technical submissions supporting proposals to redevelop land at 55 Fitzroy Park. In the initial report I set out four concerns I had about the development proposals. These are:

- The baseline ecological value of the site, the sufficiency of information provided and the reported improvement in ecological value were the development to be approved;
- The landscape/townscape quality of Fitzroy Park and the extent to which the proposals are in keeping with this;
- The accuracy of the information supplied in the 14 May 2019 report on Open Space Assessment by Land Use Consultants (LUC);
- The relationship of the proposals to adjacent Metropolitan Open land and whether they cause harm to it.

1.2 In March 2020, I was provided with material supplied by consultants to the applicant. These consisted of a short-written response to queries by the London Ecology Unit and a revised landscape strategy plan. The written response addressed issues raised by the London Ecology Unit in relation to the sufficiency of ecological information provided. The landscape strategy plan showed minor revisions to the landscape proposals shown in the Design and Access Statement submitted with the application.

1.3 I set out my detailed responses to the two items in the following sections, but in summary I have found that:

- LUC have still not demonstrated that there is sufficient ecological information provided to meet the necessary tests the local planning authority must apply to any planning application;
- The landscape strategy plan only shows minor design alterations and addresses none of the points I raised earlier;
- There has been no updating to correct the inaccuracies in the original Open Space Assessment.

1.4 I was assisted in the analysis by Elizabeth Burtenshaw BSc CIEEM CEnv, a Chartered Ecologist and Jane Hart BSc (Hons) DipLA CMLI, a Chartered Landscape Architect.

2.0 ECOLOGY – Ecology Survey Review

Introduction

2.1 JFA Environmental Planning were asked to assess LUC's responses to London Borough of Camden's (LBC) questions by Mr Kennedy a concerned resident living near the scheme. Two of the four questions posed by LBC and answered by LUC caused concern: questions 3 & 4. Our analysis is as follows and has found that the applicant has failed to supply to the local authority sufficient information on the presence and therefore the extent to which protected species would be affected by the development. If LBC were to grant planning permission, they would not have met their statutory requirements in this regard, because the information on species is not complete. There is uncertainty as to whether bats or great crested newts are present in suitable locations near to or within the development site which could be affected by the development."

LBC Question 3: "Bats - Not all areas of site surveyed for roost/emergence potential"

2.2 LUC have provided evidence that the buildings on site were adequately surveyed. However, survey information is lacking regarding trees on site with bat roosting potential.

2.3 LUC identified five trees with high bat potential. The criteria LUC provided in Table 2.1 for high potential is *"A structure or tree with one or more potential roost sites that are obviously suitable for use by large numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat."* Therefore, a tree with high bat potential has been assessed as having a reasonable likelihood of supporting a bat roost of high conservation value such as a maternity roost.

2.4 Two of the five trees were surveyed, and brief details were given of the potential roost feature present: *"A small number of trees within the Site were identified as having High Bat Roost Potential. The majority of these are to be retained under the current scheme, however, a small group of ivy-covered trees adjacent to the tennis courts will be removed and were therefore subject to emergence/re-entry surveys."* No details were provided by LUC of the potential roost features identified on the three other high potential trees.

2.5 One of the three un-surveyed high potential trees, on the western boundary, is within 3m of a proposed house, therefore if a roost is present it could be indirectly harmed by

works activity or lighting resulting in disturbance. The other two trees are ~10m from the nearest works and are not anticipated to be affected. The issue of disturbance to this one un-surveyed tree is of particular concern because there is a reasonable likelihood that a bat roost may be present that supports large numbers of bats on a regular basis.

Conclusion:

- 2.6 Further surveys of the high potential, currently un-surveyed tree on the western boundary need to be undertaken to determine if a bat roost is present. Details of the potential roost features must also be provided.
- 2.7 The current survey effort is not adequate to supply the local authority with the information needed to ensure that they have sufficient information on the use of the site by bats. As the information is not complete any effects on roosting bats from the development are uncertain. Without this information, LBC are unable to ensure that such effects are effectively mitigated. A fundamental uncertainty remains as to the use of the site by bats, a species protected under EU and National Legislation.

LBC Question 4: “Great crested newts – although pond sampling was provided, this only confirms the absence of newts from the water body. Not all habitats beyond the site boundary has been acknowledged in the EA. Given to the proximity to the heath I would hope to see this covered”.

- 2.8 LUC’s response covered the site interest for great crested newts (GCNs), the wider landscape interest and the Natural England Risk Assessment. The information provided in terms of site interest is considered adequate. There were inadequacies identified in terms of the wider landscape interest and the risk assessment as detailed below.

Wider Landscape Interest - LUC are relying on anecdotal evidence.

- 2.9 LUC own statement in their response confirms that optimal habitat for great crested newts is available within the wider area: “The Site is functionally connected to Hampstead Heath which supports optimal habitats for great crested newts and that within this area there are several large ponds.”
- 2.10 LUC then only provides anecdotal evidence that the ponds are unsuitable due to the presence of fish and recreation. This must be backed up by habitat suitability index of the five ponds within 250m to provide quantitative evidence that the ponds are not suitable.

- 2.11 LUC's response also states: *"This assertion is supported by the lack of records in this area."* To support this statement evidence must be provided that the ponds on Hampstead Heath have been previously and sufficiently surveyed for great crested newts, as lack of records can often be a result of lack of surveys in an area rather than the absence of a species.

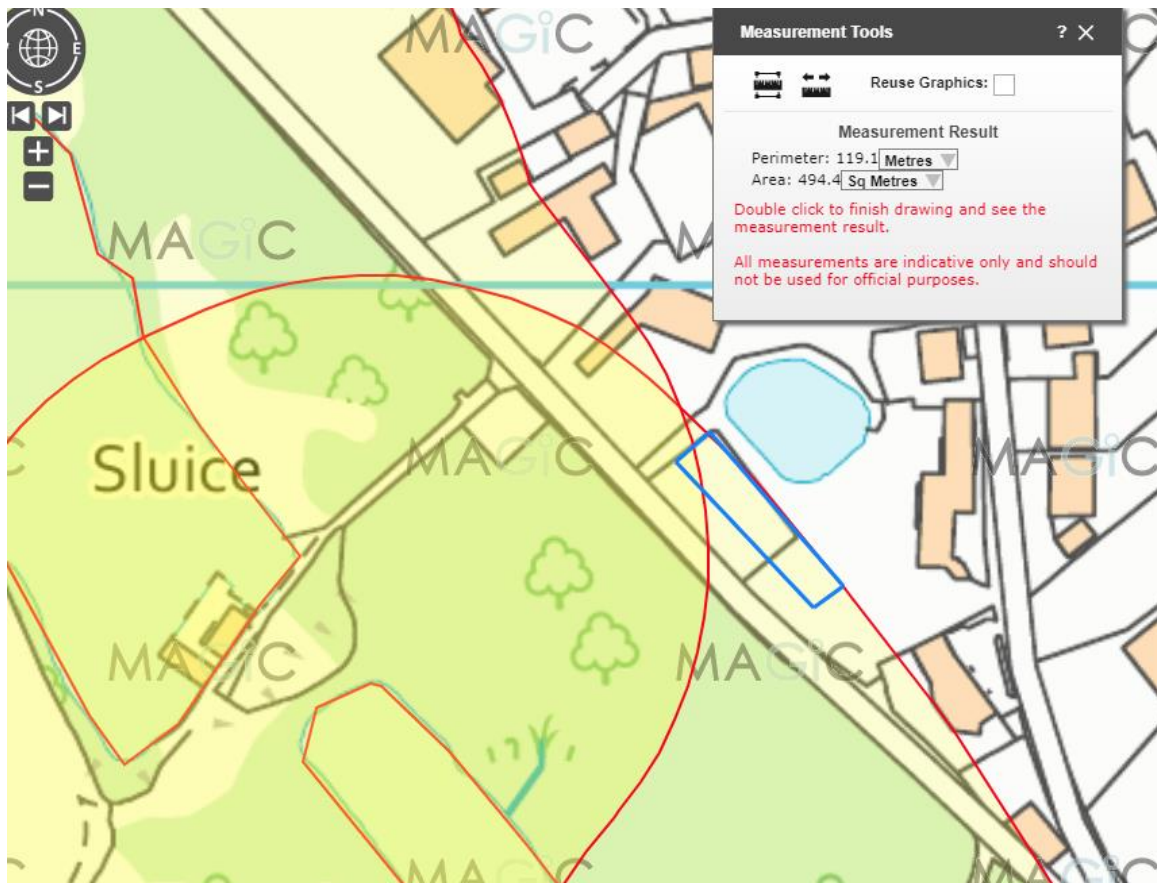
Risk Assessment - LUC has mis-used the risk assessment tool.

- 2.12 LUC has also justified their approach using the Natural England risk assessment tool. However, the figure they have inputted for ponds within 100m is too low and instead of 0.001-0.01 ha lost or damaged they should have entered the next category 0.01 -0.1 ha lost or damaged (see map below). This would have produced an amber result, offence likely. This would have required further assessment of the ponds offsite to ensure a breeding pond was not within 250m.

Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	0.01 - 0.1 ha lost or damaged	0.3
Land 100-250m from any breeding pond(s)	No effect	0
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
	Maximum:	0.3
Rapid risk assessment result:	AMBER: OFFENCE LIKELY	

Conclusion:

- 2.13 As a minimum, scores from a habitat suitability assessment are required to justify that the five ponds within 250m of the site are unsuitable to support GCN rather than anecdotal evidence.
- 2.14 Just as in the conclusion on bats above- the applicant has failed to provide the LPA with sufficient information (in the form of surveys and the correct use of risk assessment tools) to ensure that any harm to great crested newts, a specially protected species, is sufficiently mitigated.



Defra Magic map with 100m buffer on the closest ponds (in red). The blue area approximates land to be loss of damaged within 100m of the two nearest ponds = 500m² or 0.05ha will be lost or damaged (in blue).

3.0 LANDSCAPE – Comparison Between DAS and Latest Iteration of the Landscape Masterplan

- 3.1 Due to the illustrative nature of the proposals it is difficult to ascertain detailed (and quantitative) differences. The reduction in hard standing could be quantified with soft and hard landscape proposal drawings 7122-200 and 7122-400 in DWG format.
- 3.2 It appears the proposed footprint of development has remained largely the same with some minor changes to the site frontage. The driveways have been reduced and the parking bays have been changed to incorporate a softer approach with an area of amenity grassland and in some cases, a wider area of vegetative buffer between the housing plots.
- 3.3 The Fitzroy Park frontage to the revised proposals has more amenity grassland and shrub planting and the area of hard surfacing visible has been reduced accordingly. However, an additional vehicular access is shown.
- 3.4 These changes are described below:

Area	Landscape Masterplan Drawing 7122-010 AB Compared to Illustrative Masterplan 13529-55 FP DAS
Entrance from Fitzroy Park	<p>Reduced amount of car parking and boundary wall replaced with softer edge treatment with increased amenity grassland and internal shrub and herbaceous planting and an additional tree.</p> <p>Boundary wall replaced with timber fence within hedge planting to increase buffer to No 53.</p> <p>Bin store for plots 4 and 5 is now shown located closer to site entrance rather than set back to northern boundary.</p>
Fitzroy Park Road Frontage	Driveways reduced in width and additional vehicular entrance to Plot 1 shown.
Plot 1	<p>Plot entrance is now from Fitzroy Park and separate from vehicular access to Plots 4 and 5.</p> <p>Bin store moved from frontage to northern boundary.</p>
Plot 2	Hardstanding reduced to include area of amenity grassland.
Plot 3	<p>Car parking area/hardstanding reduced to include area of amenity grassland.</p> <p>Structure planting shown behind southern edge of bin store widened.</p>

Area	Landscape Masterplan Drawing 7122-010 AB Compared to Illustrative Masterplan 13529-55 FP DAS
Orchard Area	Proposed retained and reinstated area of orchard remains unchanged.
Plot 4	Proposals remain unchanged.
Plot 5	Proposals remain unchanged.
Pond Area	Proposals remain unchanged.