

# **LAND ADJACENT TO JACK STRAW'S CASTLE, NORTH END WAY, LONDON NW3 7ES**

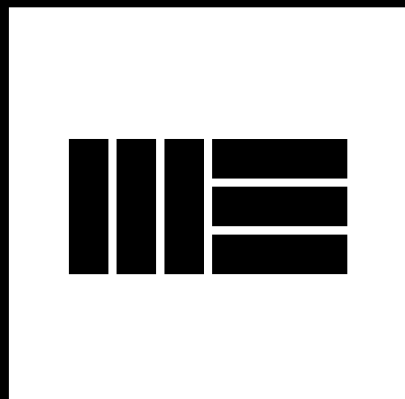
## **STATEMENT OF CASE**

**ALBANY HOMES (UK) LIMITED**

**LPA REFERENCES: 2020/1828/P & 2020/2577/L**

**MONTAGU EVANS REFERENCE: PD10193**

**OCTOBER 2020**



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# 1.0 INTRODUCTION

- 1.1 This Statement of Case (“**SoC**”) has been prepared by Montagu Evans LLP (“the **Agent**”), on behalf of Albany Homes (UK) Limited (“the **Appellant**”), in response to the London Borough of Camden’s (“**LBC**” or “the **LPA**”) decision to refuse the applications for planning permission ref. 2020/1828/P and listed building consent ref. 2020/2577/L (“the **Applications**”), relating to the land adjacent to Jack Straw’s Castle, North End Way, London, NW3 7ES (“the **Site**”). A full description of the Site and its surroundings is provided within the Planning Statement submitted with the Applications.
- 1.2 Planning permission is sought for the following development (“**2020 Proposed Development**”):
- “Erection of two three-storey (plus basement) dwellinghouses (Class C3) on west side of car park set behind associated landscaping, refuse and cycle stores and reconfigured car parking.”*
- 1.3 Listed building consent is sought for:
- “Erection of two dwelling houses on rear part of carpark as a side extension to Jack Straws Castle plus associated underpinning of adjacent basement.”*
- 1.4 The Applications were refused by the LBC on 9<sup>th</sup> September 2020. A copy of the decision notice is provided at **Appendix 3.0**. The LBC identify five reasons for refusal.
- 1.5 Reasons 2-5 all relate to the absence of a legal agreement to secure specific planning obligations. The informative attached to the decision states that *“without prejudice to any future application or appeal, the applicant is advised that reasons for refusal numbered 2 - 5 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable”*.
- 1.6 The Applicant does not contest any of the above matters and would be willing to enter into a Section 106 Agreement with LBC to secure all obligations. Following submission of this Appeal, the Appellant intends to liaise with LBC to draft a S106 Agreement.
- 1.7 Reason for Refusal 1 (**RfR1**) stated:
- The proposed two houses, by virtue of their overall bulk, massing, height 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.*
- 1.8 A similarly worded reason for refusal was given to listed building consent ref. 2020/2577/L (**Appendix 4.0**).
- 1.9 The Delegated Report for 2020/1828/P and 2020/2577/L is provided at **Appendix 5.0**.

## **Purpose of Statement**

- 1.10 This SoC herein addresses RfR1.
- 1.11 The SoC comprises the following sections:
- Section 2 identifies the relevant planning history of the Appeal Site;
  - Section 3 identifies the proposed development;
  - Section 4 identifies the national and local planning policy documents;
  - Section 5 provides a planning assessment of the Appeal Proposal; and
  - Section 6 provides a conclusion to this Statement.

- 1.12 The SoC should be read in conjunction with the suite of planning application submission documents.
- 1.13 This SoC and the documentation submitted with the Applications demonstrates the 2020 Proposed Development accords with 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. It also satisfies the statutory duties contained within sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### **Procedural Matters**

- 1.14 This SoC is prepared in accordance with the Planning Inspectorate Procedural Guide: Planning Appeals – England (dated July 2020).
- 1.15 The Appellant is seeking to appeal the decision to refuse the Applications using the hearing procedure.
- 1.16 The Site has a complex planning history (see **Section 2.0**) and the acceptability of the 2020 Proposed Development resides in the qualitative judgement of professionals. It is considered that a hearing is necessary to test and explore some of the written evidence presented within the Application and this SoC.

## 2.0 RELEVANT PLANNING HISTORY OF THE APPEAL SITE

- 2.1 The Planning and Heritage Statement submitted with the Applications provides a full explanation of the Site planning history. We set out below an overview of the salient matters.

### **The Site**

- 2.2 The Site boundary comprises the car park adjacent to Jack Straw's Castle, a Grade II listed building constructed in 1962-4 to designs by the well-respected architect Raymond Erith. Built as a public house, it replaced an earlier pub and hotel on the same site damaged in WWII.
- 2.3 Jack Straw's Castle was listed at Grade II in 1974.

### **Residential Conversion of JSC**

- 2.4 Planning permission and listed building consent<sup>1</sup> was granted by the LBC in 2002 for the conversion of JSC for residential use.
- 2.5 The planning permission and listed building consent included the erection of a two storey rear extension to JSC. The extension raised the rear bay of the north façade by a storey and added the crenellations. The lower storey was rendered.

### **2003 and 2004 Proposals**

- 2.6 Two successive proposals for the erection of a 2 storey dwelling house on the Site were refused by the LBC in 2003<sup>2</sup> (the '2003 Proposal') and 2004<sup>3</sup> (the '2004 Proposal').

*"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".*

- 2.7 The design-related reason for refusal of the 2003 Proposal and 2004 Proposal stated, inter alia, the size, height, bulk, location and detailed design, and the 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 street scene and from the Heath, and to the character and appearance of this part of the conservation area.
- 2.8 An appeal of both the 2003<sup>4</sup> Proposal and 2004<sup>5</sup> Proposal was dismissed by the Planning Inspectorate.
- 2.9 The Inspector for the 2004 appeal stated:

*"it would be wrong of me to suggest that no further development should take place in the car park as I can never know what ideas an imaginative architect, perhaps one as skilled as Erith, might dream up. However, it is evident to me that to arrive at an acceptable solution for an extension to the north of this remarkable building would require exceptional skills".*

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<sup>1</sup> PWX0102190 / LWX0102191

<sup>2</sup> PWX0302151 / LWX0302156 (April 2003) and 2003/1396/P / 2003/1397/L (September 2003)

<sup>3</sup> 2004/0705/P / 2004/0707/L

<sup>4</sup> APP/X5210/A/03/1124778/ APP/X5210/E/03/1124779 (April 2003) and APP/X5210/A/03/1124780/ APP/X5210/E/03/1124781 (September 2003)

<sup>5</sup> APP/X5210/E/04/115128

## 2017 Applications

- 2.10 An application for planning permission and listed building consent (ref. ) was submitted on 10 April 2017 (the 2017 Application<sup>6</sup>) to LBC for:

*“Erection of two x 4 bedroom 3 storey plus basement residential dwelling houses on rear part of carpark, including associated landscaping and cycle storage. “*

and

*“Underpinning of adjacent basement of existing building in association with erection of two x 4 bedroom 3 storey plus basement residential dwelling houses on rear part of carpark.”*

- 2.11 The Twentieth Century Society, Historic England, Ken Powell, Alan Powers and Lucy Archer (daughter of Raymond Erith) objected to the 2003 and 2004 Proposals; all stakeholders wrote in support for the 2017 Application and considered it addressed the previous heritage concerns.
- 2.12 The LBC failed to determine the 2017 Application and an appeal (the ‘2019 Appeal’<sup>7</sup>) was lodged under non-determination by the Applicant. The LBC subsequently issued a decision on 3 May 2019 stating that the 2017 Application would have been refused for the principal reason:

*“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.”*

- 2.13 The Application was formally withdrawn by the Applicant prior to being reviewed by the Planning Inspectorate in order to continue discussions with the Council and resolve the outstanding issue in relation to design. Those discussions are outlined at **Section 3.0** of this SoC.
- 2.14 On 13 April 2017, the Appellant submitted a planning application<sup>8</sup> to vary condition 4 of the 25 July 2002 planning permission which permitted the conversion of JSC to residential use. The variation in condition sought to reduce the size of the car park and provide only seven car spaces. This application was withdrawn alongside the 2017 Applications in order to continue discussions with the Council and resolve the outstanding issue in relation to design.

## 2002 Garage Demolition

- 2.15 It is material to the determination of this appeal that garages on the Site were consented<sup>9</sup> in 1970, implemented and subsequently demolished to facilitate the implementation of the 2002 scheme.
- 2.16 The approved drawings for the 2002 scheme demonstrates that permission was also granted for the garages’ rebuilding.
- 2.17 The 2002 planning permission and listed building consent has been lawfully implemented, thus the garages may be reconstructed, reinstating a structure in this location. The approved garages would occupy a smaller site footprint than the proposed dwellings, although would cut across the divide between the rear section of the building and the main building clad in weatherboard. The garages prior to their demolition is illustrated in Figure 16 of the Planning and Heritage Statement submitted with the 2020 Proposed Development.

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<sup>6</sup> 2017/2064/P and 2017/22111/L

<sup>7</sup> APP/X5210/W/3208686

<sup>8</sup> 2017/2171/P

<sup>9</sup> 14121

# 3.0 EVOLUTION OF 2017 APPLICATION TO 2020 PROPOSED DEVELOPMENT

- 3.1 The 2003 Proposal and 2004 Proposal were both refused at appeal.
- 3.2 The 2017 Application marked a step change in the design approach, which was informed by the reasons for refusal identified by the 2004 Inspector.
- 3.3 The evolution of the 2017 Application concept to the 2020 Proposed Development is set out below.

## **Architect Appointment**

- 3.4 The architect appointed to prepare the 2017 Application and this appeal was Quinlan Terry CBE, one of the country's leading classical architects, one who is internationally known. Mr Terry was trained by Erith himself and was in the office at the time Erith had Jack Straw's Castle on the drawing board.
- 3.5 The proposals, thus, tell a story about the continuing tradition of new classical architecture. This is an unusual case, we believe, where the architect's identity is a material consideration of weight. Indeed, he is 'an imaginative architect, perhaps one as skilled as Erith', as envisaged by the 2004 Inspector.

## **Response to 2003/2004 Appeal Schemes**

- 3.6 The Planning and Heritage Statement identifies four key differences between the 2017 Application and the 2003/2004 Proposal.
- The houses are not designed to be read as an extension to the building but rather as a structure with its own identity and complimenting the listed building. It forms its own standalone design allowing the listed building to read as its own entity;
  - The houses are a wholly different architectural style with the use of classical architectural language clearly distinguishing them from the building and providing a contextual response to the wider area. The design responds to the Georgian architecture of the area and proposes different building materials;
  - The houses step back from the main body of the listed building, sitting over the line of the altered north bay (as opposed to the north end of the main building). This preserves the integrity of the main building and can be read as a distinctly separate mass; and
  - Retains the existing car park levels and open view towards the building as opposed to complete or part covering the car park.

- 3.7 The 2017 Application was designed to address the shortcomings of the earlier schemes though the use of a distinctively different architectural treatment that is still in keeping with the style of the main building. It sought to respect the form of the existing JSC building and to not encroach on its main elements on the north side and preserve the sense of openness. It also included landscape improvements.

## **2016 LPA Discussions**

- 3.8 Pre-application meetings for the 2017 Application were held with the LBC on 22 March and 30 June 2016. Written advice was provided on 17 January 2017 following the submission of further information. Officers confirmed at this stage that the principle of development could be supported, based on the submitted design and progress with stakeholders.
- 3.9 Based on officer feedback, the proposals were changed from three to two houses, private amenity space provided and the appearance of the front elevation altered.

## Stakeholder Consultation

- 3.10 Mindful of the heritage sensitivities and planning history of the Site, heritage stakeholders were formally engaged during the pre-application process for the 2017 Application. The Twentieth Century Society, Historic England, Ken Powell, Alan Powers and Lucy Archer (daughter of Raymond Erith) objected to the 2003 and 2004 Proposals. All wrote in support for the 2017 Application and considered the proposals addressed the previous heritage concerns.

## Response to 2017 Applications

- 3.11 The 2020 Proposed Development seeks to retain the principles of the 2017 Application, whilst addressing the concerns of the LBC relating to overall bulk, symmetrical form and perceived incongruous detailed design.
- 3.12 The key changes between the 2017 Application and the 2020 Proposed Development comprise:
- A shift in architectural design to create two distinct properties, as opposed to a paired terrace;
  - Separate roof profiles for each property;
  - Repositioning of windows on all elevations and new balcony arrangement;
  - Revised architectural detailing to eaves, front doors and stone architrave; and
  - Revised internal layouts of residential units.
- 3.13 The 2020 Proposed Development was informed by the existing properties on the south side of Jack Straw's Castle, including the Old Court House. These were previously identified by the LBC officers to provide a good contextual reference.

## 2019 LB Camden Consultation

- 3.14 The revised proposals were presented to the LBC in July 2019. On a without prejudice basis, the LBC considered that the revised design was a material improvement to the 2017 Application, although requested further visual information.
- 3.15 The Applicant subsequently commissioned AVR London to prepare a verified view of the 2020 Proposed Development from the key approach view travelling south along North End Way. The view demonstrates that the 2020 Proposed Development is no longer symmetrical and that, in our judgement, the previously perceived bulk has been alleviated. The detailed design has been altered to align with the variety of houses to the south.
- 3.16 The additional information was issued to the LBC on 7th January 2020 prior to submission of the planning application. The specific objective was to understand whether the LBC felt the 2020 Proposed Development addressed previous concerns and that it could be supported.
- 3.17 An email response from the case officer (copying in the design officer) was issued on 31st January 2020 to Montagu Evans. It is understood that the four week period to provide this response was attributed to an "internal review" of the design e.g. the subsequent response was not the view of two individual officers but a collective response from the LBC.
- 3.18 The LBC confirmed the previous concern had been addressed and the 2020 Proposed Development was acceptable on balance (see **Appendix 2.0**), subject to one proviso [our emphasis]:

*Nick and I have now discussed this revised design and supporting helpful images. We feel that on balance **it addresses our concerns** in making the 2 houses more articulated and asymmetrical with a varied roofline and design approach. Thus we are prepared to now **support the revised scheme in principle subject to the following proviso**.*

*However we are not happy about the number of windows on the end flank wall which seems excessive and results in a very busy facade and in potentially unusable rooms- for instance the bedrooms have 2 windows each and the living room has 4 windows. It is not characteristic to have a triple aspect end of terrace house with such windows on a flank wall and we would prefer to have blind window recesses on a blank gable wall.*

- 3.19 *I would be grateful if you reconsider this aspect before submitting an application.*



- 3.20 The submitted application has omitted the windows on the end flank wall and these have been replaced by blind windows. The verified view was updated by AVR London and was included within the Applications.

## 4.0 LEGISLATIVE AND PLANNING POLICY CONTEXT

- 4.1 The Planning and Heritage Statement prepared for the 2020 Proposed Development identified relevant legislation, development plan policy and national policy. The identified legislation and policy remains extant.
- 4.2 Accordingly, we do not repeat the relevant legislation or policy verbatim, but outline the key provisions in **Table 1**, **Table 2** and **Table 3**.
- 4.3 There are a number of supplementary planning guidance documents (SPGs or SPDs) produced by the GLA and LBC that support the Development Plan policies. Of particular relevance to this Appeal is the CPG Housing (2019), CPG Interim Housing (2019), CPG Design (2019), CPG Amenity (2018), CPG Basements (2018) and CPG Transport (2019).
- 4.4 The Mayor submitted the 'Intend to Publish' London Plan to the Secretary of State in December 2019, with the SoS directing a number of changes to the draft policies in its response of March 2020. The drafting of the 'Intend to Publish' London Plan does not materially change the principle to preserve or enhance heritage assets.
- 4.5 The key provisions and material considerations have been duly considered in undertaking the assessment of the 2020 Proposed Development and in preparing this Statement.

*Table 1 Legislation*

Legislation	Key Provisions
Planning (Listed Buildings and Conservation Areas) Act 1990	16(2) (Special Interest of Listed Buildings) 66(1) (Setting of Listed Buildings) 72(1) (Conservation Areas)

*Table 2 Statutory Development Plan*

Development Plan Policy Document	Key Provisions
London Plan (2016)	7.4 (Local Character) 7.6 (Architecture) 7.8 (Heritage Assets and Archaeology)
London Borough of Camden (2017)	D1 (Design) D2 (Heritage)
Hampstead Neighbourhood Plan (October 2018)	DH1 (Design) DH2 (Conservation areas and listed buildings)

*Table 3 National Planning Policy Framework (2019)*

National Policy Document	Key Provisions
National Planning Policy Framework (2019)	<b>Chapter 12</b> (Achieving well-designed places) Paragraph 127 Paragraph 128 Paragraph 129 Paragraph 130 Paragraph 131 <b>Chapter 16</b> (Conserving and enhancing the historic environment) Paragraph 189 Paragraph 190 Paragraph 192 Paragraph 193-6 Paragraph 197

# 5.0 APPELLANT'S CASE AGAINST REASONS FOR REFUSAL

## Principle of Development

5.1 The proposals have been subject to pre and post application consultation with the LBC. Officers have at no point taken issue with the principle of the development on the Site.

5.2 The formal pre-application response by the LBC to the 2017 Application recognised:

*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."*

5.3 The senior planning officer involved with the 2017 application, Mr Thuairé, advised that the proposals had to be materially different to those submitted in 2003 and 2004.

## The Architect

5.4 The Inspector for the appeal of the 2004 Application (see **Section 2.0**) left the door open, so to speak, for a new proposal on the Site. He stated that an imaginative and skilled architect may design an acceptable solution.

5.5 The architect of the this 2020 Proposed Development, Mr Quinlan Terry CBE, was in the office of Mr Raymond Erith, the architect of the listed building, at the time of its design. Both are distinguished and highly regarded architects.

5.6 To have the one working next to the other is of historic interest in itself, and should the Appeal be allowed, and the two houses constructed, then that will add to the historical narrative of the Site and the adjacent listing.

5.7 Such examples are rare, and we can think of only one other in the LBC, and one of our projects, the British Museum. Here Montagu Evans achieved consent for the Great Court designed by Norman Foster. More recently, Montagu Evans achieved consent for the World Conservation and Exhibition Centre, by Richard Rogers.

5.8 Mr Terry remembers the scheme from the time when he started working in Mr Erith's office, and so was keen to consider the project, but not before he sought the opinion of Mr Erith's daughter, Lucy Archer. She wrote in support of him accepting the instruction and has subsequently written in support of both the 2017 Application and the revised 2020 Proposed Development (**Appendix 8.0**).

5.9 If the Appeal is allowed, we can imagine a future edition of the Buildings volume for London: North for the site adapted to read (our surmised text in bold):

*Elsewhere around the top of the hill are more isolated buildings. N of the Whitestone Pond at the crossroads, JACK STRAW's CASTLE. The famous pub was destroyed in the Second World War and rebuilt in 1963-4 by Raymond Erith in Georgian Gothick: a timber framed building with white boarding, crenellations, and pretty intersecting Gothic glazing bars, but on a scale that is unmistakably C20. **To the side of Erith's design is an elegant pair of houses, cast in the mid C18 manner, faced in brick with pretty porches. These are the work of Quinlan Terry CBE, who worked with Raymond Erith since 1962 when the design for Jack Straw's Castle was on his master's drawing board.***

5.10 We do not think there can be any doubt but that Mr Terry is an architect of such acknowledged skill. For all that, his proposals, before the Inspector, are simple in their conception. We return to the weight which we consider should be given that decision, later, after our discussion of statutory and policy matters.

## Statutory and Expert Consultees

- 5.11 This case is unusual in another respect. The proposals, over the course of their design development, have met with a chorus of approval from statutory and expert consultees.
- 5.12 Historic England, in its pre-application consultation response of 21 October 2016, noted that the 2017 Application was “unlikely to significantly impact on the setting” of Jack Straw’s Castle.
- 5.13 Historic England noted “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.”
- 5.14 Historic England also considered the existing hardstanding car park and parked cars to detract from the character of the Conservation Area. A revised landscaping strategy had the opportunity to enhance the character of JSC.
- 5.15 The Twentieth Century Society, in its consultation response of 12 October 2016, noted that it had no objection to the 2017 Application.
- 5.16 Mr Ken Powell, an architectural critic who has published several books on Twentieth Century architecture, in his response of 5 October 2016, noted that the two 3-bay houses adjacent to Jack Straw’s Castle is entirely acceptable and complements its architecture.
- 5.17 Alan Powers, a leading commentator on Twentieth Century architecture whom appeared as an expert witness for the Twentieth Century Society in the Public Inquiry over the change of use to residential in 2002, provided a letter of support, noting that the proposed houses would make a positive contribution to the existing building and will not compete with the existing elevations or scale of JSC. It was considered the late Georgian style was characteristic of Hampstead and the group of buildings to the west.
- 5.18 Lucy Archer (**Appendix 8.0**), Alan Powers (**Appendix 9.0**) and Ken Powell (**Appendix 10.0**) have written again in support of the revised 2020 Proposed Development.
- 5.19 Historic England are a statutory consultee to this application, although it is understood were not consulted by the LB Camden during the determination process. Historic England may be reengaged as part of the appeal process.
- 5.20 The Twentieth Century Society were approached by the Appellant team to review the revised 2020 Proposed Development, although did not reply.

## The Statutory Provision, the Development Plan and Material Considerations

- 5.21 The various planning considerations outlined in **Section 4.0** that apply in this case all find their way back to a single question. Do the proposals undermine the historic or architectural interest of the designated assets, the listed building and the Hampstead Conservation Area?
- 5.22 The Inspector will be familiar with these provisions. There is a strong presumption against causing harm to the special interest of a listed building or its setting or to the character of appearance of a conservation. It is now well established that unless setting is designated in its own right, it is not an asset and hence impact on it, or even harm to it, does not violate the terms of section 66 (1) and reasoning by parity nor would it likely violate the terms of section 72 (1)
- 5.23 Change in itself is not seen as harmful – this is trite planning but needs restating in cases like this. What matters is the nature of the change, its scale, character and appearance.
- 5.24 It is accepted that a setting element can make a positive, negative or neutral contribution to the ability to appreciate significance

- 5.25 There is a strong presumption against the grant of any consent which causes harm to a designated asset, but one capable of being rebutted through the terms of policy.
- 5.26 Paragraph 189 of the NPPF requires decisions to be taken on the basis of proportionate understanding of an asset's significance. **Section 5.0** of the Planning and Heritage Statement submitted with the main application defines the special interest of the listed building and Conservation Area.
- 5.27 Paragraph 193 of the NPPF imports the strong presumption in statute into national policy and applies to the concept of conservation. This is defined as being both the avoidance of harm and/or the delivery of enhancement where appropriate.
- 5.28 If the Inspector finds any harm in this case – and the Appellant concludes firmly there is not – then on any reasonable basis it would be at the lower end of less than substantial. In accordance with paragraph 196 of the NPPF the proportionate harm “should be weighed against the public benefits of the proposal”.
- 5.29 In cases of either substantial or less than substantial harm, paragraph 194 advises the grant of consent only where there is a clear and convincing justification. It has taken another judgment to explain how one construes such a justification.
- 5.30 Gilbert J in Pugh <sup>10</sup>found that such a clear and convincing justification for less than substantial harm cases comprised the balance of planning benefits set out in paragraph 196. The decision maker does not, then, need to consider in 196 cases whether the applicant has explored other forms of development to identify a less harmful one. The decision has merely to weigh up the balance of planning benefits if 196 is engaged and so see where the balance falls. Paragraph 193 does not create a freestanding test beyond paragraph 196.
- 5.31 Those benefits may include benefits to the affected asset or another heritage asset, which could here be the Conservation Area itself by virtue of rationalising the existing surface level car park and instating residential dwellings of high quality that are informed by the architectural appearance of nearby listed properties.
- 5.32 The provision of additional dwellings is a land-use planning benefit to be taken into account and given weight if the Inspector finds any harm to designated assets.
- 5.33 The scheme will also provide economic activity and construction jobs, particularly in terms of specialist skills involving works to listed buildings.
- 5.34 Policy D1 and D2 of Camden's Local Plan and DH1 and DH2 of the Hampstead Neighbourhood Plan are the policies which are relevant to RfR1. Their drafting is aligned with the NPPF.

### **Design Approach**

- 5.35 The design rationale by Mr Terry for the 2017 Application and the revised 2020 Proposed Development is provided at **Appendix 1.0**.
- 5.36 We summarise below the design approach and our judgement in relation to the impact to the identified heritage assets.
- 5.37 The concept for the 2020 Proposed Development derives from an intimate understanding of the listed building and its surrounding context. As well as being in partnership with Raymond Erith, Mr Terry spent much of his younger years living in a Georgian house located in the Hampstead Conservation Area.
- 5.38 Mr Terry used his extensive knowledge to analyse the buildings both in close proximity to Jack Straw's Castle and the wider Hampstead Conservation Area. He reasoned that the proposals should be treated as part of the sequence of building to the south of JSC. He then resorted to local examples of informal, vernacular Georgian building, and used that as the model for the proposed pair of houses.

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<sup>10</sup> Richard Hackett Pugh v SoS for DCLG [2015] EWHC 3

- 5.39 It is noted that the 2017 Application was conceived as a Georgian terrace. The symmetry and perceived 'urban' appearance of this terrace design was resisted by the LBC and formed the basis of the previous refusal. A terrace, it was suggested, is an urban form and the location is semi-rural, a wild piece of public open space.
- 5.40 It is our judgement that the Georgian terrace was not a quintessentially urban form at all. It is found in cities, in villages, in hamlets (sometimes several small terraces) and in suburban locations too. Indeed, the Hampstead Conservation Area itself has notable examples of terraced development. Of note, is the 1930s terrace at Nos. 1-3 Willow Road by Erno Goldfinger. The design caused outrage at the time due to its progressive architectural style as opposed to terraced form, but is now owned by the National Trust, and listed at Grade II\*.
- 5.41 Indeed, Jack Straw's Castle itself was originally labelled 'bogus' and incorrect' by commentator at the time of design and construction, as outlined in an extract from The Builder in 1964 (**Appendix 6.0**). A further extract from the 1962 London County Council records shows that Hampstead Metropolitan Borough Council objected to JSC based on its appearance (**Appendix 7.0**); however, the scheme was approved by the Town Planning Committee following consultation with the Royal Fine Art Commission.
- 5.42 The drafting of the RfR1 here, relative to the 2017 Application, is notable. The reason for refusal of the 2017 Application made no reference to massing or height. Indeed, this is odd as a matter of consistency, as the 2020 Proposed Development is lower in height than the 2017 Application and the varied height and architectural appearance reduces the overall perception of mass.
- 5.43 Notwithstanding, the 2020 Proposed Development sought to retain the principles of the 2017 Application, whilst addressing the concerns of the LBC relating to overall bulk, symmetrical form and perceived incongruous detailed design.
- 5.44 In particular, Mr Terry introduced variation in both roofscape and architectural design of the individual houses, including window design and roof form. This reflects a collection of listed buildings adjoining JSC to the south and which already form part of its setting. The whole thus forms a coherent composition.
- 5.45 The Inspector saw some virtue in the perception of the side elevation of the listed building seen rising up from the car park, referring to that positively as "playing up to the idea of a castle with battlements and a tower" (para 7, 2004 Appeal). That is certainly one way to consider the visual character of the scene at the moment, but in itself that is no barrier to change and the Inspector himself accepted that as a matter of principle, subject to a clever design.
- 5.46 In response, Mr Terry placed the proposed houses at the rear of the car park on the Site. The setback is deliberate. The proposed new party wall with the listed building is an area that has no distinguishing features and is anyway disturbed, having been subject to extension and alteration.
- 5.47 It is a material consideration to the determination of the Appeal that the planning permission and listed building consent PWX0102190 / LWX0102191 has been lawfully implemented, and the garages forming part of that application may be reconstructed, reinstating a structure in this location.
- 5.48 The set back off the main frontage will have a limited effect only on the principal views of the listed building, which are from the north and east on the main road. This is demonstrated by the verified view submitted with the Applications. The pre-submission feedback from the LBC outlined at **Section 3.0** indicated that this was a shared view between both parties at one point.
- 5.49 The proposals also occupy or are attached to a part of the elevation which has been altered variously and is not well resolved architecturally either. This is not a criticism of Erith's original design, but a consequence of piecemeal changes including the extension to the rear element, its cladding in weatherboarding and the crenellation of its top. The outline of the 1970s garages can still be viewed in the brick elevation which has also been altered to include a fire escape door, drainpipes and cable runs.
- 5.50 Where the proposals are seen in association with the principal elevation of the listed building, they will be of a subservient character and clearly differentiated from it by the use of distinctive, traditional materials. This contrast is not discordant because it falls within the range of finishes one expects to find in a traditional setting.

- 5.51 The design is also very much characteristic of housing found in the wider Conservation Area. It is in the Georgian vernacular, using traditional materials, albeit adapted to enable the provision of modern family housing. In their nature, the physical appearance of the buildings are thus complementary to the listed building, and the facing materials likewise complementary to the natural environment and landscape around the site.
- 5.52 The proposals provide a better setting treatment than exists at present and in our judgment actually increases one's appreciation of the weatherboarding and related detailed, by means of contrast. This is not discordant but complementary, similar to the effect one gets by combining different fabrics of different patterns, textures or hues.
- 5.53 The opportunity is taken, as part of the 2020 Proposed Development, to improve the boundary of the car park through appropriate landscaping, including new boundary planting and gates. The car park forming the Site is part of the listed building's setting but as noted, and on any reasonable analysis, it is not particularly attractive. It merely adjoins the listed building, at the rear, and is not well resolved architecturally.
- 5.54 The proposed landscaping comprises a benefit to the Conservation Area and to the setting of the listed building by virtue of reducing the car park's intrusiveness in the street scene. No additional car park spaces are proposed as part of the application proposals which conforms to other policies in the development plan. Indeed, the overall car parking provision would be reduced and the layout rationalised. In accordance with the Historic England advice this would further reduce the visual clutter of the cars and existing parking arrangement.
- 5.55 There is an additional conservation area point, relating to visual impact of public open space. The proposals do not sit on the public open space, which is Metropolitan Open Land, but they do affect views into and across it. On the far side of the former pub car park, which is the Site, is another car park, the visual and landscape qualities of this particular part of the open space are compromised as a result and so less sensitive to change. The LPA have confirmed in email correspondence that *"the building here will have limited impact on views from the boundaries, on account of the substantial screening by trees, intervening hard surfaced car parks and backdrop created by the existing Jack Straws building"*.
- 5.56 The presence of a new building has some benefits to the way the area is used, by increasing overlooking at this entrance area to the heath, which is understood to be menacing at times. The building does this in an understated way, and presents a traditional form and materials to the verdant landscape found nearby.
- 5.57 The 2020 Proposed Development as a whole is elegantly proportioned and attractive, and so adds a distinctive feature to the streetscene, one in proportion with and subservient to the listed building. This is a distinguished addition to the Conservation Area, providing a welcome degree of enclosure on the north side of the listed building, covering over an unattractive and poorly resolved elevation, so increasing the attractiveness of the scene.

## 6.0 CONCLUSIONS

- 6.1 It is the Appellant's case that the 2020 Proposed Development would not cause harm to the significance of the identified designated heritage assets. As a whole, the proposals satisfy the terms of sections 16(2), 66(1) and 72(1) of the 1990 Act. Camden's Local Plan policies D1 and D2 are similarly satisfied, as are the relevant policies within the Hampstead Neighbourhood Plan.
- 6.2 Equally, should the Inspector find that the 2020 Proposed Development would cause harm, it is our judgement that this would be limited to Jack Straw's Castle only and at the lower end of less than substantial under the terms of paragraph 196 of the NPPF. It is also our judgement that the public benefits arising from the 2020 Proposed Development would outweigh the perceived harm, namely:
- Deliver sustainable development of brownfield land within London, in line with the overarching approach to development outlined in the NPPF;
  - Provide two residential units which would assist in meeting the borough's housing requirements;
  - Provide market family housing, of which Camden identifies as being high priority in terms of dwelling sizes;
  - Have no adverse impacts upon the residential amenities enjoyed by the occupiers of surrounding residential dwellings;
  - Satisfy all criteria relating to quality of accommodation and residential amenity for the future occupiers of the development;
  - Provide on-site cycle parking within the Site, promoting car-free development, in line with the LPA and GLA objectives; and
  - Contribute to economic activity, especially during the construction stage, through the procurement of materials and the generation of employment opportunities in construction, including specialist skills involving works to listed buildings.
- 6.3 In addition, it is our judgement that the 2020 Proposed Development would also enhance the character and the appearance of the Hampstead Conservation Area, by virtue of rationalising the existing surface level car park and instating residential dwellings of high quality that are informed by the architectural appearance of nearby listed properties. This is a public benefit itself.
- 6.4 Accordingly, the proposals accord with all relevant adopted planning policies and associated guidance, at the local, regional and national level. For the reasons set out within this Statement, we respectfully request that this appeal is allowed, and permission granted for these proposals. The Appellant would accept the imposition of any appropriate and reasonable conditions which the Inspector deems necessary.



# APPENDIX 1.0

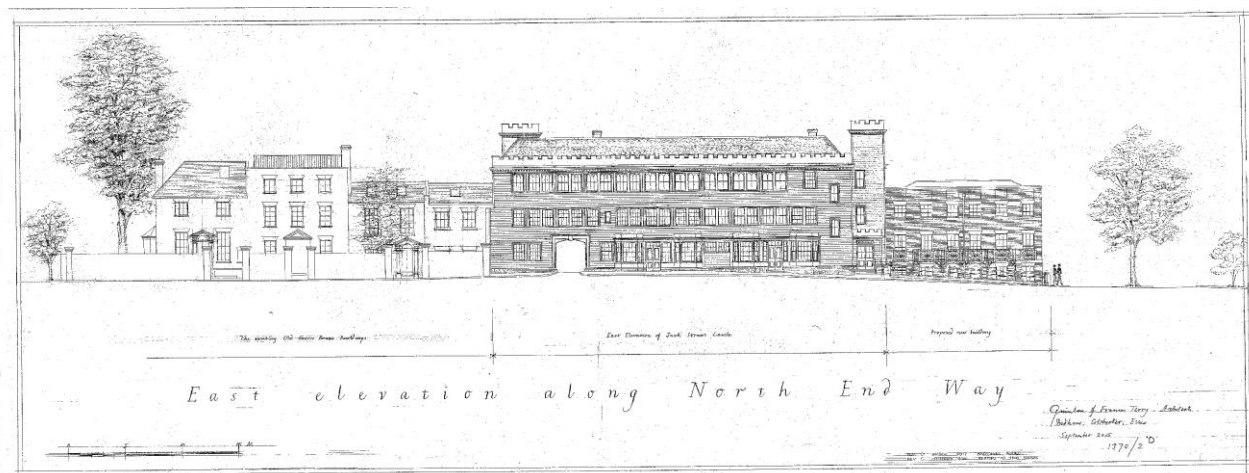
ARCHITECTURAL STATEMENT BY QUINLAN  
TERRY CBE, FRIBA

## Design for two new houses beside Jack Straws Castle Hampstead

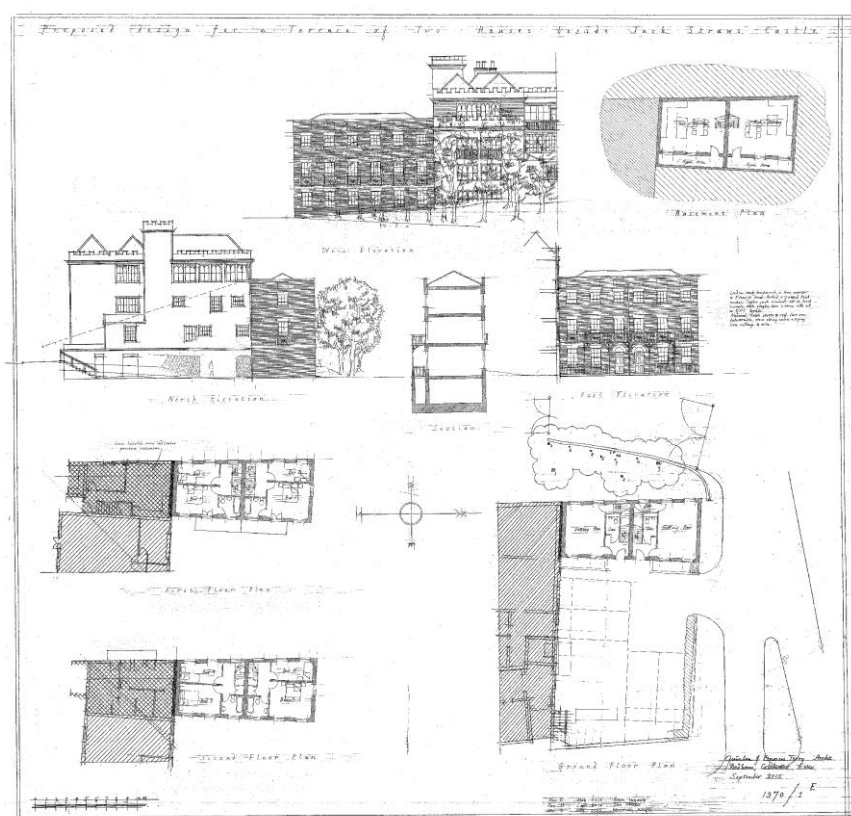
### Architectural Statement by Quinlan Terry CBE, FRIBA

It is extremely disappointing that the revised design for two new houses adjacent to Jack Straws Castle was refused planning permission following the change of opinion of a new case officer. This design had been developed in close collaboration with the planning officers at Camden Council to erect small simple houses which take their architectural language from the houses south of Jack Straws Castle and are deferential and underplayed in comparison to Jack Straws Castle itself. Far from being contrived this is the natural, simple, and straightforward approach to a design problem that my late partner Raymond Erith would have approved.

The original proposal submitted for approval in 2017 was for a pair of symmetrical houses.



Drawing 1. Elevation of 2017 withdrawn scheme



Drawing 2. Elevation, sections and plans of 2017 withdrawn scheme

Had an eighteenth-century builder built two houses in this location in a single campaign they would probably have been built in this way. Hampstead has many short symmetrical terraces which have their own character within longer terraces such as Downshire Hill, where I was born and grew up. The council criticised this approach stating that it was too urban in character and siting the Old Court House Buildings to the south of Jack Straws Castle as more characteristic of the site's semi-rural context.



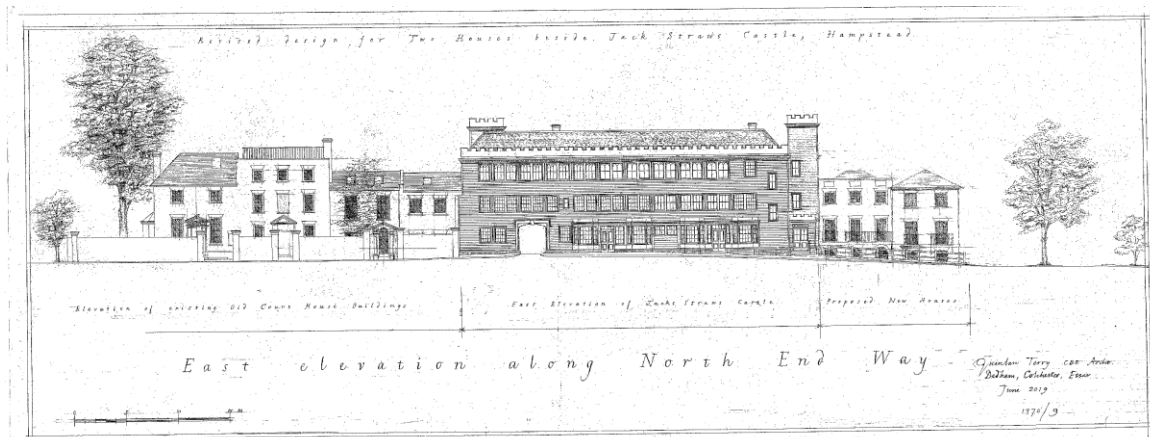
Photograph 1. Downshire Hill located within Hampstead



Photograph 2. Old Courthouse buildings south of Jack Straw's Castle

We recognised this and worked with the planning officers to revise the design to reflect the organic growth of this row of four houses which range from the early eighteenth to the early nineteenth century. The revised informality of roof line, window treatment, entrance porches and height are unified by their straight building line set back from the street and their limited palette of buff coloured bricks with soft red rubbed and gauged arches and white painted joinery.

Importantly, in line with the withdrawn application, the revised design continues to read as distinct to Jack Straw's Castle, allowing the principal listed building to be read as a single entity. The houses have their own architectural identity, albeit one complementing the eighteenth century period which inspired the listed building. This is in contrast to previous proposals refused at appeal that attempted to ape the existing building in a pastiche style and, as a consequence, read as an amorphous extension.



Drawing 3. East elevation of proposed 2020 scheme

The revised design uses the same combination of variation and unity to differentiate the two houses and continue the Old Court House theme north of Jack Straws Castle.

The key elements of variation are:

1. The roofline. The southern house has a roof behind a parapet similar to the three-storey house to the south. The northern house has a hipped roof with eaves similar to the three other houses to the south. This also helps to reduce the apparent bulk of the two new houses and adds variety to the skyline. The height of the new houses are consistently lower than the existing houses to the south and abut Jack Straws Castle about half a storey lower.
2. Window design. Both houses have characteristically large sash windows. However, the southern house has the sash box on the face of the wall while the northern house has the sash box set in behind reveals, both of which are seen on the Old Court House row. These produce markedly different effects and are characteristic of changes in fashion and legislation.

Legislation is often a factor in the appearance of buildings. In the case of the new houses balconies are required as part of the Lifetime Homes Standards and The London Housing Design Guide legislation required by The Mayor of London in a similar way to sash boxes behind reveals and party walls extending above roof lines are a result of London fire regulations seen on the Old Court House row. The style of railings is entirely consistent with the period of the late Georgian buildings in the Old Court House row.

Raymond Erith often used sash boxes on the face of buildings and was an important device in determining the early or late Georgian character of many of his buildings.

The lines of windows across the façade also step down from south to north following the slope of North End Way. The southern house is three bays wide and the northern house is two bays wide adding further variety to the elevation and is reflected in the Old Court House buildings to the south.

Criticism of the symmetrical proposal also mentioned incongruous detailed design. At a meeting with the planning officers they explained that this referred to the fact that it was unlike a Georgian terrace to have a window on the end elevation. It was pointed out that the southern elevation of the Old Court House building row had a similar arrangement, however, the point was conceded, and blind windows replaced glazed windows on the north elevation overlooking Heath Brow.

3. Door Design. The entrance doors into the houses have been designed with different architectural treatments. The southern house has a simple brick arch with a fan light and the northern house has an architectural surround. They are different to the existing Old Court House buildings but reflect the variety and inventiveness characteristic of this kind of building.

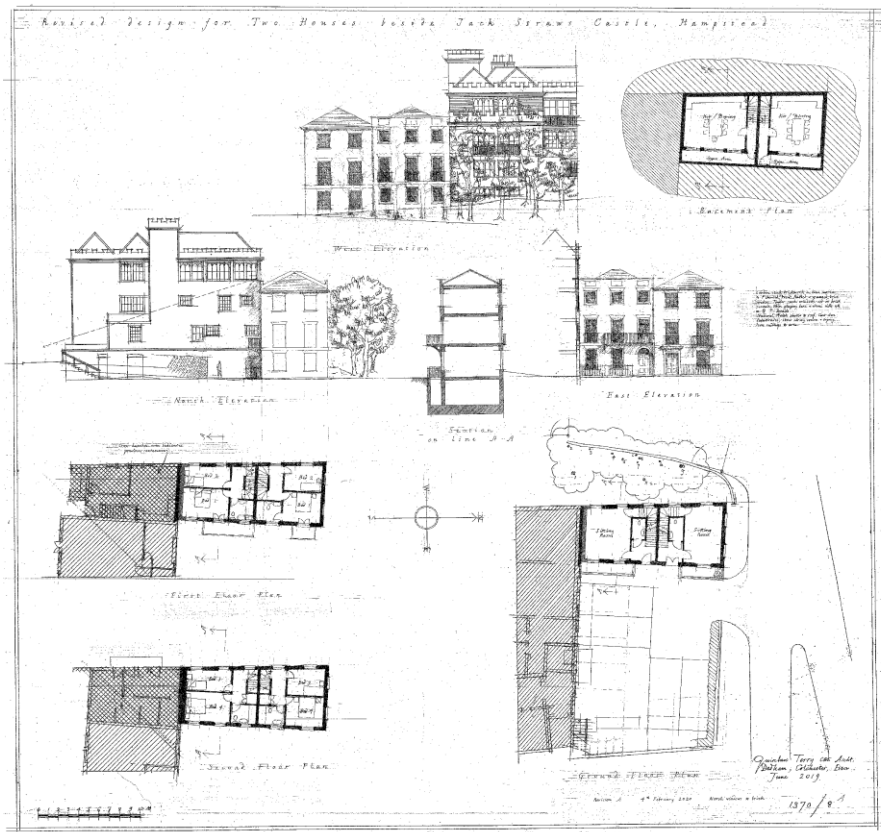
The key elements of unity are:

1. Building line. The straight building line is set back from the front elevation of Jack Straws Castle to the south in the Old Court House row and the new houses to the north. There is also a slight set back in the Old Court House buildings elevation at the three-storey house dividing it into two rows of two. This reflects the two new houses and effectively gives a balanced composition of three groups of six houses.
2. Materials. The limited pallet of materials consisting of buff coloured bricks with soft red arches and white painted joinery.
3. Elevational treatment of the individual existing Old Court House building houses. The planning officer also refers to the Old Court House buildings as having “irregular facades” in contrast to the proposed houses which have “a precise and formal design.” This is not an accurate comparison. It is important to note that each of the four houses in the Old Court House row are formal and regular when the houses are looked at individually. Each maintains its own rhythm of window size and even distribution across each floor of the elevation in the same manner of the new houses to the north.

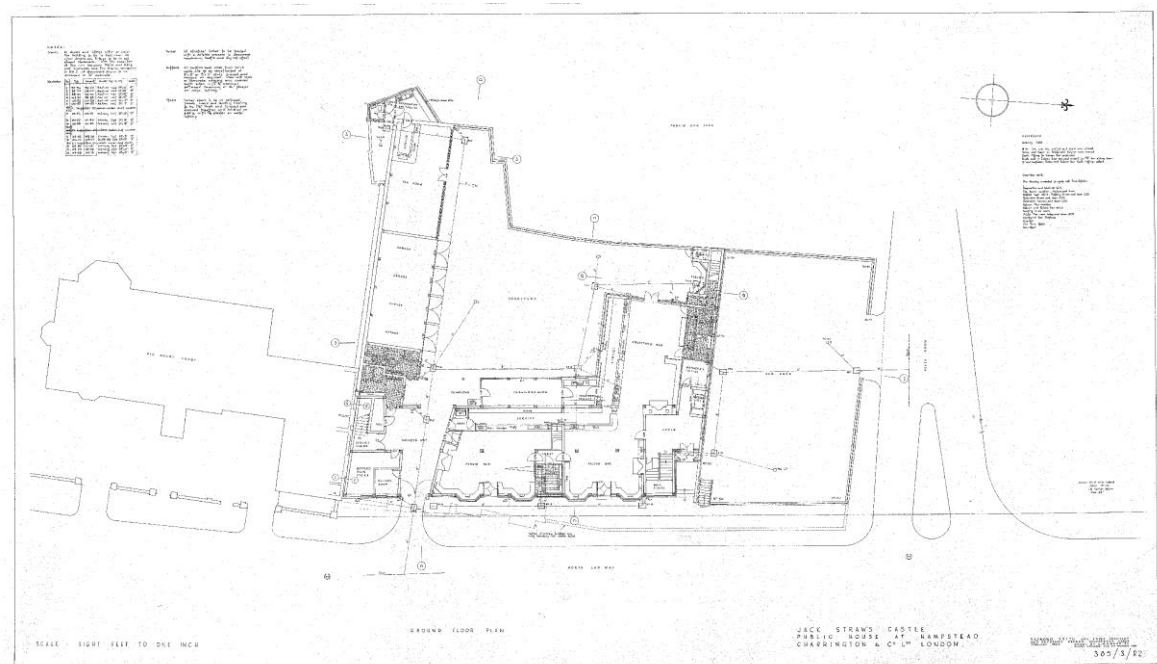
There is also criticism that the new houses are one room deep and are therefore contrived and historically inaccurate. My experience of Georgian architecture over a long period and informed by many hours of conversations with Raymond Erith is that it is endlessly adaptable and evolving. Far from being squeezed into the site the new houses look respectable and dignified and link naturally to the Old Court House buildings to the south in a way no other architectural language can.

There is further criticism of the room heights on the principal floors. The heights are different in each house, consistent with the informality and irregularity of the Old Court House buildings. The southern house having a floor to ceiling height of 3 metres (9'-10") and the northern house of 2.775 metres (9'-1 1/4") which are both considerably taller than the officer suggests. Furthermore, the Old Court House buildings have windows and doors both larger and smaller than those proposed for the new houses placing them firmly within the appropriate scale to be read naturally with the existing buildings.

The new houses have been positioned to respect the junction between Erith's original building and the 2002 alterations by Michael Ginn Associates. This replaced the original shelter and steps up to the managers flat adding an additional storey onto the intended height. The position of the new houses maintains the length of elevation intended to have the dramatic four storey rise in height from the car park level to the crenelated parapet and the height of the new houses matches the height of the 2002 alteration.

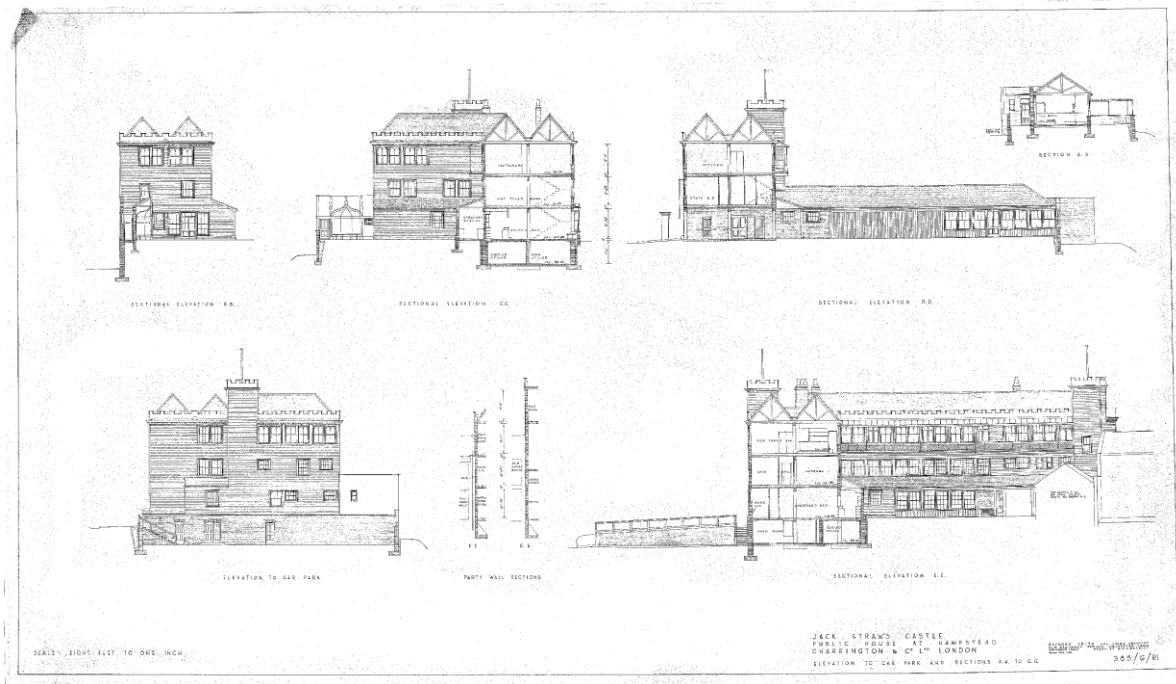


Drawing 4. Sections, elevations and plans of proposed 2020 scheme

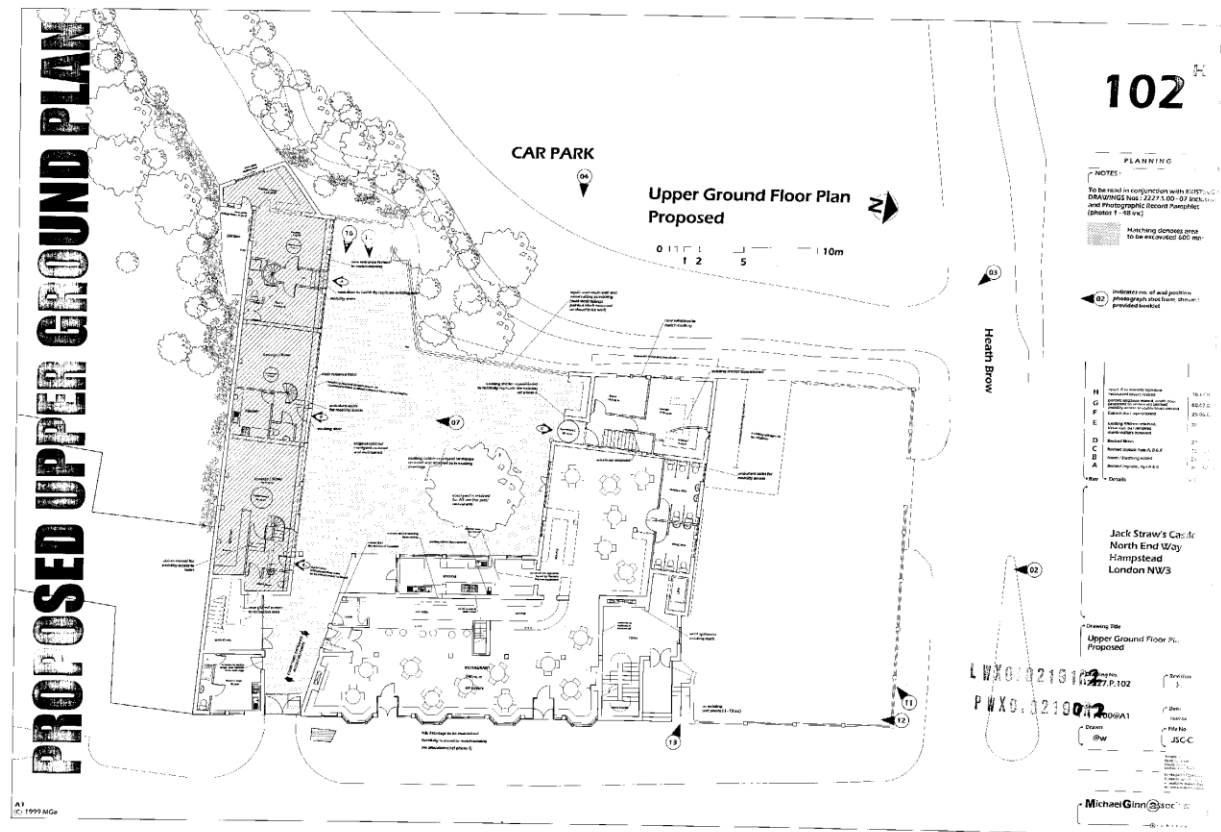


Drawing 5. Raymond Erith original 1962 ground floor plan



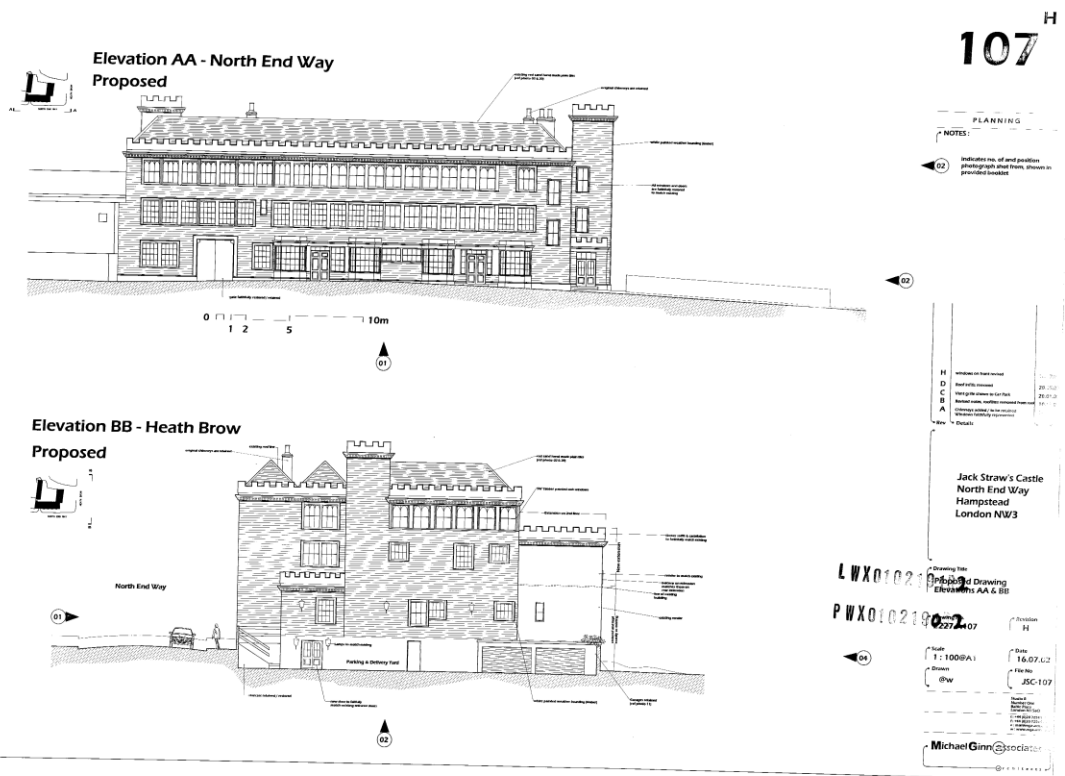


Drawing 6. Raymond Erith original 1962 elevations and sections



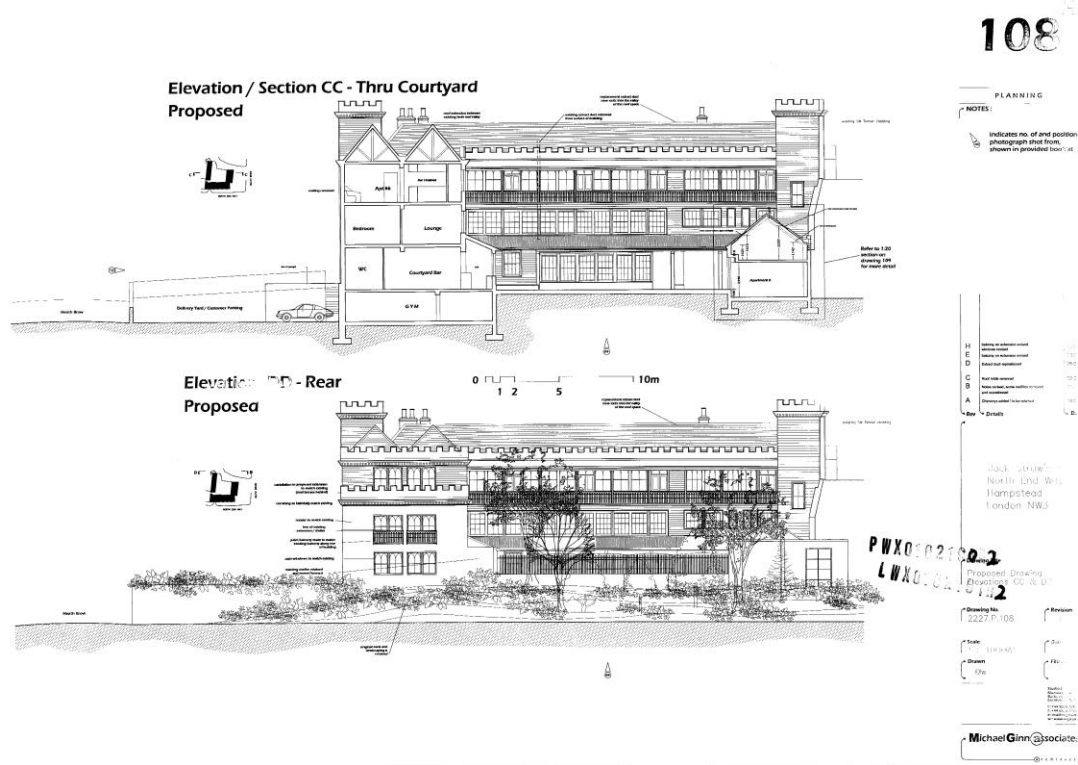
Drawing 7. 2002 alterations to Ground floor plan

PROPOSED ELEVATIONS AA & BB



Drawing 8. 2002 altered elevations

PROPOSED ELEVATIONS CC & DD



Drawing 9. 2002 altered section and elevation



Both the new houses and the existing Old Court House row of houses are set back from the front elevation of Jack Straws Castle. The Old Court House buildings are behind a wall with what were front gardens but is now a functioning carpark which does not detract from their Georgian character.

Much is made of views of the new houses from the Heath. However, due to the setback position of the houses and the wooded nature of the surrounding area uninterrupted views of the houses are limited to short immediate positions. There are no views of the houses from the Heath east of North End Way / Spaniards Road which is largely obscured by Heath House. Uninterrupted views are limited to the entrance to the car park on Heath Brow and the pavement opposite the car park to the east which will be less prominent than currently due to landscape proposals for green screens and hedging. Views looking south along North End Way are partially obscured by the tree in the north east corner of the car park and views from the Heath north of Jacks Straws Castle are partially obscured by the wooded nature of the Heath. Views from the car park are obscured by more dense planting along the boundary between Jack Straws Castle and the car park.



Image 1. View from east of North End Road



Image 2. View looking north along North End Road



Image 3. View looking south from Heath Brow



Image 4. View looking west from North End Road



Image 5. View looking south along North End Road





Image 6. View looking south from the Heath



Image 7. View looking east from Heath Brown

In summary, we are very disappointed that the previous planning officer's agreement to our proposals has now been reversed by the newly appointed planning officer. We maintain that our proposals are consistent with the exterior of the Old Court House row of buildings and forms a sympathetic and balanced composition at the north of Jack Straws Castle.

*Quinlan Terry.*

# **APPENDIX 2.0**

**EMAIL FROM THE LONDON BOROUGH OF  
CAMDEN TO MONTAGU EVANS DATED 31  
JANUARY 2020**

## David Taylor

---

**From:** Thuaire, Charles <Charles.Thuaire@camden.gov.uk>  
**Sent:** 31 January 2020 14:38  
**To:** David Taylor; Baxter, Nick  
**Cc:** James Huish; Barry Angel  
**Subject:** RE: Car Park at Jack Straw - Revised Design

David-

Nick and I have now discussed this revised design and supporting helpful images. We feel that on balance it addresses our concerns in making the 2 houses more articulated and asymmetrical with a varied roofline and design approach. Thus we are prepared to now support the revised scheme in principle subject to the following proviso.

However we are not happy about the number of windows on the end flank wall which seems excessive and results in a very busy facade and in potentially unusable rooms- for instance the bedrooms have 2 windows each and the living room has 4 windows. It is not characteristic to have a triple aspect end of terrace house with such windows on a flank wall and we would prefer to have blind window recesses on a blank gable wall.

I would be grateful if you reconsider this aspect before submitting an application.  
thankyou

Charles Thuaire  
Senior Planner

Telephone: 020 7974 5867



---

**From:** David Taylor <david.taylor@montagu-evans.co.uk>  
**Sent:** 16 January 2020 16:55  
**To:** Baxter, Nick <Nick.Baxter@camden.gov.uk>; Thuaire, Charles <Charles.Thuaire@camden.gov.uk>  
**Cc:** James Huish <james.huish@montagu-evans.co.uk>; Barry Angel <barryangel@albanyuk.com>  
**Subject:** Car Park at Jack Straw - Revised Design

Hi Nick / Charles

Are you able to give me an indication of timescales for your internal review?

When is the internal meeting and the timeframe you anticipate thereafter to come back to us?

Kind regards

David

**David Taylor MRTPI**  
**Associate - Planning**  
**Montagu Evans LLP**

5 Bolton Street, London, W1J 8BA  
Tel: 020 7312 7404  
Mob : 07818 012 404

Email: [david.taylor@montagu-evans.co.uk](mailto:david.taylor@montagu-evans.co.uk)

Website: [www.montagu-evans.co.uk](http://www.montagu-evans.co.uk)



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# **APPENDIX 3.0**

## **2020/1828/P DECISION NOTICE**

Application ref: 2020/1828/P  
Contact: Kristina Smith  
Tel: 020 7974 4986  
Email: Kristina.Smith@camden.gov.uk  
Date: 9 September 2020

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Montagu Evans  
5 Bolton Street  
London  
W1J 8BA

Dear Sir/Madam

## **DECISION**

Town and Country Planning Act 1990 (as amended)

### **Full Planning Permission Refused**

Address:

**Land Adjacent to Jack Straws Castle**  
**North End Way**  
**London**  
**NW3 7ES**

Proposal:

Erection of two three-storey (plus basement) dwellinghouses (Class C3) on west side of car park set behind associated landscaping, refuse and cycle stores and reconfigured car parking  
Drawing Nos: 1370-1E, 2D, 3O, 4A, 5B, 6A, 7; 10; 11; 2/2; 2/7; 06-681-200-01P; Design and Access Statement dated March 2020 by Quinlan Terry; Planning and Heritage Statement dated April 2020 by Montagu Evans; Energy and Sustainability Statement dated April 2020 by XCO2; Structural Methodology Report dated Sep 2020 by Richard Tant Associates; Ground Investigation and Basement Impact Assessment report dated March 2020 by GEA; 4423-SM01A; 4423-SM01B; surface water drainage and SUDS strategy dated April 2020 by Evans; Transport Assessment April 2017 by WSP; Preliminary construction programme; Carpark statement dated 30.4.18 by WSP; Scotscape wire trellis information, Cyclehoop double bike locker information; Internal Daylight Report dated April 2020 by Point 2 Surveyors; Archaeological Desk-Based Assessment dated March 2020 by ASE; Tree Survey Report dated Dec 2016 revised 13.3.18 by RGS; Preliminary Ecological Appraisal dated March 2017 by Greengage; Bat survey report dated August 2017 by Greengage.

The Council has considered your application and decided to **refuse** planning permission for the following reason(s):



## Reason(s) for Refusal

- 1 The proposed two houses, by virtue of their overall bulk, massing, height 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.

## Informative(s):

- 1 Without prejudice to any future application or appeal, the applicant is advised that reasons for refusal numbered 2 - 5 could be overcome by entering into a Section 106 Legal Agreement for a scheme that was in all other respects acceptable.
- 2 If you intend to submit an appeal that you would like examined by inquiry, then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is positioned above a faint, light-grey rectangular stamp. The stamp contains some illegible text and a circular emblem.

Daniel Pope  
Director of Economy, Regeneration and Investment

# APPENDIX 4.0

2020/2577/L DECISION NOTICE

Application ref: 2020/2577/L  
Contact: Kristina Smith  
Tel: 020 7974 4986  
Email: Kristina.Smith@camden.gov.uk  
Date: 9 September 2020

**Development Management**  
Regeneration and Planning  
London Borough of Camden  
Town Hall  
Judd Street  
London  
WC1H 9JE

Phone: 020 7974 4444

[planning@camden.gov.uk](mailto:planning@camden.gov.uk)  
[www.camden.gov.uk/planning](http://www.camden.gov.uk/planning)

Montagu Evans  
5 Bolton Street  
London  
W1J 8BA

Dear Sir/Madam

## **DECISION**

Planning (Listed Building and Conservation Areas) Act 1990

### **Listed Building Consent Refused**

Address:

**Land Adjacent to Jack Straws Castle  
North End Way  
London  
NW3 7ES**

Proposal:

Erection of two three-storey (plus basement) dwellinghouses on rear part of car park as a side extension to Jack Straws Castle plus associated underpinning of adjacent basement  
Drawing Nos: 1370-1E, 2D, 3O, 4A, 5B, 6A, 7; 10; 11; 2/2; 2/7; 06-681-200-01P;  
Design and Access Statement dated March 2020 by Quinlan Terry; Planning and Heritage Statement dated April 2020 by Montagu Evans; Energy and Sustainability Statement dated April 2020 by XCO2; Structural Methodology Report dated Sep 2020 by Richard Tant Associates; Ground Investigation and Basement Impact Assessment report dated March 2020 by GEA; 4423-SM01A; 4423-SM01B; surface water drainage and SUDS strategy dated April 2020 by Evans; Transport Assessment April 2017 by WSP; Preliminary construction programme; Carpark statement dated 30.4.18 by WSP; Scotscape wire trellis information, Cyclehoop double bike locker information; Internal Daylight Report dated April 2020 by Point 2 Surveyors; Archaeological Desk-Based Assessment dated March 2020 by ASE; Tree Survey Report dated Dec 2016 revised 13.3.18 by RGS; Preliminary Ecological Appraisal dated March 2017 by Greengage; Bat survey report dated August 2017 by Greengage.

The Council has considered your application and decided to **refuse** listed building consent for the following reason(s):

## Reason(s) for Refusal

- 1 The proposed two houses, by virtue of their overall bulk, massing, height 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.

## Informative(s):

- 1 You are advised that the associated underpinning of the adjacent basement wall of the listed building is acceptable in itself.

In dealing with the application, the Council has sought to work with the applicant in a positive and proactive way in accordance with paragraph 38 of the National Planning Policy Framework 2019.

You can find advice about your rights of appeal at:

<http://www.planningportal.gov.uk/planning/appeals/guidance/guidancecontent>

Yours faithfully

A handwritten signature in black ink, appearing to read 'DPope', is written over a light blue rectangular background.

Daniel Pope  
Director of Economy, Regeneration and Investment

# **APPENDIX 5.0**

**DELEGATED REPORT FOR 2020/1828/P AND  
2020/2577/L**

<b>Delegated Report</b>		<b>Analysis sheet</b>		<b>Expiry Date:</b>	22/06/2020
		N/A		<b>Consultation Expiry Date:</b>	29/07/2020
<b>Officer</b>			<b>Application Number(s)</b>		
Kristina Smith			i) 2020/1828/P ii) 2020/2577/L		
<b>Application Address</b>			<b>Drawing Numbers</b>		
Land Adjacent to Jack Straws Castle North End Way London NW3 7ES			See decision notice		
<b>PO 3/4</b>	<b>Area Team Signature</b>	<b>C&amp;UD</b>	<b>Authorised Officer Signature</b>		
<b>Proposal(s)</b>					
i) Erection of two three-storey (plus basement) dwellinghouses (Class C3) on rear part of car park set behind associated landscaping, refuse and cycle stores and reconfigured car parking					
ii) Erection of two three-storey (plus basement) dwellinghouses on rear part of car park as a side extension to Jack Straws Castle plus associated underpinning of adjacent basement					
<b>Recommendation(s):</b>		i) Refuse Planning Permission ii) Refuse Listed Building Consent			
<b>Application Type:</b>		i) Full Planning Permission ii) Listed building consent			

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:			No. of responses	8	No. of objections	8
Summary of consultation responses:	Three site notices were displayed in the surrounding area on 12/06/2020 (expiry 06/07/2020). A press advert was published on 18/06/2020.					
	<p>Objections were received from 8 neighbouring occupants on the following grounds:</p> <ul style="list-style-type: none"><li>• The Heath and its surrounding green space is vital for our ecosystem; urbanisation on its fringes should not be allowed</li><li>• There is no need for new residential development in this area</li><li>• Nothing has changed since last application</li><li>• Limited parking for residents of Jack Straw’s Castle</li><li>• Houses sited on plots too small for them</li><li>• Out of keeping with listed building</li><li>• Obscures views of the Heath</li><li>• Concerned in terms of climate and carbon impacts – cumulative impact of small developments is significant</li><li>• Construction-related emissions must be acknowledged.</li><li>• Loss of car parking spaces will impact on existing residents – car park to the rear of the site is not free or open 24/7</li><li>• Front door is directly off car park and safety of occupants will be jeopardised</li><li>• Scale of proposal will detrimentally impact on Jack Straw Castle residents</li><li>• Design will be squeezed onto small plot sandwiched between two car parks</li></ul> <p>The <u>City of London</u> object on the following grounds:</p> <ul style="list-style-type: none"><li>• The impact of the proposed development on the setting of the Heath, including views to and from the Heath – insufficient evidence provided (ie. visualisations from view points);</li><li>• The potential encroachment on MOL that would arise from the proposed development – no further information provided to justify;</li><li>• The impact of the proposed development on the biodiversity of Hampstead Heath – ecological appraisal is outdated and should be updated given significance of site;</li><li>• The impact of the development on trees located on the boundary of the Heath;</li><li>• The impact on parking pressure arising from a reduction in parking space numbers at existing car park – City Corp does not support proposal to use Hampstead Heath Car Park as it’s for visitors to Heath, not overspill residential;</li><li>• The impact of the development beyond the application site boundary in terms of construction requirement;</li><li>• Standard of residential accommodation – no private amenity space;</li><li>• Refers to 2015 appeal decision concerning Athlone House- ‘A key concern of both The Corporation of the City of London and Camden Borough Council is the threat to the Heath from development on its fringes that could erode its atmosphere and the</li></ul>					



quality of its landscape setting'.

The London and Middlesex Archaeological Society (LAMAS) object on the following grounds:

- The proposed two new houses, by virtue of their bulk and unsympathetic design, would harm the setting of the adjoining listed buildings of Jack Straws Castle and Old Courthouse, contrary to Heritage policy of the London Borough of Camden.
- The development when seen from the heath would intrude unacceptably on the view of the listed buildings.

The Ancient Monument Society support the proposal:

- endorse what seems a consensus that the revised scheme for two houses on the above site, designed by Quinlan Terry, is now fit for approval.
- asymmetry between the two front elevations increases the informality of the newcomer(s), the better to allow Jack Straw's Castle to remain dominant and the better to echo the accretive composition of the Court House terrace on the other side.
- by being set back, the two houses leave the drama of the Northern return elevation unchallenged.
- powerful historical symmetry to the fact that the design of the new build will be carried out by Raymond Erith's former professional partner, successor and lifelong admirer, Quinlan Terry.

Greater London Archaeological Advisory Service (GLAAS) concludes the proposal is unlikely to have a significant effect on heritage assets of archaeological interest.

**CAAC/Local groups\*  
comments:**  
\*Please Specify

The Hampstead Neighbourhood Forum object on the following grounds:

- The development of these two new townhouses, by virtue of their bulk and proximity to Metropolitan Open Land, would be contrary to Hampstead Neighbourhood Plan (HNP) Policies NE1, DH1 and DH2.
- The proposed site for the development has been open space for the last seventy years, providing a visual and actual buffer between the Heath and Jack Straw's Castle. Encroaching upon this space would degrade the setting of both the listed property and Heath itself by filling in the 'gap' between built and unbuilt environment with a three-storey above ground development.
- The proposed new development would sit on the boundary between currently open space and the Heath, infringing on the openness of the Heath and disrupting a currently open view coming from the north.

The Heath and Hampstead Society object on the following grounds:

- the adverse impact of the proposed development on the Heath (Metropolitan Open Land) – contrary to policy A2, three storeys built right on the boundary will create cliff like edge and block views;
- the adverse impact on the bio-diversity of the Heath – the 1.2m removal of shrubbery in order to facilitate construction will seriously affect the local biodiversity;
- light pollution will impact on various wildlife;
- the adverse impact on Jack Straws Castle - north façade is very prominently seen by the public. Its character, appearance and setting would be ruined by the addition of an incongruous 'wing' of new houses;
- the poor quality and design of the two proposed houses in a car parking and refuse disposal area – the revised design has not responded to earlier criticism; revised design is unsuccessful and has none of the qualities of the lower, more restrained and irregular houses to the south; there are many faults with standard of accommodation.

The Redington Frognaal Neighbourhood Forum object on the following grounds:

- Inappropriate development directly adjacent to / overlapping the Heath and Metropolitan Open Land.
- Size, height and bulk of the houses will be visible from the Heath. Development at such a sensitive site will create harm to the Heath's setting, its unspoiled rural quality and "sense of openness and isolation", as referred to in the Planning and Heritage Statement. Incorporation of balconies at first floor level will exacerbate losses and cause substantial overlooking of Heath.
- Development of housing here, abutting Jack Straw's Castle, will cause considerable harm to the setting of this important listed building and also to the setting of the Hampstead Conservation Area. The open setting of Jack Straw's Castle is a key positive contribution to the building's significance, as well as to the adjacent listed buildings.
- Light pollution will cause further serious loss of amenity to quiet enjoyment of the Heath and harm wildlife.
- The proposal to include a hawthorn hedge along the eastern border to screen car parking and an existing ivy wall onto the western façade of the building is commended.

## Site Description

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 18<sup>th</sup> 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.

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.

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'.

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.

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 car parking on open carpark.

### Carpark site only:

PWX0302151- Erection of roofed enclosure over carpark and two 2 storey houses with rooftop conservatories above. **pp/lbc refused 10.04.03**  
Appeal dismissed 03.12.03.

**2003/1396/P-** Erection of roofed enclosure over part of carpark and two 2 storey houses with pitched roofs. **pp/lbc refused 25.09.03**

*Reason - The combined proposal for houses and car park enclosure, by reason of its size, height, bulk, location and detailed design, and the infilling 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 this part of the conservation area.*  
Appeal dismissed 3.12.03

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

*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

**2017/2064/P and 2017/2211/L-** 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 – advice that **pp/lbc would have been refused**

#### **10.4.17**

*Reason - 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.*

Appeals against non-determination of applications lodged 06/08/2018, due for Informal hearing; withdrawn 05/07/2019.

**2017/2171/P**- 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.

*Application withdrawn in 2020 following withdrawal of related substantive scheme above.*

### **Relevant policies**

#### **National Planning Policy Framework 2019**

#### **London Plan 2016**

#### **New London Plan - Intend to Publish version 2019**

#### **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. The applicant seeks planning permission for the erection of two x three-storey (plus basement) dwellinghouses (Class C3) to the rear of the car park in addition to hard landscaping works.
- 1.2. Listed building consent is sought for the above works as a side extension to the Grade II\* listed host building, Jack Straws Castle, plus associated underpinning of the existing basement.
- 1.3. It is noted with concern that the submitted planning drawings do not show how the proposals would relate to Jack Straw's Castle, to which it would be attached. The two houses are depicted in complete isolation. Likewise, no visualisations have been submitted which show the proposal in context. As such, it is not possible to fully assess the impact of the proposal on the adjacent to the Grade II\* listed building, or the Heath.

#### **2. Background**

- 2.1. The site has a lengthy planning history, the full detail of which is provided in the planning history section above. The most recent applications (ref. 2017/2064/P and 2017/2211/P) were intended to be refused on design and heritage grounds, has appeals not been lodged against non-determination; these 2 new applications propose a very similar scheme albeit with minor design changes to help reduce the formality and symmetry of the pair of houses. The main changes were amendments to the parapet line, roof form and fenestration to break up the symmetry. The overall massing - the height, depth and width of the two houses - and location remain the same.
- 2.2. Prior to the previous application, three successive applications for development on the car park site have been refused and subsequently dismissed on appeal, primarily on design and conservation grounds. The applications refs 2003/1396/P and 2004/0705/P concern proposals for materially different development in terms of scale and design. However, they were both refused on very similar grounds, essentially that the proposed 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. The refusals contained an informative advising 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. The most recent appeal decision (dated 21.12.04) related to a two storey dwelling house in a similar position at the rear of the car park to this application. The Inspector considered that the appealed scheme harmed the listed building and conservation area due to the site's visibility. However, the Inspector also indicated that he did not completely discount the possibility of any further development on the carpark, saying '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.'
- 2.4. This was taken at face value by the applicant and encouraged further applications, including

the current one, for proposals of a greater scale than those previously dismissed. The current proposal shall be discussed in more detail in the 'design and heritage impact' section of the report.

## ASSESSMENT

2.5. 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

### 3. Principle of development, design and heritage impact

#### *Statutory provisions*

- 3.1. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") are relevant.
- 3.2. Section 72(1) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering applications relating to land or buildings within that Area.
- 3.3. Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that local authorities shall have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
- 3.4. The effect of these sections of the Act is that there is a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption. The NPPF provides guidance on the weight that should be accorded to harm to heritage assets and in what circumstances such harm might be justified. This section of the report assesses the harm to heritage assets from the proposal. The balance of the harm and the benefits from the proposed scheme is discussed in the conclusion.

#### *Policy context*

- 3.5. 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.*
- 3.6. 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.*

3.7. 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...'*; 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.'*

3.8. 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.*

3.9. 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.*

3.10. 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.*

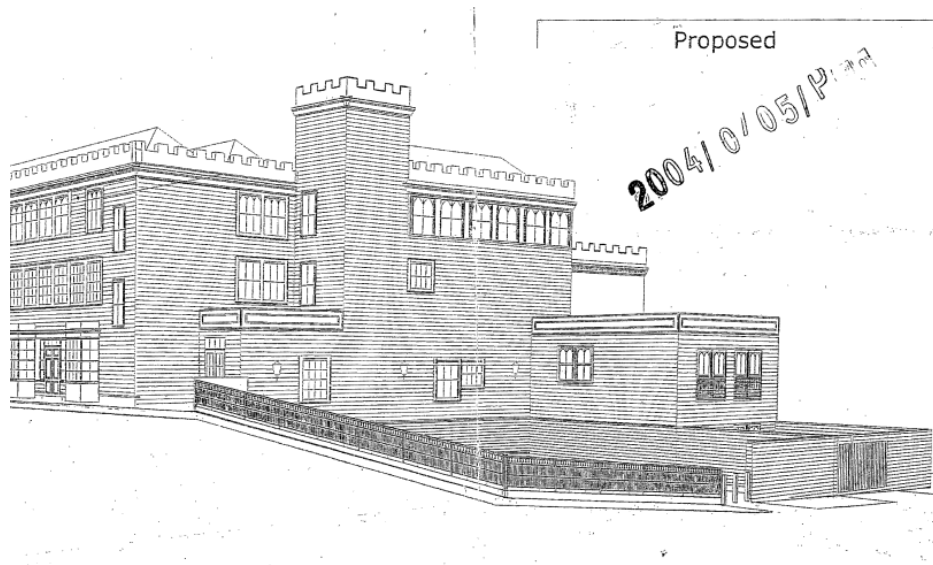
#### *Principle of development, bulk and design*

3.11. Whilst there is a difference in opinion in how the Inspector of the 2004 appeal decision intended his remark on the principle of a possibility of future development to be understood, it is nevertheless a material consideration. The Council had previously maintained that no development other than ancillary structures would be acceptable in this location; however, in light of the appeal decision, Officers are open to the prospect of something more which may include high-quality, sensitive residential accommodation with a heritage-led approach to the site. It is worth emphasising what the Inspector stated in that any proposals for the site would require exceptional skills by an imaginative architect.

3.12. 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. It is understood from Lucy Archer, Raymond Erith's daughter, that Erith 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 off-street 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.

- 3.13. 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.



- 3.14. In comparison, the 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 the 2004 and 2017 schemes shown below. The drawings from the 2017 application are being used instead of the current application as the drawings do not show Jack Straw's Castle and therefore it is difficult to understand the impact. It is stressed, however, that the height, width and massing are the same and the only changes relate to detailed design at roof level and on the side elevation.



2004/0705/P





2017/2064/P

- 3.15. In light of these appeal decisions, the current proposal would have a far more substantial and consequently unacceptable impact in enclosing the open space of the carpark. Thus, it is argued that the currently proposed houses, and quite possibly any structure larger than a single storey structure, would continue to erode the distinctive quality of the carpark in its role as an open area of curtilage around the main castellated block.
- 3.16. It is acknowledged that there are subtle yet important differences between the past and more recent schemes. As demonstrated in the comparison images above, the 2004 appeal scheme projected beyond the junction between the rendered rear section of the building (later addition) and the main weather-boarded façade (original building); 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; however, they are still far from sufficient to sway the balance.
- 3.17. A building in this setback location, away from the junction with the original building, could be supported in principle- however, not at this height and scale and not of this character and design. The proposed development would be three storeys in height and cover the full width of the car-park. By virtue of its context and scale, the building would be highly visible from the street and this part of the Hampstead conservation area, from the Heath car park at rear, and from Heath open space on north and east sides. The scale would harm the setting and appearance of the listed building as it would dominate views from the street and adjoining Heath.
- 3.18. It is acknowledged that any building in this location should also have a contrasting yet complementary form and design that does not compete with or dilute the significance and dominance of the main Jack Straws Castle building in its castellated Gothic style. However, the neo-Georgian style, replicating the character of the buildings on the other side of Jack Straw's Castle, is considered wholly inappropriate. 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 buildings appear as though they have been designed to address an urban street but instead are awkwardly set back behind a functioning car park in a semi-rural setting. 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 carparks and highly visible from the public realm and heath on all 3 sides.
- 3.19. 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.

3.20. Furthermore, the detailed design and proportions of the Georgian style accommodation appears contrived and historically inaccurate. By reason of being shoe-horned into a constrained site, the properties are only one room deep. In addition, the floor to ceiling heights of the principal floors are only 2.6m, which is commensurate with a new-build flatted development. These restricted proportions are not true to a Georgian townhouse and are an unfortunate consequence of site constraints, further suggesting this scale and character of development is inappropriate for the location.

3.21. 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).

3.22. 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 formal design, with Georgian-styled facades and an urban form, despite amendments to the last scheme’s design by introducing some informality with 2 different styles of roof and parapet treatment on both new houses. These factors 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.

3.23. 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.

3.24. 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*

3.25. 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.

3.26. 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.'

3.27. 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 houses would harm this significance by providing a bulky 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.

3.28. 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 designated heritage asset.

3.29. 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 Local Plan policy D2 and Hampstead NP policy DH2.

#### *Listed building works*

3.30. 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.

3.31. 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 sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act 2013.

## **4. Open Space impact**

4.1. 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 two 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 would 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 would not harm the open character and setting of the adjacent Heath open space and it will preserve the openness of this MOL.

## **5. Landscape and ecology**

- 5.1. The landscaping and boundary treatment of this carpark is the same as that for the previous scheme which had been revised and enhanced to address officer comments as well as those by Historic England. 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.
- 5.2. 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.
- 5.3. An ecology statement has been submitted as before, which had been 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.
- 5.4. A bat survey had been undertaken for the previous application 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 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).

## **6. Land use and residential standards**

- 6.1. The provision of new residential units here is welcome in principle and accords with Local Plan priority within policy H1 to maximise housing supply.
- 6.2. The two houses are 3 storey (plus basement) 4 bedroom 6 person units which comply with national housing space standards, London Plan standards, and Camden's own guidance. The layout of the houses remain the same as the previous application, whereby their internal and external design had 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 two 4-bedroom 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*

- 6.3. The houses will be double aspect and will receive adequate daylight, sunlight, outlook and privacy. In particular the basement rooms meet minimum daylight standards for kitchens using the Average Daylight Factor (ADF) criteria as recommended by the BRE.
- 6.4. 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 car parking 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*

- 6.5. Adequate refuse storage is provided in compliance with CPG standards on site by means of 2 timber-clad bin stores 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*

- 6.6. 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.

## **7. Affordable housing**

- 7.1. 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'.
- 7.2. 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.

## **8. Amenity of neighbours**

- 8.1. 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 1<sup>st</sup> 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.

## **9. Basement impact**

- 9.1. 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.
- 9.2. Under the previous application ref. 2017/2064/P, a Basement Impact Assessment (BIA) was submitted and reviewed by the Council auditors, Campbell Reith. Given that the proposed extent of excavation and the proposed approach remain identical, the methodologies and findings of the previously submitted BIA and the corresponding audit report is applicable to this application.
- 9.3. 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.
- 9.4. 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.
- 9.5. 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.
- 9.6. The site lies within an Archaeology Priority area of Hampstead Heath. Historic England (GLAAS) 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.

## 10. Sustainability

- 10.1. In line with policies CC1 and CC2, the Council will require development to incorporate sustainable design and construction measures.
- 10.2. 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. The roofplan indicates that there will be some PV panel provision on the rear west-facing roofslope of the property with the parapet, although it is not clear if this will meet the targets of the above energy statement as the latter was based on 20 PVs on a rear roofslope whereas the revised roof design now shows a smaller area of roofslope available for such panels. Nevertheless they will be hidden behind the parapet and so would be 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.
- 10.3. 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.
- 10.4. 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.
- 10.5. 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), which if approved would be secured by condition. Permeable paving on the carpark surface and Sustainable Urban Drainage systems are proposed which are welcomed and should also be secured by condition.

## 11. Transport

### *Parking*

- 11.1. The carpark currently accommodates 11 car parking spaces 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.
- 11.2. 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.
- 11.3. 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). 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. 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.

- 11.4. The scheme would entail the loss of 4 existing and well-used parking spaces onsite which would result in displacement of parking. 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.
- 11.5. The Transport Statement (TS) which has been submitted in support of this application looks at where the displaced parking could be accommodated. It is noted that the TS has not been updated since it was first submitted in 2017 in support of the previous application for this site. The TS includes a summary of the results of parking surveys of the site's carpark and the public carpark (operated by the City of London) to the rear of the site undertaken in (presumably) late 2016. Whilst the public carpark would at first appear to have plenty of spare capacity, it should be borne in mind that the survey was conducted in November/December when visitor levels to the Heath would be at their lowest. The survey of the site's carpark indicates that it is almost fully occupied overnight. Whilst the TS suggests that the public carpark could be used by the displaced vehicles, it fails to acknowledge that the carpark charges hourly rates for short stay parking and is only open between 7am and 8.30pm and that overnight parking is prohibited. It is thus not a suitable alternative for displaced vehicles. Whilst there are no on-street parking bays in the immediate vicinity of the site, Council records suggest that the wider 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).
- 11.6. It is also noted that Condition 12 of the 2002 planning permission states that the on-site car park should be retained for use by the residents of Jack Straws Castle in perpetuity. There has been no new application submitted to vary or remove this condition as an accompaniment to this scheme.
- 11.7. Whilst not ideal, it is considered on balance that the loss of carspaces on this site is acceptable and will not significantly impact on onstreet parking facilities, given the context and on the basis that the proposed additional units are made completely car-free by a S106 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. The revised car park design, showing 7 carspaces and adequate manoeuvring space, is acceptable in transport terms.

### *Cycles*

- 11.8. 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. 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 would ordinarily be secured by condition.

### *Highway matters*

- 11.9. 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.

11.10. 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.

11.11. A CMP bond of £15,000 would also be required in case the contractor fails to abide by the CMP and the Council has to take action to remediate issues. The fee would be fully refundable on completion of the works should there be no breach.

11.12. 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 of £20,799 has been received from the Council's highway engineers. All these items need to be secured by a S106.

## **12. Community Infrastructure Levy (CIL)**

12.1. If granted, the scheme would 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.

## **13. Conclusion**

13.1. The proposed development has undergone minor detailed design changes since the previously refused scheme under ref. 2017/2064/P but these do not overcome the fundamental reasons for refusal in terms of perceived bulk and incongruous detailed design. In light of the previously dismissed appeal schemes, the proposal is also being refused on height and massing grounds.

13.2. The height, bulk and massing unacceptably impact the openness that the existing car park provides to the north elevation of the Grade II\* listed Jack Straw's Castle. In the absence of any townscape views, it is not possible to appreciate the impact of the proposal on the openness of the Heath, an area of Metropolitan Open Land. The design of the proposed houses, with a very formal urban Georgian style adjoining this listed building and the heath, is inappropriate and misconceived. 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.

13.3. The scheme remains otherwise the same as the previous one in all other respects and is 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.

13.4. 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: affordable housing payment-in-lieu, car-free housing, highway repairs contribution, Construction Management Plan, CMP implementation support contribution and CMP bond. However since the application is being refused, these matters will form 4 separate reasons for refusal.

## **14. Recommendations**

### Refuse planning permission-

1. The proposed two houses, by virtue of their overall bulk, massing, height 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.

### Refuse listed building consent-

1. The proposed two houses, by virtue of their overall bulk, massing, height 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 6.0

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United Kingdom

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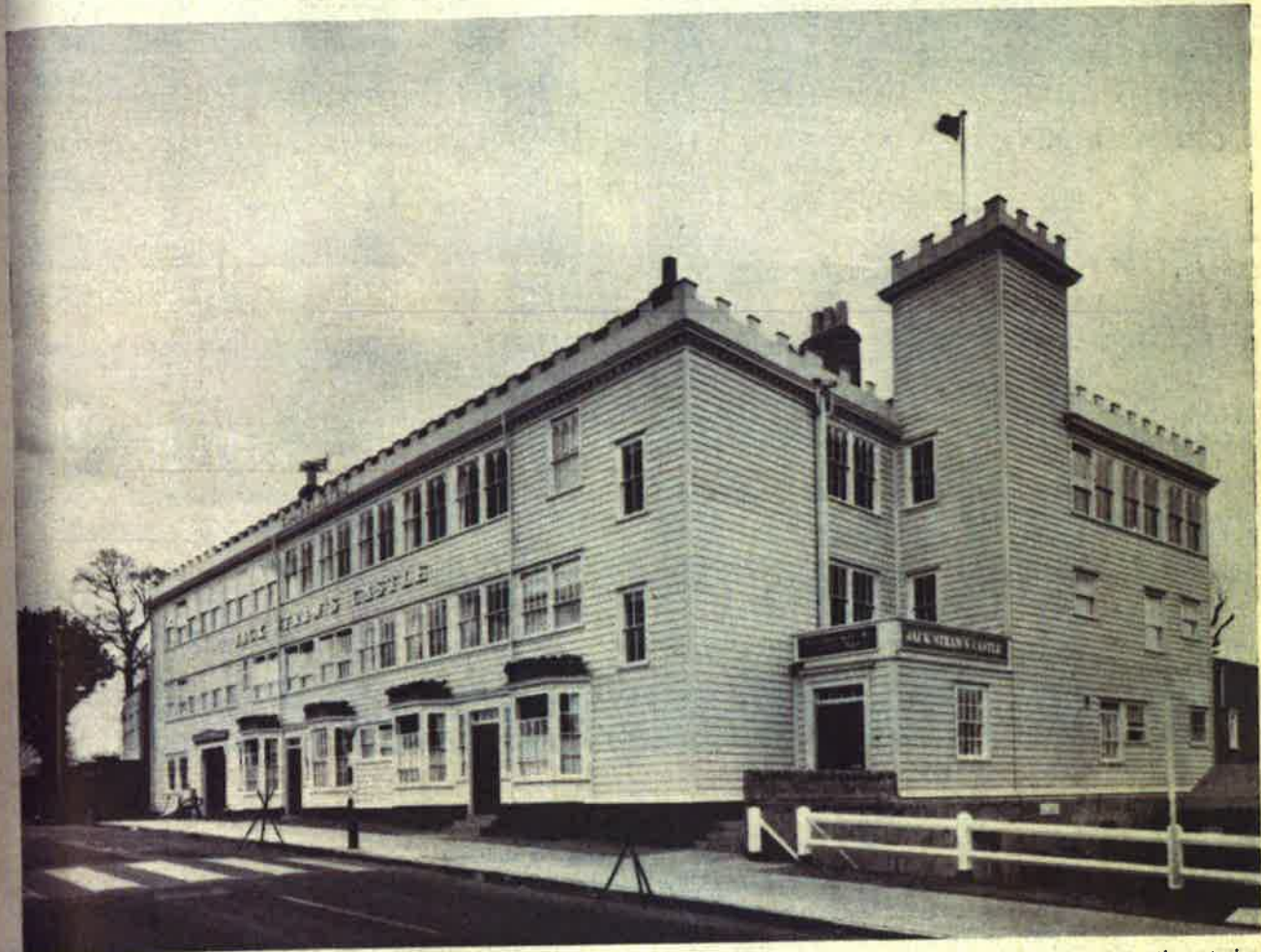
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## Jack Straw's Castle

SfB (95) UDC 725.72

RAYMOND ERITH, RA—ELECT, FRIBA, architect  
 BUNN, GROVES AND HARRIS, quantity surveyors  
 D. H. MOSS, consultant engineer  
 G. E. WALLIS AND SONS LTD, main contractors



the exterior

In August 1962 it was announced by Charrington & Co. Ltd. that they had decided to replace the famous old Jack Straw's Castle, near Whitestone Pond, Hampstead, with a new structure. At the time the proposed design was labelled by some as 'bogus' and by others as 'incorrect.' However, it ran the gauntlet of the various authorities successfully and has recently been completed. The original site was very restricted, and this state of affairs was aggravated by the imposition of an improvement line and car parking requirements. The result has been that the building looks larger than the original, although the actual floor area is approximately the same. The restaurant and balcony were planned on the top floor to take full advantage of the magnificent views. The cellar was placed where the old cellars were to save on the excavations and a new archway built on the site of the old one. In addition, the ring to which Dick Turpin is supposed to have tied his horse has been refixed in its original position.

The subsoil of the site was almost entirely sand, which made for deep and extensive foundations. The ground floor slab and below are constructed with reinforced concrete and brick on mass concrete strip foundations, but above the ground floor slab the building is constructed almost entirely of timber. The timber framework consists of Douglas fir pressure-impregnated with Pyrolith and is formed by three lines of posts and beams running the length of the building with 11 in. x 2½ in. or 3 in. floor joists and roof trusses acting as cross beams. Posts are continuous throughout the height. The beams are stub-tenoned into the posts. They are supported on an angle cleat and tied across the post face with ½ in. continuity plates all either coach-screwed or through-bolted with shear plate connectors between the interfaces.

The floor joists are notched over the perimeter beams and bolted to the posts where this is possible. At the deep spine beam the floor joists are supported on a





Wat Tyler's Bar looking through to courtyard bar



castle restaurant



Dickens room

4 in. x 3 in. bearer nailed to the beam through carefully spaced pre-bored holes.

The two beams supporting the first floor over the rear part of the Wat Tyler bar, spanning approximately 16 ft. and with a two-storey post standing on the centre, are built up with three beams cogg'd together. These are glued and wedged with elm folding wedges and through-bolted with shear plate connectors between the interfaces. The finished size of the beam is then 30 in. x 9½ in.

The feet of the posts are fitted into welded steel boxes which are bolted down to the rc concrete floor slabs. The erection of the frame was carried out within a bird-cage scaffold which supported the beams while the posts were fitted on. The entire frame was prefabricated on site within six weeks and it took eight weeks to erect. The whole operation, from the reception of the first timbers on site to the completion of the frame, took twelve weeks. The roof trusses were prefabricated and assembled on site and hoisted into position complete. The roof was then covered in before the walls were infilled.

The outer walls are of 9 in. Fletton brickwork to 2 ft. 6 in. above the finished floor and covered externally with weather boarding nailed to ¾ in. battens. The voids between the battens are filled with vermiculite

detail of staircase





**Jack Straw's Castle**

courtyard bar

plaster as a preventative against the spread of fire. The weather boards were fine sawn for timber economy, feather-edged, two out of 7 in. x 1 in.

The sash windows are in pairs from 2 ft. 6 in. above the floor to the underside of the beam. They are framed up in Swedish redwood and have yellow cedar cills. The curved glazing bars in the second floor windows are Mexican laurel because of its resistance to snapping along the grain.

The ground floor is 6 in. reinforced concrete where suspended and normal sandwich construction where not. There is a 2 in. screed in the carpeted rooms and 9 in. x 4 in. x 1½ in. Wheatley Triton Russett brown tiles in the Turpin bar, verandah room, tea parlour, lavatories and a strip along the front of the bar counter in the Wat Tyler bar. The service areas are cork tiled.

The upper ground floors have Douglas fir joists and 1½ in. boarding, except in the restaurant and kitchen. The ceilings below are ¾ in. vermiculite plaster on expanded metal. The restaurant floor is laid with maple for dancing. The kitchen floor is 2 in. x 2 in. white Cerebati ceramic mosaic tiles laid on a screed on two layer bituminous felt. A sub-floor of boards is laid between the joists on battens. Around the perimeter of the floors there is an Expandite Flexcell expansion joint. The balcony floor is covered with Nairn-Williamson's

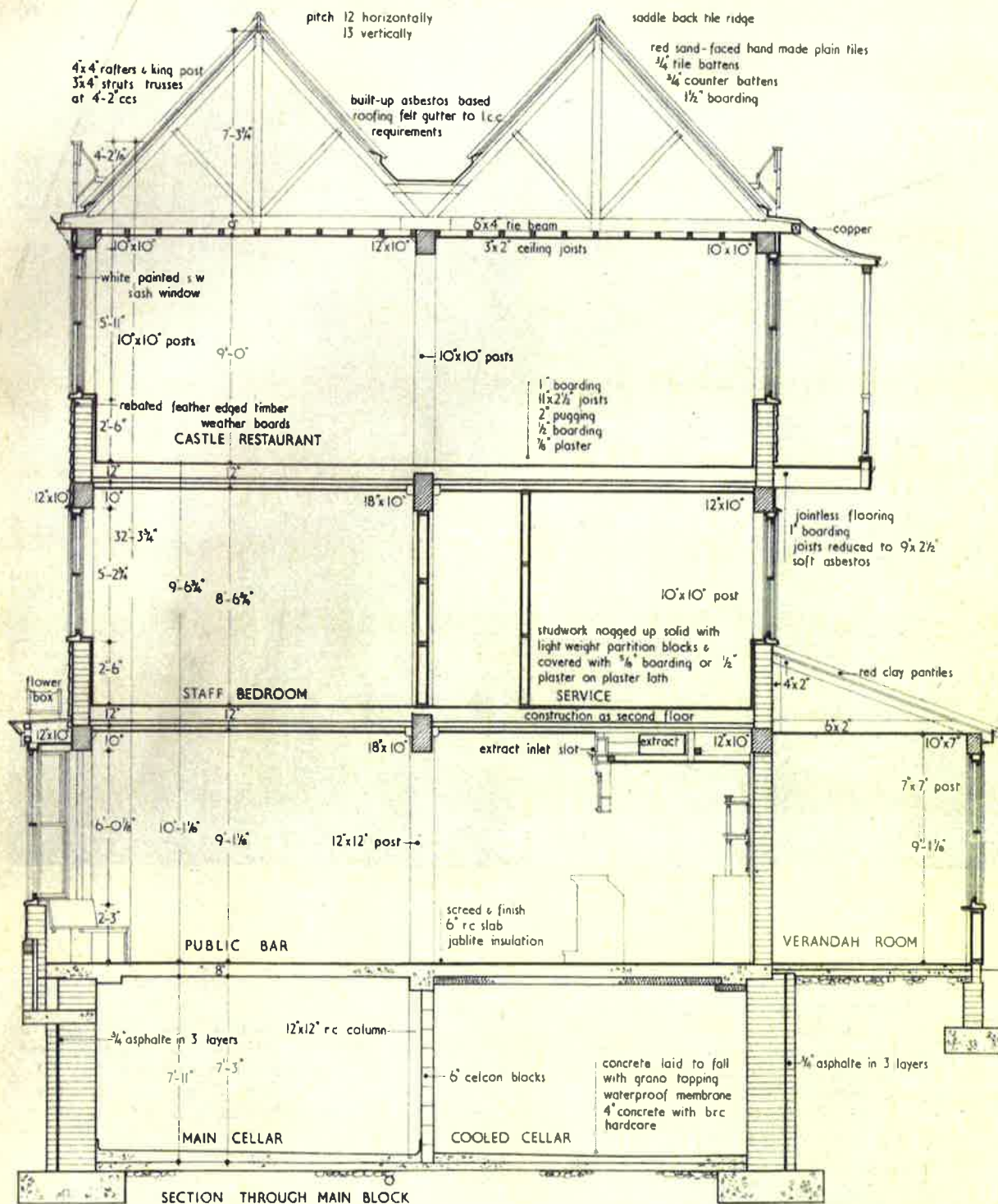
Crestaline on felt on boards with a polythene vapour barrier below the boarding.

The main roof is constructed with king post roof trusses at 4 ft. 2 in. centres placed on the quarter points of the beams. There are no purlins or secondary rafters and the roof is covered with 1½ in. boarding spanning from truss to truss. The boarding is covered with felt, counter battens, battens and old plain tiles. The valley gutter is lined with three-layer built-up roofing and the roof over the balcony and the flashings are in copper. The tower roofs are covered with built-up roofing felt.

The main rainwater pipes at the ends of the two valleys are made up in western red cedar, the head being constructed in western red cedar lined with copper and incorporating an overflow spout. Minor rainwater pipes are also in copper. The main cornice is of western red cedar and also softwood, with a moulded c/gutter incorporated into the design.

The internal partitions on the ground floor are in 4½ in. or 9 in. brickwork; on the upper floors they are of 4 in. x 1½ in. studs with 8½ in. space between to receive Celcon blocks standing on end. Matched boarding or panelling on the stud partitions is fixed direct to studs or blocks. On the brickwork the matched boarding is nailed direct onto the battens; the panelling is fixed tight, with no voids, and the voids between the battens





SCALE: 1 in. = 12 ft.

are filled with vermiculite plaster.

All internal joinery is in Swedish redwood and all matched boarding and panelling is pressure-impregnated with Pyrolith. There is no hardwood used except that for the bar counter-tops and the display fittings behind the bars. The main stairs are, of course, in timber, but with a plaster soffit; the service stairs are of reinforced concrete with a granolithic finish.

The heating system consists of low pressure hot water coming from oil-fired boilers through cast-iron radiators; there are convectors and heating coils beneath the fixed

seating. Emergency lighting is from trickle-charged batteries.

There are extract systems in the Turpin and Wat Tyler bars, the restaurant and the turret bars. The inlets in the Turpin and the front part of the Tyler bars are continuous slots concealed behind the cornice. The inlets in the rear part of the Wat Tyler bar, restaurant and turret bars are timber boxes, without grilles, projecting slightly through the ceiling.

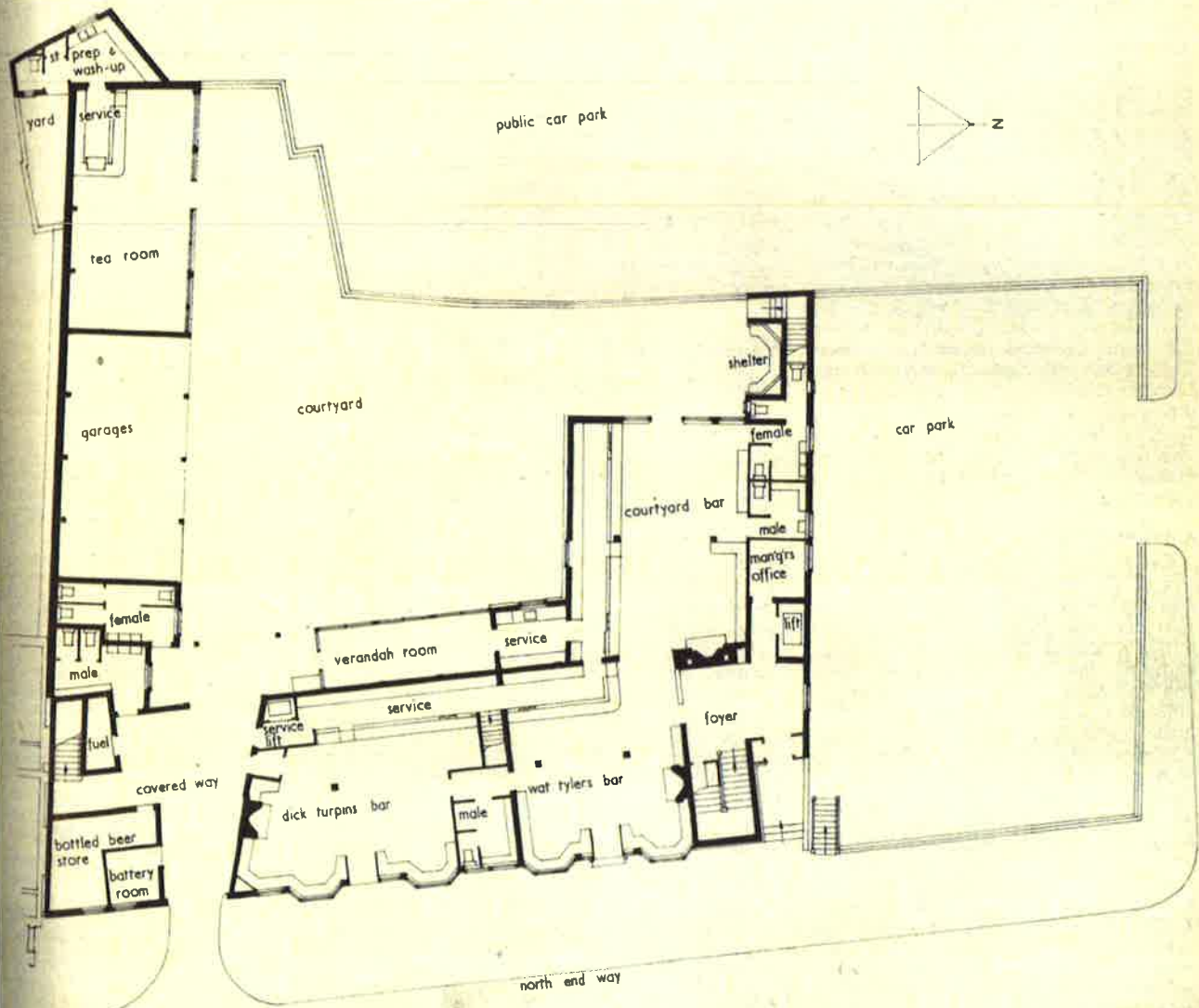
The lanterns used externally were obtained from the Marylebone Borough Council. External signs are gilded.



**Jack Straw's Castle****COST ANALYSIS**

Type of contract: Fixed Price	Tender date: December 1962			
Commencement date: January 1963	Completion date: 25th April 1964			
Floor area: 16,800, measured outside walls	Cubic contents: 191,700 ft. cube			
Total cost: £130,000	Cost per foot super: £7 14s. 9d.	Cost per foot cube: 13s. 7d.		
COST ANALYSIS				
	Cost £	%	Per F.S. £ s. d.	Per F.C. s. d.
PRELIMINARIES AND INSURANCES	14,000	10.769	16 8	1 6
SUB-STRUCTURE	9,000	6.923	10 8	11
STRUCTURE TOTAL	31,300	24.077	1 17 3	3 3

COST ANALYSIS	Cost £	%	Per F.S. £ s. d.	Per F.C. s. d.
PINISHINGS TOTAL	29,500	22.692	1 15 1	3 1
Sanitary plumbing	8,000			
Hot water installation	5,500			
Gas installation (Purpose)	200			
Electrical installation	5,800			
MECHANICAL SERVICES TOTAL	19,300	14.846	1 3 0	2 0
DRAINAGE TOTAL	1,500	1.154	1 10	2
Lifts	4,000			
Bar and kitchen equipment	13,000			
SPECIAL ITEMS TOTAL	17,000	13.077	1 0 3	1 9
EXTERNAL WORKS TOTAL	8,400	6.462	10 0	11



SCALE: 1 in. = 96 ft.

ground floor plan

SUB-CONTRACTORS AND SUPPLIERS: heating and ventilating: H. W. Dutton & Co. Ltd.; electrical: Alliance Electrical Co. Ltd.; plastering: W. G. Venn & Sons Ltd.; lift engineers: The London Lift Co.; cooling and refrigeration: English Refrigeration (Industrial) Ltd.; plumbing: J. A. Brooks & Co. (Sanitary Engineers) Ltd.; roofing: Broadbent's (Leicester) Ltd.; flat roofing: Standard Flat Roofing Co. Ltd.; floor tile laying: S. A. Forbes & Son Ltd.; floor coverings: Durastic Ltd.; tarmacadam: Hobart Paving Co. Ltd.; signs: Pearce Signs Ltd.; internal signs: Jobson Signs Ltd.; gas: North Thames Gas; fire protection engineers: L. & G. Fire Appliance Co. Ltd.; cellar insulation: T. W. Weeks & Co. Ltd.;

bar grilles: Rely-a-Bell Burglar & Fire Alarm Co. Ltd.; lightning conductors: J. W. Gray & Son Ltd.; metal handrail: Kingmill Metal Co. Ltd.; coldroom: Pressed Steel Commercial Refrigeration (Southern) Ltd.; flagstaffs: Benjamin Edgington; door coverings: James Barrett Ltd.; timber: John Lenanton & Son Ltd.; bricks: Wills & Packham Ltd.; ironmongery and sanitary fittings: Clark Hunt & Co. Ltd.; c.i. boxes: Lawford Ironworks Ltd.; firegrates: Carron Company; flat roof rainwater outlets: Petalon Ltd.; floor tiles: Wheatley & Co. Ltd., Langley Ltd.; fire retardant paint: Associated Lead Manufacturers Ltd.; electric light fittings: Courtney Pope (Electrical) Ltd.

# APPENDIX 7.0

LONDON COUNTY COUNCIL EXTRACT DATED 16  
OCTOBER 1962



ers?

What steps the Government proposes to take.  
The article contains a number of assertions which I cannot accept as correct.

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#### (12) LUXBOROUGH LODGE—FUTURE USE OF SITE

*By Mr. Plummer of the chairman of the Town Planning Committee and the chairman of the Education Committee. Reply by the chairman of the Town Planning Committee—*

With reference to the proposal to erect a college of architecture and advanced building technologies with a hall of residence and a school of management studies on part of the site in Marylebone Road now occupied by Luxborough Lodge [St. Marylebone] referred to in paragraph 14 of Education Committee Report (No. 1) on page 10 of to-day's agenda paper [minutes, pp. 749-50]—

- (i) Is this site at present zoned for residential purposes;
- (ii) How many persons are at present accommodated on this site;
- (iii) Will the Council insist on the replacement in the new building of an amount of residential accommodation equivalent to that existing on this site at present; and
- (iv) Will the Council co-operate with the St. Marylebone Metropolitan Borough Council to provide public off-street car parking within this site?

I am replying to this question by arrangement with the chairman of the Education Committee.

(i) The Luxborough Lodge site is at present zoned for residential purposes but, as stated in the Town Planning Committee's report on page 29 of to-day's agenda paper [minutes, pp. 768-9], the Chairman of the Council has agreed to an amendment's being submitted to the Minister of Housing and Local Government rezoning for further-education use that part of the site required for The Polytechnic, Regent Street, proposals.

(ii) The Luxborough Lodge site is at present occupied by 1,117 old people and staff.

(iii) The Council proposes to provide on the site flats for some 300 people and a hostel accommodating 100 students. New small homes to accommodate the 1,117 old people and staff are being provided at 14 sites all over London made available by the following services: education (7), housing (4), town planning (1) and welfare (1).

(iv) The actual building proposals for the site are only at a very early stage and it is too soon to say whether or not it will be possible to make any public provision in addition to meeting the quite heavy unmet needs of the development itself. It is already clear, however, that any provision which might eventually prove to be physically possible would have to be below ground and probably in such a position that the cost would inevitably be very high.

This imaginative scheme will provide, by a concerted plan, new small homes for the old folk in Luxborough Lodge, urgently needed Council flats in central London and the fine new college of architecture and advanced building technologies, a hall of residence and a school of management studies. This is possible because the London County Council is at one and the same time education, housing and welfare authority. Under the Government's lamentable proposals for changing local government in London, which will sever the welfare function from the others, such a scheme would be immensely difficult, if not impossible, to achieve.

#### (13) JACK STRAW'S CASTLE—RECONSTRUCTION

*By Mr. Bennett of the chairman of the Town Planning Committee and the chairman of the General Purposes Committee. Reply by the chairman of the Town Planning Committee—*

(i) Has the Hampstead Metropolitan Borough Council opposed an application to demolish and reconstruct Jack Straw's Castle [Hampstead] and, if so, have the Town Planning Committee, in spite of this local opposition, granted the application?



(ii) Do they agree that such conflict would not arise under the plan for reorganisation of local government in Greater London which proposes to give powers to decide such planning applications to local authorities?

(iii) Was there a similar case where there was a conflict of views between the Hampstead Metropolitan Borough Council and the Council which cost the Council a considerable sum in compensation when it had to revoke a permission it had granted in the face of the borough council's expressed opposition?

A I am replying to this question by arrangement with the chairman of the General Purposes Committee.

(i) The opposition of the Hampstead Metropolitan Borough Council centred on the appearance of the proposed new building. Views on this question of aesthetics were, however, far from unanimous and, after very careful consideration of the views of all the bodies consulted, including the Royal Fine Art Commission, the Town Planning Committee decided to approve the application.

(ii) I cannot say. The Government's White Paper of November 1961 on London Government Reorganisation says that a number of detailed matters connected with the part which the borough councils should play in planning, including the handling of individual applications, need further consideration and on these the Government has not yet announced its final conclusions.

(iii) I assume that the honourable member refers to the Paso Por Aqui Club in Heath Street, which was dealt with in my reply to a question on 29 May 1962 (p. 424). Apart from the fact of the borough council's opposition to the granting of permission (although it had not previously objected to a similar application) the two cases are in no way similar. Presumably, however, had the borough council been in a position to decide the first application it would have approved it and would not therefore have been able to resist the subsequent application.

#### (14) HOMELESS FAMILIES—REMEDIAL MEASURES

*By Mr. Fletcher of the chairman of the Welfare Committee, and the chairman of the Housing Committee.  
Reply by the chairman of the Housing Committee—*

Q (i) What is the present number of homeless in the Administrative County of London?

(ii) What was the number on 1 November 1961?

(iii) Apart from the acquisition of vacant property for short-stay accommodation and the provision of mobile homes, what steps are being taken by the Council to relieve the situation?

(iv) What consideration, if any, is being given to the following remedies:

(a) The sale of Council houses to those willing to purchase, to provide additional capital moneys for other developments;

(b) The relaxation of the rules prohibiting sub-letting in the Council's properties so that those tenants anxious to provide additional accommodation may be permitted to do so, and those who provide it already may do so honestly;

(c) The application of a rents policy that will discourage the more wealthy tenants from occupying accommodation urgently needed for the less fortunate;

(d) The acquisition and re-equipment of one or two camps so that temporary accommodation in tolerable surroundings may be provided for whole families together; and

(e) The provision of caravans on vacant sites?

A I am replying to this question by arrangement with the chairman of the Welfare Committee.

(i) At midnight on 14 October 1962 there were 991 families (that is, 4,638 persons) in welfare accommodation.

(ii) On 29 October 1961 there were 643 families (that is, 2,989 persons).

(iii) and (iv) I have frequently informed the Council of the measures which are being taken to increase housing production and thus relieve the situation, the last occasion being on 2 October 1962 (p. 680) and I would refer the honourable member to my reply then to Mr. Gates.

As to the suggested remedies—

(a) The sale of Council houses has been considered on a number of occasions and the Council's policy is well known. The reply of the chairman of the Finance Committee to Mr. Hambly on 20 March 1962 (pp. 243-4) dealt with the matter in detail;

(b) Although sub-letting is prohibited, tenants are allowed to take in lodgers provided that there is adequate room, and over 20,000 tenants have already been given permission to do so. I refuse to accept the inference in the honourable member's question that there are a large number of dishonest Council tenants;

(c) If the honourable member has in mind the introduction of differential rents, my views on this matter have been made abundantly clear in this chamber. I have no reason to believe that there is abundant accommodation for "more wealthy tenants" to move to;

(d) The possibility of securing one or two camps has been explored, but this temporary solution has proved impracticable, either because the camps are too far from London or because the authorities responsible will not permit their use for this purpose; and

(e) This and other suggestions which may prove to be practicable are being considered.

# APPENDIX 8.0

LETTER FROM LUCY ARCHER DATED 25TH  
SEPTEMBER 2020

LUCY ARCHER, GREAT HOUSE, DEDHAM, NEAR COLCHESTER, CO7 6HJ

Tel. & fax (01206) 322169

Quinlan Terry CBE, AA Dipl, FRIBA  
The Old Exchange  
High Street  
Dedham  
Colchester  
CO7 6HA

25 September 2020

Dear Quinlan,

I am dismayed to hear that planning permission has been refused for your scheme to build two small houses beside Jack Straw's Castle. Your design, which has been developed with meticulous skill and thought over the past five years, respects the local vernacular of the immediate vicinity while deferring to Raymond Erith's landmark pub building, one of his most original and highly-regarded works.

Your proposal is an ideal solution to the difficult problem of building on this highly sensitive site and it reflects an approach which appeared to be favoured by Camden.

I earnestly hope that permission will be granted on appeal.

Yours sincerely,



# APPENDIX 9.0

LETTER FROM ALAN POWERS DATED 21ST  
OCTOBER 2020

99 Judd Street, London, WC1H 9NE 020 7387 3154 [alanpowers@icloud.com](mailto:alanpowers@icloud.com)

Quinlan Terry, CBE, FRIBA,  
Old Exchange,  
High Street,  
Dedham,  
Colchester,  
Essex CO7 6HA

21 October 2020

Dear Quinlan,

Jack Straw's Castle

I wrote in 2015 to commend your design proposal for adding houses beside Raymond Erith's listed pub building. I have looked at the revised design now under consideration, that has taken into account issues raised by the previous conservation officer, and I believe this to be in some respects an improvement in terms of the townscape quality of the scheme and entirely appropriate to the occasion.

I understand that there are now further objections, based on a belief that the additions to the listed building should reflect a more vernacular and fragmented character of neighbouring properties. In a case such as this there are no established rules, as one hypothetical counterfactual history is being put in competition with another. I however support your original argument that if one were to imagine Georgian houses in this position on the Heath, they would most probably have been the standard type that was being built anywhere and everywhere at that time, without a conscious concern for 'local character' that belongs in a much later period.

Because, as you have argued, so much of the character of Hampstead was formed in the late Georgian period, I think your proposal is, if not 'authentic' (which would imply a reconstruction of a documented earlier building on the site), then a more plausible version of an imagined historical past than is now being asked for.

I am confident that you will be able to execute it with fidelity to the character of the original period. Given that the whole Jack Straw's Castle site is an exercise in a twentieth century imagination of a past history, your revised design seems entirely appropriate, especially given your unique association with Raymond Erith and insight into his thinking.

Yours sincerely,

A handwritten signature in black ink that reads "Alan Powers". The signature is written in a cursive, slightly slanted style.

Alan Powers, PhD, FSA, Hon FRIBA



# APPENDIX 10.0

LETTER FROM ALAN POWERS DATED 21ST  
OCTOBER 2020

19<sup>th</sup> October 2020  
Quinlan Terry, CBE,  
Quinlan Terry Architects,  
Old Exchange,  
High Street,  
DEDHAM  
COLCHESTER CO7 6HA

Dear Mr. Terry,

JACK STRAW'S CASTLE , NORTH END WAY, LONDON NW3  
(LONDON BOROUGH OF CAMDEN).

Thank you for sending me the drawings of the current proposals for development on the land adjacent to the listed former public house known as Jack Straw's Castle. I wrote about this work by Raymond Erith (1904-1973) in the book published by Sir John Soane's Museum in 2004, when a centenary exhibition of Erith's work took place in the museum. As I wrote at that time, I consider the building a highly rational and appropriately modest response to its context. It was listed as early as 1974.

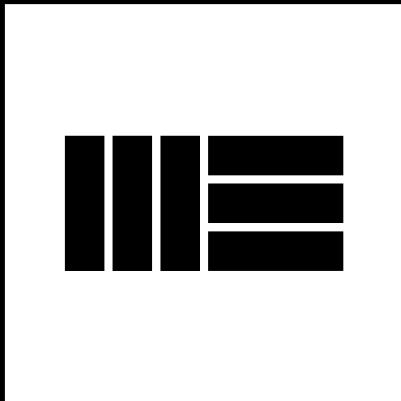
I understand that there has been some debate about the proposals for new houses on land adjacent to the listed building (long used as part of a car park). Your previous proposal for this site provided for a short terrace of houses. Authentically Georgian in manner, these could, however, be seen as perhaps too formal for their setting. The new proposal offers instead two houses in the spirit of those flanking the listed building to the south – less formal and appropriate to their context. I consider that the current submission provides for an entirely appropriate response to the site adjacent to the Heath. While still broadly Georgian in style, it defers to the vernacular tradition in its informality.

I much hope that this project will gain planning consent.

Yours sincerely,

Kenneth Powell, Hon.FRIBA

**MONTAGU EVANS LLP**  
**5 BOLTON STREET**  
**LONDON**  
**W1J 8BA**



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WE CONSIDER OUR CREDENTIALS, HOW WE HAVE STRUCTURED OUR BID AND OUR PROPOSED CHARGING RATES TO BE COMMERCIALY SENSITIVE INFORMATION.  
WE REQUEST THAT THESE BE TREATED AS CONFIDENTIAL.