3275/08-2112PO01ldl

2 January 2022

By email only ([redacted] planning@camden.gov.uk)

London Borough of Camden
2nd Floor, 5 Pancras Square
c/o Town Hall
Judd Street
London
WC1H 9JE

Dear Mr McClue

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55 FITZROY PARK, LONDON N6 6JA
APPLICATION REF: 2018/3672/P

We understand that you are now the case officer for the above application which has been pending a decision for a significant period while a response has been awaited on a number of extant queries relating to the impact of the development on foul and surface water drainage, ground conditions and ground water quality in proximity to Hampstead Heath.

Metropolis act for the City of London Corporation ('The City Corporation') and we have previously submitted representations in respect of this application based on an overriding concern as to the impact of the proposed development resulting from potential disruption and contamination of the spring water source that emerges in the garden of 55 Fitzroy Park.

This spring exits out of the old pond through a culvert and then filters through the City Corporation's Bird Sanctuary immediately opposite the site. The Bird Sanctuary is one of the richest compartments on the Heath in terms of biodiversity, with a thriving grass snake population, and a species rich matrix of damp meadow, and shallow seasonal ponds. The spring water that emerges from the site is key to the conservation value of the compartment.

As a result, extensive comments have been submitted by the City Corporation on both 21 October 2019 and 17 March 2021. We have also ad site of a further response provided by Alan Baxter Ltd on behalf of the FFPA dated 6 December 2021. We have attached for ease of reference our previous comments from March of this year.

As set out in the comments provided to you by the FFPA, there remains a significant number of unanswered queries relating to the drainage strategy for the site and it is of great concern that despite the extensive passage of time these matters remain unresolved and the applicant has failed to provide any response or revisions to the application documentation which deal with the matters identified by Alan Baxter Ltd in their correspondence of 6 December 2021.

The objection of the City Corporation, in their role as custodians of Hampstead Heath, must therefore remain as set out in the objection submitted in 2019 in relation to the scale of development proposed and the impact that it will have on the character of the Heath.

The City remains of the view that the proposal represents an over development of the site and, as a result could significantly and adversely effect the ecology and water environment on the Heath.

Given the effluxion of time since the submission of the application it is disappointing that a number of issues still remain unresolved, notably the provision of requested information to enable full and proper consideration of the effect of surface water drainage proposals resulting from the development proposed.

Policy A2 of the Camden Local Plan is explicit in seeking to 'preserve and enhance' Hampstead Heath and to consider the impact on the Heath when determining relevant applications such as this.

The water environment and the effect of the proposals upon it, is an important consideration in the assessment of this impact.

As such, with these matters remaining outstanding, in accordance with S.38 of The Act, the application should be refused. The applicant has not made the case that other material considerations exist that would support approval of the application and given the policy obligations set out above this matter of compliance cannot be deferred to be dealt with by conditions as it goes to the heart of the acceptability of the application.

Without prejudice to previously expressed objections submitted in relation to the scale of development proposed by the application The City Corporation, in exercising their role as custodians of the Heath must **object** to the application proposal.

The application has been pending determination for a considerable period and there remain a large number of issues unresolved.

We would therefore be grateful if you could keep us advised of progress on the application and if a determination based on submitted information is imminent. If any further information is required, please do not hesitate to contact me.

Yours faithfully

[redacted]

Paul O'Neill
Director

APPENDIX

3275/08-2103PO01ldl

17 March 2021

By email only ([redacted], planning@camden.gov.uk)

London Borough of Camden
2nd Floor, 5 Pancras Square
c/o Town Hall
Judd Street
London
WC1H 9JE

For the Attention of Kristina Smith

Dear Sir/Madam

55 FITZROY PARK, LONDON N6 6JA
APPLICATION REF: 2018/3672/P

Further to previous objections submitted on behalf of The City of London Corporation ('City Corporation') submitted on 21 October 2019 in respect of the above application for:

> *"Demolition of all existing buildings on the site and their replacement with five detached homes (Class C3)"*

It is noted that this application remains outstanding and awaiting determination almost 18 months after submission.

The objection of the City Corporation, in their role as custodians of Hampstead Heath, remain as set out in the objection submitted in 2019 in relation to the scale of development proposed and the impact that it will have on the character of the Heath.

The City remains of the view that the proposal represents an over development of the site and, as a result could significantly and adversely effect the ecology and water environment on the Heath.

Given the effluxion of time since the submission of the application it is disappointing that a number of issues remain unresolved, notably the provision of requested information to enable full and proper consideration of the effect of surface water drainage proposals resulting from the development proposed.

As acknowledged by the applicant, the application site is located in close proximity to network of ponds in this South East corner of the Heath. These ponds are a significant ecological and leisure resource in the local area and the water quality, quantity and the eco-system require careful management. Policy A2 of the Camden Local plan is explicit in seeking to 'preserve and enhance' Hampstead Heath and to consider the impact on the Heath of relevant applications such as this.

The water environment and the effect of the proposals upon it, is an important consideration in the assessment of this impact.

It is noted that the applicant has been requested to provide further details of investigations into the anticipated levels of surface water run-off and has adopted an incremental approach to the submission of required information.

The circumstances of this particular site are complex. The presence of an historic watercourse, an existing pond on site, the underlying geology, existing foul water drainage arrangements, and an orchard, in addition to numerous existing other substantial trees create circumstances which require detailed consideration. Where the development results in significant changes to anyone of these elements, the implications for the ponds on Hampstead Heath should be fully considered. In the case of this application, the scale of development proposed is likely to affect all of the above elements and the applicant has so far failed to robustly justify their proposals.

The position of the City Corporation remains that run-off from the site should be consistent with existing levels, and this important matter should be addressed in a holistic manner given the complex nature of the water environment and eco-system in proximity to the site. The potential implications of the development for this environment are such that it is not considered suitable to defer detailed consideration to conditions attached to a planning permission if issued, particularly where the scale and quantum of development are a direct contributing factor to the surface water drainage issues on and off-site.

Supplemental Information Provided by the Applicant

The response of applicant to the requests for further information provided by LB Camden as Lead Local Flood Authority (LLFA) has been reviewed. Further information submitted by the Applicant is noted and it is apparent from the LLFA's response that a number of issues still remain unresolved.

This would appear largely due to the applicants' incremental response to the provision of information which is not considered suitable on such a sensitive site.

<u>Surface Water Matters</u>

Infiltration Test

From the report submitted by the applicant in February 2021 it is apparent that the required infiltration test has been based on a single bore hole rather than the required excavation advocated by BRE 365 Guidance.

The presence of ground water in the test borehole would also indicate that further work is required to consider percolation of surface water in relation to the level of the existing water table.

This matter remains unresolved.

Infiltration Trench – proximity to the boundary

The LFFA have identified that the infiltration trench is nearer than 5m from the road, so does not meet the Building Regulations (Part H).

This matter remains unresolved.

Supplemental Attenuation

The LLFA has sought further information from the applicant to demonstrate that there will be no more water entering the heath and to demonstrate that the theoretical storage won't be reduced if the groundwater rises (as the trench isn't above the level of ground water as evidence by the results of the infiltration test).

This is a matter of great importance to the City Corporation.

This matter remains unresolved.

Cross Contamination

The LLFA requires further information to demonstrate how cross contamination of surface water run-off from foul water can be prevented.

This is also a matter of significant importance to the City Corporation.

This matter remains unresolved.

<u>Foul Water Matters</u>

Sewer Capacity

It is apparent that Thames Water still require further information to be satisfied that there is capacity in the combined sewer in Fitzroy Park for the proposed flows from site.

This matter remains unresolved.

Detail of new foul drainage pumping arrangements

The applicant has been asked to clarify the proposed maintenance of the new pumped foul drainage and confirm that this has been undertaken to the satisfaction of Thames Water.

The applicant has also been asked to provide correspondence from

Thames Water regarding acceptance of the new pump chamber.

This matter remains unresolved.

Construction Management

Provide details of management of flood risk during construction to avoid contamination from plant and machinery.

This matter remains unresolved.

It is apparent that insufficient information has been provided to enable full consideration of the impact of the proposal on surface water drainage from the excavation and construction required for the development and it remains the concern of the City Corporation that the development proposed could adversely affect the drainage conditions of the adjacent ponds on the Heath.

This is contrary to the provisions of Camden Local Plan Policies CC2 and CC3.

As such, with these matters remaining outstanding, in accordance with S.38 of The Act, the application should be refused. The applicant has not made the case that other material considerations exist that would support approval of the application and given the policy obligations set out above this matter of compliance cannot be deferred to be dealt with by conditions as it goes to the heart of the acceptability of the application.

Without prejudice to previously expressed objections submitted in relation to the scale of development proposed by the application, for all of the reasons set out above, the City Corporation, in exercising their role as custodians of the Heath must **object** to the application proposal.

The application has been pending determination for a considerable period and there remain a large number of issues unresolved.

We would therefore be grateful if you could keep us advised of progress on the application and if a determination based on submitted information is imminent. If any further information is required, please do not hesitate to contact me.

Yours faithfully

[redacted]

Paul O'Neill
Director