

Application No:	Consultees Name:	Received:	Comment:	Response:
2022/0120/L	Lucy Benbow(on behalf of Group Nexus)	11/02/2022 12:46:24	OBJ	<p>Dear Sir/Madam,</p> <p>Planning Application (Ref 2021/5726/P) and Application for Listed Building Consent (Ref 2022/0120/L):</p> <p>Proposed construction of 3 car stackers to create 3 underground car parking spaces and the replacement of an existing side elevation door with a glazed double door at Car Park Rear of Jack Straw's Castle Heath Brow London NW3 7ES.</p> <p>Introduction</p> <p>We write on behalf of our client, Group Nexus, to object to the applications above and we set out below our client's concerns which form the basis for this planning and heritage objection.</p> <p>By way of background, Group Nexus operates 1,200 parking sites across the UK in the form of car park management systems, including barriers, parking permit applications, pay for parking services, parking assistants, security, and maintenance services.</p> <p>Group Nexus' commercial office is situated within the adjacent Grade II listed building (Jack Straws Castle) thus immediately adjoining the application site to the south. One of the entrances to their premises at ground floor in fact will directly face onto one of the proposed car stackers.</p> <p>They have operated from these premises since November 2020 and have a 990-year lease that allows them to continue to do so. Their lease also grants them the right of way to pass and repass over the area which is the subject of this planning application.</p> <p>They have therefore a significant and an ongoing interest in JSC and its operation including these application proposals.</p> <p>It is noted that the application site is currently used as a private car park for the residents within Jack Straws Castle (JSC) but that the landlords of JSC also use the car park.</p> <p>We have accessed and reviewed copies of the drawings and supporting information in relation to the two applications referenced above via LB Camden Council's (LBC) website.</p> <p>Context</p> <p>There is an extensive planning history relating to Jack Straw's Castle (JSC) and the car park to the rear (application site).</p> <p>Of relevance, planning permission was granted at appeal for two three-storey (plus basement) dwellinghouses, including a reconfigured car park (Ref: 2020/1828/P (Planning Permission) and Application Reference- 2020/2577/L (Listed building Consent).</p> <p>At present, there is no evidence of these permissions having been implemented or started and we note that</p>

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there are several pre commencement planning conditions yet to be discharged.

In reviewing the appeal decision for these proposals, we would draw the following conclusions:

- 1 The two dwelling houses, including the reconfigured car park, were considered an improvement and an enhancement to the setting of the listed building and Hampstead Conservation Area (para 17); and
- 2 The Inspector recognised that the reduction in the existing car park aligns with Camden's objective of reducing car ownership in the Borough which will lead to a reduction in air pollution, congestion and encourage sustainable travel (walking and cycling) (para 46).

Notably, the application was approved as a 'car free development'. The Inspector at para 40 stated:

"The proposal is to be for 'car-free housing'. This means no on-site car parking spaces are provided with the scheme and future occupiers are to be prevented from applying for permits to park nearby on-street. This is in line with Policy T2 of the LP which sets out that all new developments will be required to be car-free and to do that they will, as an authority, not issue on-street parking permits in connection with new developments and will use legal agreements to ensure that future occupants are aware that they are not entitled to on-street parking permits. The S106 before me secures this. I therefore find such an obligation necessary to make the development acceptable in planning terms."

However, the Inspector acknowledged that the proposal does not provide disabled parking and that there is a shortfall of suitable on street disabled parking spaces within the immediate vicinity. In consideration of this shortfall and Policy T2 of the Local Plan "provision of on-site parking for disabled people where necessary", the Inspector attached the following condition (14):

"Prior to occupation of the development a revised parking layout to include disabled parking shall be submitted to and approved in writing by the local planning authority. The approved parking layout shall be implemented prior to first occupation and shall be retained thereafter and used for no purpose other than for the parking of vehicles."

We note condition 14 was discharged on 16/09/21.

Having reviewed the Officer's delegated report recommending approval of condition 14 (Disabled parking) it is evident that the original submitted details included a disabled car parking space and car stackers. However, it is also evident these stackers were removed prior to determination as the approved plans under condition 14 do not show any car stackers.

Proposals

The application proposals include the creation of 3 additional car parking spaces through the introduction of car stackers creating by excavation in two locations within the existing residents car park.

The submission confirms that these additional 3 spaces are to serve existing residents in JSC, in effect presumably to compensate for the loss of parking that will arise from the implementation of the two proposed dwellings. The Design and Access Statement submitted with the planning application suggests the additional parking is:

".....required to maximise the use of the of the car park for the existing tenants of Jack Straws Castle. (The approved proposed development for two new houses is car free)."

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Policy Considerations

Car parking

Policy T2 (Parking and car free development) of the Council's Local Plan (2017) highlights the requirement of all new residential developments within the Borough to be car-free.

Specifically, no car parking spaces are to be provided for new developments other than 'those reserved for disabled people and businesses and services reliant upon parking, where this is integral to their nature, operational and/or servicing requirements (e.g. emergency services, storage and distribution uses)'.

The Council's Transport Planning Guidance (2021) follows this theme, highlighting the Council's expectation for all new residential development across the Borough to be car-free, regardless of public transport accessibility rating (PTAL).

The site is located within a PTAL zone 3. Under the London Plan (2021) Policy T6.1 (Residential parking), new dwellings within a PTAL zone 3 site are entitled to a maximum parking provision of 1 space per dwelling.

However, the London Plan crucially states that 'Where Development Plans specify lower local maximum standards for general or operational parking, these should be followed ...With the exception of disabled persons parking'.

Considering this, significant weight is given to the Council's Transport Guidance and Local Plan which requires new residential development to be car free, apart from disabled parking.

From reviewing Policy T2 of the Local Plan, the Council's Transport Planning Guidance (2021) and the London Plan (2021), the proposal of 3 car stackers to create 3 underground car parking space is contrary to the development plan.

Furthermore, the applicant has not provided a justification for the additional parking (3 spaces) e.g. a need for parking which will serve essential users/ businesses or sought to justify the new spaces with regard to the quantum of existing residential accommodation in JSC.

We have assumed that the applicant has opportunistically sought to introduce this additional car parking subsequent to the grant of planning permission for the two dwellings. Rather than accept that there will be a loss of parking as a consequence of implementing these new dwellings they are seeking to ensure that this loss is mitigated through these car stackers thus removing the benefits the Inspector identified at para 46 of the appeal decision in relation to reductions in air pollution and congestion and health benefits from walking and cycling.

We would conclude based on the above that the additional car parking is contrary to Policy T2.

Proposed Excavation to create car stackers

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The proposed works will in effect create a basement to accommodate the proposed car stackers. In this respect we believe therefore that policies relating to the creation of basements are relevant in assessing these proposals.

Policy CPG4 (Basements and lightwells) of LBC's Local Plan (2017) requires planning applications for basement developments to provide an assessment of the 'scheme's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment'.

LBC's Basement Planning Guidance (2021) expands upon this requirement further, highlighting that a Construction Management Plan is also generally required to mitigate and manage basement developments within constrained sites and on sites.

We note that a Basement Impact Assessment was in fact submitted as part of the application for the two residential dwellings permitted on site (Application reference- 2020/1828/P) and the requirement for a Construction Management Plan was secured via the associated Section 106 agreement.

However, the applicant has not submitted a Basement Impact Assessment or a Construction Management Plan in relation to these latest proposals and therefore, your Council is not in a position to assess the impact and potential harm on the structural integrity of JSC or its heritage value as significantly, an assessment of the impact and potential harm to the Grade II listed building (Jack Straws Castle) has not been undertaken.

In these circumstances we conclude that both applications must be refused.

#### Heritage

National planning policy (NPPF 2021) provides the planning framework for the conservation and enhancement of the historic environment in England.

It requires that decisions are based on considerations towards the 'impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation'.

At the local level, Policy D2 (Heritage) of the Camden Local Plan seeks to ensure development is not permitted that would cause the loss of substantial harm to a designated heritage asset (including Conservation Areas and Listed Buildings). At the London level, Policy HC1 (Heritage, Conservation and Growth) of the London Plan (2021) reiterates the requirements of the Local Plan, advocating the importance of conserving, enhancing, and being sympathetic to heritage assets and their setting.

It is noted that the site is situated within Hampstead Conservation Area. Camden's Hampstead Area Appraisal (published in 2021) seeks to guide development and protect the historic character of the area.

LBC's Design Planning Guidance (2021) promotes the preservation and where possible the enhancement of the character and appearance of conservation areas, in line with Policy D2 of the Local Plan, HC1 of the London Plan and the NPPF.

According to the Hampstead Conservation Area appraisal, JSC is described as a 'unique example of its period

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of a structural timber frame used in a public building.'

It is therefore important that any development at the JSC site and its setting does not detract from its character and status.

In response to the above policy considerations, the introduction of a modern mechanical car stacker that is not characteristic to the setting of JSC or the surrounding listed buildings such as the Grade II\* Heath House has the potential to cause harm to the setting of the JSC/ Grade II\* Heath House and to the character and appearance of the Conservation Area.

The harm would be most evident when the stackers were in use. This harm needs to be given special regard under section 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, where the setting of a listed building and the character and appearance of a conservation area should be preserved. Also, under para. 199 of the NPPF any harm (arising from setting) to the significance of the listed buildings and to the character and appearance of the conservation area should be given great weight even if this harm is less than substantial. As per para. 202 of the NPPF, public benefits will need to outweigh this harm.

We acknowledge that the applicant has submitted a 'Design and Access Statement and Heritage Statement', however, the report doesn't set out the significance of the heritage assets as required by para. 194 of the NPPF and doesn't identify or assess how the revised door contributes to the setting of the conservation area or the listed building.

In these circumstances therefore both applications should be refused on heritage grounds.

Other considerations

Given the proximity of the proposed car stackers to our client's commercial premises and their side entrance, our client is also concerned that their pedestrian access and fire escape route will be obstructed by the proposal during construction as well as health and safety issues arising during the operation of the stacker closest to their access.

A detailed Construction Management Plan should have been submitted with the applications detailing the methodology, proposed works and health and safety measures in places to minimise disruption to our client's access, neighbouring properties and the highway.

It is also unclear how safety considerations will be addressed during the operation of the stackers.

Conclusion

In summary, the proposals:

1. will result in a development that is contrary to Policy T2 of the Local Plan, the LBC's Transport Planning Guidance (2021) and the Inspector's report granting dwellings on site as a 'car free development' (para 40-Ref: 2020/1828/P (Planning Permission) and 2020/2577/L (Listed building Consent)), all documents seek to ensure that residential development is car-free and to prevent development which could impact air pollution and congestion from excess parking, and deter individuals from sustainable transport options; and

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2. are also contrary to Policy CPG4 of the Local Plan and the LBC's Basement Planning Guidance (2021) and could cause harm to the amenity of neighbours, affect the stability of the Grade II listed building, cause drainage or flooding problems, or damage the character of areas or the natural environment;

Furthermore, the proposal of a modern mechanical car stacker that is not characteristic to the setting of JSC or the surrounding listed buildings such as the Grade II\* Heath House is contrary to the Council's Heritage Policy and conflicts with the aim of the Conservation Area appraisal, which seeks to protect the historic character of the area.

We suggest that the current proposals to construct 3 car stackers at Car Park Rear of JSC forms an inappropriate and unacceptable form of development and on behalf of our client we request that these applications should be refused.

Should you wish to discuss any of these matters, please do not hesitate to contact me.

Yours sincerely

Dennis Pope  
Planning Director

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