

Delegated Report		Analysis sheet	Expiry Date: 18/01/2022
			Consultation Expiry Date: 13/02/2022
Officer		Application Number(s)	
Enya Fogarty		i) 2021/5726/P ii) 2022/0120/L	
Application Address		Drawing Numbers	
Car Park Rear Of Jack Straw's Castle Heath Brow London NW3 7ES		See decisions	
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature
Proposal(s)			
i) Installation of 3 car stackers to create 3 underground car parking spaces within existing car park and the replacement of an existing external side elevation door at lower ground floor level with a glazed double door			
ii) Installation of 3 car stackers to create 3 underground car parking spaces within existing car park and the replacement of an existing external side elevation door at lower ground floor level with a glazed double door			
Recommendation(s):	i) Refuse Full Planning Permission ii) Refuse Listed Building Consent		
Application Type:	i) Full Planning Application ii) Listed building Consent		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	0	No. of responses	0	No. of objections	03
Summary of consultation responses:	<p>A site notice was displayed between 19/01/2022 until 12/02/2022. The application was advertised in the local press on 20/01/2022 until 13/02/2022.</p> <p>3 letters of objection were received from owners/occupiers of two unknown addresses and Group Nexus on behalf of local residents.</p> <p>Objections raised on grounds of;</p> <ol style="list-style-type: none"> 1. The proposed development has been submitted to overcome the requirement of a car free development as required under planning application 2021/5726/P 2. The proposed car stacks would be unsightly 3. Will result in hazard road markings that would be visually hideous harming the listed building 4. Information provided is not sufficient and misleading information 5. Sufficient amount of excavation near the listed building which has not been addressed within the planning application. 6. One of the car stackers is too narrow to accommodate a car. 7. The application has not provide justification to create the additional car parking spaces. 8. The applicant has not submitted a Basement Impact Assessment or a Construction Management Plan 9. The car stackers when in use would cause harm to the listed building and conservation area 10. Neighbouring commercial unit would be affected by the development in terms of pedestrian access and fire escape route during construction phrase. 11. Health and safety issues arising during construction phrase. 					
CAAC/Local groups comments:	<p>The Heath and Hampstead Society:</p> <ol style="list-style-type: none"> 1. The proposed development is contrary to Camden's transport polices and should be refused. 					

Site Description

Jack Straws Castle 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:

- **2020/1828/P and 2020/2577/L-** 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. **Appeal allowed and permission granted subject to a s106 legal agreement on 17/05/20201**
- 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**

Relevant policies

National planning Policy Framework 2021

The London Plan (2021)

Camden Local Plan 2017

A1 Managing the impact of development

A5 Basements

D1 Design

D2 Heritage

T1 Prioritising walking, cycling and public transport

T2 Parking and car-free development

T3 Transport Infrastructure

DM1 Delivery and Monitoring

Camden Planning Guidance

CPG Design
CPG Altering and extending your home
CPG Energy efficiency and adaptation
CPG Basements
CPG Amenity
CPG Transport
CPG Water and flooding
CPG Developer Contributions

Hampstead Neighbourhood Plan

DH1 Design
DH2 Conservation areas and listed buildings
BA1 Basement Impact Assessments
BA2 Basement Construction Plan
TT1 Traffic volumes and vehicle size
TT2 Pedestrian environments
TT3 Public transport
TT4 Cycle and car ownership

Hampstead Conservation Area Statement 2001

Assessment

1.0 PROPOSAL

1.1 The proposal seeks planning permission for the installation of three underground car stackers to accommodate three car parking spaces and the replacement of an existing side elevation door located on the east side of the north elevation of Jack Straws Castle adjacent to the existing car park. The proposed replacement door would be partially glazed and would be painted hardwood in a hardwood frame.

2.0 Background

2.1 In 2020 the applicant submitted a planning application under 2020/1828/P and a listed building consent application under 2022/0120/L for the *'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'*. There would be 7 car spaces on site as this proposal resulted in the reduction of 4 car spaces. The council refused the applications and the applicant appealed the decisions under **APP/X5210/W/20/3261840** dated 16/05/2021. The inspector granted planning permission and listed building consent for the proposal. However, the inspector agreed that the proposal should be car free in line with the Camden Council policies T1 and T2.

2.2 If this development was implemented, there would be 7 parking spaces remaining for the existing residents of Jack Straws Castle. The purpose of this proposal is to provide 3 additional car parking spaces to bring the total of car parking spaces to 10 for the residents of Jack Straws Castle.

ASSESSMENT

The material considerations for this application are summarised as follows:

- Design and Heritage
- Transport
- Amenity of neighbouring residential occupants
- Basement

3.0 Design and Heritage

3.1 Local Plan Policies D1 (Design) is aimed at achieving the highest standard of design in all developments. Policy D1 requires development to be of the highest architectural and urban design quality, which improves the function, appearance and character of the area. Policy D2 'Heritage' states that The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their settings.

3.2 Policy DH1 of the Hampstead Neighbourhood Plan states that “Development proposals should demonstrate how they respect and enhance the character and local context of the relevant character area(s) by: a. Ensuring that design is sympathetic to established building lines and arrangements of front gardens, walls, railings or hedges.” Policy DH2 of the Neighbourhood Plan seeks to ensure that proposals seek to protect and/or enhance buildings which make a positive contribution to the Conservation area.

3.3 Special regard has been attached to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses under s.16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Enterprise and Regulatory Reform Act [ERR] 2013.

3.4 The effect of these sections of the Act is that there is a statutory presumption in favour of the preservation of listed buildings, their setting and Conservation Areas. Considerable importance and weight should be attached to their preservation.

3.5 Where harm is caused to a heritage asset, local planning authorities should give ‘great weight’ to preserving the asset’s significance, in accordance with paragraph 200 of Section 16 of the National Planning Policy Framework (NPPF). Any harm or loss should require clear and convincing justification and where harm is caused to a heritage asset, the NPPF requires decision makers to determine whether the harm is substantial, or less than substantial, paragraph 202 requires that harm to be weighed against the public benefits of the proposals.

3.6 This is further supported in Local Plan Policy D2 Heritage which states ‘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’.

3.7 Objections have been raised regarding the impact the car stackers may have on the listed building and its setting as when they are in operation they would be visible and would appear prominent and unsightly. It is noted that the car stackers would have limited visibility when not raised and it is likely that they would only be visible for a small amount of time when in operation. However, it is still considered when in operation, the car stackers would cause harm to the significance of the grade II listed building and its setting.

3.8 The Council’s view is that the harm in this case is ‘less than substantial’. However, the proposal does not meet the public benefit test. A proposal which would cause harm should only be permitted where public benefits outweigh the heritage interest. There are no public benefits to outweigh the harm in this instance. Therefore, the proposal has not met the requirements of the NPPF.

3.9 Had this application be recommended for approval officers consider it would be possible to use a planning condition to minimise the development’s visibility by requiring the lift to be in the lowered position at all times except when moving vehicles from the basement level to ground.

3.10 The replacement door on the host property would be somewhat visible from streetscene and from the existing car park. The proposed door would be double glazed and would be constructed in hardwood and painted. The council’s conservation officers raised no concerns regarding the proposed door. Thus it is considered to preserve the character and appearance of the listed building.

3.11 However, it is considered the proposed car stackers would harm the setting of the host listed building and would not meet the statutory tests set out in the NPPF and would not comply with policies D1 and D2 of the Camden Local Plan and policies DH1 and DH2 of the Hampstead Neighbourhood Plan.

4.0 Transport

4.1 The carpark would accommodate 7 car parking spaces following approval of planning application 2020/1828/P appealed under **APP/X5210/W/20/3261840** (allowed 17/05/2021) which resulted in a loss of 4 car spaces if this scheme was implemented. The proposal will result in an increase of on-site car parking spaces from 7 to 10 in conjunction with this scheme. Or an increase to 14 spaces if that permission is not implemented.

4.2 Objections have been raised concerning concerns regarding car stackers and the lack of justification for the car stackers and additionally how the proposal is contrary to policies T1 and T2 of the Camden Local Plan.

4.3 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.

4.4 Policy T1 (Prioritising walking, cycling and public transport) of the Local Plan aims to *promote sustainable transport by prioritising walking, cycling, and public transport in the borough*. 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.

4.5 Policy T3 Transport infrastructure The Council will seek improvements to transport infrastructure in the borough. The Council will not grant planning permission for proposals which are contrary to the safeguarding of strategic infrastructure improvement projects and will protect existing and proposed transport infrastructure, particularly routes and facilities for walking, cycling and public transport, from removal or severance.

4.6 Transport officers were consulted for the application and due to the scale and location of the proposed works, a construction management plan is not considered a requirement for the development.

4.7 Under planning application 2020/1828/P, the proposal was required to be 'car-free' and was to be secured by S106 legal agreement. The applicant was willing to enter in such an agreement. Additionally the inspector stated under APP/X5210/W/20/3261840. :

'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 carfree 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.'

4.8 The proposed scheme would total result in 3 additional car parking spaces which contrary to policies T1 and T2 of the Camden Local Plan as it would result in additional car parking on-site and promotes the car ownership, solely by the occupants of the application building. It is also in direct conflict with the Council's aim to promote sustainable transport uses and minimise the use of private motor vehicles.

4.9 The proposal would involve excavation close to the public highway. The Council has to ensure that the stability of the public highway adjacent to the site is not compromised by the proposed car stackers. The Council's Highways team have determined that an 'Approval in Principle' (AIP) report and associated fee of £1,938.83 would need to be secured via a S106 legal agreement. The AIP report would need to include structural details and calculations to demonstrate that the proposed development would not affect the stability of the public highway adjacent to the site. The AIP would also need to include an explanation of any mitigation measures which might be required. As the application is being refused, the failure to enter into a legal agreement and secure an AIP (and monitoring fee) this would form a reason for refusal.

5.0 Amenity

5.1 Policy A1 seeks to protect the quality of life of occupiers and neighbours by only granting planning permission to development that would not harm the amenity of residents. This includes factors such as privacy, outlook, and implications to natural light, artificial light spill, odour and fumes as well as impacts caused from the construction phase of development. Policy A4 seeks to ensure that residents are not adversely impacts upon by virtue of noise or vibrations.

5.2 Due to the location, size and nature of the proposals they would not harm the neighbour's amenity in terms of the loss of natural light, outlook, light spill, added sense of enclosure or noise.

5.3 The proposed development is not considered to lead to a significant impact upon the amenities of any neighbouring resident. The development is thus considered to be in accordance with planning policies A1 and A4.

6.0 Basement Excavation

6.1 Policy A5 of the council's Local Plan states that *'in determining proposals for basements and other underground development, the Council will require an assessment of the scheme's impact on drainage, flooding, groundwater conditions and structural stability in the form of a Basement Impact Assessment (BIA)'*. All planning applications within the borough which involve any significant degree of downward excavation work (e.g. for a new basement level or enlargement of an existing basement area) are required to be accompanied by a Basement Impact Assessment (BIA). The need for the BIA is to ensure that the excavation works do not harm the ground stability or hydro-geological conditions of the local area or cause damage to neighbouring properties.

6.2 The Hampstead Neighbourhood Plan seeks to ensure that basements in Hampstead fully identify the risks and the damage is fully mitigated. Policy BA1 seeks to ensure that for developments that go beyond the screening stage, attentions should be given to additional steps (a-i) such as an assessment that demonstrates the predicted Burland Scale at the time of construction phase is no more than Burland Scale 1. It also specifies that boreholes measurements may need to be conducted in periods of contrasting rainfall and over a period of several months covering wet and dry seasons.

6.3 To install the car stackers the proposal would involve excavation of a depth of 2.8m below the existing car park. Policy A5 f) – m) of the Local Plan says that the siting, location, scale and design of basements must have minimal impact on and be subordinate to the host property. The proposed basement would not be more than one storey and would not be built under an existing basement. The basement would be less than 1.5 times the footprint of the host building in area and would be set away from neighbouring property boundaries.

6.4 In parts n) to u) of the policy A5 of the Local Plan, the Council seeks for applicants to demonstrate that basement proposals do not cause harm to the built and natural environment and local amenity, including to the local water environment and ground conditions. Objections were raised by nearby residents in regards to the absence of a BIA assessment. The Council's external basement auditors were consulted for the application and stated that there is potential for the underground works to result in damage to the road, pathway or any services beneath it, so a full BIA would be required. In absence of BIA and an independent audit as required by Policy A5, CPG Basements and policy BA1 of the Hampstead Neighbourhood Plan 2018, this would form a reason for refusal.

6.5 Therefore the applicant has failed to demonstrate that the excavation of the basement level parking would be carried out without causing harm to the structural, ground, or water conditions of the area, contrary to Policy A5 of the Local Plan and policy BA1 (Local requirements for Basement Impact Assessments) of the Hampstead Neighbourhood Plan 2018.

7.0 Conclusion

It is recommended that planning permission and listed building consent are refused. The reasons for refusal are listed below:

Planning Permission 2021/5726/P

7.1 The proposed car stackers by reason of their siting height and design when in operation would cause harm to the significance of the grade II listed building and its setting contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and policies DH1 and DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018.

7.2 The creation of additional onsite parking spaces would promote the use of private motor vehicles, fail to encourage the use of sustainable modes of transport and exacerbate local traffic conditions contrary to policies T1 and T2 of the Camden Local Plan 2017.

7.3 In the absence of an independent audit of the basement impact assessment, the applicant has failed to demonstrate the development would not cause harm to the built and natural environment including the local water environment, ground conditions and the structural stability of the listed building and neighbouring properties contrary to policy A5 (Basements) of the London Borough of Camden Local Plan (2017) and policy BA1 (Local requirements for Basement Impact Assessments) of the Hampstead Neighbourhood Plan 2018.

7.4 The proposed development, in the absence of a legal agreement securing an Approval in Principle, would fail to mitigate the impact of the basement works on the adjacent public highway contrary to policies A1 (Managing

the impact of development), T3 (Transport Infrastructure) and DM1 (Delivery and monitoring) of the London Borough of Camden Local Plan 2017.

Listed building consent

7.5 The proposed car stackers by reason of their siting, height and design when in operation would cause harm to the significance of the grade II listed building contrary to policies 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.

Recommendation: Refuse Planning Permission and listed building consent