

APPENDIX 1

REPORT TO THE PLANNING AND ENVIRONMENT COMMITTEE

31 JANUARY 2012

LOCATION: Former Wyevale Garden Centre, Daws Lane, London, NW7 4SL
REFERENCE: H/04210/11 **Received:** 12 October 2011
Accepted: 14 October 2011
WARD: Mill Hill **Expiry:** 09 December 2011

Final Revisions:

APPLICANT: C/O Etz Chaim Primary School

PROPOSAL: Change of use from current A1 use (Garden Centre) to proposed D1 use (Education). Proposals involve the retention and conversion of the existing building, additional windows on front elevation and modifications to existing facades. Removal of the existing central glass roof and glazed conservatory on the eastern side, followed by single storey extension. Opening up rear of the site to form an open courtyard, play area and soft landscaping. New front boundary treatment, additional planting and security hut, provision of 17 car parking spaces.

SUMMARY

What is the Etz Chaim school proposal?

The proposal involves a change of use of the former Wyevale garden centre in Daws Lane into a single form entry primary school (the Etz Chaim Primary School). The garden centre closed in September 2011. The School has already opened a nursery and reception class on a temporary site at 80 Daws Lane which opened in September last year. The proposal for a permanent school on the former Wyevale site includes the removal of the existing covered glasshouses and structures to the rear of the main building to create an external play space and the conversion of the building to provide school accommodation. Parking would be provided on site for staff and disabled visitors.

It is intended that the school will be available for use by the wider community, principally outside school hours.

What are the material considerations to be taken into account when considering the application?

The report details the relevant policies that should be taken into account and all the responses received to the consultation on the planning application. It assesses the planning considerations under the following broad headings:

- Green Belt issues
- Need for a new school
- Principle of the change of use
- Transport issues
- The Equalities Act 2010 and implications arising from the proposals
- The impact on the amenities of nearby occupiers

- Design and access issues

Some of the main issues raised are summarised below:

Is there a need for a new school in Mill Hill?

The school is one of the first Free Schools to open following government approval last year. It has been set up in response to the local Jewish community need for an orthodox Jewish primary school in Mill Hill. The school's admission policy meets the Free School criteria with up to 50% of the intake based on religious grounds.

There is insufficient capacity in Barnet's primary schools to meet current and projected demand. Sustained additional demand for Reception places in this area of the borough is projected over the next few years. There is also borough-wide pressure for Jewish primary school places.

This proposal will help meet parental preferences and provide much needed school places. The majority of pupils who currently attend the school live within 2km of the site.

What are the implications and impacts for residents from the closure of the Garden Centre last year?

A great number of local residents object to the closure of the garden centre. They say that it was a well used and valuable local facility, particularly for the more elderly or disabled members of the community who were unable to walk far or unable to use public transport to travel elsewhere. For many of them the garden centre provided a useful shop with café and toilet facilities which they could easily access and where they could meet friends and socialise in a peaceful environment. Services run for the elderly or disabled groups visited the garden centre on occasion.

Many respondents claim that if planning permission is granted, the Council will be in breach of the Equalities Act 2010 which requires the Council to pay due regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics and foster good relations between different groups when discharging its functions, due to the disproportionate impact on the elderly and disabled.

The Council consulted very widely on this planning application and officers analysed the responses received to see where the objectors and supporters lived and which were the main areas of concern and reasons for support.

This analysis reveals that the vast majority of objectors are from roads local to the site and wider Mill Hill whereas a significant number of supporters (two thirds) live outside the Mill Hill NW7 postcode area.

As part of the consideration of the application, officers have looked at the alternative facilities available for residents in the local area that could provide similar facilities to those previously provided by the garden centre. A significant level of support for the proposals was also received, citing the educational benefits of the new school for children. The report also details the need for additional school places.

As well as considering the impact of the proposals on the local community, the report also considers those factors which weigh in favour of the development.

How will the school impact on traffic in the area?

One of the main considerations is the impact of the new school on traffic in the area and pressure for on-street parking, particularly during school drop off and pick up times. The Council's highway officers have carefully looked at the school submissions – the Transport Statement and current School Travel Plan - as well as the concerns raised by residents about the traffic and parking situation arising from the existing school in its temporary location.

The majority of the pupils at the school live within 2km but the catchment is larger than was envisaged prior to the school opening. The number of parents who say they walk to school with their children is less than was envisaged prior to opening. Officers have undertaken their own surveys of parking in the area, the availability of parking spaces in car parks and on-street, and parking levels associated with other Jewish schools. They conclude that when the school reaches full capacity, there are likely to be approximately 60 trips associated with drop-off and pick-up of the children and that the traffic impact for this proposal, subject to suitable mitigation measures, can be accommodated on the existing highway network.

Is the site a suitable location for a school?

As well as concerns raised about the suitability of the site for a school due to the impacts on traffic, parking and pedestrian safety, concerns have also been raised about whether the use is acceptable on this site in the Green Belt and whether its location near busy traffic routes makes it an appropriate location for school children due to noise and poor air quality.

Change of use of existing buildings in the Green Belt is not inappropriate provided that there is no significant harm, principally to openness. In this case the large structures at the rear of the site closest to the boundary with Mill Hill park are to be removed. Although a security hut is proposed to the front of the site together with railings, overall there is increased openness across the site.

The application is accompanied by noise and air quality reports which highlight potential issues. Any problems can be mitigated through the building's design and management of the future use of the internal and external areas and these measures can be secured by conditions.

How will the amenities of existing residents be protected?

Any impacts on local residents will be through the vehicular activity associated with the drop off and pick up of children but potentially also through any out of hours use. The community (non-school) uses of the site will be set out in the Community Access Plan. Particular care will be needed to ensure that there are adequate controls on the nature of these uses and the hours the building is used to safeguard amenity and these controls will be secured through the proposed planning obligation and conditions.

How will the impacts of the proposal be mitigated?

Impact of the school on local residents:

The traffic impacts arising from the school itself are addressed through the proposed mitigation measures for example, the highway improvements, adoption of a School Travel Plan and associated action plan, which are all to be secured through a legal agreement and planning conditions. Other potential impacts on local residents' amenities can be addressed by the imposition of conditions attached to the permission and within the Community Access Plan.

Impact on children attending the school:

The potential impacts arising from noise and air pollution can be addressed through the mitigation measures put in place through the design of the school and which can be secured by conditions.

Impact on residents from the loss of the garden centre:

Although the garden centre has closed, this site was clearly for many local people a valuable facility. The closure of the garden centre has had an adverse impact particularly on elderly and disabled residents in the area. However an analysis of the alternative facilities available in the area show that, for many people, the facilities provided by the former garden centre can be accessed elsewhere. The site is next to Mill Hill park with its recreational facilities and indoor café. The site is close to Mill Hill town centre with numerous shops and cafes. There is also another garden centre within Mill Hill although this is not as readily accessible to non drivers and does not have the same café facilities.

This summary highlights some of the issues arising from the proposed development and they are considered in detail below within the report.

RECOMMENDATION:

That the planning application is approved, subject to a Section 106 legal agreement

RECOMMENDATION PART I:

That the applicant and any other person having a requisite interest be invited to enter by way of an agreement into a planning obligation under Section 106 of the Town and Country Planning Act 1990 and any other legislation which is considered necessary for the purposes seeking to secure the following:

- 1 Paying the council's legal and professional costs of preparing the Agreement and any other enabling agreements;
- 2 All obligations listed below to become enforceable in accordance with a timetable to be agreed in writing with the Local Planning Authority;
- 3 **Highways Improvement (local to the site) £10,000.00**

A contribution towards the installation of school keep clear crossing markings, review of on-street parking on neighbouring roads and implementation of additional waiting restrictions that may include extension of existing Controlled Parking Zone together with making or amending the associated existing Traffic Orders.

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| 4 | Highways Improvement (local to the site) | £3,000.00 |
| | A contribution towards the implementation of dropped kerbs and alterations to the existing refuge at the junction of Daws Lane/ Wise Lane. | |
| 5 | Special Site-Specific Obligation | £5,000.00 |
| | A contribution towards the monitoring of the School Travel Plan | |
| 6 | Special Site-Specific Obligation | £0.00 |
| | Submission of a Community Access Plan which shall set out how the school will ensure the site is available for community use. The Plan shall include details of the facilities that will be available, pricing policy, hours of use, access by non-school users, management responsibilities, a timetable for implementation of the Plan and include a mechanism for review | |
| 7 | Monitoring of the Agreement | £650.00 |
| | Contribution towards the Council's costs in monitoring the obligations of this planning agreement. | |

RECOMMENDATION PART II:

That the application be referred to the Greater London Authority (Under Article 5 of the Town and Country Planning (Mayor of London) Order 2008) and to the Secretary of State.

RECOMMENDATION PART III:

That upon completion of the agreement and no direction being received to refuse the application and no direction being received that the application is called in for the Secretary of State to determine, the Assistant Director of Planning and Development Management approve the planning application reference: H/04210/11 under delegated powers subject to the following conditions: -

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans: Planning, Design and Access Statement; 282 EX(01)01 rev B; 282 EX(01)02 rev B; 282 EX(02)01 rev A; 282 EX(03)01 rev A; 282 EX(03)02 rev A; 282 EX(04)01 rev A; 282 EX(04)02 rev A; 1052.03; 2050.01; 2052.01; 2053.01; 2054.01; 2056.01, 2057.01, 3571/L02 rev 02, 3571/P01 rev 02, 3571/P02 rev 01

Reason:

For the avoidance of doubt and in the interests of proper planning, in accordance with policies GSD, GBEnv1, GBEnv2, GBEnv4, O1, O2, O3,

O6, D1, D2 of the Barnet UDP 2006 and policies 5.1, 5.2, 7.4, 7.16 of the London Plan 2011 .

- 2 This development must be begun within three years from the date of this permission.

Reason:

To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.

- 3 The premises, as shown on the approved plans, shall be used only by the Etz Chaim Mill Hill Jewish Free School and associated community uses as set out in the Community Access Plan and for no other purpose (including any other purpose in Classes D1 or D2 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason:

To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area, in accordance with policies GBEnv1, GBEnv4, D2, D10, M10, M11, CS4 and CS5 of the Barnet UDP 2006 and policies 3.16, 7.1, 7.2, 7.4 of the London Plan 2011 .

- 4 The use of the premises for the purposes hereby permitted shall only take place between the hours of 7.00am and 9.00pm on weekdays, and, between 9.00am and 7.00pm on Saturdays and Sundays or as agreed in the Community Access Plan.

Reason:

To ensure that the use does not prejudice the amenities of occupiers of neighbouring residential properties, in accordance with policies GBEnv1, GBEnv2, D2, D10, CS4, CS5 of the Barnet UDP 2006 and policies 7.1, 7.4 of the London Plan 2011 .

- 5 Before the development hereby permitted is brought into use or occupied the site shall be enclosed except at the permitted points of access in accordance with the details hereby approved which shall be retained as such thereafter.

Reason:

To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway, in accordance with policies GBEnv1, GBEnv2, GBEnv4, O1, O2, O3, O6, D2, D9, D10, M13 of the Barnet UDP 2006 and policies 6.10, 6.11, 7.3, 7.4 of the London Plan 2011 .

- 6 Before the development hereby permitted commences, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority and shall be provided at the site in accordance with the approved details before the development is occupied and shall be retained as such thereafter.

Reason:

To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area, in accordance with policies GBEnv1, GBEnv2, GBEnv4, O1, O2, O3, O6, D2, D9, D10, M13 of the Barnet UDP 2006 and policies 6.11, 7.4 of the London Plan 2011 .

- 7 No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm on other days unless previously approved in writing by the Local Planning Authority.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties, in accordance with policies GBEnv2, D1, Env12, Env13 of the Barnet UDP 2006 and policies 7.4, 7.15 of the London Plan 2011 .

- 8 Before development hereby permitted is occupied, parking spaces, disabled parking spaces, electric vehicle charging points and cycle parking, shall be provided and marked out within the site in accordance with the plans hereby approved and shall be retained as such and used for the purposes specified thereafter.

Reason: To ensure that parking and associated works are provided in accordance with the Council's standards in the interests of pedestrian and

highway safety and the free flow of traffic, in accordance with policies GBEnv2, D1, M11, M12, M13, M14 of the Barnet UDP 2006 and policies 5.1, 5.2, 6.13 of the London Plan 2011 .

- 9 Two months prior to the school opening a School Travel Plan that meets the current Transport for London criteria as detailed in the document 'What a School Travel Plan should contain' shall be submitted to and approved in writing by the Local Planning Authority. The documents shall set out the school's transport policy to incorporate measures to reduce trips to school by the private car and encourage non car modes such as walking, cycling and public transport. Details of the start and finish times for pupils shall also be incorporated in order to minimise conflict on the local highways network. The scheme as submitted shall be approved in writing by the local planning authority and the use shall be carried out in accordance with the School Travel Plan as approved.

The School Travel Plan should include the appointment of a School Travel Plan Champion, measurable targets and a clear action plan for implementing the measures. The School Travel Plan should be reviewed annually in accordance with the targets set out in the Plan.

Reason:

To encourage the use of sustainable forms of transport to the site in accordance with policies GSD and M3 of the Barnet UDP 2006.

- 10 The demolition and construction of the development hereby approved shall be carried out in accordance with a method statement and Construction Management Plan, which shall have been submitted to and approved in writing by, the local planning authority at least one month prior to the commencement of the demolition.

Reason: In the interests of highway safety in accordance with policies GBEnv1, GBEnv2, M10, M11, M12 of the Barnet UDP 2006 and policies 6.11, 7.4 of the London Plan 2011 .

- 11 Before the development is commenced, the access points (pedestrian and vehicular) and footways shall be implemented in accordance with the details shown on the approved drawings and shall be retained as such thereafter.

Reason: To ensure that the access is satisfactory in terms of highway safety and in accordance with policies GBEnv2, D1, M10, M11, M12 of the Barnet UDP 2006 and policies 6.11, 7.4 of the London Plan 2011 .

- 12 Before the development commences details of the refuse collection and servicing arrangements shall be submitted to and agreed by the Local Planning Authority and shall be maintained as such thereafter.

Reason: In the interest of highway safety in accordance with policies GBEnv1, M13 of the Barnet UDP 2006 and policy 6.11 of the London Plan 2011 .

- 13 The development shall be implemented in accordance with the details specified in the Accessibility Statement dated 11 October 2011 and shall be maintained as such thereafter.

Reason:
To ensure adequate accessibility within the development. , in accordance with policies GBEnv2, D1, CS4, CS5 of the Barnet UDP 2006 and policies 3.1, 3.16, 7.2 of the London Plan 2011 .

- 14 Before the development hereby permitted is brought into use or occupied, the hard and soft landscaping shall be implemented in accordance with the details hereby approved.

Reason:
To ensure a satisfactory appearance to the development, in accordance with policies GBEnv1, GBEnv2, GBEnv4, O1, O2, O3, O6, D1, D2, D3, D11 of the Barnet UDP 2006 and policies 5.10, 7.2, 7.4, 7.16 of the London Plan 2011 .

- 15 All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.

Reason:
To ensure a satisfactory appearance to the development, in accordance with policies GBEnv1, GBEnv2, GBEnv4, O1, O2, O3, O6, D1, D2, D3, D11 of the Barnet UDP 2006 and policies 5.10, 7.2, 7.4, 7.16 of the London Plan 2011 .

- 16 Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and

species in the next planting season.

Reason:

To ensure a satisfactory appearance to the development, in accordance with policies GBEnv1, GBEnv2, GBEnv4, O1, O2, O3, O6, D1, D2, D3, D11 of the Barnet UDP 2006 and policies 5.10, 7.2, 7.4, 7.16 of the London Plan 2011 .

- 17 The non-residential development is required to meet the BREEAM standard of good. Before the development is first occupied the developer shall submit certification of the selected generic environmental standard.

Reason:

To ensure that the development is sustainable and in accordance with policies GSD, GBEnv2, D1 of the Barnet UDP 2006 and policies 5.1, 5.2, 5.3, 5.7 of the London Plan 2011 .

- 18 The development shall be built to incorporate the measures set out in the Planning Design and Access Statement and Energy Strategy. Prior to the commencement of development details of the PV Cell system shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved and the measures specified shall be maintained as such thereafter.

Reason:

To ensure that the development is sustainable and in accordance with policies GSD, GBEnv2, D1 of the Barnet UDP 2006 and policies 5.2, 5.3, 5.4, 5.7 of the London Plan 2011 .

- 19 No external lighting, floodlighting or other means of external illumination shall be affixed to the external elevations of the buildings, or placed/erected within the site other than those shown on the approved plans without the prior written consent of the local planning authority. Any external lighting, floodlighting or other means of external illumination shall be installed and thereafter retained in full accordance with the approved details.

Reason:

To enable the local planning authority to retain control over these matters in the interests of the amenities of the adjoining properties, in accordance with policies GBEnv1, GBEnv2, GBEnv4, O1, D1, D2, Env6 of the Barnet UDP 2006 and policies 7.4, 7.16 of the London Plan 2011 .

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- 20 Notwithstanding the provisions of Part 32, Class A to schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that order) no extensions to the school hereby permitted shall be erected without express planning permission first being obtained.

Reason:

To enable the local planning authority to retain control over these matters in the interests of controlling the intensity of use and safeguarding the green belt and appearance of the locality, in accordance with policies GBEnv1, GBEnv2, GBEnv4, O1, O2, O3, O6, D1, D2 of the Barnet UDP 2006 and policies 7.4, 7.16 of the London Plan 2011 .

- 21 The development hereby permitted shall be carried out in full accordance with the details shown on the approved plans.

Reason:

To ensure the permission is implemented as approved, in accordance with policies GSD, GBEnv1, GBEnv2, GBEnv4, O1, O2, O3, O6, D1, D2 of the Barnet UDP 2006 and policies 5.1, 5.2, 7.4, 7.16 of the London Plan 2011 .

- 22 Before the development hereby permitted commences on site, details of all extraction and ventilation equipment shall be submitted to and approved by the Local Planning Authority and implemented in accordance with agreed details before the use is commenced and retained as such thereafter.

Reason:

To ensure that the proposed development does not prejudice the enjoyment or amenities of occupiers of nearby residential properties, in accordance with policies GBEnv2, D1, Env12 of the Barnet UDP 2006 and policies 7.15 of the London Plan 2011 .

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- 23 The level of noise emitted from the any site plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of number 57A Daws Lane.

If the noise emitted has a distinguishable, discrete continuous note (whine, hiss, screech, hum) and/or distinct impulse (bangs, clicks, clatters, thumps), then it shall be at least 10dB(A) below the background level, as measured from any point 1 metre outside the window of any room of that property.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties, in accordance with policies GBEnv2, D1, Env12, Env13 of the Barnet UDP 2006 and policy 7.15 of the London Plan 2011 .

- 24 A hazardous building materials survey shall be undertaken prior to the development commencing.
- Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety, in accordance with policy Env14 of the Barnet UDP 2006 and policy 5.21 of the London Plan 2011 .
- 25 Before development commences, an air quality assessment report, written in accordance with the relevant current guidance, for the existing site and proposed development shall be submitted to and approved by the Local Planning Authority. It should also have regard to the air quality predictions and monitoring results from the Stage Four of the Authority's Review and Assessment, the London Air Quality Network and London Atmospheric Emissions Inventory.
- A scheme for air pollution mitigation measures based on the findings of the report shall be submitted to and approved by the Local Planning Authority prior to development. The approved mitigation scheme shall be implemented in its entirety before the use commences.
- Reason:
To ensure that the end users are protected from the poor air quality in the vicinity, in accordance with policy GBEnv2, D1, Env7 of the Barnet UDP 2006 and policy 7.14 of the London Plan 2011 .
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- 26 The number of pupils attending the primary school and nursery shall not exceed 240.
- Reason:
- To enable the Local Planning Authority to control the intensity of the use and safeguard the amenities of neighbouring occupiers, in accordance with policies GBEnv1, GBEnv2, D1, D2 of the Barnet UDP 2006 and policy 7.4 of the London Plan 2011 .
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- 27 An Environmental Management Plan as indicated in the Air Quality Impact Assessment dated 15th April 2011, shall be submitted to and approved in

writing by the Local Planning Authority before any on-site work begins. The development shall be implemented and maintained in accordance with the approved details thereafter.

Reason: To ensure the development can be implemented and occupied with adequate regard to environmental and public safety, in accordance with policies Env7, Env13, Env14 of the Barnet UDP 2006 and policies 5.21, 7.14, 7.15 of the London Plan 2011 .

28

Part 1

Before development commences other than for investigative work:

- A desktop study shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected, given those uses, and other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. The desktop study and Conceptual Model shall be submitted to the Local Planning Authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority.-
- If the desktop study and Conceptual Model indicate any risk of harm, a site investigation shall be designed for the site using information obtained from the desktop study and Conceptual Model. This shall be submitted to, and approved in writing by, the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:-
 1. a risk assessment to be undertaken,
 2. refinement of the Conceptual Model, and
 3. the development of a Method Statement detailing the remediation requirements.

The risk assessment and refined Conceptual Model shall be submitted, along with the site investigation report, to the Local Planning Authority.

- If the risk assessment and refined Conceptual Model indicate any risk of harm, a Method Statement detailing the remediation requirements, using the information obtained from the site investigation, and also detailing any post remedial monitoring shall be submitted to, and approved in writing by, the Local Planning Authority prior to that remediation being carried out on site.

Part 2

Where remediation of contamination on the site is required completion of the remediation detailed in the method statement shall be carried out and a report that provides verification that the required works have been carried out, shall be submitted to, and approved in writing by the Local Planning Authority before the development is occupied.

Reason:

To ensure the development can be implemented and occupied with adequate regard for environmental and public safety, in accordance with policy Env14 of the Barnet UDP 2006 and policy 5.21 of the London Plan 2011 .

29

Before the use hereby approved commences, details of the measures to be implemented by the developer to address the findings of the Noise Survey Report shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation scheme shall be implemented in its entirety before use commences and shall be retained thereafter.

Reason: To safeguard the amenities of future occupiers, in accordance with policies GBEnv2, D1, Env12, Env13 of the Barnet UDP 2006 and policy 7.15 of the London Plan 2011 .

INFORMATIVE(S):

1 REASONS FOR APPROVAL

The reasons for this grant of planning permission are as follows: -

i) The proposed development accords with strategic planning guidance and policies as set out in the Mayor's London Plan 2011 and the Adopted Barnet Unitary Development Plan (2006).

In particular the following policies are relevant:

London Plan (2011): 3.1, 3.16, 3.18, 5.1, 5.2, 5.3, 5.4, 5.7, 5.10, 5.13, 5.17, 5.21, 6.3, 6.9, 6.10, 6.11, 6.13, 7.1, 7.2, 7.3, 7.4, 7.14, 7.15, 7.16, 7.19

Adopted Barnet Unitary Development Plan (2006): GSD, GBEnv1, GBEnv2, GBEnv3, GBEnv4, GRoadNet, GParking, GCS1, ENV6, ENV7, ENV12, ENV13, ENV14, D1, D2, D3, D4, D5, D9, D10, D11, O1, O2, O3, O6, M3, M5, M10, M11, M12, M13, M14, CS1, CS4, CS5, CS6, TRC19, L8, IMP1, IMP2.

Core Strategy (Submission Version) 2011: CS1, CS5, CS7, CS8, CS9, CS10, CS12.

Development Management Policies (Submission Version) 2011: DM01, DM03, DM04, DM13, DM15, DM16, DM17

ii) The proposal is acceptable for the following reason(s): -

The proposal is considered to be acceptable with regard to development plan policies subject to appropriate planning conditions. It would introduce valuable education accommodation in the borough, having an acceptable impact on the character and appearance of the site, wider locality and its Green Belt location. The proposal would have no significant impact on the amenities of neighbouring occupiers and can be accommodated on this site without significant adverse impact on local roads and the highway network. Having taken all material planning matters into consideration and having paid due regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics, officers conclude that, the benefits to the wider community of the provision of new educational facilities outweighs the adverse impact on those with protected characteristics.

The proposal is therefore considered to be in accordance with relevant national planning policy guidance, the London Plan, the Adopted Barnet Unitary Development Plan and emerging Local Development Framework.

- 2 The documents supporting this application are:- Planning, Design and Access Statement; Statement of Community Involvement April 2011; School Travel Plan 2011-2012; MLM Transport Statement Rev E; Environmental Noise Survey Report 28 April 2011; Air Quality Assessment dated 15 April 2011; Bat Survey dated May 2011; Arboricultural Assessment Report dated April 2011; Biodiversity Assessment dated April 2011; Mechanical and Electrical Services dated 6 June 2011; Renewable Energy Strategy Report Rev 02 dated 5 August 2011; Accessibility Statement dated 11 October 2100; Schedule of Materials for External Works rev 01 dated 18 August 2011, letter from Friends of Etz Chaim School dated 25th November.
- 3 Details submitted in respect of the Construction Management Plan above shall control the hours, routes taken, means of access and security procedures for construction traffic to and from the site. The method statement shall provide for the provision of on-site wheel cleaning facilities during demolition, excavation, site preparation and construction stages of the development, recycling of materials, the provision of on-site car parking facilities for contractors during all stages of development (excavation, site

preparation and construction) and the provision on site of a storage /delivery area for all plant, site huts, site facilities and materials and a community liaison contact.

4 Any and all works carried out in pursuance of this planning permission will be subject to the duties, obligations and criminal offences contained in the Wildlife and Countryside Act 1981 (as amended). Failure to comply with the provisions of the Wildlife and Countryside Act 1981 (as amended) may result in a criminal prosecution.

5 In complying with the contaminated land condition parts 1 and 2:

Reference should be made at all stages to appropriate current guidance and codes of practice. This would include:

- 1) The Environment Agency CLR & SR Guidance documents;
- 2) Planning Policy Statement 23 (PPS 23) - England (2004);
- 3) BS10175:2001 Investigation of potentially contaminated sites - Code of Practice;
- 4) Guidance for the safe development of housing on land affected by contamination, (2008) by NHBC, the EA and CIEH.

Please note that in addition to the above, consultants should refer to the most relevant and up to date guidance and codes of practice if not already listed in the above list.

6 You are advised to engage a qualified acoustic consultant to advise on the scheme, including the specifications of any materials, construction, fittings and equipment necessary to achieve satisfactory internal noise levels in this location.

In addition to the noise control measures and details, the scheme needs to clearly set out the target noise levels for the habitable rooms, including for bedrooms at night, and the levels that the sound insulation scheme would achieve.

The details of acoustic consultants can be obtained from the following contacts: a) Institute of Acoustics and b) Association of Noise Consultants.

The assessment and report on the noise impacts of a development should use methods of measurement, calculation, prediction and assessment of

noise levels and impacts that comply with the following standards, where appropriate: 1) Department of Environment: PPG 24 (1994) Planning Policy Guidance - Planning and noise; 2) BS 7445 (1991) Pts 1, 2 & 3 (ISO 1996 pts 1-3) - Description and & measurement of environmental noise; 3) BS 4142:1997 - Method of rating industrial noise affecting mixed residential and industrial areas; 4) BS 8223: 1999 - Sound insulation and noise reduction for buildings: code of practice; 5) Department of transport: Calculation of road traffic noise (1988); 6) Department of transport: Calculation of railway noise (1995); 7) Department of transport : Railway Noise and insulation of dwellings.

The Air Quality Stage 4 Review and Assessment for the London Borough of Barnet has highlighted that this area currently experiences or is likely to experience exceedances of Government set health-based air quality standards. A list of possible options for mitigating poor air quality is as follows: 1) Use of passive or active air conditioning; 2) Use of acoustic ventilators; 3) Altering lay out – habitable rooms away from source of poor air quality; 4) Non residential usage of lower floors; 5) Altering footprint – setting further away from source of poor air quality.

- 7 For developments that require an Air Quality report; the report should have regard to the air quality predictions and monitoring results from the Stage Four of the Authority's Review and Assessment available from the LPA web site and the London Air Quality Network. The report should be written in accordance with the following guidance: 1) NSCA Guidance: Development Control: Planning for Air Quality and the Planning Policy Statement 23: Planning and Pollution Control; 2) Environment Act 1995 Air Quality Regulations, Planning Policy Statement 23: Planning and Pollution Control, Annex 1: Pollution Control, Air and Water Quality; 3) Local Air Quality Management Technical Guidance LAQM.TG(03); 4) London Councils Air Quality and Planning Guidance, revised version January 2007.

MATERIAL CONSIDERATIONS

RELEVANT PLANNING POLICY

1.0. National Planning Policy Guidance/ Statements:

- Planning Policy Statement 1 (PPS1): Delivering Sustainable Development
- Planning Policy Guidance Note 2 (PPG2): Green Belts
- Planning Policy Statement 4: (PPS 4) Planning for Sustainable Economic Growth

- Planning Policy Guidance Note 13 (PPG13): Transport
- Planning Policy Guidance Note 17 (PPG17): Planning for Open Space, Sport and Recreation
- Planning Policy Statement 24 (PPG 24): Planning and Noise
- Planning Policy Guidance Note 25 (PPG25): Development and Flood Risk

1.1. Draft National Planning Policy Framework: July 2011
Two policy areas are particularly relevant to this case:

1.1.1. *Facilitate social interaction and inclusive communities*

Paragraph 125 states: “The planning system can play an important role in facilitating social interaction and creating inclusive communities....Planning policies and decisions, in turn, should aim to design places which promote:

- Opportunities for meetings between members of the community who might not otherwise come into contact with each other, including through mixed-use developments which bring together those who work, live and play in the vicinity;
- Safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and,
- Accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.”

1.1.2. *Deliver community facilities and local services*

Four criteria are outlined in paragraph 126 as ways in which planning policies and decisions should deliver the facilities and services the community needs. One of these is:

- Safeguard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs

1.1.3. Paragraph 127 goes on to say: “Local authorities should take a proactive, positive and collaborative approach to the development of schools by working with schools promoters to identify and resolve key issues before applications are submitted. In determining planning applications for schools, local planning authorities should:

- Attach very significant weight to the desirability of establishing new schools and to enabling local people to do so
- Seek to mitigate any negative impacts of development through the use of planning conditions or planning obligations, as appropriate; and
- Only refuse planning permission for a new school if the adverse planning impacts on the local area outweigh the desirability of establishing a school in that area

1.2. Policy Statement - Planning for Schools Development: August 2011

This policy statement sets out the Government’s commitment to support the development of state-funded schools and their delivery through the planning

system. A number of principles should be applied, one of which is that: “There should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework.”

1.3. The Mayor's London Plan: 2011:

Policies: 3.1 (ensuring equal life chances for all), 3.16 (protection and enhancement of social infrastructure), 3.18 (educational facilities), 5.1 (climate change mitigation), 5.2 (minimising carbon dioxide emissions), 5.3 (sustainable design and construction), 5.4 (retrofitting), 5.7 (renewable energy), 5.10 (urban greening), 5.13 (sustainable drainage), 5.17 (waste capacity), 5.21 (contaminated land), 6.3 (assessing transport capacity), 6.9 (cycling), 6.10 (walking), 6.11 (smooth traffic flow and tackling congestion), 6.13 (parking), 7.1 (building London's neighbourhoods and communities), 7.2 (inclusive environment), 7.3 (designing out crime), 7.4 (local character), 7.14 (air quality), 7.15 (reducing noise and enhancing soundscapes), 7.16 (green belt), 7.19 (biodiversity and access to nature) and 7.21 (trees and woodlands).

The London Plan is generally supportive of proposals for new schools and the text supporting policy 3.18 states (page 108):

“Access to a high quality school education is a fundamental determinant of the future opportunities and life chances of London's children and young people. London's population will continue to be younger than elsewhere in England and Wales and by 2031, its school age population is projected to increase by almost 17 per cent. At the same time, national education policy favours greater diversity in the nature of supply through the Academies Act 2010 and the setting up of the Free Schools, alongside greater devolution of responsibilities from local authorities to schools. Local authorities' strategic role in the new system will be to promote a good supply of strong schools and to encourage the development of Academies and Free Schools. Local authorities will still be required to fulfil their statutory duty to secure sufficient school places within their areas.”

1.5. Relevant Unitary Development Plan Policies:

GSD(sustainable development), GBEnv1 (character), GBEnv2 (design), GBEnv3 (safe environment), GBEnv4 (special area), GRoadNet (road network), GParking (parking), GCS1 (community facilities), ENV6 (light pollution), ENV7 (air pollution), ENV12 (noise generating development), ENV13 (minimising noise disturbance), ENV14 (contaminated land), D1 (design), D2 (character), D3 (spaces), D4 (overdevelopment), D5 (outlook), D9 (designing out crime), D10 (community safety), D11 (landscaping), O1 (green belt), O2 (green belt-new buildings and uses), O3 (extensions to buildings), O6 (re-use of buildings), M3 (travel plans), M5 (pedestrians and cyclists), M10 (reducing traffic impact), M11 (safety of road users), M12 (safety of road network), M13 (safe access), M14 (parking standard), CS1 (community and religious facilities), CS4 (educational facilities), CS5 (shared use), CS6 (new school sites), TRC19 (neighbourhood centres, shopping parades and local shops), L8 (tourist facilities – retention), IMP1 (priorities for planning obligations) and IMP2 (use of planning obligations) .

1.6. Relevant Supplementary Planning Guidance (SPG) and other corporate documents:

- Mayor of London SPG: Sustainable Design and Construction (May 2006)
- Barnet's Sustainable Construction and Design Supplementary Planning Document (SPD) (Approved May 2007)
- Barnet's Three Strands Approach
- A Sustainable Community Strategy for Barnet 2006-2016
- London Borough of Barnet Corporate Plan 2007/08- 2010/11
- Cabinet report 'Investment strategy to meet demand for primary school places' dated 6 September 2010
- Cabinet report 'Proposed phasing of primary school expansions and investment strategy to meet demand for secondary school places' dated 3 November 2011

1.7. Core Strategy (Submission Version) 2011

The Planning and Compulsory Purchase Act 2004 reformed the development plan system replacing the Unitary Development Plan (UDP) with the Local Development Framework (LDF). The LDF will be made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Until the LDF is complete, 183 policies within the adopted UDP remain. The replacement of these 183 policies is set out in both the Core Strategy and the Development Management Policies DPD.

- 1.7.1. The Core Strategy will contribute to achieving the vision and objectives of Barnet's Sustainable Community Strategy and will help our partners and other organisations to deliver relevant parts of their programmes. It will cover the physical aspects of location and land use traditionally covered by planning. It also addresses other factors that make places attractive and distinctive as well as sustainable and successful.
- 1.7.2. The Council submitted its LDF Core Strategy Submission Stage document in August 2011. Therefore weight can be given to it as a material consideration in the determination of planning applications. The Development Management Policies DPD provides the borough wide planning policies that implement the Core Strategy. These policies will be used for day-to-day decision making. The Council submitted its LDF Development Management Policies Submission Stage Document in September 2011. Therefore weight can be given to it as a material consideration in the determination of planning applications.
- 1.7.3. Of relevance is section 15.7 (Provision for children and young people) of the Core Strategy which states:
"We will continue to identify opportunities to improve the condition of secondary schools in Barnet and to provide sufficient school places.....
Barnet has a uniquely diverse range of schools with high numbers of Church of

England, Catholic and Jewish schools, as well as several single sex and selective secondary schools. Meeting parental choice for particular types of school remains a priority. We welcome approaches from schools within the independent sector that want to join the maintained sector, or from groups wishing to set up a 'Free School', where parental demand is proven and the school provides premises that conform with basic school requirements as set out in relevant guidance from the Department for Education (DfE). "

1.8. Relevant Core Strategy Policies:

Policies: CS1, CS5, CS7, CS8, CS9, CS10, CS12.

Relevant Development Management Policies:

Policies DM01, DM03, DM04, DM13, DM15, DM16, DM17

1.9. The Three Strands Approach

In 2005 the Council developed the Three Strands Strategy to protect all that is excellent about Barnet whilst enabling the Council to respond to the needs of the community. The Three Strands approach is based around the three strands of protection, enhancement and consolidated growth. The purpose of the Core Strategy is to guide the growth identified in the borough to ensure that the qualities that make Barnet an attractive place to live are maintained and enhanced.

1.10. RELEVANT PLANNING HISTORY

W02809B – Change of Use from Swimming-pool to leisure centre – Approved 23/2/81

W02809C – Erection of two covered training swimming pools – Approved 23/2/81

W02809D – Adaptation of existing buildings and new building for leisure centre, incorporating multi purpose hall, gymnasium, beauty salon, sauna, Jacuzzi, bar and restaurant – Approved 21/3/85

W02809E – New Garden centre with ancillary buildings for the sale of plants and associated products, access and car parking – Approved 4/2/1987

W02809H – New trellis fencing along Daws Lane car park – Approved 10/2/88

W02809M – New glass house over existing open sales area – Approved 12/3/91

W02809P – Variation of condition 8 of planning permission W02809E to extend restaurant hours – Approved 16/3/93

W02809R – Use of garden centre for display and sale of aquatic products, antiques and collectables (Variation of condition 11 of permission W02809E) – Approved 23/3/94

W02809T – Erection of glass house over existing open sales and display area – renewal of planning permission W02809M approved 18th March 1991 – Approved 19/3/96

W02809U/01 – Renewal of planning permission W02809T approved March 1996 for the erection of a glass house over the existing open area sales display- Approved 2/4/01.

W028029V/04 – Installation of 5no conservatories to be used as a show site – Approved 22/4/04.

W02809W/04 – Installation of 2no. conservatories to be used as a show site – Approved 2/2/05

W02809X/06 – Renewal of planning permission W02809U/01 dated 2/4/01 for the erection of a glass house over the existing open sales display, dated area – Approved 3/4/06

H/01226/11 – 80 Daws Lane – Temporary change of use of part of ground floor to Class D1 (Education) – Approved 11/5/11 for a temporary period expiring 31/7/12

H/01702/11 – Change of use from current A1 use (Garden Centre) to proposed D1 use (Education). Proposals involve the retention and conversion of the existing building, additional windows on front elevation and modifications to existing facades. Removal of the existing central glass roof and glazed conservatory on the eastern side, followed by single storey extension. Opening up rear of site to form an open courtyard, play area and soft landscaping. New front boundary treatment, additional planting and security hut, provision of 17 car parking spaces – Approved 2/9/11 (**Copy of officer report, addendum and minutes attached as appendix 1**)

H/04220/11 - Environmental Statement: Screening Opinion (in relation to current planning application) – Environmental statement not required dated 13.12.11

1.11. CONSULTATIONS AND VIEWS EXPRESSED

The planning application was registered on 14/10/11 and letters sent to residents and other occupiers allowing a 5 week period for responses to be received (**Copy at appendix 2**).

Neighbours consulted: Approximately 3800

Number of residents/ occupiers who have submitted representations objecting to the application: Approximately 1550

Number of residents/ occupiers who have submitted representations supporting the application: Approximately 980

Neighbours wishing to speak: 135

Date of site Notice: 20/10/11

The application was advertised on site at two locations at either end of the site on Daws Lane. The application was also advertised in the local press.

1.12. Previous consultation

At the outset of the consultation period officers indicated that, in determining the Application, the Council would have regard to consultation responses generated in respect of the previous application H/01702/11 in respect of which permission was granted that is currently the subject of judicial review proceedings. These 'earlier' consultation responses are discussed later in this report.

1.13. ANALYSIS OF CONSULTATION RESPONSES

For the purposes of analysing the comments made, the number of representations received have been divided into those from four areas. The majority of respondents sent in one of two standard letters (**copies in appendices 3 and 4**) which they had signed and many of those included space for the respondent to indicate their age and whether they considered themselves to have a disability. A large number of individual representations (letters, emails and on-line comments) were also submitted. Some people submitted more than one response and some letters had more than one signatory. This is the reason why the number of representations referred to in the following tables is greater than the number of residents/ occupiers recorded above. The figures referred to are approximate but provide an indication of the nature of the comments made by residents from particular areas.

Objections to current application

Table to show breakdown of representations received by area:

	Streets local to the site	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Total no. of representations received
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No. of representations received	235	1177	206	94	1712
% of total representations received	14%	69%	12%	5%	

- i. streets local to the site: **235 representations received** (largely comprising an area known as 'Poets Corner' (Birkbeck Road, Marion Road, Victoria Road, Albert Road, Byron Road, Shakespeare Road, Milton Road, Tennyson Road and Daws Lane)
- ii. wider NW7 postcode: **1177 representations received** (this included over 100 representations from residents of the Chalet and Marshall Hall Estates in Hammers Lane, which comprises mainly housing for the elderly).
- iii. rest of borough of Barnet: **206 representations received**
- iv. outside Barnet: **94 representations received.**

1.14. Although the figures referred to below are not precise (not all letters included age and disability information pertaining to the respondents), from all the responses received an indication of the number of residents over 65 and the number who consider themselves to have a disability can be obtained. The breakdown from the four geographical areas is as follows:

Table to show breakdown of representations received where respondents indicated that they were over 65 and/ or had a disability or cared for someone with a disability

	Streets local to the site*	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Total no. of representations received
No. of respondents over 65 and / or with a disability**	62	458	79	23	1712
% of responses received from this area	26%	39%	38%	24%	
% of total responses received	4%	27%	5%	1%	37%

- i. streets local to the site: **62** of the respondents indicated they were over 65 and/ or had a disability or cared for someone with a disability (26% of the total from this area)
- ii. wider NW7 postcode: **458** of the respondents indicated they were over 65 and/ or had a disability (39% of the total from this area). A number of these letters were from residents of the Chalet and Marshall Hall Estates in Hammers Lane which is housing catering for the elderly
- iii. rest of borough of Barnet: **79** of the respondents indicated they were over 65 and/ or had a disability (38% of the total from this area)
- iv. outside Barnet: **23** of the respondents indicated they were over 65 and/ or had a disability (24% of the total from this area)

1.15. The issues raised by respondents are summarised below, with approximate numbers of the respondents from each area who raised that particular issue:

Table to show responses on issues receiving greatest number of comments

	Streets local to the site*	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Responses from all areas
	No. of responses <i>(responses as a % of representations from that area)</i>				
a) loss of community facility	195 83%	1138 97%	195 95%	84 89%	1612 94%
b) traffic issues	195 83%	1060 90%	159 77%	70 74%	1484 87%
c) pedestrian safety	161 69%	981 83%	151 73%	66 70%	1359 79%
d) changes to frontage/ green belt	161 69%	985 84%	151 73%	66 70%	1363 80%
e) breach of Equalities Act 2010	151 64%	971 82%	151 73%	10 11%	1283 75%
f) loss of shopping facility	89 38%	359 31%	50 24%	16 17%	514 30%
g) alternative sites	84 36%	346 29%	50 24%	11 12%	491 29%
h) loss of tourist/ economic site	80 34%	327 28%	46 22%	10 11%	463 27%
i) inadequate community use proposals	79 34%	332 28%	48 23%	10 11%	469 27%

j) breach of equal access policies	79 34%	326 28%	47 23%	10 11%	462 27%
k) not responding to local citizens needs	77 33%	332 28%	46 22%	10 11%	465 27%
l) waiving £330,000 entitlement from lease assignment	79 34%	330 28%	46 22%	10 11%	465 27%
m) site unsuitable for any school	91 39%	327 28%	56 27%	10 11%	484 28%

1.16. A summary of all the issues raised is as follows:

a) Loss of valuable community use meeting local needs

Until recently, the site was functioning as a garden centre, a community use. Such a use could easily be reinstated if this application were refused. The specific characteristics of the site enable such unique community uses to thrive, ie the footprint and openness of the site, its location and incorporation of a number of green spaces alongside buildings that may house sizeable groups make this site key for community use. The site catered regularly for large groups of disabled and elderly users and their carers for dedicated activities. High number of former users have no viable alternative to the use of the site. No other site in and around Mill Hill provides any like amenity for daytime use for disabled and elderly users. **(1612 responses in total).**

b) Traffic congestion and inadequacy of travel plan

Concerns relating to increased traffic at peak times compared to the garden centre use and given number of schools in area and existing traffic conditions in Daws Lane. There will be an increase in traffic at peak times of over 200 vehicles. Contrary to Barnet UDP which identifies the school run as a key factor in contributing to peak hour congestion. Majority of traffic generated by schools within this area travel away from Daws Lane. This invites school traffic into Daws Lane. Transport assessment fails to identify and appropriately address this and other impacts. Proposed entrance and exit to car park is at present unsustainably overcrowded with vehicles and there will be a significant increase in number of vehicles attending the site, Travel Plan not adhered to, young children do not walk to school **(1484 responses in total).**

c) Pedestrian safety

Concerns relating to volume of traffic together with additional children will make area far more dangerous for pedestrians. Introducing crossing patrols or lights will cause further traffic congestion. **(1359 responses in total).**

d) Negative changes to frontage of building and green belt breaches

Concerns over 6 foot high railings along frontage, security measures and

increase in solid ceiling height at rear, detrimental to appearance of area and contrary to green belt regulations. **(1363 responses in total)**.

e) Discriminatory policies and breaching the Equalities Act 2010

Section 149 subsection 5 of the Equalities Act 2010 requires a public authority to exercise its functions with due regard to fostering of good relations between persons who share a relevant protected characteristic and persons who do not share it. Recent court judgements indicate that the elderly and disabled should be given priority. Garden centre site is a primary centre for interaction between the mentally and physically disabled and able-bodied members of the community. Barnet's LDF Statement of Community Involvement states 'We are also committed to making Barnet a place where disabled people can lead fulfilling lives and play a full part in society.' Any rhetoric and statements made by government ministers and CLG statements cannot possibly match legislation enacted by Parliament.

As landowner the Council has a duty to pay due regard (interpreted as giving a 'priority') to those with protected characteristics. This is enhanced by the special and unique circumstances in this location ie surrounded by housing restricted to the elderly and disabled, always had a community asset in this location, focus of support and visitation by large number of mental health charities many of whom receive funding from Barnet Council, is a residential area 'fenced' off from The Broadway and many residents will not and cannot use the underpass because of safety concerns, the Council own the land which has a 103 year restricted lease, purchased originally by the Council and protected by positive covenant for use by community 'for ever' and is protected as green belt land.**(1283 responses in total)**.

f) Diminution of shopping facilities where is no accessible alternative

UDP says isolated shops will not be permitted to change use unless no significant diminution of local shopping facilities and particularly available by public transport. Core Strategy states 'The dominance of small occupiers in Barnet means that there is a strong case to safeguard those sites which would appear to meet local demand.' No alternative to garden centre and aquatics centre that is accessible by public transport for the elderly, disabled or children of the community. **(514 responses in total)**.

g) Alternative sites

Alternative sites are not true alternatives and demonstrate a complete disregard for this significant material planning consideration. Other sites rejected because too far away (10 sites over 7 miles away so clearly not relevant), 7 rejected because 'unavailable (including one which has been a school for 70 years), 2 require renovation (appear arbitrary as construction costs for Wyevale site are over £2.4 million), 4 allegedly 'not value for money'. Unreasonable to make such an uninformed assessment as Wyevale site costs public approx. £5 million. Alternative sites within 2 miles of Daws Lane demonstrate there are no 'exceptional circumstances' requiring use of this site

for a brand new school. Department of Education have failed to indicate why other sites considered were rejected save for two criteria – cost and timeliness. By the end of the project the cost of the site will far exceed the £7 million originally estimated and the site will be unlikely, considering legal challenges, to move ahead for many years. **(491 responses in total)**.

h) Destruction of tourist and economic site

UDP policy requires support, promotion and protection of tourist facilities, the garden centre is defined as a tourist facility. Core Strategy states: ‘to enable communities to become confident and cohesive by providing facilities through which residents can play a part, diversity is valued and local pride is promoted’. This site is central focus of community and permission should only be granted for a facility to enhance and support this site as a daily, accessible focus of community activity. Garden centre was one of company’s most successful sites. **(463 responses in total)**.

i) Inadequacy of the applicant’s proposals as to community use

Proposed community use doesn’t provide a replacement for what is lost. No significant interaction capability for elderly and disabled. Basically what is proposed is a kosher venue for hire on some evenings and weekends. It does not secure any ‘community use’ but supports a potential aspiration. Four of the seven facilities to be made available would only be available when not used by the school. In reality because of security issues any community use likely to be used outside school hours, no independent community use of ‘school vegetable plots’ is envisaged and no certainty that the ‘community café’ will be delivered and even if it were, it cannot replace the facilities lost. Pricing policy would not allow free use of the building independently. **(469 responses in total)**.

j) Breaching equal access policies

The elderly, a growing section of the community, rely on the facility the garden centre provides. Barnet’s Equality Policy, Putting the Community First, states ‘Every resident and service user has equal access to high quality services that meet their needs. We recognise that there are some people who may need support in receiving this entitlement’. The Core Strategy emphasises the importance of ‘integrated community facilities’. It is the Council’s responsibility to not grant planning permission or assign a lease which does not preserve residents’ entitlement to a community focal point that has been there over 80 years. **(462 responses in total)**.

k) Not responding to local citizens and their needs

Local residents must be at centre of planning decision-making as set out in Government directives eg Planning for Schools Consultation Paper and Ministerial statement July 2010. Emphasis on local control reflected in Barnet’s Core Strategy. A school for 220 people cannot match the over 5,500 local

residents who wish to keep a meeting and focal point for the entire community in Daws Lane. Majority of supporters are not impacted by the school as live too far away and demonstrate no previous usage of garden centre previously. The application negatively impacts on the lives of almost 1000 elderly and disabled local residents the entirety of who live within the catchment area of the school as well as another 1000 residents who live in the catchment area. The school benefits only 230 parents. The school supporters have falsified the responses and it is impossible to truly estimate how many people support the school. **(465 responses in total).**

- l) The council waiving £330,000 entitlement from the assignment**
How can the Council justify to resident taxpayers and Council service users rejection of £330,000 that the Council is entitled to receive for assignment of the lease. **(465 responses in total).**

- m) Site unsuitable for a school (484 responses in total).**

1.17. The following issues were raised by fewer than 20 respondents:

- n) Area well served by schools**
- o) Don't need a Jewish school**
- p) No need for a new school in this area**
- q) No need for a faith school in Mill Hill, but a community one**
- r) Noise and pollution will affect amenities of residents and park users**
- s) Unsuitable for children because of air pollution**
- t) Negative Impact on Jewish population in the area because of bad feeling generated by the proposal.**
- u) Security measures will make people feel alienated especially due to position next to park**
- v) Not all children live in the catchment area as suggested in previous application**
- w) The school will face a security problem**
- x) Possible future encroachment onto park**
- y) Council supporting only because a Free School**
- z) Planning conditions not appropriate.** Council is freeholder so any planning conditions unenforceable. All matters should therefore be resolved at application stage.
- aa) The applicant has falsified the results of their traffic surveys**

1.18. **Mill Hill Preservation Society raise the following objections:**

- Original loss of the swimming pool was much regretted but garden centre was accepted by residents, and, to some extent, remained as a true communal facility. The restaurant, toilet and wet weather facilities were superior to those provided in the park and were much used by members of special needs groups

- High level of security will be perceived as intimidatory, the school children are likely to use the park facilities accompanied by security guards which will inhibit the local population
- In the long run the school may try to acquire park land and this would be unacceptable
- Does proposed use breach the 1920s covenant?
- Loss of garden centre retail facility would adversely affect the balance of shopping in The Broadway with the loss of the largest retail unit. No other garden centres accessible without a car
- Targets for catchment area and number of children walking to school as set out in Travel Plan have not worked causing congestion in roads of Poets Corner
- Alterations to frontage with high fence and increased security measures will adversely affect the open appearance of the area
- Security hut is a new building intruding into the green belt
- Insufficient green space for pupils to use
- Car spaces proposed have inadequate room for turning
- New structures in open area to rear eg a succah and a bandstand. This suggests use by the wider Jewish community
- This 'free school' is in effect a private faith school and does not provide access for the entire community
- Proposed community uses should be made public and available for scrutiny before any planning permission is granted
- Mill Hill ward has a higher dependency on cars than the rest of Barnet. Misleading to suggest 80% of pupils will walk to school
- Capacity of Daws Lane already reduced by parked cars and there will be an increase in traffic congestion at least three times a day
- If parking becomes too onerous the Council may propose a CPZ which the Preservation Society would oppose
- Danger to pedestrians because of volume of traffic and the additional children
- This school will not keep the green belt open in contravention to PPG2 and therefore needs to show 'special circumstances' which it does not. This application is an expression of the 'preferred' but not necessarily the only site on which the school could be founded

1.19. Mill Hill Residents Association wishes to make the same objections as to the previous scheme but in addition raises the following objections:

- Increased traffic at peak times.
- Intrusive nature of railings and tree/ shrub screen would affect open appearance of Daws Lane. Security hut is new build in the Green Belt.
- Due to the constraints proposers have eg security, dietary, Shabbat, it is difficult to see what is offered to people who are not part of the school's own community.

- Proposals seem to be for one section of the community only
- Since garden centre shut residents have lost excellent local café and toilet facilities. We are left with the second rate ones in the park provided by the council. Will they be upgraded?
- School should offer 14 places to children from other faiths in the local community but this is unlikely to happen.
- Council has stated policy to encourage enlargement of schools and for them to make use of adjacent open space. How will the long term protection of the park be safeguarded?
- The proponents have submitted an application breaching critical local planning issues, are foisting an unpopular scheme on the wider local community and offering nothing in return.

1.20. Additional Consultation

In addition to the standard consultation, letters were sent to 22 individual residents and 27 groups and service providers most of whom had been identified by the Mill Hill Action Group previously as having used the garden centre or having being particularly impacted by the loss of the garden centre. This letter sought more information about the use of the garden centre by those particular groups or individuals (**copy at appendix 4**). The groups written to included places of worship, community service providers and management groups for residential developments catering for the elderly. The service user groups included Barnet College, Edgware Community Hospital, Barnet Adult and Children Services and day centres.

1.20.1. Nine replies were received from residents. One lives near Poets Corner, two in the Marshall Estate, Hammers Lane, three elsewhere in Mill Hill, one in Edgware and one in Burnt Oak. Some residents visited a couple or up to five (one resident) times a week, others a number of times a month. Some visited to shop and all mentioned visiting to meet friends, for social interaction and some with a care worker. Some walked and others got the bus.

1.20.2. Twelve replies were received from groups, either submitted proactively or in response to the Council's letter – A Good Neighbour Scheme, Darby and Joan Club, a Rainbow Brownie Guide group, two local primary schools, 'The Willows', an Abbeyfield Home for the elderly in Kingsbury, the 'Henry Nihill House Home with Nursing' in Edgware, the Winterstoke Gardens Freeholders Society, Lawrence Street Allotments and Gardens Association, a worker at SENSE, an organisation for deafblind people, an organiser of a club affiliated to Mencap and Director of Disability Action in Barnet.

- The Good Neighbour Scheme received a number of comments from their clients, mainly single men and women in their '80s and '90s for whom the closure of the centre has greatly reduced their choice of day to day

activities. Some of the clients drove to the garden centre, others got the bus and others walked or were pushed in wheelchairs.

- A particular Darby and Joan Club from Burnt Oak with 25 members visited twice a year.
- 2 local primary schools used the centre and considered it a valuable resource. Children walked to the centre from one school to buy seeds and plants and the staff were open to questions.
- The Rainbow pack used the facility regularly to buy plants and see how things grow, the families of all the girls used the garden centre
- The Friends of 'The Willows' organised monthly trips to venues within 10 miles of Kingsbury and greatly enjoyed this garden centre
- Severely disabled and elderly residents from Henry Nihill House were taken on frequent visits. Had easy wheelchair access.
- Winterstoke Gardens Freeholders Society – specially concerned with withdrawal of community use for the 11 of the residents who are elderly and disabled .
- Lawrence Street Allotments – No longer have a trading hut and many members used Wyevale, it was only 5 minutes away. The Finchley Nursery is not so convenient or well-stocked. Also concerned about ability to assign a long lease to the garden centre, now the school, as Federation of Barnet Allotments is struggling to get a 38 years lease.
- SENSE worker regularly took deafblind people to Wyevale as they could enjoy the touch, feel and smell of the flowers and the café was quieter than the one in the park
- Organiser of local club affiliated to Mencap considers garden centres and cafes a lifeline to mentally and physically disabled people.
- Director of Disability Action in Barnet supports retention of this amenity and states that the access and transfer infrastructure make the garden centre an ideal location for enhancement of clients' quality of life

1.20.3. One reply was received from a service provider for people with autism. The letter stated that they visited the garden centre with users because it was a quiet environment where users could enjoy the sensory aspects of the centre. It was a stop-off point for a drink when walking to and from the park, the café in the park being frequented by young children and babies and hence too noisy. Also had a good disabled toilet and staff were very welcoming. Plants and gardening products were purchased for the garden of the day centre which users tended. They had hoped to look at work opportunity experiences for certain users. Although nothing compares with Wyevale for the sensory/therapeutic/ calming and supportive aspects all a short walk away, the users did visit other local places eg coffee shops in Mill Hill and larger pubs in the area for meals.

1.20.4. A response was received from a manager in Barnet's Adult Social Care and Health Service, confirming that service users of some of Barnet's day centres visit garden centres to purchase plants etc. for gardening projects. The Flower

Lane Autism Service used the Wyevale centre, either travelling on foot or by minibus. The author of the response stated that since there are other gardening facilities in the Borough within easy reach of all the Learning Disability services, she considers that there will not be a major impact on the lives of the people supported.

1.21. Representations of Support to current application

The number of representations received have been divided into those from four areas (it should be noted the number of representations does not correspond to the number of residents replying as some people submitted more than one response):

Table to show breakdown of representations received by area:

	Streets local to the site	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Total no. of representations received
No. of representations received	28	286	266	436	1016
% of total representations received	3%	28%	26%	43%	

- i. streets local to the site: **28 representations received** (largely comprising an area known as 'Poets Corner' (Birkbeck Road, Marion Road, Victoria Road, Albert Road, Byron Road, Shakespeare Road, Milton Road, Tennyson Road and Daws Lane).
- ii. wider NW7 postcode: **286 representations received**
- iii. rest of borough of Barnet: **266 representations received**
- iv. outside Barnet: **436 representations received**

1.22. The reasons for support can be summarised as follows:

Table to show responses on issues receiving greatest number of comments

	Streets local to the site*	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Responses from all areas
	No. of responses <i>(responses as a % of representations from that area)</i>				
a) Educational benefits of a school	8	114	90	149	361
	29%	40%	34%	34%	36%

b) Building use for wider community facility	11 39%	60 21%	37 14%	50 11%	158 16%
c) Garden centre no longer commercially viable	4 14%	32 11%	13 5%	7 2%	56 6%
d) Traffic improvements	4 14%	19 7%	9 3%	6 1%	38 4%
e) Good site for a school	3 11%	49 17%	31 12%	26 6%	109 11%
f) Potential for site to lie dormant or for other less suitable uses	4 14%	12 4%	9 3%	11 3%	36 4%

1.23. A summary of the issues raised is as follows:

- a) **Educational benefits of the school** (361 comments in total)
- b) **Building offers wider community facilities** (158 comments in total)
- c) **Garden centre no longer commercially viable** (56 comments in total)
- d) **Traffic Improvements**
Traffic has improved since the garden centre has closed. Parking is proposed for the school and many children are likely to walk to school (38 comments in total)
- e) **Good site for a school** (109 comments in total)
- f) **Site would otherwise lie dormant or be used for other less suitable uses** (36 comments in total).

1.24. The following comments were made by fewer than 20 respondents:

- g) **Other garden centres nearby**
- h) **Proximity to park**
- i) **Will enhance appearance of existing building**
- j) **Garden centre was a profit-making business only**
- k) **Café requirement met by nearby park café**

1.25. During the course of officers' evaluation of the application, an objector provided to the Council a copy of an email which suggested that some 'representations made in support' of the application may not have been wholly reliable – insofar as it appeared that one of the supporters of the project had undertaken to make submissions in the name of others. Officers took up this matter with one of the applicant's representatives and sought an explanation as to what had occurred. The applicant has now provided email correspondence relating to this issue, so that officers no longer have reason to believe that the representations made in support of the application are anything other than genuine.

- 1.26. A letter of support was received from the Friends of Etz Chaim Jewish Primary School which outlines the arguments behind their support for the school and its current planning application. These arguments can be summarised as follows:
- The school is a major investment into Mill Hill by central government and will employ some 30 staff
 - Will help fill an education gap in Barnet
 - Will be a hub of the community
 - Need for another school in Mill Hill accepted by department for Education and Barnet
 - The school trust who own the lease have resolved not to sell the site but to pursue a planning permission
 - The benefit of a school goes beyond the education of its pupils, it is the root of a great society
 - The selection of the site has gone through stringent Government approved tests. Partnerships for Schools, the Government's school building delivery agents considered 27 potential sites and this was the only one they recommended. The site is well placed to serve its catchment, well served by public transport, adjacent to a very large and recently enhanced public park, next door to a public car park, will include spacious classrooms, communal facilities, should cost less than a new build project and be delivered faster, alternative sites initially looked at failed most tests set by the Government, Barnet and the Trustees
 - Understand certain elements of the wider Mill Hill community were upset to see the garden centre close
- 1.27. In response to the 11 points contained in the standard objection letter the Friends respond as follows:
- a. **Traffic congestion:** Concern about the activities of the Action Group in photographing cars – this has been distressing to parent group and children. The School acknowledges the travel plan is to seek to reduce car journeys not eliminate them. It will require continual and ongoing monitoring and refinement. The Friends have filmed the traffic in Daws Lane between 08:50 and 09:05 for a week and submitted a dvd that shows very little, if any, congestion on Daws Lane at that time of day.
 - b. **Pedestrian safety:** It is for the Council's Highway department to decide whether it is prudent to provide assistance to pedestrians.
 - c. **Impact on the Green Belt:** The railings are not solid and allow views through and to the park and soft landscaping will be provided, most schools have security measures, the school is working with the garden centre at Finchley Nurseries to create a 'Josiah Wedgewood Community Garden' at the rear of the site.
 - d. **Destruction of tourist and economic site:** Decision by previous long leaseholder to sell is not a planning matter, site not classified as a tourist attraction, matter in question is a change of use from A1 retail outlet to D1 non-

residential institution, a larger garden centre is situated less than 1 mile away and has been part of Mill Hill for 86 years, from the negotiations with the garden centre it was clear that this was not a good commercial site.

- e. **Diminution of shopping facilities:** We understand many of the signatories to the petition to save the garden centre were not against a school but attempting to persuade the garden centre to stay open. In the last 12 months no other retailer, garden centre or otherwise has approached the former long leaseholder.
- f. **Breach of the Equalities Act 2010:** The garden centre was never to our knowledge designated as a community centre or facility. There are 2 other facilities in the area offering garden centre facilities – Homebase at Pentavia Retail Park and Finchley Nurseries on The Ridgeway. Mill Hill Broadway, with excellent transport links, has a wealth of restaurants, cafes, public house, library, social clubs and places of worship, offering numerous alternatives for all elements of the community to meet. The school has offered use of the site to wider community and has offered to discuss this with the Action Group. The School have also contacted over 60 community groups in recent weeks to engage with them and establish the best way the community can benefit from the site including charities, play groups, sports clubs, places of worship and groups catering for the older members of society.
- g. **Inadequacy of applicant's proposals for community use:** The Garden centre was not run as a form of community facility, it was the Board of the Garden Centre Group who chose to sell the long leasehold lease not the council. The School approaches the site not from a commercial perspective but as a community school wanting to have community activities. Accept can be improvements to the proposed community plans but also conscious that suggestions need to come from the community not just the school. A communal survey is to be launched seeking volunteers and feedback.
- h. **Breaching Equal Access policies:** Site not previously operated as a community facility, School has offered to discuss development of Community Plan with the Action Group, but the Group have made it clear they do not want such a discussion. There are numerous alternative facilities in the neighbourhood.
- i. **Not responding to local citizens and their needs:** One of the reasons the Free School movement was set up was to allow local citizens to establish schools to fit their needs. It is not demonstrated that all opponents of previous application who signed petition were opposed to a new school, just the garden centre closing. Benefits of a school go far beyond the pupils, Will employ staff, local businesses and creation of extra school places will free up places in other schools.
- j. **Council waiving £330,000 entitlement from the assignment:** As a landlord it is up to Barnet to act in what it believes to be its best interests.
- k. **Alternative sites:** Suitability or not of alternative locations is irrelevant. The planning application is for this site. As stated earlier, the Trustees undertook an extensive exercise to identify sites and this one was considered appropriate.

1.28. **Consultation on amended plans**

An amended Transport Statement and the most up to date Travel Plan that contains the results of an additional parental travel survey that was requested to be completed by officers have been submitted. Additional details of proposed Community Access have also been submitted on behalf of the School.

These have been the subject of additional consultation on December 16th. The period in which to make comments expires on 25th January. At the time of writing this report, 18 respondents raised objections and 2 respondents expressed support. Further responses will be reported in the addendum to this report. Of those respondents who commented on the updated information the following comments were made and these matters are largely addressed in the report:

- The Travel Plan is not accurate
- The school encourages parents not to park in Daws Lane so they are not counted in any surveys
- Other users of the park or parents collecting from other schools can no longer use the Mill Hill park car parks as they are full
- Some families are renting in Poets Corner and will return to permanent homes. This should be accounted for.
- The Travel Plan doesn't include all children and therefore the full catchment area as not all parents responded to the survey.
- Contrary to the Community Access Plan proposals, the school will not be available to all the community
- Much is made of the out of hours use of the school. This will not benefit the elderly who do not go out in the evenings
- The Plan was only put forward to make sure permission was granted but will not happen
- The Travel Plan mentions use of the school by Mill Hill Synagogue. Have the traffic implications of this been considered?

1.29. **Previous application H/01702/11 consultation**

Objections to previous application

In connection with the previous application on the site, application H/01702/11, 2342 residents/occupiers were consulted. More than 2500 representations of objection were received to the application and more than 1700 representations in support.

A petition with 3000 signatories was also received objecting to the application

The majority of the objections were by a standard letter (**copy at appendix 5**) raising a number of concerns about the scheme. The comments can be summarised as follows:

Table to show breakdown of representations received by area:

	Streets local to the site	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Total no. of representations received
No. of representations received	319	1164	769	386	2638
% of total representations received	12%	44%	29%	15%	

- i) streets local to the site: **319 representations received** (largely comprising an area known as 'Poets Corner' (Birkbeck Road, Marion Road, Victoria Road, Albert Road, Byron Road, Shakespeare Road, Milton Road, Tennyson Road and Daws Lane)
- ii) wider NW7 postcode: **1164 representations received**. Approximately 88 of these were from residents of the Chalet and Marshall Hall Estates in Hammers Lane which is housing catering for the elderly.
- iii) rest of borough of Barnet: **769 representations received**
- iv) outside Barnet: **386 representations received**

Table to show responses on issues receiving greatest number of comments

	Streets local to the site*	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Responses from all areas
	No. of responses (responses as a % of representations from that area)				
a) loss of community facility	297 93%	1146 98%	766 100%	381 99%	2590 98%
b) traffic issues	310 97%	1153 99%	762 99%	378 98%	2603 99%
c) Pedestrian safety	286 90%	1131 97%	758 99%	373 97%	2548 97%
d) changes to frontage/ green belt	284 89%	1134 97%	759 99%	374 97%	2551 97%
e) loss of tourist/ economic site	282 88%	1123 96%	758 99%	374 97%	2537 96%
f) loss of local shopping facility	289 91%	1131 97%	759 99%	377 98%	2556 97%

g) breach of Equalities Act 2010	282 88%	1124 97%	758 99%	373 97%	2537 96%
h) reliance of the elderly on the community facility. Barnet must preserve this entitlement	283 89%	1126 97%	759 99%	379 98%	2547 97%
i) Government advice is that local residents must be at centre of decision making	297 93%	1146 98%	766 100%	381 99%	2590 98%
j) waiving £330,000 entitlement from lease assignment	268 84%	1122 96%	709 92%	357 92%	2456 93%
k) not a suitable location for a school	288 90%	1127 97%	760 99%	376 97%	2551 97%

1.30. A summary of all the issues raised is as follows:

a) **loss of valuable community facility**

The garden centre site is a focal point for this community on a daily basis. Any permission should ensure a facility that has wide-scale daily community focus and use. Majority of residents state that a school will not provide this. **(2590 responses in total).**

b) **Traffic issues**

Increase in traffic at peak times. Entrance and exit to car park already overcrowded. Traffic associated with garden centre is irregular during long hours. Do not accept applicant's traffic generation figures. Already one of the worst traffic hot spots. Majority of traffic in area travels away from Daws Lane, this will invite traffic in which is 'unreasonable'. **(2603 responses in total).**

c) **Pedestrian safety**

Volume of traffic and additional children will make area more dangerous for pedestrians, majority being young children. Introduction of crossing patrols etc. will cause further traffic congestion. **(2548 responses in total).**

- d) **Changes to frontage and green belt breaches**
6 foot high railings and other security measures will change street perception of Daws Lane. New solid ceiling height will illegally exceed rear wall and current tarpaulin ceiling by many feet in breach of green belt regulations. **(2551 responses in total).**
- e) **Loss of tourist/ economic site**
UDP states council will 'support', 'promote' and 'protect' tourist facilities. Garden centre is defined as a tourist facility. Core Strategy states 'to enable communities to become confident and cohesive by providing facilities through which residents can play a part, diversity is valued and local pride is promoted.' This site is a central focus for our community and planning permission should only be granted for a facility to enhance this site as a daily, accessible focus of community activity. The site is one of Wyevale's most successful and any change of use should provide a similar 'tourist' or 'economic' attraction. **(2537 responses in total).**
- f) **Loss of local shopping facility**
UDP says isolated shops should not be permitted to change use unless is no significant diminution of local shopping facilities available by public transport. Core Strategy states that 'the dominance of small occupiers in Barnet means that there is a strong case to safeguard those sites which would appear to meet local demand.' Is no alternative to garden centre or aquatics centre accessible for the elderly, disabled or children in community. The petition to save the garden centre is evidence of local demand. **(2556 responses in total).**
- g) **Breach of duty under Equalities Act 2010**
The garden centre site is the primary centre for interaction between the mentally and physically disabled and able-bodied members of the community. Any permission should enhance the site's focus on such social interaction. **(2537 responses in total).**
- h) **Reliance of the elderly on the local facility**
Barnet's Equality Policy states that 'Every resident and service user has equal access to high quality services that meet their needs. We recognise that there are some people who may need support in receiving this entitlement.' Any planning permission or lease assignment must preserve residents' entitlement to a community focal point in Daws Lane for the elderly, the young and the disabled.**(2547 responses in total).**
- i) **Local residents must be at the centre of decision making**
This is set out in government March 2011 Budget and Growth Review, Planning for

Schools Development Consultation Paper and July 2010 Ministerial Statement. Latter states that council's should 'refuse permission for a new school if adverse planning impacts on local area outweigh desirability of establishing a school in that area'. Power and opportunity is to be devolved to community groups, neighbourhoods and individual citizens. Barnet's Core Strategy states that one of the key principles of the Future Shape Programme is 'to develop a new relationship with citizens.' The majority of citizens must have an influence. A school for 200 cannot match the more than 2000 people who wish to keep a meeting and focal point in Mill Hill. **(2590 responses in total).**

j) Waiving £330,000 entitlement from assignment of lease

This money could be used to significantly benefit the entire community. How can the rejection of this be justified to resident taxpayers and Council service users. **(2456 responses in total).**

k) Not a suitable location for a school (2551 responses in total).

1.31. The following issues were raised by fewer than 20 respondents:

- l) There are other more suitable locations for a school**
- m) No need for a new school here**
- n) Loss of part of the park**
- o) Why not expand existing Jewish schools**
- p) Faith schools are a bad idea**
- q) School for a minority group not needed**
- r) Increase in noise and disturbance for residents from school and evening activities**
- s) Will be negative effects on local businesses from loss of garden centre and extra traffic**
- t) Impacts on biodiversity. May be protected species eg bats where mitigation is required**
- u) Health and safety implications for children from location next to a major road**
- v) Security lights will be unacceptable – light pollution will affect local observatory**
- w) Will be pressure for people to hard surface their front gardens for parking which will be detrimental to the area**

1.32. The Action Group, Mill Hill Preservation Society and Mill Hill Residents Association submitted extensive objections to the scheme on a number of issues. As well as the main points raised above their concerns were as follows:

- Traffic accidents highlighting there was an incident resulting in a fatality in Daws Lane

- Impact on the conservation area
- Impact to Biodiversity including bats
- Increase in light pollution
- Application lacks specific detail
- Possible future school expansion and use into the Park
- Legal matters concerning property issues around agreeing the change of use. Breach in the underlying gift of the land to public use in the 1920's
- Garden Centre users will have to travel further away and therefore more reliant on the car
- Lack of greenspace for pupils
- Lack of car parking spaces and dangerous manoeuvring required
- Out of hours disruption out side school hours detrimental to the amenities of neighbouring occupiers
- Local car park will be lost for the community
- Any proposed Controlled Parking restrictions will be objected to
- Proposal would be detrimental to the history of the site

1.33. Support for previous application

Table to show responses on issues receiving greatest number of comments

	Streets local to the site	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Total no. of representations received
No. of representations received	31	366	502	862	1761
% of total representations received	2%	21%	29%	49%	

- streets local to the site: **31 representations received** (largely comprising an area known as 'Poets Corner' (Birkbeck Road, Marion Road, Victoria Road, Albert Road, Byron Road, Shakespeare Road, Milton Road, Tennyson Road and Daws Lane)
- wider NW7 postcode: **366 representations received**
- rest of borough of Barnet: **502 representations received**
- outside Barnet: **862 representations received**

Table to show responses on issues receiving greatest number of comments

	Streets local to the site*	Wider NW7 postcode	Rest of Barnet	Outside Barnet	Responses from all areas

	No. of responses (responses as a % of representations from that area)				
a) general support for proposal	3 10%	72 20%	114 23%	212 25%	401 23%
b) Traffic issues	14 45%	126 34%	199 40%	379 44%	718 41%
c) Proximity to school	14 45%	98 27%	191 38%	373 43%	676 38%
d) scale of proposals appropriate, no loss of light or privacy to neighbours	13 42%	103 28%	210 42%	423 49%	749 43%
e) respects appearance of building and green belt	13 42%	132 36%	204 41%	388 45%	737 42%
f) positive benefits to whole community	19 61%	185 51%	247 49%	486 56%	937 53%
g) need for new primary school in the area	6 19%	131 36%	132 26%	156 18%	425 24%
h) Addresses residents concerns	1 3%	34 9%	19 4%	51 6%	105 6%

1.34. A number of representations were by a standard letter (**copy at appendix 6**). A summary of all the issues raised is as follows:

- a) **General support for proposal to develop a school on this site (401 responses in total).**
- b) **Traffic issues**
Traffic impact is to be managed by the school ie maximum number of children on site, staged start and finish times, before and after school clubs, 17 parking spaces on site. **(718 responses in total).**
- c) **Proximity of children to school**
Vast majority of the children will live within 1 mile of the school and are likely to walk, if the school was not here children would have to be driven elsewhere in the borough **(676 responses in total).**
- d) **Scale and impact of proposals**

The scale of the proposals is appropriate and there will be no loss of light or adverse effects on the privacy of neighbouring residents **(749 responses in total)**.

e) **Appearance/ Green Belt**

Plans respect the appearance of the existing building and its Green Belt setting **(737 responses in total)**.

f) **Positive benefits**

A school is the cornerstone to any community and the school's community use plans will have a significant and positive impact on the area and the whole borough **(937 responses in total)**.

g) **Need for a new primary school in the area (425 responses in total)**.

h) **Addresses residents concerns**

The school proposers have sympathetically addressed the concerns of local residents **(105 responses in total)**.

1.35. The following issues were raised by fewer than 20 respondents:

- i) **A Jewish school will contribute to the community as a whole**
- j) **A school is a better use for the site than a garden centre, a different retailer or the site being left derelict**
- k) **There are alternative garden centres and cafes locally**
- l) **Location of the school near main roads and public transport avoids too much disturbance to local communities**
- m) **Will be good for businesses in the area, bringing in customers and investment**
- n) **Will encourage families to move into the area**
- o) **Proximity to the park is a benefit for the children**
- p) **Saddened by split in the community and anti-Semitic feeling in the area generated by a few objectors**

1.36. **Responses from internal consultees:**

Traffic & Development - No objections subject to conditions. Comments are included in the body of the report.

Environmental Health - No objections subject to conditions. Comments are included in the body of the report

Childrens' Service - Support the proposals for a new one form entry primary school

1.37. Responses from external consultees:

Greater London Authority and Transport for London (GLA and TFL) - The Mayor of London considered the application on 1st December 2011 and issued a Stage 1 response to the Council.

The Mayor considers that the application is broadly acceptable in strategic planning terms but, on balance, does not fully comply with the London Plan and suggests the following information is required:

- **Education and community uses:** Further clarification on the means by which the school will be made available for community use is required.
- **Equalities:** Given the context of this planning application, an assessment of the impact of the proposal in terms of the loss of the existing garden centre as a community resource should be provided to the Mayor as part of the Stage 2 referral.

Further information has been submitted in respect of the potential community use of the site. This and the assessment of the impact of the proposal on former users of the garden centre forms part of the officers assessment of the application included within this report. This will form the basis of the Stage 2 referral to the Mayor.

Secretary of State (SoS) - Has advised that the Council should notify the Secretary for State, if minded to approve the application. Having considered the application the Secretary of State will issue a letter of either non-intervention, allowing the Council to take the decision on the application or call-in, stating that the application will be considered by an Inspector at a public inquiry prior to the Secretary of State determining the application.

Metropolitan Police Crime Prevention Design Advisor - No objection to the application but suggest that the principles of the Design Guide 'Secured by Design Schools 2010' should be considered.

Highways Agency - No objection to the application

1.38. ENVIRONMENTAL IMPACT ASSESSMENT

H/04220/11 - A screening opinion was issued on 13th December 2011.

This considered whether the proposals required Environmental Impact Assessment.

The proposals comprise a development within Schedule 2 of the EIA Regulations by reason of the fact that the development is an urban infrastructure project on a site in excess of 0.5ha in size.

Officers considered that given the nature, characteristics etc of the development, it did not comprise EIA Development accordingly an Environmental Statement is not required.

2. PLANNING APPRAISAL

2.1. Site Description and Surroundings:

- 2.1.1. The application site is the former Wyevale Garden Centre site, located on the south side of Daws Lane, NW7. Daws Lane is a classified road which links Hammers Lane to the east and Watford Way to the west.
- 2.1.2. The site is located within designated Green Belt and adjoins a public car park to the east and the former Civil Defence Building just beyond. Mill Hill Park is situated at the back of the site to the south and the Post office Sorting Depot to the west.
- 2.1.3. The freehold of the site is owned by Barnet Council and it was formerly leased to Wyevale Garden Centre. The lease has recently transferred to the Trustees of the Etz Chaim school.
- 2.1.4. The existing building is an inter-war property originally constructed as a lido for outdoor recreation use, which closed in the 1980's. The building is single storey with a large steeply pitched roof containing six dormer windows sited in the north elevation facing Daws Lane. The building is laid out in a horse-shoe arrangement and has been modified over the years, with for instance the provision of additional covered glazed area and conservatory addition to the rear.
- 2.1.5. The site frontage is open and is largely hard surfaced with a planting strip abutting the footway. The rear of the site was formerly used for plant and product sales and is hard surfaced.

2.2. Proposal:

- 2.2.1. The scheme is essentially the same as the one submitted in planning application H/01702/11. Planning permission was granted in September 2011 but is the subject of judicial review proceedings that are not opposed by the Council. Minor alterations have been incorporated, namely a reduction in the size of the retained and replacement buildings and slight reconfiguring of parts of the internal space although the layout is largely the same.
- 2.2.2. The supporting documents have been updated to incorporate changes made to them during the determination of the previous application and to reflect the current situation now that the school has opened in temporary premises at 80 Daws Lane. The main differences are within the Transport Statement and Travel Plan and reflect the up-to-date school catchment and recent survey of travel mode.
- 2.2.3. The planning application seeks permission for a change of use from A1 (retail) Garden Centre to D1 (Education) to accommodate the Etz Chaim Mill Hill Jewish Free School.

- 2.2.4. The primary school is one of the first Government funded Free Schools in the country and one of the first to open in September 2011. The School currently has nursery and reception classes and is operating from 80 Daws Lane which is subject of a temporary permission, expiring in July 2012.
- 2.2.5. Free Schools are all-ability, state-funded schools, set up in response to parental demand. They are publicly-funded independent schools, free from local authority control. The Etz Chaim Free School has been set up in response to the local Jewish community need for an Orthodox Jewish Primary School in Mill Hill. The schools admission policy is not restricted to only Jewish Children with only 50% of the intake being on religious grounds with the remainder selected on a proximity basis.
- 2.2.6. The proposed change of use of the existing building from a retail use to an education use would provide a 1 form entry Primary School for 236 pupils (7 Classes of 30 pupils and 1 nursery of 26) and employ 20 members of staff.
- 2.2.7. The proposals involve the retention and conversion of the existing main building, with alterations as highlighted below.
- 2.2.8. The proposal would involve the removal of the following elements of the building -
- The central glazed roof and attached poly carbonate canopy (approx 1200 sqm)
 - The glazed canopies and conservatory on the eastern side of the building (approx 290 sqm)
- 2.2.9. The development includes the following additions and alterations:
- A replacement side extension on the eastern side of the site which would be approx 205 sqm (as opposed to 275.8 sqm in the previous scheme) and would accommodate a similar footprint to the existing structure.
 - The provision of 17 car parking spaces of which two would be allocated for disabled use. The car parking spaces would be accessed from the existing vehicular access point from Daws Lane at the western end of the site.
 - A new front boundary treatment along Daws Lane which would consist of 1.8m in high steel palisade railings, across the full width of the site.
 - Planting is proposed in front of the railings on the grass verge area.
 - A proposed new security hut which would have timber elevations and pitched roof sited in front of the railings near the entrance to the car park. It would measure approx, 3m in width, 2m in depth and 3m in height to the top of the roof.
 - Opening up the rear of the site to form an open courtyard and play area with additional soft landscaping.

2.3. Planning Considerations:

The main planning issues and the issues raised in objection and support to both this and the previous application are considered within the following broad topic areas:-

- Green Belt issues
- Need for a new school
- Principle of the change of use
- Transport issues
- The Equalities Act 2010 and implications arising from the proposals
- The impact on the amenities of nearby occupiers
- Design and access issues

3. **Green Belt Issues:**

- 3.1. The application site falls within identified Green Belt land. National Government advice on land within the Green Belt is provided through Planning Policy Guidance Note 2 (PPG2).

Within the guidance it sets out that there are five reasons for including land in the Green Belt. These are:

- To check the unrestricted sprawl of large built-up areas, in this case London;
- To prevent neighbouring towns from merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- 3.2. As set out in paragraph 3.4 of PPG2, the construction of new buildings in the Green Belt is inappropriate development unless for specified purposes. Such development is by definition harmful and to be justified there must be very special circumstances to overcome the harm caused.

- 3.3 The proposal is for re-use of the building and advice is given within paragraphs 3.7 and 3.8 of PPG 2, which state that -

"With suitable safeguards, the re-use of buildings should not prejudice the openness of Green belts since the buildings are already there, and;

The re-use of buildings inside a Green Belt is not inappropriate development providing –

- (a) it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of including land in it;
- (b) strict control is exercised over the extension of re-used buildings, and over any associated uses of land surrounding the building which might conflict with the

openness of the Green Belt and the purposes of including land in it (eg because they involve extensive external storage, or extensive hardstanding, car parking, boundary walling or fencing);

- (c) the buildings are of permanent and substantial construction, and are capable of conversion without major or complete reconstruction; and
- (d) the form, bulk and general design of the buildings are in keeping with their surroundings. (Conversion proposals may be more acceptable if they respect local building styles and materials, though the use of equivalent natural materials that are not local should not be ruled out)."

3.4 With regard to visual amenity, paragraph 3.15 of PPG2 states that -

"The visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green belt which, although they would not prejudice the purposes of including land in Green belts, might be visually detrimental by reason of their siting, materials or design."

3.5 When considering whether the nature of the proposed use would have materially greater impact in green belt terms than the existing use, officers recognise that the site was open 7 days a week with no control on numbers of employees or customers. The building's previous use involved the sale of plants, garden material and associated products. The proposed school would operate at different times with a concentration of activity during the school day and during school terms. Community use of the school site at other times would be set out in the Community Access Plan. In terms of activity and intensity of use, the proposed school use would be likely to result in less activity, other than at school drop-off and collection times, than the existing use. At weekends activity associated with the site would be likely to be less in comparison to the existing use. Officers consider that, from a green belt policy perspective, the proposed use, in terms of the intensity of use and associated activity would be no more harmful than the lawful use of the site.

3.6 Existing canopies and structures to the rear of the building and on the eastern part of the site would be removed as part of the proposals. The replacement extension on the eastern side of the site, would be within the envelope of the current building and overall there would be a significant reduction in built form and floorspace. The new extension to provide the school hall would equate to approximately 205 sq.m. of floor space (the previous scheme was 275.8 sq.m.) which is significantly less than the area covered by the internal glazed roof and polycarbonate canopy structures which would be removed. These existing structures together cover an area of approximately 1223 sq.m. Smaller glazed canopies and a conservatory would also be removed and there would therefore be a significant reduction in floorspace.

3.7 The proposal also involves the erection of new palisade railings which would be 1.8m in height to the front of the building. Each railing post would be evenly spaced in order to allow for views in and out of the site and would be set back from

the footway by 2.5m. This would allow additional planting on the existing grass verge to soften the appearance of the railings in the streetscene. The provision of railings along the front of the site would provide the proposed school with necessary security measures, as advised by the Community Security Trust. A timber-clad security hut of 5.1 sq.m. would be erected to the front of the railings on the existing grass verge which forms part of the application site. Although there are currently no buildings in this location, the hut would be near to, but behind, an existing bus shelter. The security hut is considered to be of small scale in relation to the main buildings on the site. Although the security hut and railings introduce built form into a currently open part of the site, taking the development overall there is a significant reduction in built form. The security hut itself could be held to be inappropriate development within the Green Belt in accordance with paragraph 3.4 of PPG2 as it is a new building, however in this case the small scale ancillary nature of the hut, together with the reduction in buildings and structures across the site as a whole is considered by officers to amount to increased openness over the site as a whole and officers conclude that this would amount to very special circumstances to justify the provision of the security hut.

- 3.8 The siting of the existing garden centre building prevents views into the park and further Green Belt land beyond. The new railings would be set back from the footway and designed to allow views through, with landscaping to be planted at the front. The provision of the security hut and new railings along the front, whilst having some impact on the streetscene, would not compromise the sense of openness or harm the visual amenities of the Green Belt.
- 3.9 Officers consider that the proposed development would result in a significant reduction in built form ensuring increased openness at the rear of the site. The proposals would be in accordance with the advice in PPG 2 on the re-use of buildings within the Green Belt, would improve the overall openness of the site and would therefore not amount to inappropriate development or conflict with the purposes and functions of land within the Green Belt, The development is considered compliant with Green Belt policy, particularly PPG2 and policies O1, O3 and O6 of the Adopted Barnet Unitary Development Plan.

4 Identifying a Need for a School

- 4.1.1 The planning application has been submitted, following approval from the Department of Education for a Jewish Free School in Mill Hill.
- 4.1.2 It is acknowledged that there is an identified continuing demand for primary school places in the borough. This is set out in Barnet Cabinet meeting and report (dated 6 September 2010) 'Investment Strategy to meet demand for primary school places'. This report concludes that there is an unprecedented demand for primary school places in the borough and between 2004 and 2009 births rose by 18% in the borough. There is insufficient capacity in Barnet's primary schools to meet current and projected demand. The Local Authority has a statutory duty to ensure

that there are sufficient primary school places within close proximity to each child's home. In addition, school sites should be located within areas close to demand.

- 4.1.3 For the purposes of primary school place planning, Barnet is split into six areas. The location of Etz Chaim free school is in the Hale, Mill Hill, Edgware and Totteridge planning area. The latest available pupil projections indicate that there is sustained demand for at least an additional 60 Reception places in this area from 2012 onwards. There is also pressure borough wide for Jewish primary school places. There are currently 411 Jewish Reception places in Barnet and at least an additional 60 children who indicate a preference for a Jewish place but do not take up a place in a maintained Jewish school.
- 4.1.4 Barnet's children benefit from diverse educational provision and the Council recognises the role that Free Schools can play in helping to meet parental preference and providing much needed school places.
- 4.1.5 At the time of the previous application, H/01702/11, there were 793 permanent places in the Hale, Mill Hill, Edgware and Totteridge planning area (**Table 1 in Appendix 7**).
- 4.1.6 The area has been experiencing a significant shortfall in places for the last two years and this shortfall is predicted to continue. Sustained additional demand for Reception places in this planning area is projected for the next five year planning period. Projections are updated yearly to ensure they reflect changes in Barnet's demographics. The most recent 2011 projections at the time of the previous application are shown in **table 2 of Appendix 7**. Classes are usually organised in blocks of 30 pupils, and therefore the additional demand is given in forms of entry (FE). The significant fact is that at least 60 places (or 2 new classes) will be needed for the foreseeable future, with it rising to a possible 90 places in Sep 2015.
- 4.1.7 Birth rates are increasing in the area having a direct effect on the demand for primary school places. **Table 3 in appendix 7** shows the number of children born to mothers in the Hale, Mill Hill, Edgware and Totteridge areas since 2002/03 confirming a sustained rise in number of births.

4.2 **Demand for Jewish primary school places**

Pupil projections do not indicate whether pupils would only attend or would prefer to attend a religious school. However in the past, pupils applying for a place at an orthodox Jewish school rarely list other non-Jewish state-maintained schools on their application form. For September 2010 Barnet received 480 applications with a first preference for a Jewish school compared to 381 available places (**Tables 4 and 5, Appendix 7**).

- 4.2.1 There are 10 voluntary aided Jewish schools in the borough, which includes the introduction of Edgware Jewish Primary school. In 2011, applications for reception

classes in these schools were 469, compared with the 411 permanent places that were available (**table 6, appendix 7**). An assessment into the expansion of these existing schools was undertaken. This assessment concluded that there was little capacity to increase pupil numbers in these locations.

4.3 Update November 2011

- 4.3.1 Cabinet Report 'Proposed phasing of primary school expansions and investment strategy to meet demand for secondary school places 3 November 2011.
- 4.3.2 This report refers to the latest Greater London Authority projections which show that demand is projected to continue in Barnet rising to a shortfall of 22 forms of entry (660 Reception places) by 2018/19. The projections take into account birth data, migration trends and regeneration and are updated on a yearly basis.
- 4.3.3 They show that Barnet will need approximately 400 additional Reception places for each of September 2012 and 2013, rising to at least 500 in September 2014 and more in the years beyond. These are conservative estimates as they do not factor in any surplus of places, whereas a surplus of 5% is often recommended to allow for parental preference and any under projections.
- 4.3.4 For September 2011, Barnet have provided an additional 330 temporary places across 11 school sites to meet demand. This is in addition to the 60 permanent new Reception places added through the expansion of Colindale (and additional resourced provision for young children with Special Educational Needs), Parkfield and St Catherine's schools in 2009, the 30 Reception places provided through Edgware Jewish Primary school joining the maintained sector in January 2011, and 30 further permanent places provided by the opening of Etz Chaim in September 2011.
- 4.3.5 Barnet is also experiencing an increasing pressure on Year 1 and Year 2 places. Last year, an additional Year 1 class was provided to accommodate children who moved into the borough during the year. The Council is currently experiencing a very high number of children requiring places in Year 1 and Year 2 and is seeking to provide additional temporary places in these year groups within the west of the borough. Pressure is also being felt on special school places and resourced provision for children with Special Educational Needs.
- 4.3.6 The Cabinet report on the 6 September 2010 report recognised that continuing to meet the majority of demand via temporary places was not sustainable; that the Council is fast running out of viable options for temporary additional classes in the areas of highest pressure; and that expanding across a large number of sites for a single 'bulge' year does not represent good value for money. It recognised the need for investment in permanent provision in the areas of highest demand.

- 4.3.7 Based on Greater London Authority projections, sustained demand is projected over the next five years in the following planning areas, in order of demand:
- Colindale, West Hendon, Burnt Oak and Hendon
 - Hale, Mill Hill, Edgware and Totteridge
 - East Barnet, Brunswick Park and Oakleigh
 - Coppetts, West Finchley, Woodhouse, East Finchley and Finchley Church End
 - Childs Hill, Garden Suburb and Golders Green.
- 4.3.8 Edgware Jewish Primary School entered the maintained sector in January 2011, Etz Chaim opened in September 2011 and Broadfields is being permanently expanded by 1FE. For September 2012 (including Etz Chaim) there will be 823 permanent Reception places in the Hale, Mill Hill, Edgware and Totteridge planning area as shown in **table 7, appendix 7**.

4.4 Admissions Criteria

Officers consider that the applicants have made out the need for a school within this location. Although it is proposed that the school be a Jewish faith school, it is important to note that proximity to the school is key to admissions criteria for new intake and anyone can apply regardless of faith.

4.4.1 The applicants state the following -

- If 28 or less children apply, then all of them will be offered a place regardless of faith.
- If more than 28 children apply, after the admission of children with statements of Special Educational Needs where the School is named on the statement, the criteria will be applied as follows -
 - children in public care;
 - admission of up to 50% of pupils on the basis that they can demonstrate through the possession of a relevant and recent Certificate of Religious Practice (CRP) that they are practicing Jews fully engaged with the Jewish community.
 - admission of pupils on the basis of proximity to the Reception.

4.4.2 Should the school be oversubscribed then the 50% policy (14 children) will be selected on the basis of faith with the closest first taking priority and the remaining 50% (14 children) on the basis of proximity to the school (regardless of faith).

4.4.3 Should there be, for example 100 applicants for the 28 places and all applicants hold a CRP certificate then the 28 places will be offered on the basis of proximity to the school.

- 4.4.4 If there are 100 applicants for the 28 places of which 70 hold CRP certificates and 30 do not; the 50% (14) will be offered first from the 70 CRP holders on the basis of proximity (closest first). The remaining 14 places will be offered to the closest 14 applicants of the remaining 86 applicants (i.e. the 56 with CRP and 30 without). The 14 'faith' places will simply be allocated on the basis of distance.
- 4.4.5 For applications in 2012 and after, the applicant states that children with Statements and/or in Care and siblings of children who attend Etz Chaim Jewish Primary School will be prioritised.
- 4.4.6 Concern has been expressed by some local residents that the school will not meet the needs of the community, but only those of the Jewish faith. The admissions criteria for the school are not wholly faith-based however. The school will meet the needs of the Jewish community but can also meet the need of those who do not observe that faith.

4.5 Site Selection Process

The applicants have carried out an assessment of the existing Jewish Primary Schools (Voluntary Aided) to determine whether there is scope for expansion. This assessment concluded that there is little or no scope to develop existing voluntary aided Jewish Primary schools in the borough in order to meet the identified need.

- 4.5.1 The applicants have provided supporting documentation in assessing a number of other potential alternative sites they considered as alternative premises. These are set out below together with officer comments on each site:

- The MIL Building, The Ridgeway, NW7
The applicant states that this former missionary training college would require extensive renovation and would need an extension and access issues were identified as a problem. Potential of the premises is limited due to its size.
(Officer comment - This building is adjacent to the listed Holcombe House and officers agree extensions and alterations would need very careful consideration in light of the listed status, conservation area and green belt location. Access to the site is also constrained and there are existing highways and on-street parking problems in the vicinity. Officers agree that this site is not a realistic option for a school of this size given the constraints of the site).
- Holcombe House, The Ridgeway, NW7
The applicant states that this is a Grade II listed ten bedroom house, requiring renovations and extensions. Additional reasons why it is unsuitable are its limited size and access issues.
(Officer comment – the site is adjacent to and within the same curtilage as the MIL building above. Officers consider it would not be suitable due to

the constraints of small size, listed building status, green belt location and highway access).

- St Joseph's College, The Ridgeway, NW7
The applicant states that the site is extensive and is a grade II listed building. Its cost and required renovation prevent further investigation.
(Officer comment – there is an extant planning permission for conversion to a residential care home. Alterations would need careful consideration due to the listed status of the building, conservation area and green belt location. Size of the building exceeds requirements for a one-form entry school. Officers agree that this site is not a realistic option).
- Littleberries, The Ridgeway, NW7
Applicant states that the site is too large and expensive.
(Officer comment - There is an extant planning permission for residential conversion and redevelopment which has commenced. Given the site has planning permission for residential development, officers agree this is not a realistic option).
- Mill Hill Golf Club
The applicant has stated that this was not for sale or available within the timescale as the club are seeking to realise the planning permission for a new clubhouse building.
(Officer comment – there is an extant planning permission for a new clubhouse which involves the demolition of the existing building and reversion of that part of the site to open land. The existing and proposed buildings are in the green belt. Officers agree this is not a realistic option).
- Inglis Barracks, Mill Hill East
The applicant states that the site is subject to comprehensive redevelopment and not for sale.
(Officer comment - a new primary school is already planned as part of the redevelopment of this extensive site).
- Edgware Abbey, Hale Lane, HA8
The applicant states that the building is a grade II listed building. The site is constrained by its one way access and egress
(Officer comment – Only part of the abbey building is available- the remainder of the site is to be retained for residential including an existing home for the elderly. Access is constrained and the site would not be suited to a school of this size. Officers agree this is not a realistic option.)
- Bunns Lane site
The applicant states that this is a brownfield site located in between the M1 and mainline railway. Its location in an area of light industrial buildings and

transport routes would be inappropriate for a primary school.

(Officer comment – . Officers agree that the site constraints related to its location do not make this a realistic option).

- Block of Flats, Hale Lane
The applicant states that the site is no longer available
(Officer comment – loss of residential use would be contrary to policy therefore agree is not a realistic option).

The applicant states that a number of alternative sites were suggested by members of the public:

- Mill Hill Synagogue
There is insufficient space to accommodate a new one form entry school.
(Officer comment – agree there is no scope for a school of this size so not a realistic option).
- Copthall site
The applicant states that this site has been referred to as a possible alternative to the current garden centre location. However, the site is located in Green Belt land and does not contain any buildings which are suitable for conversion. The development of new buildings in the Green Belt would be required and therefore in greenbelt terms the application site is more sequentially preferable.
(Officer comment – the proposal would involve new building in the green belt and any proposal would need to be supported by very special circumstances to overcome policy constraints. There is a current planning application for development of the wider Copthall site for sports facilities. Officers agree this is not a realistic option.).
- Holland House School
The applicant states that this is a fee paying school outside the catchment area
(Officer comment – there would be no scope to extend the existing school which is located in a former residential building).
- Woodcroft School
The applicant states that this is an existing functional primary school with limited scope for the proposed use.
(Officer comment – this is an established community school. There is no scope to provide an additional school on the site and officers agree this is not a realistic option).

4.5.2 A number of other sites were also considered but rejected as being of inadequate size and too far away.

4.5.3 The applicant has considered the alternative sites specified above and listed the reasons why they could not be pursued. The applicant contends that the garden

centre site was selected as the preferred option as it was available at a more reasonable cost, is in a central location, easily accessible by public transport and close to local amenities, it has good access and adjoins a public car park and Mill Hill park. It is of adequate size and suitable for conversion to a primary school.

- 4.6 Given that the Council has identified need for additional primary school places in this part of the borough and the Department for Education has accepted the proposal for a Jewish Free School in Mill Hill, officers consider that the principle of a new school is acceptable. Officers consider that the proposal complies with Barnet UDP policy CS4 concerning the development of new educational facilities and emerging Development Management policy DM13.

5 Principle of the Change of Use

5.1 Loss of Garden Centre Use

Planning Policy Statement 1 (PPS1) advises:

"The Government is committed to developing strong, vibrant and sustainable communities and to promoting community cohesion in both urban and rural areas. This means meeting the diverse needs of all people in existing and future communities, promoting personal well-being, social cohesion and inclusion and creating equal opportunity for all citizens."

- 5.1.1 The application site has an extensive planning history, having previously been the Mill Hill Swimming Pool. Planning permission was granted in 1987 (ref. W02809E) for the use of the site for a Garden Centre with ancillary buildings for plant sale and associated products. This permission was subject to a condition (11) which restricted the sale of goods to only plant and related non-food material. The reason for this condition was due to the site's location outside a town centre, as an unrestricted A1 use would potentially harm the vitality and viability of the nearby town centre. The garden centre closed in September 2011.
- 5.1.2 The site is not within primary or secondary retail frontage of a town centre or within a local shopping parade identified in the UDP.
- 5.1.3 The Council's Unitary Development Plan (UDP) has no policies which specifically refer to proposals which result in a loss of garden centre use or floorspace. However policy TCR19 seeks to protect neighbourhood centres, free standing shopping parades and isolated shops. Changes of use resulting in loss of A1 will be resisted unless there will be no significant diminution of local shopping facilities, alternative shopping facilities are available, the proposed use is within A2, A3 or A4, A5 or meets an identified local need and there is no known demand for A1 use.
- 5.1.4 However in the opinion of officers this policy is designed to protect local shopping facilities that meet everyday needs. A garden centre does not predominantly sell the type or range of convenience goods expected of a local shopping facility.

Indeed, the introduction of a retail unit on this site selling a greater range of products normally found in a local shopping area would be contrary to established policy, as it would potentially harm the retail viability and vitality of existing parades and town centres.

- 5.1.5 Accordingly, it is the view of officers that the proposal does not materially conflict with the purpose of policy TCR19.
- 5.1.6 The garden centre was regarded by many objectors to the scheme as an important resource for the local area. The objections received state that the building's layout, form, range of goods sold, aquarium and cafe were popular and that the centre was an important community facility. The cafe sold drinks, sandwiches, cakes and similar snacks and had seating for about 20 people.
- 5.1.7 Although the garden centre use in land-use planning terms is not a community facility (falling as it does within class A1 of the Use Classes Order), it is accepted that the garden centre provided a valuable resource to some members of the community. The particular groups affected are identified as the elderly and people with disabilities.
- 5.1.8 Although officers recognise that for large numbers of local residents, the garden centre provided a much-loved local facility, they nevertheless consider that there are other places in the local area that can provide similar functions.
- 5.1.9 In this context, though officers note that it does not have the same café facilities as the former Wyevale centre, there is another garden centre in Mill Hill which sells plants, garden and aquatic products. This is accessible by the 240 bus from Daws Lane although there is a 5 – 10 minute walk from the bus stop and officers recognise the last part of the journey is via a rough roadway without a pavement. Accordingly, officers readily accept that this facility is not as accessible on foot as the Wyevale garden centre. However, this garden centre does have a small café facility with mainly outdoor seating, although there is some limited seating inside.
- 5.1.10 Furthermore, officers note that the Wyevale site is within a 5 minute walk of Mill Hill district town centre which provides a variety of shops, cafes and restaurants that could serve as replacement refreshment facilities for that formerly provided at the Wyevale site.
- 5.1.11 In addition, the Wyevale site is also adjacent to Mill Hill park, one of the borough's premier parks. The park itself has an indoor café with indoor seating for 20 plus and outdoor, partly covered, seating, a childrens' play area as well as sporting facilities. Again, it is recognised that the park does not provide an all-weather facility on the same scale as the former garden centre and that the café may not be as appropriate for certain users as the Wyevale garden centre.

- 5.1.12 However, for many people in the immediate area, similar facilities are available elsewhere locally on foot or by bus to offset the loss of the particular range of goods sold and facilities available at the garden centre.
- 5.1.13 It is recognised that the school can never provide the facilities that the garden centre provided in terms of all day use. However, future community use in line with that provided by many other schools and encouraged by national and local policy is part of the proposal.
- 5.1.14 The garden centre use provided employment for approx 24 members of staff, some of which are on a part time or seasonal employment basis. The proposed school use would employ approx 20 members of staff, representing a similar level of employment.
- 5.1.15 Many of the objection letters have referred to the garden centre as a tourist facility. Policy L8 of the Adopted Barnet Unitary Development Plan seeks to retain tourist facilities. However, the supporting information refers to a tourist as someone who does not normally live or work in the borough but visits for professional or domestic purposes, holidays or recreation. Such facilities include the RAF Museum and other museums within the borough but can include shopping facilities eg Brent Cross shopping centre, sports centres, arts and cultural facilities and areas of open countryside. Officers are of the view that the former garden centre did not constitute a recognised tourist facility that would attract people from outside the borough and it's loss is not considered to conflict with policy L8.

5.2 Proposed School Use

In principle Barnet's current UDP policies are generally supportive of new school development proposals. The Council as the Local Education Authority (LEA) has a statutory duty to provide primary and secondary school places for children aged from 5 to 16 years.

- 5.2.1 In order to meet the educational needs of Barnet's growing population, the Council will seek to ensure that there is an adequate provision of education facilities in the borough and encourages proposals for facilities which will help meet identified needs.
- 5.2.2 UDP Policy CS4 (Educational Facilities) confirms -
Proposals for the development of educational facilities will be permitted where they:
- are easily accessible by public transport, walking and cycling;
 - would not have a demonstrably harmful impact on the character of the surrounding area and amenities of nearby residential properties and other uses; and
 - are designed to be accessible by people with disabilities.

- 5.2.3 For reasons discussed elsewhere in this report, it is considered that the proposals would comply with these criteria and is therefore in accordance with UDP policy CS4.
- 5.2.4 Local Planning Authorities and the Planning Inspectorate are expected to take into account the Policy Statement on Planning for Schools Development and the presumption in favour of the development of state-funded schools as expressed in the National Planning Policy Framework as a material consideration when determining all planning applications for school development. In determining planning applications, local authorities are required to:
- attach very significant weight to the desirability of establishing new schools and to enabling local people to do so;
 - Seek to mitigate any negative impacts of development through the use of planning conditions or planning obligations, as appropriate; and
 - Only refuse planning permission for a new school if the adverse planning impacts on the local area outweigh the desirability of establishing a school in that area
- 5.2.5 These policy statements weigh in favour of the application proposals.
- 5.2.6 In line with these and earlier ministerial and policy statements, emerging policy DM13 of the Barnet Development Management Policies DPD supports the provision of new educational uses.
- 5.2.7 The application site is within a part of Daws Lane characterised by a range of different uses. There is the post office depot to the west, car park to the east, commercial and retail outlets to the north and residential dwellings to the north and further east along Daws Lane. The proposal to introduce an educational use on the site is not considered by officers to compromise the character or appearance of the local area. As discussed in the following section of this report, the site is considered to be accessible by public transport. Officers further consider that, with appropriate conditions, the proposed school can be accommodated without significant impact on the residential amenities of residents. Accordingly the provision of a school on this site is in accordance with emerging policy DM13.

5.3 Community use of new school

- 5.3.1 The applicants contend that they are committed to ensuring the premises are available for use by the local community. The proposals include a school hall (approx. 140 sq. m.) and a large external play space including a soft landscaped area that would offer a beneficial community resource. Draft community access proposals have been submitted by the applicants which indicate the possible future community availability and the actions being undertaken on behalf of the school to ascertain what the community may wish to use the building for. Full details of community use will be secured through the proposed section 106 agreement.

- 5.3.2 The Friends of Etz Chaim have recently formed as a support group for the school and are undertaking consultation with the local community, both residents and existing groups in the locality, to better understand the needs the wider community have and how these could be accommodated in the new school. They have consulted 56 groups by letter seeking their views.
- 5.3.3 The school claims that its vision is to “bring the Mill Hill community together at Etz Chaim Jewish Primary School through improved facilities, opportunities for elderly and disabled groups as well as individuals, and a new ‘venue’ for local community groups and events to be held.”
- 5.3.4 Furthermore, the school contends that it sees the site providing:
- An outstanding local school
 - At the heart of the local community
 - A facility that is equipped to bring the community together
 - Able to meet specific local needs
- 5.3.5 Three suggestions are made:
- The school would like to encourage older groups in Mill Hill to establish a social community centred around the school and would like to support the community in setting up a University of the 3rd Age group.
 - Improved disabled facilities – the site is being designed to be fully accessible and the Josiah Wedgewood community garden will create a therapeutic space.
 - A venue for other groups and events such as a rock choir, amateur dramatic groups, music groups, after school groups eg scouts, night school course, societies based in Mill Hill and martial arts courses.
- 5.3.6 Officers consider that to safeguard the wider community use of the school, whilst protecting the amenities of neighbouring residents, it is necessary that the grant of planning permission be subject to a legal agreement to ensure an appropriate Community Access Plan is put in place. This will ensure the facilities will be made available outside school hours and, where possible, also during the day. The Plan will need to include details of the range of community uses that could be accommodated and the proposed hours of use together with a charging policy. Officers consider that, although at this stage there is a degree of uncertainty about the exact nature of the future community use of the site, the school are taking appropriate steps at this stage to try and identify possible community uses and that, subject to final agreement of the Plan, wider community use can be secured. Concern has been expressed by some residents over the potential impacts certain uses may have on residents in the area and on traffic levels. The range of future community uses and appropriate controls will form part of the Community Access Plan.

5.4 Suitability of site for a school

Some residents have expressed concern that the site is not suitable for a school on highway safety grounds or due to noise and pollution. Highway safety issues are addressed in the section below. In relation to noise, air quality and land contamination, the Council's Environmental Health officer comments as follows.

5.4.1 **Air Quality**

To put the development into context, the proposed school site is bordered by two potential sources of air pollution, these being the road traffic on the A41 to the west, and Daws Lane to the north. The surrounding environment is made up of a combination of residential and commercial buildings, a car park, public playground within 100m and the Mill Hill Park that borders the east side of the proposed school.

5.4.2 The south west side of the proposed development is located within an area that is predicted to experience high levels of air pollution, the source of the pollutants being the traffic on the Watford Way (A41). Officers have brought to the applicant's attention a recent report by Clean Air London that lists schools in Greater London within 150 metres of road links with an all motor vehicle annual average daily flow estimate of greater than 10,000. The report states pollution from such roads could be responsible for 15% to 30% of all new cases of asthma in children.

5.4.3 The Council's Stage 4 Review and Assessment Report predicted that air quality for part of the site is likely to exceed the government's health based air quality standards for nitrogen dioxide.

5.4.4 Local Air Quality Management Technical Guidance LAQM.TG(09) provides guidance for when the air quality objectives should apply, in this case, the annual mean should be applied to the Building façade of a school.

5.4.5 On the basis of the submitted proposals, the elements of the scheme that would be most sensitive to air pollution would be the children's play space. Careful planning on the part of the developers would need to ensure that the play area does not fall within the nitrogen dioxide exceedence area and that air changes within the play area are sufficient to prevent a canyon effect build up of pollutants. The developers would need to work together with the environmental health department to ensure this is achieved.

5.4.6 However officers see no reason why this matter cannot satisfactorily be addressed. Indeed officers note that air quality was identified as an issue in the early stages of the development and as a result submission of an air quality report was a condition on the previous grant of permission and would be required again. The report should include mitigation measures using the design and lay out of the school and play space, examples of how this may be achieved would include a ventilation system that will enable the windows to remain closed and consideration given to the design and time spent in the outdoor play space.

5.4.7 In addition the implementation of a school travel plan is recommended with an aim to reduce vehicle emissions produced by school drop offs and idling of cars. This should include walk to school initiatives and yearly recording of how effective the school travel plan is.

5.4.8 Looking at these matters in the round, officers are of the view that satisfactory controls can be imposed so that issues of air quality can be addressed, and should not be a bar to a grant of planning permission.

5.4.9 **Land Contamination**

A further issue to consider in this context is land contamination. It is recommended that the structure is assessed, prior to alteration, for the presence of asbestos. This is due to the age of the building and the likelihood of use of asbestos in its construction.

5.4.10 The historical usage of the site indicates a lido with 2 pool areas that would have been filled in, possibly with soils from an unknown source. This would have pre dated any restrictions on potentially contaminated materials being used for this purpose. As a minimum, a desk top study is recommended to assess any potential risk that this may pose in light of the proposed usage of the development with the children as sensitive receptors.

Noise

5.4.11 Officers consider that all issues relating to noise can be addressed by way of condition.

5.4.12 The location is subject to noise from local and distant traffic. The layout of the building and its distance from nearby residential properties will provide attenuation, the proposed change of use is therefore not likely to have a significant impact on the present noise environment.

5.4.13 Any ventilation or extraction plant will need to be approved in terms of noise levels prior to use.

6 **Transport Issues**

6.1 **Proposal**

6.1.1 The building would accommodate a one form entry primary school of 236 pupils. This would equate to seven x 30 pupils and one nursery class of 26 (full time equivalent pupils). 20 full time staff would be employed. Parking provision would comprise a total of 17 parking spaces including 2 disabled parking spaces, 25 cycle parking spaces and several scooter parking spaces for pupils and staff. The school classes would be phased in therefore the school would not be fully occupied until 2017.

Location

- 6.1.2 Daws Lane lies to the eastern side of Mill Hill Park and has junctions with Hammers Lane on the East and A1 / A41 Watford Way on the West. Part of Daws Lane between its junction with A1 / A41 Watford Way and No. 45 Daws Lane is within a controlled parking zone (CPZ) which comprises a mixture of business and residential bays. Waiting restrictions are in force with a mixture of double yellow lines (All Day Waiting Restrictions) along the frontage of the site and at the corners of side roads whilst the single yellow lines operate between 11am to 12 noon from Monday to Friday, which correspond with the hours of the CPZ. Double yellow lines operate from the end of the CPZ to the common boundaries of 74/77 Daws Lane..
- 6.1.3 Daws Lane is served by bus route number 240 which provides a service every 10-12 minutes during the morning and afternoon weekday peaks from Golders Green Station to Edgware Station. There are additional bus routes which are within 530 metres of the site at Mill Hill Broadway and buses 118 and 186 run along the A41 close to the site.

School opening hours

- 6.1.4 The school has indicated that it intends to operate a 'wrap around care' regime which facilitates extended school provision. The school would offer wrap around care from 7am to 9am at the start of the day and from 3.30pm up to 6pm in the afternoon to further stagger the start / finish times. Officers agree that this would reduce the peak hour impact of the proposed school on the neighbouring highway network during the school am and pm peaks.
- 6.1.5 It is anticipated that the staff would arrive over a period of time between 7am to 8am. Pupils would arrive between 7am and 9am and lessons would start at 9am. The school would operate staggered finishing times. Nursery pupils would leave at 12.00 and 3.15pm. The reception pupils would leave at 3.30pm. Key Stage 1 pupils would leave at 3.40pm and Key Stage 2 at 3:50pm and pupils in wrap around care would leave by 6pm. The school am peak would therefore be between 8 – 9am and the pm peak between 3 – 4pm. In the event that parents have children in different years, the duration of waiting time is likely to straddle the staggered finishing times. In these cases, it would be necessary for the school to consider arrangements where the younger pupils can wait for the older siblings.

Parking Provision On site

- 6.1.6 The applicants are planning to convert the existing service yard into an area for staff parking. A total of 17 spaces (including the provision of two disabled spaces) and 25 cycle parking spaces and scooter storage for pupils and staff would be provided. The provision of staff parking off-street is welcomed. The updated Travel Plan includes a staff travel survey of the existing staff employed at the temporary school carried out in September 2011. Eight (73%) staff stated that they drive to

work. If this proportion remained the same for the permanent site, then this would equate to a demand for 15 spaces for full time staff. The proposed car park of 17 spaces could therefore reasonably be expected to accommodate the demand. At the request of TfL the School have also agreed to provide three electric vehicle charging points and three passive charging points.

- 6.1.7 The parking standards set out in the London Borough of Barnet Adopted Unitary Development Plan 2006 refer to Annex 4 of The London Plan which says parking provision for a D1 use (Non-residential Institution) should be assessed on an individual basis and should take account of the nature of the institution. Having taken into account the expected trips for staff from current data on the ETZ Chaim temporary school, it is considered that the site is proposing a level of parking in accordance with the number of full time staff expected on the site.

6.2 School Travel Plan

- 6.2.1 All schools who submit planning applications are required to produce a School Travel Plan (STP) and appoint a School Travel Plan Champion as part of the mitigation strategy. A STP incorporates measures to reduce all trips to the school by the private car and encourage more sustainable modes such as walking, cycling and public transport. The STP applies to both staff and pupils trips.
- 6.2.2 A STP has been prepared for the school and this covers the Nursery and Reception element of the school which has temporary permission at 80 Daws Lane. The Travel Plan for 2011-2012 has been submitted and will be subject to an annual update. Targets have been set and the school is committed to achieving a car reduction in pupil travel of 4% every year over five years and has had a part time Travel Plan Champion in place since September to progress the Plan. Since the last application in July and survey in September in 2011, the school intake has increased and the STP has incorporated a November school travel parent survey. All STP surveys have been undertaken by the school using standard methodology.
- 6.2.3 The school is located approximately 300 metres from the start of the main shopping parade in Mill Hill, and in close proximity to a number of residential areas and public transport modes. The applicant states that it is the school's ethos to teach the benefits of living a healthy lifestyle, including walking to school. As part of the STP, the school will also promote a Walking Bus Service that commences at the local Synagogue or similar location to be agreed which will be operated by members of staff who will escort pupils to school safely. The route of the walking bus will be selected based on requests made by parents living in the area. This is expected to help reduce trips to school by private car. Any route chosen will be risk assessed to ascertain whether it is an appropriate route. The school also encourages other forms of transport such as cycling and public transport.

School Travel Plan surveys

Staff Travel

- 6.2.4 As already indicated, as part of the STP a survey has been conducted of the staff travel. 73% travelled by car and 27% by bus. This amounted to eight total car trips in a complement of 11 staff. However, 27% of staff indicated a preference to reduce the car use and walk more. This provides scope for effective travel plan measures and there are targets in the STP to reduce staff car travel.

Pupil Travel

- 6.2.5 The School's September 2011 Travel Plan parental questionnaire showed that 21% of pupils walk to school, 37% arrive by car, 5% arrive by car then walk (park & stride) and 34% arrive by 'other'. None arrived by bus or cycle, or car shared. The category of 'other' does include a mixture of car and walking journeys. This has been updated by a November parental questionnaire, again carried out by the school. The sample was slightly higher (87% vs 81% in September). The current breakdown is that 26% of pupils walk to school, 32% arrive by car, 21% car share and 3% park & stride, and 18% other. Table 4.3 below from the Transport Statement shows that the proportion of walking has increased and single household car use decreased between the September and November surveys.

Table 4.3 Mode of travel summary for pupils (Sept - Nov 2011)

Travel mode (Parents responses)	Percentage of pupils (Sept 2011) currently using this mode	Percentage of pupils (Nov 2011) currently using this mode
Car (all the way)	37%	32%
Car share	0%	21%
Park & stride	5%	3%
Walk (all the way)	21%	26%
Bicycle	0%	0%
Bus	0%	0%
Rail (train or tube)	0%	0%
Other	34%	18%
No. of Pupils	47	48

- 6.2.6 The applicant has indicated that each pupil and parent would be required to sign a "Home School Agreement" when the child joins the school committing to measures within STP to reduce car traffic associated with the facility. The STP will actively promote other means of travelling to and from the school and has set targets to achieve this. At present, the Council does not impose sanctions on schools that don't meet their targets. However, it considers it important that schools progress with their Plan and works with all schools to assist them in achieving their targets.

If permission is granted the school should continue to liaise with the Council's Travel Plan Co-ordinator and should submit for approval an updated STP two months prior to the occupation of the permanent school building and reviewed annually thereafter.

Surveys by local residents:

- 6.2.7 A variety of observations have been conducted by local residents to provide information on how the parents travel to the school. Officers have been given details of one study which noted car registration numbers of cars arriving at the school. It is not clear whether it was a morning or afternoon survey or the times of the survey. Whilst Council officers do not condone the identification of individuals in this manner, it has received the information and notes that 35 cars have been identified as travelling to the school. This confirms that car use is a significant part of travel to the school.
- 6.2.8 The STP that accompanied the original application envisaged that 73% of pupils would walk to school. This was based on a snap shot survey of registered parents. Now the school is opened, the most recent parental questionnaire provides a more accurate picture confirming that drive to school from single household cars use is 32% and 26% walk. Other car trips to the school take place in varying degrees comprising car share rota 21%, park and stride 3%, and 18% alternate between walking and driving. The current intake of the school at the time of writing the report is 49. Single car use therefore equates to 16 cars, and the other categories combined show 21 cars. The level of car use accords with the resident's survey that has been noted above.

Conclusions

- 6.2.9 The Etz Chaim (STP), submitted by the school has been carefully assessed by the L.B. Barnet Travel Plan Coordinator against the most robust STP criteria from Transport for London (TfL) as identified in the booklet 'What a School Travel Plan should contain.' Officers consider it is acceptable as part of the mitigation strategy. It is not current practice in Barnet for sanctions to be put in place linked to a STP however the school will be expected to review their travel plan annually and where targets have not been met an explanation will be required and new objectives, targets and action plan will be set to address the identified issues.
- 6.2.10 A S106 contribution of £5,000 is required to monitor the STP to help ensure targets and objectives are met.
- 6.2.11 The number of cars identified in the resident survey corresponds with the current car use for pupils and staff as shown in the Transport Statement / parental questionnaire surveys. This would point to the probability that the responses in the questionnaires are not misleading and accurately represent the current situation, providing a sound basis for the Travel Plan.

6.3 Pedestrian and Vehicular Access

Two accesses are proposed as part of the redevelopment. One is proposed as a pedestrian entrance/ exit and the other will be to the staff car park. The proposed area allocated for staff parking was used for servicing the garden centre.

6.3.1 Parents would enter via a pedestrian entrance which will be controlled by a security person who will be on site throughout the day.

6.3.2 The servicing and delivery arrangements would remain the same as for the previous garden centre with vehicles unloading in the staff car park area. The frequency of service vehicles is not expected to be higher than the existing consented use and arrivals would be managed by ancillary staff.

6.4 Refuse Collection

A refuse collection point would be designated but the applicants are proposing to bring the containers to the public highway on days of collection.

6.5 Accidents

A report regarding pedestrian traffic accidents on Daws Lane over the latest three years has been collated. Three accidents have been recorded involving cars – one at the junction with Hammers Lane and two within close proximity of the junction with A1 / A41 Watford Way. One of the accidents involved pedestrians near the Albert Road junction but others were related to shunting movements between cars. In 2009 there was a fatality on the A41 involving a pedestrian aged 55. The notes on the TfL accident report state that the incident occurred as the drunk pedestrian attempted to cross the A41 at 11pm at a location close to the junction with Daws Lane. There have been no more road traffic personal injuries reported since the original application in July 2011.

6.6 Highway Impact

Catchment Area:

6.6.1 The updated STP includes maps based on postcode information that identifies the home locations within the catchment areas for existing nursery and reception pupils. This information is relevant and forms a basis for this application as the intention is to relocate the nursery and reception to the permanent site. The catchment area for the school is mostly within 2km. The updated STP confirms that approximately two-thirds of nursery and reception pupils live within 1.6km of the school (which was originally stated as 1.2km in the previous application). The

data shows that for the current admission only three of the 21 nursery pupils live within 0.8km of the site. The previous Transport Statement anticipated that all nursery children will live within 1.1km of the site and all reception children within 1.8km of the site. The location of reception children is also dispersed. Some live within 0.8km of the site but most are located within 1.6km of the site. This does not result in all pupils arriving by car as the November questionnaire indicates that walking trips are still made within the 1.6km radius. As a result of the dispersed home location, the pattern of travel has been affected and a lower level of walking is now shown in the latest September and November questionnaires compared to the level forecast for the original application in July (73% as opposed to 26% in November).

- 6.6.2 The July forecast was conducted in advance of the school opening requesting how parents intended to take their child to school. The September and November questionnaires are based on actual pupil admissions for the temporary school and provide a useful sample of travel patterns. Since its opening, two parental questionnaires have been conducted. In the intervening months (between September and November) pupil intake has increased by 1. The surveys show that there has been a drop in single household car use since the school opened with 37% car use in September and 32% in November and an increase in car rotas from 0 to 21%. Correspondingly, there has been an increase in walking trips from 21% in September to 26% in November.

Transport Statement

- 6.6.3 A Transport Statement (TS) has been submitted by the applicant. Two types of information have been included to explain how the scheme is expected to impact on the existing highway; traffic flows along Daws Lane and the level of trips expected to be generated by the school. A survey of existing traffic levels was undertaken by the applicant's consultants in March 2011. This found that existing traffic movements using Daws Lane were below the design capacity of 1000 vehicles each way, at 585 vehicles (two-way) during the am peak and 465 in the pm peak, which was shown to be 3pm to 4pm, the same time as most school classes will be finishing. Officers have visited the site at peak times and observed that the traffic movements are representative and in keeping with the function of Daws Lane as a classified road that serves accesses and local shops and caters for local movements. The table showing existing traffic flows is set out below

Peak Hour	Eastbound	Westbound
0800-0900	325	260
1500-1600	200	265
1700-1800	139	234

- 6.6.4 A car trip generation forecast was prepared using data from the TRICS database, for London primary schools (excluding nursery classes). TRICS is recognised good practice when existing trip data is not available. One of the school sites

chosen is located in Barnet. This exercise attempted to assess the trip generation associated with car pick-up / drop-off movements when the school is fully occupied, as well as staff trips. The applicants have stated that the trip generation for the school with 210 pupils in 2017 is expected to be approximately 23 vehicle trips arriving in the am peak of 8:00 – 9:00 and 11 departures. 11 vehicles are expected in the pm peak of 15:00 – 16:00 with 8 departures (Table 5.2 of the Transport Statement). This includes staff and pupils, and shows that in the context of the above traffic flows the impact would not be significant. The TA has made reference to the latest questionnaire that is contained in the STP but considered that making a forecast for a first form entry school on the basis of such a small sample would not be appropriate. The table setting out the expected trips for the full school is replicated below:

Table 5.2: Primary School (210 pupils) – (Year 2017)

Peak hour school	Arrivals	Departures	2-Way trips
AM Peak (8am-9am)	23	11	34
PM Peak (3pm -4pm)	11	18	29

Conclusion

6.6.5 Based on this information and taking into account the design capacity of Daws Lane, Officers do not consider that the proposed vehicles associated with the school will result in an unacceptable level of congestion on the public highway.

6.7 Surveys of similar schools in Barnet

6.7.1 The TS has been updated to incorporate the school's November STP surveys. In order to help confirm the robustness of the above TS's data and conclusions, and whether there have been changes in the pick up and drop off activity since the original application, Officers have conducted repeat surveys (November 2011) of two similar Faith schools (i.e. Mathilda Marks – Kennedy Jewish Primary School and Hasmonian Primary School) in Barnet that have existing one form entry intakes making them broadly comparable to that proposed by Etz Chaim. The frequency of pick-up and drop off was again recorded as well as the number of children per car. The surveys looked at the same parameters as before.

Pick-up and drop-off frequency

6.7.2 The information obtained for the two faith schools (Mathilda Marks – Kennedy Jewish Primary School and Hasmonian Primary School) indicates that during the

school am and pm peak the highway can expect to experience a range of pick-up and drop off movements, 63/4 for Mathilda Marks and 69-82 for Hasmonian. The catchment area for these schools is beyond 2km and is a wider area than for the application site. Therefore, it can be anticipated that the trip generation for the proposed one-form entry will be at the lower end of the range of trips experienced by these schools.

Double / Triple Car Occupancy

- 6.7.3 The November council surveys of the two faith schools reconfirm that approximately 50% of car drop-off and pick-up trips are double or triple passenger occupancy trips. This has proved beneficial in reducing the parking impact and promoting more sustainable travel for the areas around the school sites. It is envisaged that ETZ Chaim School would develop a similar practice and the school has committed to promoting this in its STP.
- 6.7.4 The September STP parental questionnaire of the current temporary school showed no car sharing. The proportion of car share trips in the November STP parental questionnaire has increased and is currently 21% as part of a car share rotas. It is expected that the proportion of car sharing and car occupancy would continue to increase as the pupil intake increases as potential trips will be made by siblings as well as pupils living close to each other.

Conclusion

- 6.7.5 The November surveys of the two similar Faith schools are comparable to the July surveys and show similar levels of pick-up and drop off activity as well as evidence that multiple occupancy car use remains significant. It is reasonable to expect that the trip generation for the proposed school will be around an average of 60 pick-up and drop-off movements and that there is good potential for an increase in car sharing beyond the current 21%.

6.8 Off Site Parking

Kerb Side Parking Availability Surveys

- 6.8.1 Since the application was considered in July, Officers have conducted further surveys to identify the potential kerb side parking and examine whether the proposed trips could be accommodated at peak pick-up and drop-off times. The temporary school was open when all the surveys were completed and no advance warning was given to the school about the days when the surveys were to take place.

November Surveys

- 6.8.2 Surveys were undertaken for the relevant peak hours along Daws Lane, Birkbeck Road, Marion Road, Byron Road and Tennyson Road.
- 6.8.3 The surveys indicate that during 8am – 9am the roads have capacity for the school drop-off activity, although Birkbeck Road and the kerb space along Daws Lane experience the highest level of parking activity at this time. During the afternoon pick-up peak hour, Daws Lane and the adjacent roads experience a similar level of parking pressure, but spaces are still available on street.

Comparison with July Surveys

- 6.8.4 There has been some shift in the level of availability of on-street parking in the am peak between the surveys conducted in July 2011 and the latest surveys in November. Although capacity is still available, there has been a reduction in available car parking spaces from approximately 100 car parking spaces to 80 spaces across the five streets in the am peak. During the pm peak the number of car spaces available has increased from 43 to 69. Therefore, the school related pick-up and drop-off activity predicted in the Transport Statement, and estimated from the surveys of the two other faith schools, is still able to take place in the vicinity of the school.

Conclusion

- 6.8.5 The latest officer survey carried out last November takes account of all day commuter parking outside the CPZ resulting from the removal of free bays. The surveys times corresponded to the times of day when pick-up/ drop-off activity is more pronounced and parking stress is more noticeable. The latest results have reconfirmed that there is a high level of on-street parking particularly along Daws Lane. It was noted that afternoon parking pressure has decreased since July. Proposed measures to stagger school afternoon pick-up time will mitigate the likely parking pressure resulting from the operation of the school. Notwithstanding the above, Officers consider that there is still an acceptable level of spare capacity across the five streets (60 spaces) to cater for the projected demand.

Daws Lane Public Car Park

- 6.8.6 There is an existing Council car park adjacent to the site. The car park has 98 parking spaces including five disabled spaces. It is presently a free car park and is not leased or reserved for the applicant's sole use and these Highway observations are based on the assumption that demand may also need to be met through the use of kerbside parking on local roads.

Additional Public Car Parks:

6.8.7 There are two other car parks close to the application site in the adjacent Mill Hill Park. The car parks can be accessed from Wise Lane. The car parks are located near paths that provide pedestrian access to the side of the park next to the application site. Approximately 29 car parking spaces, including two disabled spaces are available for use. These car parks are currently free.

Daws Lane car park occupancy:

6.8.8 Taking the above on-street surveys into account officers again conducted surveys in November of the occupancy of the Daws Lane public car park during the morning and afternoon peaks, in order to compare against the previous July surveys. The am peak survey indicated that although the car park had significant capacity at 8am, the capacity reduced by 9am. The afternoon survey between 3pm and 4pm indicated that the car park operated at capacity, being full most of the time. Cars were observed parked outside bays even when bays were vacant. No significant change in the occupancy of Daws Lane car park was observed between the July and November surveys. Therefore, on balance, with the availability of local on-street car parking in the am and pm peak, together with the availability of spaces in the car park and the staggered pupil arrival and departure times the likely impact of the proposed school can be accommodated, subject to appropriate mitigation measures.

Daws Lane car park charges:

6.8.9 There are plans to introduce parking charges in the car park during Spring 2012. As part of the proposed changes to this car park, bays will be provided for short term and long term stays. It is expected that up to 30 spaces will be set aside for short term parking. This may dissuade some parents from using the car park to drop-off in the am peak however as mentioned above, there are adequate on-street spaces available.

6.8.10 It is also likely that a proportion of the long stay drivers currently using the car park will instead seek to park in nearby residential roads, or other locations in Mill Hill, in order to avoid paying parking charges. This means that although on-street car parking for the pm peak school pick-up is likely to be limited, it can reasonably be expected that short term spaces will be available in the car park for parents or carers to collect children from the school. This is expected to facilitate the pick-up activity across the proposed staggered pm peak period.

Conclusion

6.8.11 Even though the abolition of the free bays in the CPZ has resulted in an increase in on-street parking in the five local roads, Council surveys have still identified over 60 spaces available for on-street car parking in the pm peak. It should also be noted that the Daws Lane car park was used by workers and visitors to the garden centre. This demand has now been removed with the closure of the garden centre.

Although charges are planned to be introduced in the Daws Lane car park, this will include short stay spaces that will be available for parents and carers to drop-off and pick-up children.

6.9 Free Flow of Traffic and Bus Routes

- 6.9.1 The bus 240 serves Daws Lane. It is important that the free flow of traffic, in particular buses is maintained. Daws Lane is approximately 9.3 metres wide for much of its length and a bus is able to pass along the road with cars parked on both sides of the carriageway.

6.10 Pedestrian Routes and Crossing Movements

- 6.10.1 There is an existing refuge located near the Daws Lane car park entrance. This served as a crossing point for the previous Garden Centre and can be utilised for the school. For pupils and parents travelling from the direction of Mill Hill Broadway and the A1, there is an underpass that connects with Daws Lane adjacent to the Post Office. There is also a shared pedestrian/ cycleway with dropped kerbs to assist with crossing nearer the junction of A41/ Daws Lane.
- 6.10.2 Children and parents will arrive at the school from different directions. For example, some will park or walk along Daws Lane on the same side as Mill Hill Park, others will cross Daws Lane after parking in the adjacent streets opposite the school.
- 6.10.3 Daws Lane will experience a steady movement of children crossing the road to approach the school at peak school hour times. Pedestrian movement associated with the existing school currently takes place with a number of parents walking with their children to the school or parking in available spaces in the streets near Daws Lane and crossing the road to the school. The number of crossing movements is likely to increase as the school expands.
- 6.10.4 Public concerns have been expressed regarding safety and the possibility of increased accidents as a result of the larger pupil intake when the school is at full capacity, and whether the existing crossings are suitable to cater for this demand.
- 6.10.5 The existing crossing facility close to the entrance to Daws Lane car park is expected to serve as the main crossing for the school. There is another island at the junction of Daws Lane/ Wise Lane. This is not a dedicated crossing facility and improvements to this island would be required in order to provide an appropriate pedestrian refuge. Officers have considered the feasibility of providing a more formal crossing (such as a zebra or a pelican) in the proximity of the school when it reaches full capacity and looked at enhancing the island at Daws Lane. With regards to the refuge outside Daws Lane car park, an assessment of peak

movement during the busiest hour of school pick-up and drop-off times was carried out which indicated that, there is not sufficient volume of pedestrian movement expected across Daws Lane to justify a more formal crossing when the school is fully occupied. With regard to the location at Wise Lane, opportunities to make the island pedestrian friendly have been identified and a S106 contribution of £3,000 is sought to carry out the necessary mitigation works including the provision of school keep clear markings.

- 6.10.6 Parents normally assist the safe movement by escorting younger children across the street. Pedestrian safety is also supported by maintaining sufficient visibility at the crossing point by the use of double yellow lines that prohibit parking close to the refuge at Daws Lane and school keep clear markings will be implemented.

Conclusion

- 6.10.7 Taking into account the concerns that have been raised regarding the suitability of crossing facilities in connection with the proposed school, and the relevant Guidance, it is considered that existing crossing facilities are sufficient and safe for the current volume of movement expected to cross Daws Lane to the school site, but that the situation will be monitored as the school intake rolls out.

6.11 Transport for London (TfL) comments

- 6.11.1 TfL opinion is that the proposed development would not have an unacceptable impact in transport terms on the strategic road network, subject to a travel plan and other mitigation measures being secured by condition, which are discussed and confirmed elsewhere in this report. In all other aspects, such as parking, cycle parking and the bus network, TfL find that the application also complies with the London Plan.

6.12 Conclusions

- 6.12.1 The updated surveys confirm that on-street parking in the vicinity of the proposed school is already under pressure, and this is more noticeable in the afternoon during 3-3.30pm. The Daws Lane car park is known to fill up on weekdays but capacity is available, particularly during the am peak drop-off period. The introduction of charges in the car park may result in displacement of parking from car park on to street locations. It can therefore be concluded that when the school reaches full capacity in 2017, it is likely that the roads in the vicinity of the school will already be experiencing a high level of parking pressure, including some associated with the school pick-up and drop-off activities. This is expected to particularly be the case during the pm peak pick-up. However, it is anticipated that there will be parking available in the short stay part of the car park which can be used by parents and carers.

- 6.12.2 Notwithstanding the above, recent council kerbside parking occupancy surveys demonstrate that whilst there has been some change in the overall situation on the public highway since the original application, the change is not significant. All the recent (November) surveys take into account the updated situation that has occurred since the opening of the temporary Etz Chaim School at 80 Daws Lane.
- 6.12.3 Whilst the current (November) parent questionnaire survey in the STP indicates more travel by car, in comparison to the July Report, it should be noted that the volume of those car trips means that spaces can still be found to conduct drop-off/pick up activity. Also for the proposed school there is much more scope through the STP, to implement measures to reduce car use as the primary mode of travel by pupils and staff as the school size increases and the children get older. This is in keeping with practice observed by other Barnet schools of comparable size and faith where on average a 23% mode shift from single household car trips has been achieved to date.
- 6.12.4 Pedestrian movement and facilities have been considered by Officers and measures to enhance, where appropriate, or monitor the future provision have been investigated.
- 6.12.5 In addition to mitigation measures to reduce car trips and enhance pedestrian facilities, School Keep Clear markings will be implemented and waiting restrictions in the vicinity of the site should be reviewed, and the Council should seek a contribution to this Review (£10,000).
- 6.12.6 As concluded in the TS, the proposed school does not result in an overall intensification of traffic movement compared to the previous use of the site. Officers therefore consider that, whilst there will be peaks of traffic activity, the proposed school will not result in unacceptable levels of congestion on the local highway network.
- 6.12.7 As with all schools it is recognised that there is an impact on-street during school drop-off and collection times. On balance, in light of the planned changes to the council car park and in conjunction with the STP and other mitigation measures, which will need careful and thorough monitoring by the school and the council it is considered that the traffic impact for this one-form entry proposal can be accommodated on the existing highway network.

6.13 Section 106 Contributions

- 6.13.1 If permission is to be granted, a S106 contribution for mitigation measures will be required to install school keep clear crossing markings, review on-street parking on neighbouring roads and implement additional waiting restrictions which may include extension of the existing CPZ and making or amending existing Traffic Orders. The estimated cost is £10,000.

- 6.13.2 A contribution of £3,000 to implementing dropped kerbs and alterations to the existing refuge at the junction of Daws Lane / Wise Lane will be required.
- 6.13.3 A £5,000 contribution is also required for monitoring the STP.

7 The Equality Act 2010

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies is set out in Section 149 of the Act. The duty requires the Council to pay regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics such as race, disability, and gender including gender reassignment, religion or belief, sex, pregnancy or maternity and foster good relations between different groups when discharging its functions.

7.1 Equality Duties

Equality duties require Authorities to demonstrate that any decision it makes is reached in a fair, transparent and accountable way, considering the needs and the rights of different members of the community. This is achieved through assessing the impact that changes to policies, procedures and practices could have on different equality groups. It is an opportunity to ensure better decisions are made based on robust evidence.

7.1.1 Section 149 provides:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to-
 - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to-
 - a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - b) take steps to meet the needs of persons who share a relevant protected characteristic that are different to the needs of persons who do not share it;
 - c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to-
 1. tackle prejudice, and
 2. promote understanding
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- (7) The relevant protected characteristics are-
 - age;
 - disability
 - gender reassignment
 - pregnancy and maternity
 - race
 - religion or belief
 - sex
 - sexual orientation

7.2 Consultation Approach and Engagement

- 7.2.1 Letters were sent to over 3500 local residents and commercial occupiers upon registration of the application, inviting them to view the application details and make comments within a 5 week period.
- 7.2.2 A breakdown of the consultation responses was made based on geographical area to try and understand the particular concerns of residents. A number of respondents included their age and whether or not they considered themselves to have a disability as part of their response.
- 7.2.3 During the consultation period, a request was made by two residents for a meeting with officers involved in determining the application. On the 21st November the Assistant Director of Planning and Development Management together with the case officers from planning, highways and environmental health met with them to hear their concerns about the loss of the garden centre and the planning application.
- 7.2.4 In addition to the standard consultation, letters were sent to 22 individual residents and 27 groups and service providers most of whom had been identified by the Mill Hill Action Group previously as having used the garden centre or having being particularly impacted by the loss of the garden centre. This letter sought more information about the use of the garden centre by those particular groups or individuals. The groups written to included places of worship, community service

providers and management groups for residential developments catering for the elderly. The service user groups included Barnet College, Edgware Community Hospital, Barnet Adult and Children Services and day centres. This consultation took the form of a questionnaire asking for information on:

- reasons why they visited the garden centre
- number of visits on average per month
- what time of the day/ week they visited
- how they travelled to the garden centre
- how long the journey took
- This letter was accompanied by a diversity monitoring questionnaire to enable the views of different sections of the community to be monitored.

7.2.5 The letters of support received as a result of the consultation process were also divided into the four geographical areas to provide a further breakdown of the responses.

7.2.6 Following concerns raised during the consultation process in relation to the previous application on this site, it became clear that for many residents the loss of the garden centre represented the loss of a local facility that they used socially to meet friends and interact with the local community as well as for shopping.

7.2.7 As part of the information gathering exercise, officers therefore visited the local area to gain information on alternative facilities available to meet these functions. These are detailed below in paragraph 7.4.4.

7.3 Analysis of the consultation responses

A record of the responses is included above in the Material Considerations section.

7.3.1 From this it can be seen that the proportion of the respondents in the Poets Corner area who identified themselves as elderly and/ or disabled was 26% and the number in the wider NW7 postcode area was 39%.

7.3.2 In response to the standard consultation letter, representations were submitted by or on behalf of a number of people who identified themselves (or a family member or someone they cared for) as being impacted personally by the loss of the garden centre. Again, the approximate number of these:

- from Poets Corner was 20 (9% of total responses from this area)
- from wider NW7 60 (5% of total responses from this area)
- the rest of Barnet 17 (8% of total responses from this area)
- outside the Borough 4 (4% of total responses from this area) were personally affected or when visiting friends and family in Mill Hill.

7.3.3 Having analysed these responses together with the responses from the particular individuals and groups specifically notified, it is clear that the main reasons for visiting the garden centre and for which it was valued were:

- ease of parking
- proximity for walking
- quiet environment for people with certain needs
- supportive staff
- ability to buy gifts etc. without having to cross the A41 to Mill Hill
- ability to buy plants without having to drive or get the bus further afield
- café a pleasant place to meet friends

7.3.4 The letters of support were analysed and the main reasons given for support of the application were:

- educational benefits of new school (it should be noted that out of 361 people who made this comment, 8 were from Poets Corner, 114 from NW7, 90 from the rest of Barnet and 149 from outside the Borough)
- building will be wider community facility (of 158 comments, 11 from Poets Corner, 60 from NW7, 32 from Barnet and 50 from elsewhere)
- good site for a school (of 109 comments, 3 from Poets Corner, 49 from NW7, 31 from the rest of Barnet and 26 from elsewhere)
- garden centre no longer economically viable (of 56 comments, 4 from Poets Corner, 32 from NW7, 13 from Barnet and 7 from elsewhere)
- traffic has improved since garden centre closed (of 38 comments, 4 from Poets Corner, 19 from NW7, 9 from Barnet, 6 from elsewhere)

7.4 The implications of the proposals

7.4.1 It is noted from many of the objection letters received to the current and previous application, that the garden centre was used by vulnerable sections of the community, notably the elderly and disabled groups. One group mentioned in particular is the Autism Service which operates from Flower Lane. In addition it is stated that the centre engaged with local schools and childrens' groups offering their facilities to users. Many of the objections refer to the excellent level of service staff provided and how accommodating and helpful they were to users.

7.4.2 Mention has been made by many objectors of the unique nature of this site which they say functions as an important community facility for many local residents, particularly the elderly and disabled who have difficulty using public transport and therefore accessing similar facilities elsewhere.

7.4.3 An analysis of the individual consultation letters and responses to the targeted consultation shows that approximately 124 residents have written to say they have been particularly negatively affected by the loss of the garden centre facility. The reasons cited are:

- ease of parking
- proximity for walking
- quiet environment for people with certain needs
- supportive staff

- ability to buy gifts etc. without having to cross the A41 to Mill Hill
- ability to buy plants without having to drive or get the bus further afield
- café a pleasant place to meet friends

7.4.4 Clearly a significantly greater number of residents have concerns about the loss of the garden centre on groups with protected characteristics.

- Notwithstanding the views expressed by those objecting to the proposals, officers consider that although the garden centre provided a much-loved local facility for a very large number of local residents, there are other places in the local area that can provide similar services and meet some of the same needs:
- Whilst recognising that it does not have the same café or toilet facilities as the former Wyevale centre, officers note that there is another garden centre in Mill Hill which sells plants, garden and aquatic products. It is accessible by bus from Daws Lane along The Ridgeway however officers accept there is a 5 – 10 minute walk from the bus stop and the Council accepts that it is not as accessible on foot as the Wyevale garden centre. The access road to the garden centre itself is via a rough surfaced highway without a pavement.
- The Wyevale Site is within a 5 minute walk of Mill Hill town centre which is one of the borough's thriving town centres providing a variety of shops, cafes and restaurants. There are approximately 7 cafes, various shops selling cards and gifts as well as numerous other retail outlets. Officers recognise that some of these premises may not be as independently accessible to those with mobility problems, particularly wheelchair users, but there are a range of premises available.
- The Wyevale Site is adjacent to Mill Hill park, one of the borough's premier parks. The park itself has an indoor café, toilets and childrens' play area as well as sporting facilities. Again, it is recognised that the park does not provide an all-weather facility on the same scale as the former garden centre and that the café may not be as appropriate for certain users as the garden centre. However, in terms of accessibility, the Park is located next to the same car park customers of the former garden centre would have used. There is a second car park within the park itself.

7.4.5 In this case, officers accept that there has been impact from closure of the garden centre on particular individuals, particularly those elderly people or disabled people who cannot use public transport or who made use of the garden centre socially as a place to meet friends or interact with the wider community. Accordingly significant weight must be placed on those impacts when considering the merits of the planning application.

7.4.6 However, set against the identified impacts on groups with protected characteristics are the facts that:

- i) the site was run prior to its closure in September 2011 as a commercial shop and the leasehold is privately owned
- ii) there are positive benefits of the proposal in terms of the provision of a school which meets the identified needs of children as set out elsewhere in this report

- iii) The government has stated a policy presumption in favour of the provision of state-funded schools and for which there is strong policy support. The draft National Planning Policy Framework requires LPAs to attach very significant weight to the desirability of establishing new schools and to enabling local people to do so.

7.4.7 In making this recommendation in respect of the planning application, officers have given weight to the impact that the proposals would have on the identified protected groups. However the harm is considered to be outweighed by other considerations. The Council is required to give consideration to the mitigation of the impact. In this case the garden centre has closed. It is a commercial site and the Council has no planning control over the closure of the garden centre. Further it is considered that many of the activities that people carried out in the garden centre can and will be carried out in the other local facilities identified above. As such, officers consider that the change of use to a school will have adverse impacts but these will not be as significant as local people fear, given that the activities carried on at the centre by the identified groups can be carried on elsewhere in nearby locations. Having regard to these matters and, importantly, given the identified and compelling need for the school and the positive outcomes through providing more school places in an area of need for the children whom the School would accommodate, it is officers' recommendation that permission be granted.

8 Impacts on the Amenities of Neighbouring Occupiers

- 8.1.1 The application site abuts the Mill Hill park, car park area and Mill Hill post office and therefore does not adjoin any neighbouring residential properties. The nearest residential properties are those opposite within Daws Lane.
- 8.1.2 The issues of the use and impact on the local road network have already been considered. This section is therefore considering the impact of the building and its use on residential amenity.
- 8.1.3 In terms of noise to neighbouring residents the main impacts would be both from activities carried out within the site and from people entering/ exiting the site and dispersing into the surrounding area. However, this must be balanced against the noise and disturbance generated by the previous use and its activities which already form part of the character of the area.
- 8.1.4 It is considered that, subject to the imposition of restrictive conditions on use by the school and wider community use arising from the Community Access Plan, that the proposal would not result in a harmful level of noise and disturbance to nearby properties.

- 8.1.5 The proposals are therefore not considered to detrimentally harm the amenity of existing residents in accordance with national and strategic guidance and Policies ENV12 and D5 of the adopted UDP.
- 8.1.6 It is further considered by officers that, given the nature of the proposed development and activities on site, the proposals would not increase levels of air or light pollution to any appreciable extent such that the amenities of occupiers of nearby properties would be affected.

9 Design and Access

- 9.1.1 The proposals involve alterations to the existing building. It is considered that these changes can be accommodated without adversely affecting the appearance of the building or the character and appearance of the local area. The most significant alteration in terms of impact within the streetscene would be the new railings and security hut. Whilst the railings would have some impact on the streetscene in this part of Daws Lane, given they would be set back from the footway, and designed to allow for views through and landscaping to be planted, this impact is not considered to be significant.
- 9.1.2 The alterations to the building to adapt it's use for a school have been designed to maximise the natural benefits of the site and reduce energy consumption through numerous measures including solar shading, intelligent building and lighting controls, natural ventilation.
- 9.1.3 The orientation of the teaching blocks to face north through west optimises day light from both aspects while being able to more easily control and limit solar gain. The use of natural day lighting across the buildings will result in a reduction in energy consumption within the building as well as delivering a high quality of light, making the spaces feel more uplifting.
- 9.1.4 The general form of the buildings allows for natural ventilation of the majority of the space which as well as resulting in energy savings will place less demand on plant and helps minimise the impact on the amenity of local residents.
- 9.1.5 Hot water demands are not constant and as a result a combination of conventional and solar heating is proposed. Air handling units serving the ventilation of the hall and kitchen are proposed which would enable sustainable heating and cooling of the building to occur.
- 9.1.6 Rain water harvesting (or grey water recycling) is proposed. This will consist of the collection of water from parts of the school's roof. The water is treated and used for the purposes of flushing the WC's and urinals. Low water usage cisterns coupled with 're-cycled' water will help the school save on water consumption.

9.1.7 The inclusion of these initiatives as part of the proposals would reduce carbon emissions associated with the operation of the school by 20%. This is in accordance with the Council's Sustainable Design and Construction SPD.

9.1.8 It is considered that the alterations and additions to the building would respect the local area and would be in accordance with policies GBEEnv1, GBEEnv2, D1 and D2 of the Adopted Barnet Unitary Development Plan. The improvements in the energy performance of the building are welcomed and it is recommended that the sustainability measures proposed are secured by planning condition.

10 COMMENTS ON FURTHER GROUNDS OF OBJECTION

10.1 The principle objections received to the application have been carefully considered within the main body of the report.

10.2 Further comments on particular issues not addressed or on the other concerns raised by a small number of respondents are as follows (alphabetical reference corresponds to breakdown of the responses to the consultation on the current application, paragraph 1.16 above) :

k) Not responding to local citizens and their needs

In determining the application, the Council has to consider all material considerations. Some residents will benefit from the proposals whilst others will not. It is the weight given to these positive and negative impacts that forms part of the consideration of the proposals, as addressed in the report.

l) The council waiving £330,000 entitlement from the assignment

This report considers the merits of the planning application for the change of use of the site. Land ownership issues are a matter for the Council as landowner and are not a material planning consideration.

m) Site unsuitable for a school

Addressed in main report

n) Area well served by schools

There are a number of schools in the locality. However as set out in this report, there is a demand for additional primary school places in the area and officers consider the school proposed can be accommodated on the site.

o) Don't need a Jewish school

There is a local demand for primary school places for families of the Jewish faith and the government has approved a Jewish primary free school in Mill Hill.

p) No need for a new school in this area

Addressed above.

q) No need for a faith school in Mill Hill, but a community one

Addressed above.

r) Noise and pollution will affect amenities of residents and park users

The report considers any impact of the proposal on residents and concludes that noise and pollution would not be so significant as to materially impact on residents' amenities. The site is located next to the children's play area within the park and any increase in noise levels would be unlikely to have a significant impact. Additionally, the proposals would be unlikely to result in increased levels of air or light pollution that would result in harm detrimental to residential amenities.

s) Unsuitable for children because of air pollution

Addressed in main body of report.

t) Negative Impact on Jewish population in the area because of bad feeling generated by the proposal.

It is anticipated that once the school becomes established and adopts its community use strategy, it will become an important part of the local community.

u) Security measures will make people feel alienated especially due to position next to park

The railings, security hut and associated equipment are sited to allow views into and through the site so the development would not be screened from public view.

v) Not all children live in the catchment area as suggested in previous application

Addressed in main body of report.

w) The school will face a security problem

Security is a key consideration in the design and future management of the new school.

x) Possible future encroachment onto park

Any plans to extend the school would require planning permission. No part of the park is included in the proposed site.

y) Council supporting only because a Free School

The Council has identified a need for primary school places in this part of the Borough.

z) Planning conditions not appropriate

The imposition of planning conditions is considered appropriate for this leasehold property despite the freeholder's interest in the land.

There is a difference between the Council as landowner and in its role as the local planning authority.

aa) Falsification of surveys

In assessing the highways implications of the proposals, officers have taken into account not only the information submitted in support of the application, but also the comments made by residents and information obtained from officers own surveys. This information has all been considered by officers when arriving at the recommendation.

10.3 Other comments raised by a small number of respondents to either this or the previous application and which have not been specifically addressed are as follows:

- **Negative effects on local businesses due to loss of the garden centre and extra traffic.** Any additional traffic will be limited to certain times of day. The proposal will bring potential customers to the area.
- **Impacts on biodiversity.** A bat survey was carried out and did not find evidence of any roosting. The ecological surveys did not highlight any particular issues, however, the applicant is reminded by an informative proposed to be attached to the permission of the obligations under the Wildlife and Countryside Act.
- **Light pollution from security lights will affect the Observatory.** The lights will be attached to the building and low level, any impacts are considered to be minimal given the building's location.
- **On-street parking pressure will result in residents paving over their front gardens to provide parking.** This will have an adverse impact on the appearance of the area. On-street parking associated with the development would be limited to certain periods of the day.
- **Impact on the conservation area.** The application site is not within the Mill Hill conservation area and it is considered that the proposals would not detract from its character or appearance.

11 **CONCLUSION**

11.1 The proposed development would comply with Adopted Unitary Development Plan policies and emerging Local Development Framework policies which seek to meet educational needs where the use can be accommodated without harm to the character of the surrounding area or the amenities of neighbouring residents and uses, where the site is easily accessible by public transport, walking and cycling and the development is accessible by people with disabilities.

11.2 Officers consider the overall development to be acceptable without causing harm to the Green Belt by reason of inappropriateness or adverse impact on the openness of the Green Belt.

11.3 Although there is likely to be some highway impact in terms of on-street parking demand during drop-off, and particularly, collection times, with monitoring, these impacts can be kept to a minimum.

- 11.4 Concern has been raised about the undue impact of the proposals on particular groups within the community, particularly the elderly and those with a disability. It is clear that before the garden centre closed it was used by a number of residents and groups who miss the facilities that the centre provided. These residents do not consider that there are any comparable facilities within walking distance of their homes. The tranquil nature of the centre is cited by many as beneficial to particular residents especially the elderly and those with disabilities who benefit from interaction with others in peaceful surroundings. For these people the loss of the garden centre has clearly had a materially adverse impact. However, this consideration must be weighed against the benefits of the provision of new education facilities for the community, for which there is national and local planning policy support. Additionally, from an analysis of alternative facilities in the vicinity, it is apparent that there are other retail and café facilities close by within walking distance of the Garden Centre site, together with a park with café and recreational facilities. Another garden centre is located within Mill Hill, accessible by a single bus and 10 minute walk.
- 11.5 The draft National Planning Policy Framework requires LPAs to aim to promote opportunities for meetings between members of the community who might not otherwise come into contact with each other, including through mixed-use developments which bring together those who work, live and play in the vicinity. However, the draft Framework also requires LPAs to attach very significant weight to the desirability of establishing new schools and to enabling local people to do so.
- 11.6 Having taken all material planning matters into consideration and having paid due regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics, officers conclude that, the benefits to the wider community of the provision of new educational facilities outweighs the adverse impact on those with protected characteristics. Subject to conditions to ensure mitigation of significant harm, the proposed development of this site to provide a new primary school is considered acceptable and the application is accordingly recommended for **APPROVAL**.