

Location **1 Bute Mews London NW11 6EQ**

Reference: **18/1275/S73**

Received: 27th February 2018

Accepted: 5th March 2018

Ward: Garden Suburb

Expiry 30th April 2018

Applicant: Mr Ost

Proposal: Variation of condition 1 (Approved Plans) and removal of condition 30 (Part M4(2) of Schedule 1 to the Building Regulations 2010) of planning permission 16/8188/FUL dated 30/01/2018 for 'Demolition of the existing detached garages and erection of 6 no two-storey terrace houses with rooms in roofspace. Associated landscaping, access, refuse and parking.' Variations to the approved plans to include enlargement of basement areas of the two end-of-terrace properties [AMENDED DESCRIPTION]

Recommendation: Approve following legal agreement

AND the Committee grants delegated authority to the Head of Development Management or Head of Strategic Planning to make any minor alterations, additions or deletions to the recommended conditions/obligations or reasons for refusal as set out in this report and addendum provided this authority shall be exercised after consultation with the Chairman (or in his absence the Vice- Chairman) of the Committee (who may request that such alterations, additions or deletions be first approved by the Committee)

RECOMMENDATION 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. Play Spaces Contributions - £2,430
4. Shortfall of Amenity Space contribution - £9,100
5. Private Road Works agreement to resurface and maintain the Private Road
6. Monitoring contribution - £121.50

RECOMMENDATION II:

That upon completion of the agreement specified in Recommendation I, the Planning Performance and Business Development Manager/Head of Development Management approve the planning application subject to the following conditions and any changes to

the wording of the conditions considered necessary by the Head of Development Management or Head of Strategic Planning:

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

11163/ 01

11163/ 02

11163/ 03 M

11163/ 04 M

11163/ 05 M

11163/ 06 N

1163/ 07 E

Bat Survey of Garages at Bute Mews, London dated 09 June 2017 by Crossman Associates

Outline Construction Management Plan and Method Statement by Richard Maltese Architects

Design and Access Statement by Richard Maltese Architects

Preliminary Ecological Appraisal dated January 2017 by Greengage

Outline Site Waste and Servicing Plan by wyg associates by January 2017

Transport Statement dated December 2016 by Parsons Brinckerhoff

Landscape Strategy by colvin&moggridge dated December 2016

Arboricultural Assessment and Method Statement by barrel tree consultancy dated December 2016

Flood risk assessment by rma environmental dated December 2016

Heritage Statement dated December 2016

Tree Protection Plan

Daylight and Sunlight reports dated December 2016 by Point 2 Surveyors

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).

- 2 This development must be begun within three years from the date of the original permission reference 16/8188/FUL, dated 30/01/2018.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 3 a) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas hereby approved have been submitted to and approved in writing by the Local Planning Authority. These shall include:

details of dormer windows

details of brickwork and pointing

details of windows and surrounds

details of brick retaining walls

details of chimney stacks

details of eaves

details of doors including garage doors
details of rooflights
details of rainwater goods
details of roof ventilation
details of gates and boundary treatment
details of signage and lighting
details of hardsurfaces

b) The development shall thereafter be implemented in accordance with the materials as approved under this condition.

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2015.

4 a) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

Reason: To ensure that the development is carried out at suitable levels in relation to the highway and adjoining land having regard to drainage, gradient of access, the safety and amenities of users of the site, the amenities of the area and the health of any trees or vegetation in accordance with policies CS NPPF, CS1, CS5 and CS7 of the Local Plan Core Strategy (adopted September 2012), Policies DM01, DM04 and DM17 of the Development Management Policies DPD (adopted September 2012), and Policies 7.4, 7.5, 7.6 and 7.21 of the London Plan 2016.

5 a) Notwithstanding the details submitted with the application and otherwise hereby approved, no development other than demolition works shall take place until details of (i) A Refuse and Recycling Collection Strategy, which includes details of the collection arrangements and whether or not refuse and recycling collections would be carried out by the Council or an alternative service provider, (ii) Details of the enclosures, screened facilities and internal areas of the proposed building to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable, and (iii) Plans showing satisfactory points of collection for refuse and recycling, have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented and the refuse and recycling facilities provided in full accordance with the information approved under this condition before the development is first occupied and the development shall be managed in accordance with the information approved under this condition in perpetuity once occupation of the site has commenced.

Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with Policy CS14 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of

the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted April 2013).

6 a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority before the development hereby permitted is commenced.

b) 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.

c) 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 CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and 7.21 of the London Plan 2015.

7 No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under Condition 1 has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012), Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy 7.21 of the London Plan 2015.

8 a) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and 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 DM01, DM03, DM17 of the Development Management Policies DPD

(adopted September 2012), and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).

9 Part 1

Before development commences other than for investigative work:

a) A desktop study (Preliminary Risk Assessment) 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 (Preliminary Risk Assessment) 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.

b) 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:

- a risk assessment to be undertaken,
- refinement of the Conceptual Model, and
- 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.

c) 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

d) 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 CS NPPF of the Local Plan Core Strategy DPD (adopted September 2012), DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and 5.21 of the London Plan 2015.

- 10 a) No development other than demolition works shall take place on site until a noise assessment, carried out by an approved acoustic consultant, which assesses the likely impacts of noise on the development and measures to be implemented to

address its findings has been submitted to and approved in writing by the Local Planning Authority. The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations

b) The measures approved under this condition shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.

Reason: To ensure that the amenities of occupiers are not prejudiced by rail and/or road traffic and/or mixed use noise in the immediate surroundings in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and 7.15 of the London Plan 2015.

11 a) No development other than demolition works shall take place until details of all extraction and ventilation equipment to be installed as part of the development, including a technical report have been submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed using anti-vibration mounts. The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

b) The development shall be implemented in accordance with details approved under this condition before first occupation or the use is commenced and 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 Policy DM04 of the Development Management Policies DPD (adopted September 2012) and Policy CS13 of the Local Plan Core Strategy (adopted September 2012).

12 The level of noise emitted from the 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 a neighbouring residential property.

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 a neighbouring residential property.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2015.

13 a) Before development commences, a scheme of proposed air pollution mitigation measures shall be submitted to and approved in writing by the Local Planning Authority.

b) The approved mitigation scheme shall be implemented in its entirety in accordance with details approved under this condition before any of the

development is first occupied or the use commences and retained as such thereafter.

Reason: To ensure that the amenities of occupiers are protected from the poor air quality in the vicinity in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD, and Policy 5.3 of the London Plan 2015.

- 14 a) No development shall take place until a scheme of proposed noise mitigation measures against externally generated traffic/mixed use noise has been submitted to and approved in writing by the Local Planning Authority.

b) The mitigation measures as approved under this condition shall be implemented in their entirety prior to the commencement of the use or the first occupation of the development and retained as such thereafter.

Reason: To ensure the amenities of occupiers are not prejudiced by traffic/mixed use noise in the immediate surroundings, in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013), and 7.15 of The London Plan 2015.

- 15 The approved development shall make provision for cycle parking and cycle storage facilities in accordance with a scheme that shall be submitted to and approved by the Local Planning Authority. Such spaces shall be permanently retained thereafter.

Reason: In the interests of promoting cycling as a mode of transport in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 16 Before the development hereby permitted commences a Car Parking Management Scheme shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that parking is provided and managed in line with the council's standards in the interests of highway and pedestrian safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 17 The garages provided in connection with the residential development shall only be used for the parking of private motor vehicles and shall not be used in connection with any use, trade or business.

Reason: To ensure the permanent retention of the parking provision in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 18 Notwithstanding the details submitted, No site works or works on this development including demolition or construction work shall commence until a Demolition and

Construction Management and Logistics Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in full accordance with the details approved under this plan. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following information:

- i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
- ii. site preparation and construction stages of the development;
- iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
- iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
- v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
- vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
- vii. noise mitigation measures for all plant and processors;
- viii. details of contractors compound and car parking arrangements;
- ix. Details of interim car parking management arrangements for the duration of construction;
- x. Details of a community liaison contact for the duration of all works associated with the development.

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties and in the interests of highway and pedestrian safety in accordance with policies CS9, CS13, CS14, DM01, DM04 and DM17 of the Barnet Local Plan and policies 5.3, 5.18, 7.14 and 7.15 of the London Plan.

- 19 Before the permitted development is occupied a full Delivery and Servicing Plan (DSP) shall be submitted to and agreed by the Local Planning Authority.

Reason: In the interest of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

- 20 Before the development hereby permitted is occupied full details of the electric vehicle charging points to be installed in the development shall have been submitted to the Local Planning Authority and approved in writing. These details shall include provision for not less than 20% of the approved parking spaces to be provided with electric vehicle charging facilities and 20% passive for future use. The development shall be implemented in full accordance with the approved details prior to first occupation and thereafter be maintained as such.

Reason: To ensure that the development makes adequate provision for electric vehicle charging points to encourage the use of electric vehicles in accordance with policy 6.13 of the London Plan.

- 21 No development, including demolition, shall take place until a method statement detailing the treatment and control of Japanese Knot weed on site has been submitted to and approved in writing by the Local Planning Authority.

The submitted arboricultural method statement and impact assessment must be reviewed in the light of the required treatment of Japanese knotweed identified on the site.

The development shall be implemented in accordance with the method statement as approved under this condition.

Reason: To accord with the Environmental Protection Act 1990 and to safeguard the health of existing trees which represent an important amenity feature in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012), Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy 7.21 of the London Plan 2015.

- 22 Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order), the buildings hereby permitted shall not be extended or altered in any way without the prior grant of planning permission.

Reason: To safeguard the amenities of neighbouring occupiers, the health of adjacent TPO trees and the general locality in accordance with policies DM01 of the Development Management Policies DPD (adopted September 2012).

- 23 Before the development hereby permitted is occupied, details of how the proposed scheme would meet Secure by Design Accreditation shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these details.

Reason: To ensure that the proposals do not compromise local security in accordance with policy CS12 of the Barnet Core Strategy.

- 24 Before the development hereby permitted commences (other than for the purposes of demolition), an Ecological Management Plan shall be submitted and approved in writing by the local planning authority. The development shall be implemented in accordance with these details.

Reason: To ensure that the development provides biodiversity improvements in accordance with policy DM16 of the Adopted Barnet Development Management Policies 2012.

- 25 Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the

Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.

Reason: To encourage the efficient use of water in accordance with policy CS13 of the Barnet Core Strategy (2012) and Policy 5.15 of the March 2016 Minor Alterations to the London Plan and the 2016 Mayors Housing SPG.

- 26 Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 6% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.

Reason: To ensure that the development is sustainable and minimises carbon dioxide emissions and to comply with the requirements of policies DM01 and DM02 of the Barnet Development Management Policies document (2012), Policies 5.2 and 5.3 of the London Plan (2015) and the 2016 Mayors Housing SPG.

- 27 The development hereby approved shall not commence until a surface water drainage strategy for the site has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with these details.

Reason: To ensure that the development manages surface water in accordance with Policy CS13 of the Barnet Local Plan, Policies 5.13 and 5.14 of the London Plan, and changes to SuDS planning policy in force as of 6 April 2015 (including the Written Ministerial Statement of 18 December 2014, Planning Practice Guidance and the Non-statutory Technical Standards for Sustainable Drainage Systems).

- 28 The demolition works should be carried out in accordance with the recommendations contained in Section 4.4 of the Bat Survey Report approved under Condition 1, or overseen or advised by a suitably experienced ecologist in the form of a tool box talk.

Reason: To safeguard the adjacent Site of Importance for Nature Conservation and retain and enhance biodiversity, in accordance with Policy DM16 of Barnet's Development Management Policies Document DPD (2012) and London Plan Policy 7.19.'

- 30 Before the development hereby permitted is first occupied turning space, parking spaces and loading areas shall be provided and marked out within the site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority and that area shall not thereafter be used for any purpose other than the parking and turning of vehicles.

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 Policy CS9 of the Local Plan Core Strategy (adopted September 2012), Policy DM17 of the Local Plan Development

Management Policies DPD (adopted September 2012) and 6.1, 6.2 and 6.3 of the London Plan 2015.

- 31 Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse(s) (Use Class C3) permitted under this consent they shall all have been constructed to meet and achieve all the relevant criteria of Part M4(1) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter.

Reason: To comply with the requirements of the 2016 Mayors Housing SPG.

RECOMMENDATION III:

1 RECOMMENDATION III

That if the above agreement has not been completed or a unilateral undertaking has not been submitted by 18 September 2018, unless otherwise agreed in writing, the Service Director of Development Management and Building Control REFUSE the application under delegated powers for the following reason(s):

The proposed development does not include a formal undertaking to meet the costs of amenity space shortfall and play space. The proposal would therefore not address the impacts of the development, contrary to Policy CS15 of the Local Plan Core Strategy (adopted September 2012), and the Planning Obligations SPD (adopted April 2013).

Informative(s):

- 1 In accordance with paragraphs 186-187, 188-195 and 196-198 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at www.planningportal.gov.uk/cil.

The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £35 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge.

The London Borough of Barnet adopted a CIL charge on 1st May 2013 setting a rate of £135 per sq m on residential and retail development in its area of authority. All other uses and ancillary car parking are exempt from this charge.

Please note that Indexation will be added in line with Regulation 40 of Community Infrastructure Levy.

Liability for CIL will be recorded to the register of Local Land Charges as a legal charge upon your site payable should you commence development. Receipts of the Mayoral CIL charge are collected by the London Borough of Barnet on behalf of the Mayor of London; receipts are passed across to Transport for London to support Crossrail, London's highest infrastructure priority.

You will be sent a 'Liability Notice' that provides full details of the charge and to whom it has been apportioned for payment. If you wish to identify named parties other than the applicant for this permission as the liable party for paying this levy, please submit to the Council an 'Assumption of Liability' notice, which is also available from the Planning Portal website.

The CIL becomes payable upon commencement of development. You are required to submit a 'Notice of Commencement' to the Council's CIL Team prior to commencing on site, and failure to provide such information at the due date will incur both surcharges and penalty interest. There are various other charges and surcharges that may apply if you fail to meet other statutory requirements relating to CIL, such requirements will all be set out in the Liability Notice you will receive. You may wish to seek professional planning advice to ensure that you comply fully with the requirements of CIL Regulations.

If you have a specific question or matter you need to discuss with the CIL team, or you fail to receive a 'Liability Notice' from the Council within 1 month of this grant of planning permission, please email us at: cil@barnet.gov.uk.

Relief or Exemption from CIL:

If social housing or charitable relief applies to your development or your development falls within one of the following categories then this may reduce the final amount you are required to pay; such relief must be applied for prior to commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: www.planningportal.gov.uk/cil.

You can apply for relief or exemption under the following categories:

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf

2. Residential Annexes or Extensions: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.

3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the legislation.gov.uk

Please visit
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>
for further details on exemption and relief.

3 This decision notice should be read in conjunction with the informatives set out in the decision notice of 18/8188/FUL

Officer's Assessment

1. Site Description

The red line site for the proposed development is situated directly to the rear of The Market Place (the frontage building to Falloden Way) and is known as Bute Mews.

The site and surrounding area is located within the designated Hampstead Garden Suburb Conservation Area.

The block is situated between Northway to the West and Kingsley Way to the east. The land is accessed through an entrance at each end of the land in Northway and Kingsley Way.

The Market Place constitutes a retail parade with residential flats above.

No. 14 - 56 (even) The Market Place is a locally listed terrace, listed on 12/10/10 by the Local Authority for the buildings Local Architectural or Historic Interest.

The land to the rear contains a number of garage blocks but is principally used for parking. The area has also been known to accumulate waste and fly tipping. The garage blocks are not statutory or locally listed buildings.

Immediately behind these garages is a strip of overgrown land within which are a number of small to medium sized trees.

Beyond this is Northway Gardens, a public park. Mutton Brook flows through it and this land is both designated Metropolitan Open Land (MOL) and a Site of Importance for Nature Conservation (SINC).

According to the Government's flood map for planning, due to the presence of Mutton Brook the park falls inside Flood Zone 2 and Flood Zone 3. Bute Mews however does not, and falls inside Flood Zone 1.

There is a bus stop outside the front of The Market Place as well as short term car parking. General needs car parking is accommodated within Northway and Kingsley Way, as well as in Bute Mews.

There are a number of trees both within and outside of the site. There are no Tree Preservation Orders on site. As the site falls within a conservation area any trees on the site and neighbouring sites are subject to planning control.

To the west end of the site adjacent to Northway there is a mature tree which constitutes a constraint on development that has amenity pressures for the occupiers of the flats in Bute Mews. This tree has permission for its removal (application reference TCF/00425/15, dated 19th August 2015).

2. Site History

Reference: 16/8188/FUL

Address: 1 Bute Mews, London, NW11 6EQ

Decision: Approved following legal agreement

Decision Date: 30 January 2018

Description: Demolition of the existing detached garages and erection of 6no two-storey terrace houses with rooms in roofspace. Associated landscaping, access, refuse and parking

3. Proposal

The applicant seeks a variation of condition 1 and the removal of condition 30 of the planning permission 16/8188/FUL, dated 30 January 2018, for the 'Demolition of the existing detached garages and erection of 6 no two-storey terrace houses with rooms in roofspace. Associated landscaping, access, refuse and parking.'

Regarding variation of condition 1, which stated the details and drawings subject to which the planning permission is granted, the applicant wishes to enlarge the basement area of the two end-of-terrace properties.

Regarding Condition 30, which stated that the drawings permitted under the consent shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010, the applicant wishes to remove this condition altogether.

4. Public Consultation

A site notice was erected 15 March 2018.

A press notice was published 15 March 2018.

Consultation letters were sent to 249 neighbouring properties.

7 responses have been received, comprising 6 letters of objection and 1 letter of support.

The representations received can be summarised as follows:

- Unpleasant and possibly unhealthy accommodation
- Adverse effect on the floor levels (Mutton Brook) with a detrimental effect on all the surrounding properties.
- Hedging is inadequate boundary treatment
- Want a guarantee that if the building goes ahead, no site rubbish, mud or builder debris would interfere with the Capital Ring (park) path
- Permission was originally given on the condition of the developers to undertake proper site management. No clearing of the site has been undertaken.
- What arrangements have been made to enforce the site maintenance both before, during and after the development, should it be allowed to proceed?
- Designated bin area seems small and some distance
- Concerns with highways and parking
- Issues with site used by drug dealers
- There is no guarantee that the situation will improve the remaining Bute Mews area after the development is finished
- Medivet have right of access. Want reassurance when the new drive was being re-laid access would not be blocked off
- We would strongly support a full enforcement of a provision to clean up the site before works can begin to ensure it does not become even more of a health and safety hazard than it already is.

Councillor Sargeant commented:

"I am most concerned at the plans to extend the footprint. This is already an overdeveloped site. I am also concerned about the changes to disabled access. Garden Suburb already has a high proportion of older people who although they may not live in the property would need access to it. Moreover the site has not been maintained as had been expected. I am also concerned that the plans only have a hedge boundary and would need chain link fencing. There are no proposals about how to alleviate the huge disruption to traffic once the site is developed and whilst being developed. There are still problems with access to the site and disturbance."

A support comment for the scheme was received, but no address was given.

HGS CAAC: Approved

Heritage Officer: No objection

Tree Officer: No objection

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The London Plan is currently under review. Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the adopted London Plan

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02, DM06, DM17

The Council's approach to extensions as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)

Sustainable Design and Construction SPD (adopted October 2016)

- Provides detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet.

The Hampstead Garden Suburb Conservation Area Design Guidance SPD and Character Appraisal (2010)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Whether the changes are considered 'minor material' amendments and whether they are acceptable in planning terms

5.3 Assessment of proposals

When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements.

New issues may arise after planning permission has been granted, which require modification of the approved proposals.

In this instance the applicant seeks to enlarge the basement area, and remove the requirement to meet Part M4(2) of Schedule 1 to the Building Regulations 2010.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

Variation of Condition 1:

Condition 1 of the planning permission stated the details and drawings subject to which the planning permission is granted.

The applicant seeks to vary the approved plans, by enlarging the basement areas beneath the two end of terrace properties consented.

The two end of terrace properties were approved with garages. The basement would be enlarged beneath the footprint of the garage. It would not extend any further beyond the approved footprint. The character and appearance of the designated conservation area would be preserved. The Tree Officer has confirmed that the proposal to have a basement underneath the permissioned garages at the either end of the new terrace will not have an impact on retained trees because the majority of the trees retained on the site are located beyond the site boundary and development zones.

The scale and nature of the enlarged basement does not result in a development substantially different from the one which was previously approved, and as such, Officers raise no objection.

Removal of Condition 30:

Condition 30 of the planning permission stated:

"Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouse(s) (Use Class C3) permitted under this consent they shall all have been constructed to meet and achieve all the relevant criteria of Part M4(2) of Schedule 1 to the Building Regulations 2010 (or the equivalent standard in such measure of accessibility and adaptability for house design which may replace that scheme in future). The development shall be maintained as such in perpetuity thereafter."

The reason given was: To ensure the development meets the needs of its future occupiers and to comply with the requirements of Policies 3.5 and 3.8 of the March 2016 Minor Alterations to the London Plan and the 2016 Mayors Housing SPG.

The applicant wishes to remove this condition.

M4(2) requires, amongst other things, that:

"a. Within the curtilage of the dwelling, or of the building containing the dwelling, it is possible to approach and gain step-free access to the dwelling" and

"b. There is step-free access to the WC and other accommodation within the entrance storey, and to any associated private outdoor space directly connected to the entrance storey"

The applicant states that due to existing site levels, this cannot be achieved.

The Mayor's Housing SPG (March 2016) states in Paragraph 2.3.10:

"LPAs should seek to ensure that dwellings accessed above or below the entrance storey in buildings of four storeys or less have step-free access. However, in certain specific cases, the provision of a lift where necessary to achieve this aim, may cause practical difficulties, make developments unviable and/or have significant implications for the affordability of service charges for intended residents. Analysis of the viability and affordability impacts of M4(2) may require 'bespoke' assessments of site-specific circumstances. Where necessary, for developments of four stories or less, the requirements of Policy 3.8Bc should be applied flexibly to ensure that residential or mixed use development is deliverable. This may bear particularly on the following types of schemes;

...small-scale infill developments, where the depth and width of a plot and height restrictions may inhibit the overall floorplate and massing of a building and the number of units which can be provided on a particular site (eg. gap sites adjacent to existing residential dwellings or in a conservation area)"

It continues in Paragraph 2.3.11:

"If proposals do not include step free access they should clearly demonstrate that achieving step free access would make the development unviable or would mean that service charges are not affordable for the intended residents. If the LPA accepts this then the base Building Regulation M4(1) could be applied. All other standards in this SPG should continue to be applied."

The applicant has provided two options for achieving M4(2). These are set out in Drawings 11163/ 061, 11163/ 061A, 11163/ 062.

The level difference from the entrance storey to the outdoor amenity space (at over a metre) requires a ramp of 20 degree (1:20 maximum slope allowable under Building Regulations) which is not practical in a garden that is 5 metres deep. The first option therefore is locating a platform lift and additional steps externally to provide access to the garden.

The platform lift would be located on the rear elevation, and would compromise the integrity and appearance of the building. This is particularly pertinent as the rear elevation is visible from the adjacent public park (which is designated Metropolitan Open Land). It is considered that an external platform lift would fail to preserve or enhance the character or appearance of the Hampstead Garden Suburb conservation area, contrary to Policy DM06 of Barnet's Development Management Policies Document DPD (2012). The Heritage Officer concurs with this. Due to the depths of the gardens, access from the new lift at the garden level would not be practical with just over 1 metres from the platform to the site boundary (excluding the hedge planting). Furthermore, the LPA have been privy to information which demonstrates that locating an external platform lift would make the development unviable.

The second option is to locate a lift internally with steps. The internal lift would be in the main habitable space at ground floor (previously consented to be the living room). Therefore the internal layout and use of the dwellings would be significantly compromised. The LPA have been privy to information which demonstrates that locating an internal platform lift and steps in the main living area would make the development unviable.

Officers are satisfied that, in line with the Mayor's guidance, the applicant has demonstrated that in this instance, achieving step free access to the garden would make

the development unviable and cause practical difficulties. The dwelling would remain to have step free access to the entrance of the dwelling and ground floor. The LPA will therefore apply the policy flexibly to ensure the development is deliverable, and consequently recommend to remove this condition. The removal of M4(2) would not result in a development that is substantially different from the one which has been approved. The base Building Regulation M4(1) will be applied in lieu.

5.4 Response to Public Consultation

- Unpleasant and possibly unhealthy accommodation

Planning permission 16/8188/FUL, dated 30/01/2018, was found to provide acceptable standard of accommodation for future occupiers. The enlargement of the basement area has not altered this position.

- Adverse effect on the floor levels (Mutton Brook) with a detrimental effect on all the surrounding properties.

According to the Government's flood map for planning, due to the presence of Mutton Brook the park falls inside Flood Zone 2 and Flood Zone 3. Bute Mews however does not, and falls inside Flood Zone 1. There is therefore a low risk of flooding. A basement has already been consented and this application would see the enlargement of this consented basement.

- Hedging is inadequate boundary treatment

The hedging boundary was found acceptable under planning permission 16/8188/FUL, dated 30/01/2018. The position has not altered.

The hedging boundary would be in keeping with the character and appearance of the conservation area and visual amenity of MOL. Gates to the park were removed in the previous application on the advice of the Council's Parks department.

- Want a guarantee that if the building goes ahead, no site rubbish, mud or builder debris would interfere with the Capital Ring (park) path

This would be covered under a Demolition and Construction Method Statement and Logistics Plan, which has been conditioned.

- Permission was originally given on the condition of the developers to undertake proper site management. No clearing of the site has been undertaken.

The developers are not obliged to begin works once in receipt of planning consent.

- What arrangements have been made to enforce the site maintenance both before, during and after the development, should it be allowed to proceed?

This was discussed in depth under the planning permission 16/8188/FUL, dated 30/01/2018.

Bute Mews is a two-way private road with no right of access to the public. It is understood that apart from the dedicated parking area to the rear of the veterinary clinic and the existing garages at the site, there are no existing rights to park in the service road area.

Notwithstanding this the applicants transport assessment submitted in support of the application has demonstrated that the level of car parking is to be provided in accordance with the London Borough of Barnet parking standards and vehicle track plots completed for the proposed site arrangement have demonstrated that suitable access is provided and will not impact on the existing operation of the private road.

There is currently no management located on the site, deliveries and servicing is generally sporadic located along Bute Mews. The potential addition of dedicated signed loading areas are expected to be self-enforceable and for this reason the applicant has recommended clear markings with coloured surfacing or hatching. The applicant also advises that a contact number to an off-site management company will be made available to existing tenants and new residents, in order to report any issues experienced along the mews.

- Designated bin area seems small and some distance

This was discussed in depth under the planning permission 16/8188/FUL, dated 30/01/2018.

Currently refuse collection is undertaken once a week by the London Borough of Barnet, with refuse trucks reversing into Bute Mews from Northway.

The applicants report submitted in support of the application states that given the low number of residential units for the proposed development, a significant increase in the number of servicing vehicles is not expected nor would it require a separate refuse collection. The report states that refuse collection can be part of the existing collection arrangement at the site, with refuse vehicles anticipated to have a slightly longer dwell times to collect the additional refuse and recycling from the new dwellings.

Refuse and recycling storage has been provided for each proposed dwelling.

New timber refuse enclosures to house both general waste and recycling bins for the existing residential units (16A/B to 56A/B Falloden Way) and the existing retail units separately. This proposal will 'tidy' up and rationalise the current refuse arrangement observed on the site.

The Council's Recycling and Waste Service have confirmed they raise no objection to the proposed servicing arrangement.

- Concerns with highways and parking

This was discussed in depth under the planning permission 16/8188/FUL, dated 30/01/2018.

The variation under this permission would not alter the position.

- Issues with site used by drug dealers

In the event crimes are committed this is a police matter. It would not constitute a planning reason for refusal.

- There is no guarantee that the situation will improve the remaining Bute Mews area after the development is finished

There is currently no management located on the site, deliveries and servicing is generally sporadic located along Bute Mews. The potential addition of dedicated signed loading areas are expected to be self-enforceable and for this reason the applicant has recommended clear markings with coloured surfacing or hatching. The applicant also advises that a contact number to an off-site management company will be made available to existing tenants and new residents, in order to report any issues experienced along the mews.

Currently refuse collection is undertaken once a week by the London Borough of Barnet, with refuse trucks reversing into Bute Mews from Northway.

The applicants report submitted in support of the application states that given the low number of residential units for the proposed development, a significant increase in the number of servicing vehicles is not expected nor would it require a separate refuse collection. The report states that refuse collection can be part of the existing collection arrangement at the site, with refuse vehicles anticipated to have a slightly longer dwell times to collect the additional refuse and recycling from the new dwellings.

Refuse and recycling storage has been provided for each proposed dwelling.

New timber refuse enclosures to house both general waste and recycling bins for the existing residential units (16A/B to 56A/B Falloden Way) and the existing retail units separately. This proposal will 'tidy' up and rationalise the current refuse arrangement observed on the site.

- Medivet have right of access. Want reassurance when the new drive was being re-laid access would not be blocked off

Rights of access is not a planning matter.

- We would strongly support a full enforcement of a provision to clean up the site before works can begin to ensure it does not become even more of a health and safety hazard than it already is.

Any issues related to untidy land and dumping is a planning enforcement and/or Environmental Health matter.

Councillor Sargaent commented:

"I am most concerned at the plans to extend the footprint. This is already an overdeveloped site. I am also concerned about the changes to disabled access. Garden Suburb already has a high proportion of older people who although they may not live in the property would need access to it. Moreover the site has not been maintained as had been expected. I am also concerned that the plans only have a hedge boundary and would need chain link fencing. There are no proposals about how to alleviate the huge disruption to traffic once the site is developed and whilst being developed. There are still problems with access to the site and disturbance."

The extended basement would remain under the footprint of the consented house (the garage).

The scheme under application reference 16/8188/FUL, dated 30/01/2018, was not found to represent overdevelopment. It is not considered that the enlargement of the consented basement area below the footprint of the house would alter this position.

Officers acknowledge that the dwellings would not provide level access throughout the ground floor. However considering the context of the site and the total number of units, in addition to the applicants evidence in line with the Mayor's Housing SPG, it is considered in this particular instance the removal of M4(2) is acceptable.

The hedging has been discussed above. Traffic and parking matters were addressed in the previous permission. The matters at hand in this application do not alter those previous conclusions.

6. Equality and Diversity Issues

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.

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.

Section 149 of the Act states that:

(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.

(2) 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.

(3) 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.

(4) 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-

- (a) Tackle prejudice, and
- (b) Promote understanding

(5) 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.

(6) The relevant protected characteristics are-

- Age;
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

S149 (5) of the Act requires that the Council have due regard to the need to:-

'(5) having due regard to the need to foster good relations 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) Tackle prejudice and
- (b) Promote understanding'

It is considered that the planning application itself provides an opportunity for an understanding of disabilities to be promoted.

In determining this planning application the Local Planning Authority must have due regard to the equalities impacts of the proposed redevelopment of the site on those persons protected under the Equality Act 2010. This Act requires the Local Planning Authority to demonstrate that any decision it makes is reached in a fair, transparent or accountable way considering the needs and rights of different members of the community.

The potential equality impacts have been highlighted above. Any equalities impacts have also to be analysed in the context of the overall planning merits of the scheme and the benefits it will confer particularly on the applicant.

Officers acknowledge that the removal of M4(2) would impact populations in protected characteristics by way that level access to the garden is not provided. The Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. This is the duty of local planning authority. In this particular instance, it is considered the harm to the conservation

area outweighs the need to provide level access to the garden. Officers have also given weight to deliverability, as advised in the London Plan.

7. Conclusion

This application is recommended for approval.

