Location	**Land To The Rear Of No 77-79 Hale Lane London NW7 3RU**		
Reference:	**19/2086/FUL**	Received:	9th April 2019
		Accepted:	23rd April 2019
Ward:	Hale	Expiry	18th June 2019
Applicant:	Ms PILINI		
Proposal:	Erection of a detached dwelling house. Associated amenity space, refuse and recycling area, cycle rack and provision of 1no parking space		

Recommendation: Approve subject to conditions

AND the Committee grants delegated authority to the Service Director – Planning and Building Control 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)

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

- Drawing no. LP001 Rev 00, dated 19.04.08
- Drawing no. AR001 Rev 00, dated 19.04.08
- Drawing no. AR002 Rev 00, dated 19.04.08
- Drawing no. AR003 Rev 00, dated 19.04.08
- Drawing no. AR004 Rev 01, dated 19.05.17

- Planning, Design, Access and Sustainability Statement, prepared by Iguana Architects, dated 23/04/2019

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 this permission.

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 samples and 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.

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 2016.

4 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 prior to the occupation of the hereby approved development.

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 October 2016) and 7.21 of the London Plan 2016.

5 a) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:

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.

For major sites, the Statement shall be informed by the findings of the assessment of the air quality impacts of construction and demolition phases of the development.

b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.

Reason: In the interests of highway safety, noise and good air quality in accordance with Policies DM04 and DM17 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policies 5.21, 5.3, 5.18, 7.14 and 7.15 of the London Plan (2016).

6 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.

7 a) Prior to the first occupation of the hereby approved development, details of the proposed green roof have been submitted to and approved in writing by the Local Planning Authority.

b) The green roof shall be implemented in accordance with the details approved this condition prior to the commencement of the use or first occupation of the development and retained as such thereafter. Should part of the approved green roof be removed, die, become severely damaged or diseased within five years of the completion of development, it shall be replaced in accordance with the details approved by this condition.

Reason: To ensure that the proposed development does not prejudice the enjoyment of the occupiers of their homes in accordance with Policies DM04 of the Development Management Policies DPD (adopted September 2012) and 7.15 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 a) Before the development hereby permitted is first occupied, 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.

b) The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation 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 policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

10 a) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be 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 the spaces shall be permanently retained thereafter.

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards set out in Policy 6.9 and Table 6.3 of The London Plan (2016) and 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.

11 Prior to commencement of the development, a Condition Survey of the existing public highway shall be undertaken and the result submitted to the Local Planning Authority. Within one month of the construction work ceasing a second road condition work shall be undertaken and the results submitted to the Local Planning Authority. Thereafter, any damage to the public highway identified by the two condition surveys shall be rectified by the applicant in agreement with the Highway Authority within one year of the development being constructed.

Reason: To ensure that parking is provided in accordance with the council's standards in the interests of pedestrian and highway safety, the free flow of traffic and in order to protect the amenities of the area in accordance with Policy DM17 of the Development Management Policies DPD (adopted September 2012) and Policies 6.1, 6.2 and 6.3 of the London Plan 2016.

12 Before the development hereby permitted is first occupied, the parking spaces shown on Drawing No. AR001 Rev 00 shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

Reason: To ensure that parking is provided in accordance with the council's standards in the interests of pedestrian and highway safety, the free flow of traffic and in order to protect the amenities of the area in accordance with Policy DM17 of the Development Management Policies DPD (adopted September 2012) and Policies 6.1, 6.2 and 6.3 of the London Plan 2015.

13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Part 2 of Schedule 3 of that Order shall be carried out within the curtilage of the development, hereby approved.

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).

14 Provisions shall be made within the site to ensure that all vehicles associated with the construction of the development hereby approved are properly washed and cleaned to prevent the passage of mud and dirt onto the adjoining highway.

Reason: To ensure that the development does not cause danger and inconvenience to users of the adjoining pavement and highway.

15 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.

Informative(s):

1 In accordance with paragraphs 38-57 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. A pre-application advice service is also offered and the Applicant engaged with this prior to the submissions of this application. 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 £60 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. Your planning application has been assessed at this time as liable for a payment under Mayoral CIL.

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. Your planning application has therefore been assessed at this time as liable for a payment under Barnet CIL.

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 The Highway Authority will require the applicant to give an undertaking to pay additional costs of repair or maintenance of the public highway in the vicinity of the site should the highway be damaged as a result of the construction traffic. The construction traffic will be deemed "extraordinary traffic" for the purposes of Section 59 of the Highways Act 1980. Under this section, the Highway Authority can recover the cost of excess expenses for maintenance of the highway resulting from excessive weight or extraordinary traffic passing along the highway. It is to be understood that any remedial works for such damage will be included in the estimate for highway works.

As a result of development and construction activities is a major cause of concern to the Council. Construction traffic is deemed to be "extraordinary traffic" for the purposes of Section 59 of the Highways Act 1980. During the course of the development, a far greater volume of construction traffic will be traversing the public highway and this considerably shortens the lifespan of the affected highway.

To minimise risks and damage to public highway, it is now a requirement as part of any new development to undertake a Highway Condition Survey of the surrounding

public highway to the development to record the state of the highway prior to commencement of any development works. The condition of the public highway shall be recorded including a photographic survey prior to commencement of any works within the development. During the course of the development construction, the applicant will be held responsible for any consequential damage to the public highway due to site operations and these photographs will assist in establishing the basis of damage to the public highway. A bond will be sought to cover potential damage resulting from the development which will be equivalent to the cost of highway works fronting the development. To arrange a joint highway condition survey, please contact the Highways Development Control / Network Management Team on 020 8359 3555 or by e-mail highways.development@barnet.gov.uk or nrswa@barnet.gov.uk at least 10 days prior to commencement of the development works.

Please note existing public highways shall not be used as sites for stock piling and storing plant, vehicles, materials or equipment without an appropriate licence. Any damage to the paved surfaces, verges, surface water drains or street furniture shall be made good as directed by the Authority. The Applicant shall be liable for the cost of reinstatement if damage has been caused to highways. On completion of the works, the highway shall be cleared of all surplus materials, washed and left in a clean and tidy condition.

4 For any proposal for new crossovers or modification to the existing crossovers, a separate crossover/access application must be submitted for approval to the Highways Authority. Details of the construction and location of the new crossover are required to be agreed with the highway authority. Any street furniture, road markings or parking bays affected by the proposed works following site investigation would be relocated at the applicant's expense.

In the case where a highway tree is present in the vicinity of the proposed access road or a crossover for the development the final approval would be subject to the detailed assessment carried out by the Highways Crossover Team in conjunction with the highway tree section as part of the crossover application. The outcome of this assessment cannot be prejudged. The applicant is advised that the permitted maximum width for a residential crossover is 4.2 metres.

Information on application for a crossover could be obtained from London Borough of Barnet, Crossover Team, Development and Regulatory Services, Barnet House, 1255 High Road, Whetstone N20 0EJ. Works on public highway shall be carried out by the Council's contractors. An estimate for this work could be obtained from London Borough of Barnet, Development and Regulatory Services, Barnet House, 1255 High Road, Whetstone N20 0EJ.

Please note, reinstatement of redundant crossovers, any relocation of street furniture, lighting column or amendments to parking bays affected by the proposed works would be carried out under a rechargeable works agreement by the Council's term contractor for Highway Works. An estimate for this work could be obtained from London Borough of Barnet, Development and Regulatory Services,
Barnet House, 1255 High Road, Whetstone N20 0EJ.

5 Refuse collection point should be located at a ground floor level and within 10m of the refuse vehicle parking bay. Levelled access should be provided for the refuse collection personnel to collect the bins. The refuse collection personnel are not expected to push the bins on an inclined surface to safeguard their Health and Safety

requirements. If the refuse vehicle is expected to travel over an unadopted road then

the applicant will be expected to sign a Waiver of Liability and Indemnity Agreement indemnifying the Council. Alternatively, the dustbins will need to be brought to the edge of the refuse vehicle parking bay on day of collection. The applicant is advised that the Council's refuse collection department is consulted to agree a refuse collection arrangement.

6 The applicant is required to submit a Street Works Licence application to the Development and Regulatory Services, Barnet House, 1255 High Road, Whetstone N20 0EJ, 4-6 weeks before the start of works on the public highways.

7 The surface of the highway and any gullies or drains nearby must be protected with plastic sheeting. Residue must never be washed into nearby gullies or drains. During the development works, any gullies or drains adjacent to the building site must be maintained to the satisfaction of the Local Highways Authority. If any gully is damaged or blocked, the applicant will be liable for all costs incurred. The Applicant shall ensure that all watercourses, drains, ditches, etc. are kept clear of any spoil, mud, slurry or other material likely to impede the free flow of water therein.

Officer's Assessment

1. Site Description

The application site is located at the rear of no.77 and no.79 Hale Lane, but with access from Downhurst Avenue which adjoins the south-eastern boundary and a public walkway adjoining the southern boundary, separating the site from the dwellinghouses located on Downhurst Avenue.

The application site and adjoining neighbouring properties are not heritage listed nor is the site located within a conservation area. The site is located within Flood Zone 1.

The site is located in an area with a PTAL rating of 4.

2. Site History

Reference 18/2977/FUL
Address: 77-79 Hale Lane London NW7 3RU
Decision: Refused, dismissed at appeal
Decision Date: 13 July 2018
Description: Erection of a two-storey dwelling. Associated parking, amenity space, cycle rack, refuse and recycling store

Reference: 17/5351/FUL
Address: 77-79 Hale Lane London NW7 3RU
Decision: Refused, dismissed at appeal
Decision Date: 27 October 2017
Description: Erection of a three-storey dwelling. Associated amenity space, cycle storage, parking and refuse and recycling

Reference: 16/2674/FUL
Address: 77-79 Hale Lane London NW7 3RU
Decision: Refused, dismissed at appeal
Decision Date: 22.06.2016
Description: Erection of 1no. two storey dwellinghouse with associated amenity space, refuse and recycling area, cycle rack and provision of 1no. parking space

Reference: 15/04135/HSE
Address: 77-79 Hale Lane London NW7 3RU
Decision: Approved subject to conditions
Decision Date: 27.08.2015
Description: Handrails to patio area and associated steps area at rea of the property (retrospective application)

Reference: 15/00708/HSE
Address: 77-79 Hale Lane London NW7 3RU
Decision: Approved subject to conditions
Decision Date: 02.04.2015
Description: Access ramps to front garden area and raising of patio to rear

Reference: W04101A
Address: Land Rear Of 77-79 Hale Lane London NW7 3RU
Decision: Refused

Decision Date: 18.07.1973
Description: 3 storey block of 6 flats with court of 6 garages at rear

3. Proposal

The proposal seeks to construct a single storey, 1 x bedroom dwellinghouse for a maximum of two occupants. The dwelling will have a width of 8.1 metres, being the width of the subject site, and will have a depth of 9.4 metres into the site. The dwelling will be set in 7 metres from the back of the public footway on Downhurst Avenue.

The property would have an internal area of 56sq.m and would have an external amenity space of 20sq.m located to the rear of the building.

The building is of a non conventional design with a curved ocular style roof, with a maximum eaves height of 2.8 metres and a maximum roof height of 4.4 metres, where the roof pitch rises to accommodate a roof light. The external materials are primarily timber with a green roof following principles of eco-design. The building at its closest point is 5.5m from the rear of buildings in Hale Lane.

4. Public Consultation

Consultation letters were sent to 29 neighbouring properties.
48 responses have been received, comprising 31 letters of objection and 17 letters of support and 1 representation.

The objections received can be summarised as follows:

o The space standards proposed are not good and the plan is poor; a double bed will not fit easily into the bedroom, and the kitchen is remote from the dining area. The living room and dining area also do not look much wider than the car shown on the forecourt. Are the remains of this building of suitable size for this to be occupied as a residential unit?
o Storage space seems extremely limited.
o The external amenity space is very small, and the car parking will cause the loss of garden space.
o Object to the loss of garden, green space, vegetation and natural habitat for birds and insects.
o Reduced permeability of the site through increased building/hardlandscaping coverage, exacerbating the problem of flooding.
o A family dwellinghouse should be built in an appropriate location and not squeezed into an unsuitable back garden location; the land should be the garden land of adjoining properties.
o The extra congestion that this development will cause in relation to parking
o The proximity of the development will impact on the privacy of neighbours
o The design does not reflect the character of the local area and will stand out, emphasising that the surrounding properties provide a homogenous local context.
o The development is cramped.
o Neighbouring properties have been wanting to purchase the land from the freeholder, however, the freeholder has refused as they plan to develop the land.
o A basement has been suggested which would cause more problems relating to subsidence and flooding.
o 3D rendered visuals do not show the existing single storey extension of the neighbouring property at no. 79.

o The rear elevation of no. 79 would be a few feet away from the proposed building; this is unacceptable by anyone's standards.
o Lack of confidence that the eco-aspects of the building would be maintained to a good order, resulting in more of an eye-sore.
o The building would affect the level of daylight received by the surrounding houses.
o Outlook of neighbouring properties having to look at this design, will be impacted.
o There is an existing sewage problem and a restricting water flow problem throughout neighbouring properties at highwater demand times, no doubt due to increased housing occupancy.
o Neighbouring residents are not prepared to continue to be in receipt of increasing car parking permit costs, to then be unable to park outside their own homes.
o Before and after the construction period, the proposal poses a hazard for pedestrians and school children alike, due to obstructing vehicles blocking the view of children and pedestrians crossing the road.
o The development would subsequently send building, car and personal insurance prices soaring and will result in an increase of council tax for the area.
o The development will cause pests to relocate into neighbouring properties; neighbours should not have to endure such infestations.
o There is no such need for this kind of dwelling as the housing requisites are obviously being met, as demonstrated through the pressure on infrastructure.
o I have now lost count of the many applications submitted for various types of developments, which not only implies, but now obliterates any doubt that I may have had, in view of the applicant being encouraged by a local authority source
o This consistent misleading and dishonest application to build on this extremely small plot; is an ongoing, endless, overreaching and a waste of tax payers money.
o For environmental reasons, this development is unsuitable; it will affect wildlife, pollinators, drainage etc.
o The green space across the road is not a park.
o the Council must consider its responsibility under the Human Rights Act Protocol 1, Article 1 which states that a person has the right to peaceful enjoyment of all their possessions, which includes the home and neighbouring land.
o I am astounded, that the council are considering such a development, given that in around 2003, the Council required a wall at the front of a garden to be removed, which was constantly praised and complimented by all neighbours and passers-by. The grounds upon which the council relied upon to force the removal of the wall, was that 'it was ... unsightly and not in keeping with the rest of the neighbourhood'
o Decision makers should visit the site in person to get a good idea and full perspective of the cramped nature of the environment.
o The consultation letter failed to mention the planning history of the site.
o If the proposal is allowed, it will form a blueprint for back gardens to be developed like this.
o Will neighbours be badgered until an application is accepted?

The representation received is summarised as follows:

o The existing hoarding around the perimeter of the site has been erected without planning permission, and therefore no weight should be given to its existence.
o Under both previous planning applications, the planning inspector has given significant weight to the proposal reflecting the character of the area (two storey dwellings with a pitched roof).

The comments in support of this proposal can be summarised as follows:

o Eco-friendly buildings with low carbon footage and of high quality design should be embraced and put forward for development.
o The proposed building will compliment the existing neighbourhood without affecting nearby residents.
o The proposal will benefit a parcel of land that is currently used for fly tipping purposes from passers-by.
o The proposed building is of exceptional architectural quality.

5. Planning Considerations

5.1 Policy Context

Revised 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 Revised National Planning Policy Framework (NPPF) was published on 19 February 2019. 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.

Existing policies in Barnet's Local Plan (2012) and the London Plan (2016) should not be considered out-of-date simply because they were adopted prior to the publication of the revised NPPF. Due weight should be given to them, according to their degree of consistency with the revised NPPF.

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 relevant planning policies are: Policies 3.4; 3.5; 3.8; 3.14; 5.2; 5.3; 6.13; 7.4.

The Draft London Plan

'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 2016 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, CS4, CS5, CS6, CS9, CS10, CS15.
- Relevant Development Management Policies: DM01, DM02, DM03, DM08, DM17.

The Council's approach to development as set out in Policy DM01 is to minimise the 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.

Policy DM03 relates to universal access, lifetime homes and equality in design and seeks to ensure that development proposals meet the highest standards of accessible and inclusive design.

Policy DM08 seeks to ensure that a range of housing types are provided in the borough, noting that maintaining and increasing the supply of family housing is a high priority in Barnet; housing with 3 bedrooms is noted as a medium priority and housing with 4+ bedrooms is a high priority. The policy further states that since 2004 the delivery of new housing has been dominated by smaller flatted homes.

Policy DM17 states that the council will ensure that the safety of all road users is taken into account when considering proposals, and will refuse proposals that unacceptably increase conflicting movements on the road network or increase the risk to vulnerable users. The policy further states the expectation for assessing travel impact and parking standards in the Borough, and specifically, the provision of off-street parking as guided by the London Plan.

Supplementary Planning Documents

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.

5.2 Main issues for consideration

The main issues for consideration in this case are:
- Whether harm would be caused to the character and appearance of the subject site, the street scene and the wider residential locality;
- Whether harm would be caused to the living conditions of neighbouring residents;
- Whether harm would be caused to the amenity of future occupants;
- Whether harm would be caused to the ecology of the area;
- Whether there will be implications of flooding; and,
- Whether harm would be caused to the Highway environment.

5.3 Assessment of proposals

As noted earlier in this report, and raised by the public comments received, this site has a history of refused planning applications. The most recent of which was considered under planning reference no. Reference 18/2977/FUL. This application was described in the delegated report as follows:

.The applicant seeks planning permission for the erection of a single family detached house located to the rear of no.77 and 79 Hale Lane, adjacent to no. 1no Downhurst Avenue. The property would be two storeys in height and would provide 2no. bedrooms x 3no. persons (1 double and 1 single room), and 2no off-street parking spaces.

The proposed dwelling would have a maximum width of approximately 5.60 metres. It would have a depth of 7.8 metre. The building would be set 7.90m away from the pavement. It would project 1.60m from the outermost front façade of no. 1 and 2 Downhurst Avenue, and 1.0m beyond the outermost front elevation of other properties on Downhurst Avenue.

The height of the main building would be approximately 8.60 metres and have an eaves height of approximately 5.30 metres when measured from the boundary with no. 1 Downhurst Avenue; this would match the eaves and ridge height of no.1 Downhurst Avenue.

The proposed unit would be set away from the common boundary with 77-79 Hale Lane by approximately 2.50m and would be sited on the boundary with the alleyway, which provides a gap of 3.80m from the flank elevation with 1 Downhurst Avenue. The proposal includes 2no. parking spaces to the front of the proposed building near the boundary with 77-79 Hale Lane accessed through the existing crossover. The front forecourt area would measure approx. 7.85m in depth x 8.10m width and accommodate 2no. off street parking spaces and 3no. refuse bins

The proposed building would be of a modern design based on the principles of Biophilic architecture, which seek to improve health and wellbeing through the integration of nature and natural elements, materials and forms into building design and interiors. The design features include a perforated brick pattern section to the northern section of the front elevation and green wall to the north elevation.

The application follows dismissed appeal ref (APP/N5090/W/17/3188467) Planning permission was previously refused by the Planning Inspector on the basis of its impact of a three-storey dwelling on the outlook of no. 79 Hale Lane. This is a material consideration in the current proposal.

The proposal was refused, for the following reason:

. The proposed building by virtue of its height, scale, bulk, mass, siting and close proximity particularly in respect to the extended rear elevation at no 79 Hale Lane would appear dominant and obtrusive particularly from the rear garden of this neighbouring occupier and result in a harmful loss of sunlight, outlook and perceived sense of enclosure detrimental to the visual and residential amenities of the occupiers of N0.77 Hale Lane. As such the application is therefore considered to be unacceptable and contrary to Policy DM01 of the Barnet Development Management Policies DPD (2012), policies CS1 and CS NPPF of the Adopted Local Plan Core Strategy (2012) and the Adopted Residential Design Guidance (2016).

The following assessment will draw on comments from previous appeal decisions where relevant, as conclusions drawn by the planning inspector are of material planning consideration. The two relevant references are 16/2674/FUL and 18/2977/FUL.

Character and Street Scene

Previous appeal and planning decisions have not raised concerns with regards to the principle of development on this site; with the sole reason for refusal in both earlier applications being limited to residential amenity impacts, this establishes that the principle of a dwellinghouse, subject to appropriate design, is acceptable in the context of the subject site.

With regards to the scale of development on this site, and the proportion of building to land ratio, it is of note that under reference no. 16/2674/FUL, the planning inspector made the following comment regarding a two-storey building that occupied the majority of the width of the site, with the exception of a 1 metre wide accessway:

. "separately, the development would not appear unacceptably cramped within the plot itself. Whilst it would occupy almost the full width of the plot, it would not be out of keeping with the tight grain of development in the area."

Furthermore, under the appeal for reference no. 17/5351/FUL, the inspector noted that the deviation of the proposed building line from the established building line along this section of Downhurst Avenue was acceptable, stating that *. "it would provide an appropriate transition between No 1 Downhurst Avenue and No 77 Hale Lane the flank wall of which projects beyond the building line along Downhurst Avenue. Furthermore, the projection would not be so significant as to appear unduly prominent or incongruous"*

Given that these statements were made with regards to a two/three storey dwellinghouse, it is considered reasonable to accept the principle of the massing and location of the dwellinghouse that has been proposed through this planning application. Furthermore, it is emphasised that the lower level of building mass will result in a more subdued building with regards to bulk and massing within the site, being of a more appropriate scale and not a cramped form of development. It would also allow the perception of a clear visible gap between the flank of Downhurst Avenue and Hale Lane. As such, the remaining matter to be assessed is with regards to the contemporary design of this building, and whether the divergence away from the two storey buildings with traditional design, will have an acceptable impact on the character of the site and the residential setting.

With regard to contemporary design, under reference no. 17/5351/FUL, the proposal was *. based on the principles of Biophilic architecture, which seek to improve health and wellbeing through the integration of nature and natural elements, materials and forms into building design and interiors. The design features include a perforated brick pattern section to the northern section of the front elevation and green wall to the north elevation..* Commenting on this aspect of the proposal, the inspector stated that *."The proposal would have a more contemporary appearance than surrounding properties and include some design features such as perforated brick and a green wall which are not characteristic features of the area. However, the overall scale and massing would broadly reflect the character of the surrounding area. In addition, the materials would generally be consistent with those of surrounding properties. Taking these factors in combination, I consider that the proposal would be consistent with the character and appearance of the area."*

With regards to the contemporary design of the proposal, the proposed building differs significantly to the neighbouring buildings in terms of massing and design. It is noted that through addressing concerns of residential amenity impact, the proposal has diverged from reflecting the character of the surrounding properties; i.e. a two storey dwellinghouse. Despite this, the design and scale, including the single storey nature, of the proposed dwellinghouse is considered to reflect the context of the site it is located within, taking the form of a garden outbuilding or garage. Additionally, through the introduction of a contemporary design and the lack of pastiche design, the proposal comes into its own through not attempting to reflect the character of the area but instead, reflecting the original rear garden character with a leafy, heavily landscaped appearance. Due to the unique setting of the site and its removal from neighbouring buildings, this approach is considered acceptable.

The application has included a rendered 3D visual of the proposal, which also shows the materials to be used in the external surfaces of the building. Whilst the LPA has reservations about the external cladding shown on the building, this is a matter that can be addressed through a condition of the permission, in which samples should be provided prior to undertaking any works on site.

<u>Residential Amenity</u>

Policy DM01 of the Development Management Policies (Adopted) 2012 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.

As noted above, under reference no. 18/2977/FUL, the proposal for a two-storey detached dwellinghouse was refused due to the impact this proposal would have on the amenity of the occupants at no. 79 Hale Lane. This decision was also dismissed at appeal, with the inspector making the following comments:

. The proposed dwelling would be approximately 2.5m from the close boarded timber fence boundary with 79 Hale Lane and approximately 8.15m from its single-storey rear elevation, which serves a kitchen/dining room. It would be two-storey in height with the north flank elevation measuring approximately 5m in height to the eaves.

The two-storey dwelling would rise substantially above the boundary fence, appearing as a dominant feature when viewed from the rear windows in No 79, particularly from the ground floor windows. This would significantly reduce the outlook from these windows resulting in an unacceptable over bearing impact on the occupants of the No 79. Furthermore, No 79 has a small rear garden which is short in depth. Due to its height and proximity, the dwelling would also significantly diminish the outlook from the garden resulting in it having an unacceptably overbearing impact on its occupants.

I have had regard to the use of a 'green wall' on the north elevation of the dwelling. Whilst fast growing plants could be planted, even they would take a significant time to establish enough to cover the elevation. In any event, due to the height and proximity of the dwelling I do not consider that, even when fully established, the 'green wall' would adequately mitigate the significant harm to the outlook from No 79 as there would still be a lack of visual depth.

In addition, whilst the use of a hipped roof would reduce the effect on outlook, in this instance, due to the height and proximity of the dwelling to No 79, it would not adequately mitigate the overbearing effect it would have on its occupants. I also note the difference in

ground levels between the appeal site and that of No 79. However, I do not consider that the slightly lower ground level of the appeal site would materially reduce the harm to outlook.

In their reason for refusal, the Council refer to loss of sunlight at No 79. However, they offer no objective analysis as to how this harm would arise. The Daylight and Sunlight Report prepared by Daylight and Sunlight (UK) Limited, dated 1 May 2018, which was submitted with the application, concludes that the proposal would meet the BRE guidelines for daylight and sunlight and that the surrounding buildings and amenity areas will remain adequately lit. On the basis of the evidence before me, including my own observations on site, and in the absence of any substantive evidence to the contrary, I find that the proposal would not have any significantly harmful effect on the amount of light serving No 79, or indeed 77 Hale Lane.

Based on the above extract, the outstanding area of concern of impact can be limited to the outlook of the property at no. 79. While the building's flank elevation is 5.5m from the rear of 77 and 79 Hale Lane, which is less than that which would normally be required within the Residential Design Guidance, the height above the boundary is insignificant. Its height at the nearest point is 2.4m which is less than the permitted development height restriction for an outbuilding. The building's maximum height is 4.5m which is 11m away from the rear of Hale Lane. The angle of elevation to the highest point is just ten degrees from the rear of Hale Lane which is considered to be insignificant and the profile of the building in the context of the gable end of the Downhurst Avenue is marginal and non-dominating in outlook.

Given the significantly reduced height of the building, to be marginally higher than a typical boundary fence (0.8 metres), the lack of windows located on the flank elevations and the low impact urban design measures that have been incorporated, the impact on the outlook and overall amenity of the occupants at no. 79, and all other neighbouring properties, is considered acceptable.

Whilst it is acknowledged that several comments received have raised concerns regarding the outlook of neighbouring properties, it is emphasised that as this proposal is for a single storey building, the outlook and openness of neighbouring properties will not be impinged on or blocked. Moreover, the LPA considers the use of a sedum roof across the building to mitigate the sense of additional building mass, being an improved outlook from neighbouring properties onto the subject site, particularly when regard is given to the existing paved, unkept site.

<u>Impact on the amenity of future occupants</u>

The proposed building has been designed to meet the minimum internal space standards as prescribed by policy 3.5 of the London Plan and the LPA's Sustainable Design and Construction SPD.

The proposed building, whilst a dwellinghouse, is the scale of a 2 bedroom flat. For the purposes of the requirements of amenity space, the LPA considers it reasonable to adopt the requirement for a 1 bedroom flat, as opposed to a larger dwellinghouse. Additionally, consideration has been given to the location of the subject site, with the green space on Ashurst Road (Ashbourne Grove Open Space), located to the east of the site. As such, the provision of outdoor amenity space is considered to be a good quality and sufficient quantity for the future occupiers of the proposed dwelling.

<u>Impact on Ecology</u>

There is no notable vegetation located within the site and as such, the proposal would not result in a loss of vegetation or habitat that is of worthwhile note. Moreover, the proposed biophilic design will introduce vegetation and a sedum roof that will positively contribute to the biodiversity of the site, and form a better connection with the wider ecology of the residential area.

Impact of Flooding

The subject site is located within Flood Zone 1, and therefore has a very low risk of flooding. Nonetheless, whilst it is appreciated the proposal will see a building constructed on a vacant site, it is noted that the biophilic design, including a sedum roof, will mitigate any potential increase of surface water runoff on and around the site. Moreover, whilst undertaking a site visit, the Planning Officer observed that the site has a large area of paving and therefore, the site does not currently benefit from the same permeability as would be typical for a rear garden site.

Impact on Highway Environment

The proposal provides one parking space for the future dwellinghouse; this is in accordance with policy DM17 for a dwellinghouse of this size. As such, the proposal is not considered to result in additional parking pressure on the surrounding public highway.

Whilst it is appreciated that there will be a temporary impact on the public highway through the construction period, this is an anticipated impact for all development and it is considered that it would be appropriately managed through a construction management plan. A condition requiring this has been imposed, and would require the plan to be submitted prior to any works being undertaken on site.

5.4 Response to Public Consultation

In addition to the above planning assessment, the following comments are made in response to the objections received:

o The space standards proposed are not good and the plan is poor; a double bed will not fit easily into the bedroom, and the kitchen is remote from the dining area. The living room and dining area also do not look much wider than the car shown on the forecourt. Are the remains of this building of suitable size for this to be occupied as a residential unit?
o The external amenity space is very small, and the car parking will cause the loss of garden space.

As noted under the assessment of the residential amenity of future occupants, the proposed unit meets minimum standards prescribed by the London Plan and the LPA's sustainable design and construction SPD.

o Storage space seems extremely limited.

The storage space provided, by way of the 'cloak cupboard' in the hallway, the refuse and recycling storage and the cycle storage, is in accordance with minimum standards.

o The proximity of the development will impact on the privacy of neighbours

The proposed building does not include windows on the flank elevations and moreover, is single storey and thus would not have any level of outlook into neighbouring properties beyond what would occur through the site being occupied as a back garden.

o Neighbouring properties have been wanting to purchase the land from the freeholder, however, the freeholder has refused as they plan to develop the land.

This is not a material planning consideration.

o A basement has been suggested which would cause more problems relating to subsidence and flooding.

The proposal does not include the construction of a basement.

o 3D rendered visuals do not show the existing single storey extension of the neighbouring property at no. 79.

This was an error and has been rectified with amended plans and visuals that were sent out for additional consultation on the 5 June 2019.

o Lack of confidence that the eco-aspects of the building would be maintained to a good order, resulting in more of an eye-sore.

A condition of planning permission can be imposed to require a maintenance plan pertaining to the biophilic elements of the building.

o Neighbouring residents are not prepared to continue to be in receipt of increasing car parking permit costs, to then be unable to park outside their own homes.

The proposal provides the minimum on-site parking requirement and therefore, this is not considered a material planning consideration.

o Before and after the construction period, the proposal poses a hazard for pedestrians and school children alike, due to obstructing vehicles blocking the view of children and pedestrians crossing the road.

Adequate sight lines will be managed for both highways users and the occupants of the site coming into and leaving the site. A condition pertaining to the height of the front boundary vegetation has been imposed, in addition to the submission of a landscaping plan prior to the occupation of the development.

o The development would subsequently send building, car and personal insurance prices soaring and will result in an increase of council tax for the area.

This is not a material planning consideration.

o The development will cause pests to relocate into neighbouring properties; neighbours should not have to endure such infestations.

This is not a material planning consideration.

o There is no such need for this kind of dwelling as the housing requisites are obviously being met, as demonstrated through the pressure on infrastructure.

It is not for the planning department to assess the demand for a particular dwelling, but rather to assess the merits of the application presented.

o I have now lost count of the many applications submitted for various types of developments, which not only implies, but now obliterates any doubt that I may have had, in view of the applicant being encouraged by a local authority source.
o This consistent misleading and dishonest application to build on this extremely small plot; is an ongoing, endless, overreaching and a waste of tax payers money.

The LPA must both consult, and make determinations on every planning application that is received.

o The green space across the road is not a park.

Nonetheless, this is an open space of which can be used by members of the public for recreation and leisure.

o the Council must consider its responsibility under the Human Rights Act Protocol 1, Article 1 which states that a person has the right to peaceful enjoyment of all their possessions, which includes the home and neighbouring land.

The LPA believe the proposed dwelling will not impede on the peaceful enjoyment of neighbouring properties.

o I am astounded, that the council are considering such a development, given that in around 2003, the Council required a wall at the front of a garden to be removed, which was constantly praised and complimented by all neighbours and passers-by. The grounds upon which the council relied upon to force the removal of the wall, was that 'it was ... unsightly and not in keeping with the rest of the neighbourhood']].

Every planning application and decision is made based on the merits of the proposal and on a case by case basis. Whilst a front boundary wall may not have been considered appropriate in the setting, as discussed earlier in this report, the LPA considers that the unique design of this proposal will have an acceptable impact on the site, street scene and wider residential environment.

o Decision makers should visit the site in person to get a good idea and full perspective of the cramped nature of the environment.

As part of the planning application process, the Planning Officer has visited the subject site and made observations on the subject site, neighbouring properties and the wider street scene.

o The consultation letter failed to mention the planning history of the site.

This is not a requirement of a consultation letter.

o If the proposal is allowed, it will form a blueprint for back gardens to be developed like this.

Every planning application is assessed on a case by case basis and given the corner location of this site, the proposal is not considered to set a precedent for further back garden development.

o The existing hoarding around the perimeter of the site has been erected without planning permission, and therefore no weight should be given to its existence.

Noted.

o Under both previous planning applications, the planning inspector has given significant weight to the proposal reflecting the character of the area (two storey dwellings with a pitched roof).

Noted. However, as previously assessed, the proposal is considered to take the comments from the planning inspectors on board, and has presented a scheme that accommodates matters that were considered acceptable by the inspectors, whilst representing a contemporary and innovative design that is suitable for the site in which it is proposed to be located within.

6. Equality and Diversity Issues

The proposal does not conflict with either Barnet Council's Equalities Policy or the commitments set in the Equality Scheme and supports the Council in meeting its statutory equality responsibilities.

7. Conclusion

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site, the street scene and the locality. The development is not considered to have an adverse impact on the amenities of nearby occupiers. This application is therefore recommended for approval.

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Public Park
ASHBOURNE GROVE