

MEETING

PLANNING AND ENVIRONMENT COMMITTEE

DATE AND TIME

THURSDAY 13 FEBRUARY, 2014

AT 7.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, NW4 4BG

TO: MEMBERS OF PLANNING AND ENVIRONMENT COMMITTEE (Quorum 3)

Chairman: Councillor Wendy Prentice
Vice Chairman: Councillor Maureen Braun

Councillors

Jack Cohen	Mark Shooter	Andreas Tambourides
John Marshall	Agnes Slocombe	Jim Tierney
Barry Rawlings	Stephen Sowerby	

Substitute Members

Alison Cornelius	Kath McGuirk	Andrew Strongolou
Claire Farrier	Graham Old	Darrel Yawitch
Andreas Ioannidis	Lord Palmer	
Sury Khatri	Brian Schama	

You are requested to attend the above meeting for which an agenda is attached.

Andrew Nathan – Head of Governance

Governance Services contact: Maria Lugangira 020 8359 2761

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Minutes	
2.	Absence of Members	
3.	Disclosable Pecuniary interests and Non Pecuniary interests	
4.	Public Question Time (if any)	
5.	Members Item (if any)	
6.	Report of the Assistant Director of Planning and Development Managements;	
7.	Chandos Lawn Tennis Club, Chandos Way, Wellgarth Road, London, NW1 7HP - F/01319/12	1 - 48
8.	Finchley Manor Garden Centre, 120 East End Road, London N2 0RZ - F/01320/12	49 - 76
9.	Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ - F/01405/12	77 - 84
10.	Brookside Walk Children's Play Area, London, NW4 - H/05584/13	85 - 90
11.	Phase 3a (central community park) of Mill Hill East development to Phases 3a, 8, 9, 10 & 11, London, NW7 1PX	91 - 120
12.	Blocks F3 to F7, Beaufort Park (Land at Former RAF East Camp Site), Aerodrome Road/ Grahame Park Way, London, NW9 - H/053873/13	121 - 144
13.	Application to Register Land to the West of Friern Barnet Library, N11 as a Town or Village Green	145 - 202
14.	Application to Register Land known as The Reddings Green between Reddings Close and Lawrence Street, Mill Hill, NW7 as a Town or Village Green	203 - 210
15.	Any item(s) that the Chairman decides are urgent	

FACILITIES FOR PEOPLE WITH DISABILITIES

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LOCATION: Chandos Lawn Tennis Club, Chandos Way, Wellgarth Road, London, NW11 7HP

REFERENCE: F/01319/12

Received: 05 April 2012

Accepted: 19 April 2012

WARD: Garden Suburb

Expiry: 19 July 2012

AGENDA ITEM 7

Final Revisions:

APPLICANT: BDW Trading Limited

PROPOSAL: Erection of 45 self-contained units with associated car parking, cycle storage, amenity space, landscaping, refuse/recycling access, following demolition of existing building and structures.

APPROVE SUBJECT TO COMPLETION OF SECTION 106 AGREEMENT

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 **Special Site-Specific Obligation** **£0.00**
No development shall commence (other than for Site Investigations, Groundworks, Site Preparation Works and Mobilisation) until the new tennis club at East End Road has been constructed in its entirety and has been handed over to the club in accordance with planning application F/01320/12.
- 4 **Special Site-Specific Obligation** **£0.00**
No residential units shall be occupied until the off site units at the Stonegrove site identified on the approved plan and schedule listed in condition 1 pursuant to the permission have been completed and handed over to Family Mosaic acting as registered provider. This off site provision shall consist of 19 social rented units as follows:

9 x 2 bed flats
2 x 3 bed flats
5 x 3 bed houses
3 x 4 bed houses
- 5 **Special Site-Specific Obligation** **£0.00**
The off site affordable housing units shall be retained for such purposes in perpetuity.

6 Monitoring of the Agreement

£1,500.00

Contribution towards the Council's costs in monitoring the obligations of the agreement.

RECOMMENDATION II:

That upon completion of the agreement the Acting Assistant Director of Planning and Development Management approve the planning application reference: F/01319/12 under delegated powers subject to the following conditions: -

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drawings 2830_0100, 2830_1000A, 3170_1101D, 3170_1102D, 3170_1103E, 3170_1104C, 3170_1105C, 3170_1100B, 3170_2110B, 3170_2111B, 3170_2112B, 3170_2113B, 3170_2114B, 3170_2100B, 3170_2101B, 3170_2102A, 3170_2103A, 3170_2104A, 2830_3009B, 2830_4000B, 2830_4001B, 2830_6001A, 2830_6002A, 2830_6003A, 3170_2105A, 3170_3001A, 3170_3000A, 3170_3010A, 3170_3011A, 3170_3003A, 3170_3002A, 3170_4000A, 3170_4001A, 3170_4002A, 3170_4010B, 3170_4011B, 3170_4012A, 3170_1153A
 - Access Statement (within D&AS) (David Bonnett Associates) 23.08.13
 - Air Quality Assessment (URS) 05.04.12
 - Arboricultural Implications Assessment (Middlemarch Environmental Ltd) 23.08.13
 - Arboricultural Survey (Middlemarch Environmental Ltd) 05.04.12
 - Daylight and Sunlight Report (Savills Ltd) 23.08.13
 - Design and Access Statement (AWW Architects) 23.08.13
 - Extended Phase 1 Habitat Survey (Middlemarch Environmental Ltd) 05.04.12
 - Heritage Impact Assessment (Purcell UK) 23.08.13
 - Updated Initial Bat Survey (Middlemarch Environmental Ltd) September 2013
 - Landscape Design Report (within D&AS) (Townshend Landscape Architects) 23.08.13
 - Noise and Vibration Assessment (SRL Technical Services Ltd) 23.08.13
 - Planning Statement (bptw partnership) 23.08.13
 - Playspace Assessment & Amenity Space Schedule (AWW Architects) 23.08.13 (within DAS)
 - Preliminary Construction Method Statement (within PS) (Barratt Homes) 05.04.12
 - Site Investigation Report (RSA Geotechnics Ltd) 05.04.12
 - Statement of Community Involvement (HardHat) 23.08.13
 - Sustainability Statement, incl. Energy Statement and CfSH Pre-Assessment (BBS Ltd) 12.09.12
 - Transport Assessment (Mayer Brown) 05.04.12 / (SKM Colin Buchanan) 23.08.13
 - Verified Views Report (within D&AS) (Animated Remedy) 23.08.13
 - Viability Assessment (Allsops) 01.11.13

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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

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

Reason:

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

3. Notwithstanding the details shown on the plans otherwise hereby approved the development hereby permitted shall not commence (other than for Ground Investigations, Groundworks, Site Preparation Works and Mobilisation) unless and until details and appropriately sized samples of the materials to be used for all the external surfaces of the proposed buildings and the new hard surfaced areas at the site have been submitted to and approved in writing by the Local Planning Authority. The Development shall thereafter be implemented in accordance with such details and samples as so approved before the dwellings approved are first occupied.

Reason:

To safeguard the character and visual amenities of the site and wider area and to ensure that the development is constructed in accordance with policies CS5, DM01 and DM06 of the Barnet Local Plan and policies 1.1, 7.4, 7.5 and 7.6 of the London Plan.

4. Notwithstanding the details shown in the drawings submitted and otherwise hereby approved the development is not to commence (including any works of demolition) unless and until details of the levels of the buildings, roads and footpaths in relation to adjoining land and highways and any other changes proposed in the levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

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 DM01 and DM04 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF, CS1, CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.4, 7.5, 7.6 and 7.21 of the London Plan 2011.

5. Notwithstanding the details submitted with the application and otherwise hereby approved, before the development hereby permitted is brought into use or occupied details of the:
 - enclosures, screened facilities and/or internal areas of the proposed buildings to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable;
 - satisfactory points of collection; and

- details of the refuse and recycling collection arrangements shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented and the refuse and recycling facilities provided in full accordance with the details approved under this condition before the development is occupied and the development shall be managed in accordance with the approved details once occupation of the site has commenced.

Reason:

To ensure a satisfactory refuse and recycling facilities are provided at the development in accordance with policies CS5, CS9, CS14, DM01, DM04 and DM17 of the Barnet Local Plan.

6. 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 houses hereby permitted shall not be extended or altered in any manner whatsoever.

Reason:

To ensure the development does not prejudice the character of the locality and the enjoyment by existing and/or neighbouring occupiers of their properties in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012).

7. 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) no installation of any structures or apparatus for purposes relating to telecommunications shall be installed on any part the roof of the building(s) hereby approved, including any structures or development otherwise permitted under Part 24 and Part 25 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any equivalent Order revoking and re-enacting that Order.

Reason:

To ensure that the development does not impact adversely on the townscape and character of the area and to ensure the Local Planning Authority can control the development in the area so that it accords with policy DM01 and DM18 of the Adopted Barnet Development Management Policies DPD (2012).

8. No construction work resulting from the planning permission shall be carried out on the premises at any time on Sundays, Bank or Public Holidays, before 8.00 am or after 1.00 pm on Saturdays, or before 8.00 am or after 6.00pm on other days.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of adjoining residential properties in accordance with policy DM04 of the Adopted Barnet Development Management Policies DPD (2012).

9. The hereby approved flats and houses shall be used as self-contained units as shown on the hereby approved drawings under Class C3 (a) and no other purpose (including any other purpose in Class C3 or C4 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason:

To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

10. Notwithstanding the details submitted and otherwise hereby approved, prior to the commencement of the development (other than for Groundworks and Site Preparation Works) a detailed scheme of hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The details of landscaping submitted shall include but not be limited to the following:

- The position of any existing trees to be removed.
- New tree, hedge and shrub planting including species, plant sizes and planting densities as well as planting for green roofs including herbaceous / climbers / grasses / ground cover plants.
- Means of planting, staking and tying of trees, including tree guards as well as a detailed landscape maintenance schedule for regular pruning, watering and fertiliser.
- Existing contours and any proposed alterations such as earth mounding.
- Areas of hard landscape works including paving, proposed materials samples and details of all techniques to be used to provide conditions appropriate for new plantings.
- The timing of planting.

Reason:

To ensure a satisfactory appearance to the development in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and 7.21 of the London Plan 2011 and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012).

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

Reason:

To ensure a satisfactory appearance to the development in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

12. 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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

13. Before this development is commenced details of the location, extent and depth of all excavations for drainage and other services in relation to trees on the site shall be submitted and approved in writing by the Local Planning Authority and the development carried out in accordance with such approval.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

14. No site works or works on this development shall be commenced before temporary tree protection has been erected around existing trees in accordance with documents submitted with this application and listed in condition 1. 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.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

15. The development hereby approved shall not be occupied unless and until a Landscape Management Plan, including details of the long term design objectives, management responsibilities and maintenance schedules for the landscaped parts of the site (other than for privately owned domestic gardens) shall have been submitted to the Local Planning Authority and approved in writing. The management of the landscaping at the site shall be carried out in full accordance with the details in the approved Landscape Management Plan.

Reason:

To ensure a satisfactory appearance to the development and protect the amenities of the area and neighbouring occupiers in accordance with policy DM01 of the Barnet Local Plan and policy 7.21 of the London Plan.

16. The dwelling(s) shall achieve a Code Level 4 in accordance with the Code for Sustainable Homes Technical Guide (October 2008) (or such national measure of sustainability for house design that replaces that scheme) and achieve full Lifetime Homes credits. No dwelling shall be occupied until evidence that the Lifetime Homes credits have been achieved and a Final Code Certificate has been issued certifying that Code Level 4 has been achieved and this certificate has been submitted to and approved by the

local planning authority.

Reason:

To ensure that the development is sustainable and complies with policy DM02 of the Adopted Barnet Development Management Policies DPD (2012), the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007) and policies 5.2 and 5.3 of the London Plan (2011).

17. Before the development hereby permitted commences details of the location within the development and specification of the 4 units to be constructed to be either wheelchair accessible or easily adaptable for residents who are wheelchair users shall be submitted to and approved in writing by the Local Planning Authority. The specification provided for the 4 units shall demonstrate how the units will be constructed to be either wheelchair accessible or easily adaptable for residents who are wheelchair users. The development shall be implemented in full accordance with the details as approved prior to the occupation of the development.

Reason:

To ensure that the development is accessible for all members of the community and to comply with policy DM02 of the Adopted Barnet Development Management Policies DPD (2012) and policies 3.8 and 7.2 of the London Plan 2011.

18. Prior to the first occupation of the apartments a scheme detailing all play equipment to be installed in the communal amenity space on the part of the site identified in drawings listed in condition 1 shall be submitted to the Local Planning Authority and approved in writing. The development shall be implemented in full accordance with the details as approved prior to the first occupation of the apartments.

Reason:

To ensure that the development represents high quality design and to accord with policies CS7 of the Core Strategy and DM02 of the Development Management DPD and policy 3.6 of the London Plan 2011.

19. The dwellings hereby approved shall have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters.

Reason:

To encourage the efficient use of water in accordance with policies DM02 of the Development Management DPD (2012) and 5.15 of the London Plan 2011.

20. The development hereby permitted shall not commence unless and until a Drainage Strategy detailing all on and off site drainage works to be carried out in respect of the development hereby approved and all Sustainable Urban Drainage System features to be included in the scheme has been submitted to and approved in writing by the Local Planning. No foul, surface or ground water shall be discharged from the development hereby approved into the public sewer system until the drainage works and Sustainable

Urban Drainage System features identified in the approved Drainage Strategy have been implemented in their entirety.

Reason:

To ensure that the development provides appropriate drainage infrastructure and to comply with policy CS13 of the Barnet Local Plan and policies 5.13 and 5.14 of the London Plan.

21. The only toilets to be installed in the development hereby approved shall be dual flush (6 to 4 litres) toilets and all taps fitted in the development shall be spray or flow restricted taps.

Reason:

To encourage the efficient use of water in accordance with policy CS13 of the Barnet Local Plan and policy 5.15 of the London Plan.

22. Notwithstanding the details shown on the plans submitted and otherwise hereby approved prior to the commencement of the development (other than for Groundworks and Site Preparation Works) full details, including annotated scaled plans, of all proposed boundary treatments, walls, fencing, gates or other means of enclosure to be erected at the site (both to enclose the site and to divide areas within the site) shall have been submitted to the Local Planning Authority and approved in writing. The development shall be implemented in full accordance with the approved details prior to the first occupation of the dwellings hereby approved and be permanently retained as such thereafter.

Reason:

To ensure that the development protects the amenities of the occupiers of neighbouring and future properties, provides a safe and secure environment and to protect the character and visual amenities of the site and wider area in accordance with policies CS5 and DM01 and DM02 of the Barnet Local Plan and policies 1.1, 7.3, 7.4, 7.5 and 7.6 of the London Plan.

23. 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.

24. Prior to the first occupation of the dwellings hereby approved full plans, details and specifications of all external lighting to be installed as part of the development shall be submitted to the Local Planning Authority and approved in writing. The development shall be implemented in full accordance with the approved details prior to the first occupation of the development.

Reason:

To ensure that appropriate lighting is provided as part of the development in accordance with policy DM01 of the Barnet Local Plan and policy 7.13 and 5.3 of the London Plan.

25. Notwithstanding the details shown in the plans submitted and otherwise hereby approved prior to the first occupation of the dwellings hereby granted consent details of the security and crime prevention measures to be included within the development shall be submitted to and approved in writing by the Local Planning Authority. The information submitted in this respect shall include (but not be limited to) details in relation to:
- The postal arrangements for communal entrances.
 - The measures to be used to prevent unauthorised access to the undercroft parking areas.
 - The means of enclosing the site.
 - The contribution that the landscaping of the site can make to security and crime prevention.
- The development shall be implemented in full accordance with the approved details prior to the first occupation of the development.

Reason:

To ensure that appropriate security and crime prevention measures are provided as part of the development in accordance with policy DM01 and DM02 of the Barnet Local Plan and policy 7.13 of the London Plan.

- 26 Car and cycle parking spaces (with the exception of parking spaces along the northern boundary of the site subject to condition 39) shall be provided in accordance with the drawings listed in condition 1 pursuant to this consent. Thereafter, the parking spaces shall be used only as agreed and not be used for any purpose other than the parking and turning of vehicles in connection with 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 policies DM17 of the Adopted Barnet Development Management Policies DPD (2012) and 6.1, 6.2 and 6.3 of the London Plan 2011.

- 27 No development shall take place until a 'Demolition & Construction Method Statement' has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall provide for: access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution. Throughout the construction period the detailed measures contained within the approved Statement shall be strictly adhered to.

Reason:

In the interests of highway safety and good air quality in accordance with Policy DM17 and DM04 of the Adopted Barnet Development Management Policies DPD (2012) and policy 5.21 of the London Plan (2011).

- 28 For every five parking spaces provided, one parking space should have provision or be future proofed to provide a suitable electrical charging point.

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 policies 6.13 of the London Plan (2011) and Policy DM17 of Barnet's Local Plan (Development Management Policies).

29

Part 1

Before development commences other than for investigative work:

- a. A desktop study shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected, given those uses, and other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. The desktop study and Conceptual Model shall be submitted to the Local Planning Authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority.
- 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

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 policies DM04 of the Adopted Barnet Development Management Policies

- 30 A noise assessment, by an approved acoustic consultant, shall be carried out that assesses the likely impacts of noise on the development. This report and any measure to be implemented by the developer to address its findings shall be submitted in writing for the approval of the Local Planning Authority before the development commences. The approved measures shall be implemented in their entirety before any of the units are occupied.

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 policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 31 The level of noise emitted from any 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 Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 32 Before development commences, a report should be carried out by a competent acoustic consultant and submitted to the Local Planning Authority for approval, that assesses the likely noise impacts from the development of the ventilation/extraction plant. The report shall also clearly outline mitigation measures for the development to reduce these noise impacts to acceptable levels.

It should 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 contents and recommendations. The approved measures shall be implemented in their entirety before (any of the units are occupied / the use commences).

Reason:

To ensure that the amenities of neighbouring premises are protected from noise from the development in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 33 A scheme for acoustic fencing between the site and Golders Green Depot shall be submitted in writing and approved by the Local Planning Authority prior to development. This scheme shall be fully implemented before the development hereby permitted is brought into use.

Reason:

To ensure that the proposed development does not prejudice the enjoyment of the occupiers of their home(s) in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 34 The development shall be constructed / adapted so as to provide sufficient air borne and structure borne sound insulation against internally / externally generated noise and vibration. This sound insulation shall ensure that the levels of noise generated from the (specified use) as measured within habitable rooms of the development shall be no higher than 35dB(A) from 7am to 11pm and 30dB(A) in bedrooms from 11pm to 7am.

A scheme for mitigation measures shall be submitted to and approved by the Local Planning Authority prior to development. The approved mitigation scheme shall be implemented in its entirety before any of the units are occupied.

Reason:

To ensure that the proposed development does not prejudice the amenities of occupiers of the residential properties in accordance with policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

- 35 Development shall not begin until a scheme for protecting the proposed development from vibration, has been submitted to and approved by the Local Planning Authority. The vibration protection scheme include such combination of land separation, vibration control techniques and other measures, as may be approved by the Local Planning Authority, in the light of current guidance on vibration levels. The said scheme shall include such secure provision as will ensure that it endures for so long as the development is available for use and that any and all constituent parts are repaired and maintained and replaced in whole or in part so often as occasion may require. The relevant parts of the approved mitigation scheme shall be implemented before each of the units is occupied.

Reason:

To ensure that the amenities of occupiers are not prejudiced by rail and / or road traffic vibration in the immediate surroundings.

- 36 Before the development hereby permitted commences, details of the following shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

- a. details of dormer windows
- b. details of chimney stacks
- c. details of eaves
- d. details of parapets
- e. details of balconies
- f. details of doors including garage doors
- g. details of door canopies
- h. details of window aprons and heads
- i. details of tile creasing

- j. details of rainwater goods
- k. details of boiler flues and other extract/intake terminals
- l. details of roof ventilation
- m. details of gates
- n. details of signage and lighting

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 DM01 and DM06 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012) and 1.1, 7.4, 7.5 and 7.6 of the London Plan 2011.

- 37 Before house 2 hereby permitted is occupied the proposed first floor windows facing Waterlow Court shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

Reason:

To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

- 38 Before house 1 hereby permitted is occupied the proposed second floor window facing Waterlow Court shall be glazed with obscure glass only and shall be permanently retained as such thereafter and shall be permanently fixed shut with only a fanlight opening.

Reason:

To safeguard the privacy and amenities of occupiers of adjoining residential properties in accordance with policy DM01 of the Adopted Barnet Development Management Policies DPD (2012).

- 39 Before development hereby permitted is occupied details of the parking spaces located along the northern boundary of the site 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 policies DM17 of the Adopted Barnet Development Management Policies DPD (2012) and 6.1, 6.2 and 6.3 of the London Plan 2011

INFORMATIVE(S):

1. i) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice

service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.

ii) In this case, formal pre-application advice was sought prior to submission of the application.

2. Highways informatives:

The applicant is advised that prior to any alteration to the public highway (including pavement) will require consent of the local highways authority. You may obtain an estimate for this work from the Chief Highways Officer, Building 4, North London Business Park (NLBP), Oakleigh Road South, London N11 1NP.

Any provision of a new crossover or modification to the existing crossovers will be subject to detailed survey by the Crossover Team in Environment and Operations, Crossover Team as part of the application for crossover under Highways Act 1980 and would be carried out at the applicant's expense. An estimate for this work could be obtained from London Borough of Barnet, Environment and Operations, Crossover Team, NLBP, Building 4, 2nd Floor, Oakleigh Road South, London N11 1NP

Refuse collection points should be located within 10 metres of the Public Highway; otherwise, unobstructed access needs to be provided for the refuse vehicle on the day of the collection. The development access needs to be designed and constructed to allow refuse vehicles to access the site. Alternatively, the dustbins will need to be brought to the edge of public highways on collection days. Any issues regarding refuse collection should be referred to the Cleansing Department.

Any details submitted in respect of the Construction Management Plan above shall control the hours, routes taken, means of access and security procedures for construction traffic to and from the site and the methods statement shall provide for the provision of on-site wheel cleaning facilities during demolition, excavation, site preparation and construction stages of the development, recycling of materials, the provision of on-site car parking facilities for contractors during all stages of development (Excavation, site preparation and construction) and the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials and a community liaison contact.

3. Demolition should be carried out by an approved contractor and residents notified at least seven days before commencement.

4. Any development or conversion which necessitates the removal, changing, or creation of an address or addresses must be officially registered by the Council through the formal 'Street Naming and Numbering' process.

The Council of the London Borough of Barnet is the Street Naming and Numbering Authority and is the only organisation that can create or change addresses within its boundaries. Applications are the responsibility of the developer or householder who wish to have an address created or amended.

Occupiers of properties which have not been formally registered can face a multitude of issues such as problems with deliveries, rejection of banking / insurance applications, problems accessing key council services and most importantly delays in an emergency situation.

Further details and the application form can be downloaded from: <http://www.barnet.gov.uk/naming-and-numbering-applic-form.pdf> or requested from the Street Naming and Numbering Team via email: street.naming@barnet.gov.uk or by telephoning: 0208 359 7294.

5. Applicants and agents are encouraged to sign up to the Considerate Contractors Scheme (www.ccscheme.org.uk) whereby general standards of work are raised and the condition and safety of the Borough's streets and pavements are improved.
6. Any and all works carried out in pursuance of this consent / notice will be subject to the duties, obligations and criminal offences contained in the Wildlife and Countryside Act 1981 (as amended). Failure to comply with the provisions of the Wildlife and Countryside Act 1981 (as amended) may result in a criminal prosecution.
7. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.
8. Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 8507 4890 or by emailing wwqriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.
9. 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. Your planning

application has been assessed at this time as liable for a £283,990 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 £872,100 payment under Barnet CIL.

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.

If affordable housing or charitable relief applies to your development 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 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 Community Infrastructure Levy 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: cil@barnet.gov.uk.

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

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

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

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

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

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

The council's supplementary planning document on Sustainable Design and Construction requires that dwellings are designed and built to insulate against external noise so that the internal noise level in rooms does not exceed 30dB(A) expressed as an Leq between the hours of 11.00pm and 7.00am, nor 35dB(A) expressed as an Leq between the hours of 7.00am and 11.00pm (Guidelines for Community Noise, WHO). This needs to be considered in the context of room ventilation requirements

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

The assessment and report on the noise impacts of a development should use methods of measurement, calculation, prediction and assessment of noise levels and impacts that comply with the following standards, where appropriate: 1) BS 7445 (1991) Pts 1, 2 & 3 (ISO 1996 pts 1-3) - Description and & measurement of environmental noise; 2) BS 4142:1997 - Method of rating industrial noise affecting mixed residential and industrial areas; 3) BS 8223: 1999 - Sound insulation and noise reduction for buildings: code of practice; 4) Department of transport: Calculation of road traffic noise (1988); 5) Department of transport: Calculation of railway noise (1995); 6) Department of transport : Railway Noise and insulation of dwellings.

RECOMMENDATION III

That if an agreement has not been completed by 31 January 2014, that unless otherwise agreed in writing, the Assistant Director of Planning and Development Management should REFUSE the application F/01319/12 under delegated powers for the following reasons:

1. The development does not include a formal undertaking to secure the necessary affordable housing contributions and the associated monitoring costs which would be incurred by the community as a result of the development; contrary to Policies CS4, CS10 and CS11 of the Local Plan Core Strategy DPD (Adopted) 2012 and DM10 of the Local Plan Development Management Policies DPD (Adopted) 2012; and the adopted Supplementary Planning Documents "Affordable Housing" and "Planning Obligations".

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

The Mayor's London Plan: July 2011

- Policy 3.3 – Increasing Housing Supply
- Policy 3.4 – Optimising Housing Potential
- Policy 3.5 – Quality and Design of Housing Developments
- Policy 3.8 – Housing Choice
- Policy 3.9 – Mixed and Balanced Communities
- Policy 3.10 – Definition of Affordable Housing
- Policy 3.11 – Affordable Housing Targets
- Policy 3.12 – Negotiating Affordable Housing on Individual Private Residential and Mixed Use Schemes
- Policy 3.13 – Affordable Housing Thresholds
- Policy 3.14 – Affordable Housing Thresholds
- Policy 3.19 – Sports facilities
- Policy 5.2 – Minimising carbon dioxide emissions
- Policy 5.3 – Sustainable design and construction
- Policy 5.14 – Water quality and wastewater infrastructure
- Policy 5.15 – Water use and supplies
- Policy 6.12 – Road network capacity
- Policy 6.13 – Parking
- Policy 7.1 – Building London's Neighbourhoods and Communities
- Policy 7.2 – An Inclusive Environment
- Policy 7.3 – Designing Out Crime
- Policy 7.4 – Local Character
- Policy 7.6 – Architecture
- Policy 7.14 – Improving air quality

Core Strategy Policies 2012

- Policy CS 1 Barnet's Place Shaping Strategy – The Three Strands Approach
- Policy CS 3 Distribution of growth in meeting housing aspirations
- Policy CS 4 Providing quality homes and housing choice in Barnet
- Policy CS 5 Protecting and Enhancing Barnet's character to create high quality places
- Policy CS 9 Providing safe, effective and efficient travel
- Policy CS13 Ensuring the efficient use of natural resources
- Policy CS14 Dealing with our waste
- Policy CS 15 Delivering the Core Strategy

Development Management Policies 2012

- DM01 Protecting Barnet's character and amenity
- DM02 Development standards
- DM03 Accessibility and inclusive design
- DM04 Environmental considerations for development
- DM06 Barnet's Heritage and Conservation

- DM08 Ensuring a variety of sizes of new homes to meet housing need
- DM10 Affordable housing contributions
- DM13 Community and education uses
- DM16 Biodiversity
- DM17 Travel impact and parking standards
- DM18 Telecommunications

Local Supplementary Planning Documents (SPDs):

- Planning Obligations (2013)
- Residential Design Guidance (2013)
- Sustainable Design and Construction (2013)
- Affordable Housing (updated 2010)
- Hampstead Garden Suburb Character Appraisal (2010)

Strategic Supplementary Planning Documents and Guidance:

- Accessible London: Achieving an Inclusive Environment
- Wheelchair Accessible Housing (September 2007)
- Planning for Equality and Diversity in London (October 2007)
- All London Green Grid (March 2012)
- Shaping Neighbourhoods: Play and Informal Recreation (September 2012)
- Mayor Housing SPD

Relevant Planning History:

Application Number: C01684L
Application Type: Full Application
Decision: Approve
Decision Date: 09/01/1974
Proposal: **Transfer of tennis club from land adjoining Wellgarth Road**

Application Number: C01684M
Application Type: Full Application
Decision: Approve
Decision Date: 05/06/1974
Proposal: **Details of tennis clubhouse pursuant to outline approval.**

Application Number: C01684S
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 25/02/1976
Proposal: **Construction of new tennis club building, incorporating club room, changing room and groundsman's accommodation with associated parking provision.**

Application Number: C01684AK
Application Type: Full Application
Decision: Refuse
Decision Date: 06/01/1988
Proposal: **Inflatable airdome over two tennis courts**

Application Number: C01684BB/04
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 07/06/2005
Proposal: **Installation of flood-lighting to court 2.**

Application Number: F/02283/09
Application Type: Full Application
Decision: Not yet decided
Decision Date: Not yet decided
Proposal: **Installation of 12 floodlights to tennis courts 1, 7 and 8 (3 floodlights to court 1 and 5 floodlights to courts 7 and 8).**

Consultations and Views Expressed:

Neighbours Consulted: 234
Replies: 85
Neighbours Wishing To Speak 14

The 80 objections raised may be summarised as follows:

Amenity:

- Excessive height and scale
- Excessive density resulting in noise and disturbance
- Impact on views from Waterlow Court
- Overlooking and loss of privacy to properties on Reynolds Close, Waterlow Court and The Bungalow
- Loss of light
- Noise and fumes at night
- Impact on the garden of The Bungalow
- Inadequate provision of screening between the site and the Hampstead Garden Suburb Conservation Area
- Noise from traffic affecting properties on Britten Close
- A gate should not be allowed at the entrance of the development as it could result in noise
- Disturbance during construction caused by excessive working hours
- Poor amenity for future occupiers due to proximity of phone mast, vibration and pollution

Character:

- Inappropriate use for the area
- Overdevelopment of the site
- Impact on Hampstead Garden Suburb Conservation Area generally
- Impact on the setting of listed buildings within the Hampstead Garden Suburb Conservation Area including buildings on Reynolds Close, Waterlow Court and The Bungalow
- Excessive height, scale and poor appearance
- Loss of environmental character
- Impact on views from Hampstead Heath

Highways:

- New and dangerous traffic patterns
- Risk of accidents
- Dangerous increase in traffic
- Visitor parking should be relocated
- Insufficient number of parking spaces
- Disturbance during construction caused from traffic

Other matters:

- The relocated club is too far from its existing location
- Loss of community facility
- Effect on nature conservation
- Accuracy of the information submitted including misleading information and inaccurate comparative sections, ground levels and views
- Applicant failed to identify all heritage assets
- Increased floodlighting
- Luxury housing not catering for working people
- Health and safety due to access by London Underground

General comments part of the objection letters:

- Trees screening should be retained
- Trees should not be pruned
- Reduction in the height of the proposed block of flats is welcome
- No objection if the top floor was removed
- Support the provision of housing in principle

The Hampstead Garden Suburb Residents Association has objected on the following grounds:

- Impact on Conservation Area including Waterloo Court and The Bungalow
- Impact on the setting of Reynolds Close and 150 adjacent residents
- Loss of privacy and overlooking
- The tennis club should contribute towards the refurbishment of nearby play areas

The Waterlow Court Residents Association has objected on the following grounds:

- Impact on the setting of Waterlow Court
- Impact on The Bungalow
- Appreciate the efforts of the developer to build environmentally friendly buildings that fit in with their surroundings
- Height of development is excessive
- Level views are inaccurate

The Reynolds Close Residents Association has objected on the following grounds:

- Impact on the setting of Reynolds Close and the Hampstead Garden Suburb Conservation Area

Mike Freer MP has objected on the following grounds:

- Impact on Conservation Area and the setting of listed buildings
- Overlooking and loss of privacy

The Hampstead Garden Suburb Trust has no in-principle objection but has recommended amendments (when compared to the first scheme):

- Concern about height of block of flats – a reduction would minimise the impact of the development on the Conservation Area and setting of buildings
- Relayed Reynolds Close and Waterlow Court residents' concerns
- Adequate planting along the boundary with the Conservation Area should be provided
- All existing boundary trees should be retained and not harmed during construction

The Trust wrote a second letter and has reiterated the positive nature of the amendments to the scheme but also raised concerns with the screening between the site and Reynolds Close which they consider should be planted. The report addresses those issues in detail and landscaping conditions have been recommended.

Comments can be summarised as follows:

The London Parks and Garden Trust wrote to advise that Waterlow Court has opened as part of the Trusts Open Garden Squares and that the Council should carefully consider the setting and character of Waterlow Court.

The Hertfordshire Gardens Trust and Association of Gardens Trusts wrote to advise that the Council should consider the impact that the proposed density, layout and design would have on the setting and character of Waterlow Court.

The Council should have regard to construction traffic

The 2 supporting letters can be summarised as follows:

- The design is sensitive to the surrounding built environment
- Every effort has been made by the developer to consult
- Objections from the Waterlow Court Residents Association does not necessarily reflect the opinions of all Waterlow Court residents

Internal /Other Consultations:

- Urban Design & Heritage – No objection raised
- Traffic & Development – No objection raised
- Transport for London – No objection
- Environmental Health – No objection raised
- Trees and Landscape – No objection raised subject to planning conditions
- Thames Water – No objection

Date of Site Notice: 03 May 2012

This application was originally on the agenda of the December 2013 meeting. As a consequence of a number of residents being unable to attend the meeting, Councillor John Marshall, Ward Councillor for Garden Suburb moved that the item be deferred to award them the opportunity to do so. Councillor Jack Cohen seconded the deferral. The Committee RESOLVED TO DEFER the application to the next appropriate meeting of the Committee.

2. MATERIAL CONSIDERATIONS

Site description:

The application site is a tennis club located at the end of Chandos Way which is a cul de sac accessed from Wellgarth Road. The site has relatively good access to public transport and local amenities located in nearby Golders Green town centre.

The site has an area of 0.95 hectares and currently consists of eight full sized tennis courts of which two are covered, two mini courts and a club house. 45 car parking spaces are currently provided at the south-eastern corner of the site.

Transport for London (TfL) has a secondary vehicular access to their train depot that runs along the south western boundary of the site. TfL require this access to be maintained.

The site is bordered by tube tracks operated by TfL to the east and south, four-storey apartment blocks on Chandos Way to the west and residential properties on Reynolds Close, Waterloo Court and Corringway to the north.

Properties on Reynolds Close, Waterloo Court and Corringway are located within the Hampstead Garden Suburb Conservation Area and the boundary of the conservation area runs along the north of the site. No part of the site is located within the conservation area. Waterloo Court is a Grade II* listed building, properties on Reynolds Close are grade II listed buildings and properties on Corringway closest to the site have no specific designation.

There is a group of mature trees separating the site from the conservation area. Whilst none of the trees on site are protected by a Tree Preservation Order (TPO), a number of trees within the conservation area are. Some of the protected trees have branches and roots overhanging or within the application site.

The club was established in 1977 as a private members club. The club's lease on the land expires in 2018 and the applicant has advised that the club wishes to ensure that it will have longer term security of tenure, and that there is necessary investment in the facilities to the long term benefit of its members.

Proposals:

The proposal seeks planning permission for the demolition of the existing buildings and structures and the construction of 45 self-contained units with associated car parking, cycle storage, amenity space, landscaping.

The residential accommodation is proposed to be set out as follows:

- 6 two storey detached houses to the north of the site
- 39 apartments in a three/four storey U-shaped building to the south of the site

The houses have been individually designed in the Arts and Craft style commonly found in the nearby Hampstead Garden Suburb Conservation Area. Five of the houses provide two levels of accommodation, and the sixth house (Plot 1) provides additional habitable space in the roof. Each house is set within a private garden and has access to private on site car parking.

The 39 apartments are split into 14 two-bedroom flats and 25 three-bedroom flats. Whilst the building is more contemporary in design than the houses, it has been inspired by features found in the Arts and Crafts buildings found in the nearby Hampstead Garden Suburb Conservation Area. Parking and refuse facilities are provided within a basement accessed via car lifts. Most ground floor units have access to private amenity space and some upper floor flats have access to private balconies. A central courtyard provides additional amenity space including an area identified as Children Play Space.

The application has been the subject of extensive pre-application discussions detailed in the Design Development section of the Design and Access Statement forming part of the applicant's submission.

Early proposals included 9 houses and 2 five storey blocks of flats. The scheme evolved over a number of pre-application meetings including a consultation with Urban Design London.

Changes to the scheme since submission:

During the course of the planning process both at pre-application and application stage, the scheme has undergone statutory consultation and additional consultation undertaken by the applicant with residents and local groups. This has resulted in a number of comments and suggestions, to which the applicant has responded. Two main sets of revisions have occurred to the scheme since its submission in April 2012.

The first round of consultation responses from residents and the Council's Highway Officers prompted the following revisions, submitted in September 2012:

- Reduction in height of the northern wing of the apartment block by one storey, to reduce the visual impact as viewed from the Hampstead Garden Suburb Conservation Area;
- Reduction in floor area of two duplexes in the northern wing to create apartments, to accommodate the change in height;
- Removal of balconies and juliet balconies at roof level of the apartments;
- Minor changes to the gradient of the basement car park ramp;
- Minor changes to the road layout following tracking updates; and
- Minor detail changes to the houses and apartments, including chimneys, balconies, windows and dormers.

The second round of consultation on this revised scheme prompted further comment from Transport for London (TfL), which currently has access through the site in order to access the railway sidings to the south. These revisions, submitted in August 2013, involved the following:

- Re-routing of the proposed TfL vehicular access back to the existing location along the eastern site boundary;
- Replacement of the basement car park ramp with two car lifts and a bicycle lift;
- Shifting of the apartment block by approximately 6.5m to the northwest of the site, but remaining the same distance from the northern site boundary, and a minor shift of the southern wing of the apartment block closer to the southern site boundary;
- Marginal shift of the houses closer together, with the house at Plot 3 staying in the same location;
- Minor internal layout revisions to three apartments on the southern wing of the apartment block to improve outlook for residents;
- Relocation of the sub-station to the eastern side of the apartment block, adjacent to the car lifts;
- Increase in size of three private gardens on the western side of the apartment block and relocation of 3 car parking spaces where the previously proposed TfL access is removed; and
- Improved boundary treatment along eastern site boundary, and along the south western site boundary between the houses and the railway sidings.

Relocation of the club / Loss of community facilities

Policy 3.16 of the London Plan relates to the “Protection and enhancement of social infrastructure”. The policy states that the net loss of such facilities must be resisted and increased provision sought.

The Council’s Core Strategy policy CS10 on Enabling Inclusive and Integrated Community Facilities and Uses aims to ensure that the Council provides the right community facilities for Barnet’s communities. The Council plans to protect existing community uses across the borough and to ensure that new facilities are in accessible locations.

The Core Strategy’s definition of community facilities includes (but is not restricted to) recreational and leisure uses which is considered to encompass the existing use on site.

The preceding text to policy DM13 states that protecting all community and education uses without exception could reduce the possibilities of developers or community use promoters coming forward with proposals to mix and/or intensify community uses or relocate them to more accessible locations.

Policy DM13 relates to community and education uses and states that the loss of community use will only be acceptable in exceptional circumstances where new community use of at least equivalent quality or quantity are provided on the site or at a suitable alternative location

The applicant proposes the relocation of the tennis club to a new site in East End Road which is the subject of planning application F/01320/12. The East End Road site is located within the same ward and would provide better facilities for existing and future members as well as the wider community. Members are referred to the committee report relating to planning application F/01320/12 for more details on how the club is proposed to operate on the new site as well as legal requirements to provide access to the wider community.

In order to ensure the delivery of the tennis club facility at East End Road as a prerequisite to development at the Chandos site subject to this application, a legal agreement is required to ensure that no development shall commence at Chandos Way before the tennis club at East End Road has been constructed and handed over to the tennis club. It is considered that the proposed loss of community facility on site will be compliant with policies details above subject to compliance with the legal agreement.

Principle of the residential use proposed

The Government is committed to maximising the re-use of previously developed land and empty properties to minimise the amount of green field land being taken for development. One of the chief objectives of the NPPF is to provide sufficient housing for future needs, ensuring that as many of the new homes as possible are built on previously developed land. The NPPF advocates the adoption of a sequential approach to selecting sites for housing to ensure that green field sites are used only when no appropriate sites exist inside urban areas. The sequential

approach identifies previously developed sites within urban areas as being the most suitable for development.

The site is previously developed land and therefore is sequentially preferable for residential development.

Policy CS5 states that the Council 'will ensure that development in Barnet respects local context and distinctive local character creating places and buildings of high quality design'. Policy DM01 requires that development proposals should be based on an understanding of local characteristics. Proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and that development makes a positive contribution to the borough. The development standards set out in Policy DM02: Development Standards are regarded as key for Barnet to deliver the highest standards of urban design.

Furthermore, the Residential Design Guidance SPD advises that the design and layout of new development should be informed by the local pattern of development. The continuity of building lines, forecourt depths, road layout, space about the building and rear garden areas are all likely to be significant factors when redeveloping sites within existing residential areas,

The principle of demolishing the existing buildings and structures is not considered objectionable. As explained above, the site is not within a conservation area and the buildings and structures have no particular architectural merit to warrant their retention.

London Plan policy 3.4 seeks to optimise the housing potential of sites with reference to the density matrix contained in Table 3.2 which provides a guide to appropriate density ranges for particular locations, depending on accessibility and character. The application site benefits from a PTAL of 2. It is considered to fall within a suburban setting as defined in the London Plan. The London Plan Density Matrix therefore suggests a range of 35 to 95 units per hectare and 150-250 habitable rooms per hectare. Taking the site area of 0.95 hectare, the proposal for 45 flats would equate to a density of 47 units per hectare (207 habitable rooms per ha).

Development plan policies require proposals to provide an appropriate range of dwelling sizes and types, taking account of the housing requirements of different groups. The Council's Local Plan documents (Core Strategy and Development Management Policies DPD) identify 3 and 4 bedroom units as the highest priority types of market housing for the borough.

The dwelling mix proposed, including 68% of the total dwellings which would have 3 or more bedrooms, is considered to include an appropriate range of dwelling sizes and types that would make a useful contribution to meeting the needs of the growing and diverse population of the borough.

Design, character and conservation matters:

The National Planning Policy Framework 2012 makes it clear that good design is indivisible from good planning and a key element in achieving sustainable development. This document states that permission should be refused for development which is of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. It identifies that good design involves integrating development into the natural, built and historic environment and also points out that although visual appearance and the architecture of buildings are important factors, securing high quality design goes beyond aesthetic considerations.

Local Plan policy DM01 states that all development should represent high quality design that is based on an understanding of local characteristics, preserves or enhances local character, provides attractive streets and respects the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets.

Local Plan policy DM06 of the Development Management Policies (Adopted) 2012 states that development proposals must preserve or enhance the character and appearance of 16 Conservation Areas in Barnet.

The preamble to policy DM06 states that if a site lies within a Conservation Area or is located nearby, planning permission will not be granted where development proposals neither preserves nor enhances the character or appearance of that area. Proposals will need to consider the Council's conservation area character appraisals and suite of Supplementary Planning Documents.

The London Plan also contains a number of relevant policies on character, design and landscaping. Policy 7.4 of the London Plan states that buildings, streets and open spaces should provide a high quality design response that has regard to the pattern and grain of the existing spaces and streets in orientation, scale, proportion and mass; contributes to a positive relationship between the urban structure and natural landscape features, including the underlying landform and topography of an area; is human in scale, ensuring buildings create a positive relationship with street level activity and people feel comfortable with their surroundings; allows existing buildings and structures that make a positive contribution to the character of a place to influence the future character of the area; and is informed by the surrounding historic environment.

Background to neighbouring Hampstead Garden Suburb Conservation Area

The Character Appraisal for the nearby conservation area is the Hampstead Garden Suburb Conservation Character Appraisal (2010).

The Supplementary Planning Document for the nearby conservation area is the Hampstead Garden Suburb Conservation Area Design Guidance (2010). The Council Guide 'Hampstead Garden Suburb Conservation Area Design Guidance' as part of the Hampstead Garden Suburb Character Appraisals was approved by the Planning and Environment Committee (The Local Planning Authority) in October 2010. This leaflet in the form of a supplementary planning guidance (SPG) sets out information for applicants on repairs, alterations and extensions to properties and works to trees and gardens. It has been produced jointly by the Hampstead Garden Suburb Trust and Barnet Council.

Hampstead Garden Suburb is one of the best examples of town planning and domestic architecture on a large neighbourhood or community scale which Britain has produced in the last century. The value of the Suburb has been recognised by its inclusion in the Greater London Development Plan, and subsequently in the Unitary Development Plan, as an “Area of Special Character of Metropolitan Importance”. The Secretary of State for the Environment endorsed the importance of the Suburb by approving an Article 4 Direction covering the whole area. The Borough of Barnet designated the Suburb as a Conservation Area in 1968 and continues to bring forward measures which seek to preserve or enhance the character or appearance of the Conservation Area.

The ethos of the original founder was maintained in that the whole area was designed as a complete composition. The Garden City concept was in this matter continued and the architects endeavoured to fulfil the criteria of using the best of architectural design and materials of that time. This point is emphasised by the various style of building, both houses and flats, in this part of the Suburb which is a ‘who’s who’ of the best architects of the period and consequently, a history of domestic architecture of the period of 1900 – 1939.

The choice of individual design elements was carefully made, reflecting the architectural period of the particular building. Each property was designed as a complete composition and design elements, such as windows, were selected appropriate to the property. The Hampstead Garden Suburb, throughout, has continuity in design of doors and windows with strong linking features, giving the development an architectural form and harmony. The front of the properties being considered of equal importance as the rear elevation, by the original architects, forms an integral part of the whole concept.

Assessment:

The buildings and spaces proposed in the application respond positively to the context of the site and are found to have an acceptable relationship with the neighbouring buildings, streets and spaces. This is achieved in a number of ways.

The layout of the proposals has been the subject of extensive pre-application discussions and it is considered that the provision of the block of flats and houses would respect the general pattern of development in this part of the Borough. The scale of the buildings would also be in keeping with the general grain of development here and provide a good transition between the larger scale flatted blocks on Chandos Way and the lower scale residential development of the Hampstead Garden Suburb Conservation Area.

As explained above, the site lies between the Hampstead Garden Suburb Conservation Area to the north and the Golders Green Town Centre Conservation Area to the south. To the north-east of the site, within the Hampstead Garden Suburb Conservation Area, are a large number of listed buildings, both houses and flats as follows:

- Reynolds Close by Parker and Unwin, grade II
- Heathcroft on Hampstead Way by JBF Cowper, listed grade II
- Waterlow Court by M.H Baillie Scott at Heath Close, grade II* listed
- Corringway by Parker and Unwin, listed grade II

These buildings were constructed between 1908 and 1924. The existing tennis club site does not feature any buildings of merit and consequently, no objection is raised to the removal of the existing buildings/structures on the site.

The design of the residential buildings proposed on the Wellgarth Road site have been directly influenced by the Arts and Crafts architecture of the historic buildings on the adjoining sites within the Hampstead Garden Suburb Conservation Area. The original scheme included a flatted development of 5 storeys in a modern style, with 8 detached houses of a traditional style, although this proposal was considered to be unacceptable. Subsequently, the scale, siting and design of both the flatted block and the detached houses were revised following discussions with officers and a public consultation exercise. Further modifications were made to the scheme including removal of one storey from the north east wing of the apartment block, to prevent overlooking.

The current proposed C-shaped apartment block, in the south of the site, rises between 3 and 4 storeys with a steeply pitched roof, staircase towers, gabled entrances, dormer windows and tall chimney stacks. It has a central courtyard garden with amenity space, seating and water feature. Balconies are provided to those flats facing south-west. Basement level parking (40 spaces) for the apartments is provided below the courtyard with two car lifts and a bicycle lift providing access, close to the site entrance. Refuse will be stored in the basement and moved to the site entrance on collection day by the management company.

The six detached houses are of traditional design, two storeys in height (one with additional habitable roof space) with gable ends, steep pitched roofs and tall chimney stacks. The detailing on the houses is reminiscent of detailing on Hampstead Garden Suburb houses and includes the use of decorative brickwork laid in an English bond, tile creasing, sprocketed eaves, bonnet tiling and cast iron rainwater goods. The houses are sited on either sides of a central access road and each has a front and rear garden. Surface level car parking spaces and garages are provided for the individual houses. Evergreen hedges and brick walls define the site boundaries.

The type and quality of windows used both on the flats and the houses will be critical to the success of the development. Consequently, a condition is recommended to require the submission of window samples before construction starts on site. The use of good quality facing materials including handmade brick and clay tiles will be of equal importance. Attention to the detailing of architectural features such as chimneys, eaves/parapets, door canopies, window aprons etc, and the use of high quality hard and soft landscaping will also be essential and those matters are also recommended to be conditioned.

Although the site is not within a conservation area, it adjoins the boundaries of both Hampstead Garden Suburb and Golders Green Town Centre conservation areas. A Heritage Impact Assessment has been prepared by the applicant to consider the impact on the conservation areas and the listed buildings within the Hampstead Garden Suburb Conservation Area. This included an assessment of the impact of the proposed development on a number of views from different positions outside the site. A series of wire-line and photo-montage views have been undertaken in accordance with established non-statutory guidance. The conclusions reached were that although the development would be visible in certain views, it would not detract from the significance of those heritage assets, and in particular the listed buildings

and their garden settings at Reynolds Close and Waterlow Court. The presence of an established tree screen along the boundary between the site and Hampstead Garden Suburb helps to mitigate any visual impact. Taking account of the submission material and following detailed officer assessment and analysis, the Urban Design and Heritage team have advised that they have no reason to disagree with the findings in the heritage impact assessment and that they consider that the proposed development would not harmfully affect the significance of the heritage assets within the Hampstead Garden Suburb Conservation Area.

Assessment specific to Waterlow Court and buildings on Reynolds Close

Following their initial advice, the Urban Design and Heritage team have provided supplementary comments in relation to the Waterlow Court and buildings on Reynolds Close. The proposed re-development of the tennis club site will introduce new residential buildings on land that is presently open. Consequently, this new built form will be evident in some views from the listed buildings at Waterlow Court and Reynolds Close, and also from their gardens. The bank of mature trees close to the boundary between the two sites will, however, limit any visual impact, particularly in summer months when the trees are in leaf. In terms of the impact on the setting of the listed buildings, the proposed development of flats and houses is considered to be sufficiently far away so as not to be harmful. At its closest point to Waterlow Court, house 2, which is the nearest of the six houses to the listed building, would be some 26.8m away. At its closest point, the new flatted block would be over 47m from No.16 Reynolds Close, which is the closest in the group of listed houses and over 33m from the Bungalow, which is physically linked to Waterlow Court. The modest scale of the proposed development and the distance to the listed buildings does not give rise to concerns about an adverse impact on their setting. It should also be recognised that the design of the new buildings has been well-considered to be respectful of its conservation area setting and its listed neighbours. In accordance with paragraph 132 of the NPPF, the significance of the listed buildings will not be harmed or lost as a result of the proposed development. Furthermore, there is an existing two tennis court canopy cover that occupies a central position within the site. This, unlike that proposed at East End Road, is an 'off the shelf' structure that has no architectural merit, whilst being very visible from adjoining residential buildings. The proposals would result in the removal of this feature and replacement with lower rise structures.

In summary, officers consider that the size, scale, siting and design of the buildings and layout of the scheme proposed are such that they would adequately respect the character of the surrounding area including the Hampstead Garden Suburb Conservation Area and Golders Green Town Centre Conservation Area. The scheme would make effective and efficient use of previously developed land. The overall design quality of the development responds to the site context. The proposal is therefore considered to comply with the relevant design policies set out above.

Impacts on amenities of neighbouring and surrounding occupiers and users:

Local Plan policies seek broadly to promote quality environments and protect the amenity of neighbouring occupiers and users through requiring a high standard of design in new development. More specifically policy DM01 states that proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers and users. Policy DM04 identifies that proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted.

Barnet's Residential Design Guidance Supplementary Planning Document provides further guidance on safeguarding the amenities of neighbouring and surrounding occupiers and users. This includes stating that there should be a minimum distances of about 21m between properties with facing windows to habitable rooms and 10.5m to a neighbouring garden, in order to avoid overlooking in new developments.

Overlooking, Privacy and Outlook

The nearest existing residential properties to the application site are flats within Chandos Way, Corringway and Waterloo Court and houses on Reynolds Close.

The flatted block overall does not include windows to habitable rooms which directly face existing habitable windows in neighbouring residential buildings that are set apart a distance of less than 21 metres and distances from directly facing habitable windows in the development proposed to a neighbouring properties garden are not less than 10.5 metres.

Houses 1 and 2 have proposed windows facing Waterlow Court. The distance between those windows and the boundary of the site is less than the required 10.5 metres. In order to prevent unacceptable overlooking to the outdoor amenity area enjoyed by the residents of Waterlow Court, the window in question at house 2 has been changed to a high-level roof light, and a planning condition requiring the window at house 1 to be obscured glazed is recommended.

As conditioned, these parts of the proposal would therefore comply with planning policy in these regards. The position of the proposed terraces and balconies would also comply with overlooking standards.

The documents submitted with the application include extensive information showing the relationship of the proposed buildings with neighbouring properties and spaces that enable an assessment of the proposals on residential amenity. It is considered that the design, size and siting of the buildings are such that they would not have an unacceptable visual impact or result in any significant loss of outlook at neighbouring properties and spaces.

The applicant has submitted a sunlight and daylight assessment. Technical analysis was carried out in relation to properties located on Chandos Way, Waterlow Court and Reynolds Close and it confirms that the results of the daylight and sunlight study comply with BRE guidance.

The application is therefore considered to be acceptable and compliant with development plan policy in these regards.

Noise and Health

The residential dwellings proposed in the development are of a nature that would not be expected to generate unacceptably high levels of noise and disturbance to the extent that they would harm the amenities of the occupiers of neighbouring properties in the normal course of their occupation. The Council's Environmental Health Officer has no objection on this ground. The use of the new vehicular access point to the basement is also not anticipated to cause undue harm to the residential amenity of neighbouring occupiers.

A condition has been recommended to ensure that the construction of the development does not result in unacceptable levels of noise and disturbance. This includes the carrying out of the works in accordance with a Construction Management Plan that has been previously agreed with the Local Planning Authority. Subject to these conditions the proposal is considered to be acceptable in terms of the noise impacts.

Impacts from Lighting Associated with the Development

Policy DM01 of the Barnet Local Plan requires new lighting schemes to not impact upon amenity. A condition has been recommended requiring the implementation of the development in accordance with details of the external lighting installed as part of the development. Subject to this condition the proposal is considered to be acceptable and compliant with the objectives of policy in terms of preventing unacceptable lighting impacts from new development.

Conclusion

The proposed development is considered to be acceptable and compliant with the relevant development plan policies as they relate to the protection of the amenities of neighbouring and surrounding occupiers and users.

Standard of accommodation provided and amenities of future occupiers of the proposed units

Local Plan policies require high quality design in all new development that creates attractive places which are welcoming, accessible and inviting. Policy DM01 states that proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for potential occupiers. Policy DM02 identifies standards that development will be expected to meet in relation to a number of matters, including the internal floorspace of new dwellings, outdoor amenity space and play space. Policy DM04 states that buildings should be designed to minimise exposure to air pollutants. The same policy states that proposals to locate noise sensitive development in areas with high levels of noise will not normally be permitted and also that the mitigation of any noise impacts will be expected where appropriate.

The London Plan contains a number of policies relevant to the provision of adequate amenities for future occupiers of new dwellings. These include requirements to provide high quality indoor and outdoor spaces, set minimum internal space standards for different types of unit and seek accommodation which has an appropriate layout and meets the needs of its occupiers over their lifetime.

The Council's adopted supplementary planning documents (SPDs), Sustainable Design and Construction and Residential Design Guidance, and the Mayors adopted supplementary planning guidance, Housing, provide more detailed guidance on a range of matters related to creating new dwellings that have adequate amenities for their future occupiers.

The Residential Design Guidance SPD identifies that there should be a minimum distance of about 21m between properties with facing windows to habitable rooms and 10.5m to a neighbouring garden, in order to avoid overlooking in new developments.

Dwelling size

Table 3.3 in the London Plan provides a minimum gross internal floor area for different types of dwelling. All the proposed units comply with or exceed these minimum standards.

Dwelling outlook

Development plan policy requires that new dwellings are provided with adequate outlook. The design approach proposed is considered to maximize the outlook of occupiers of the new dwellings, while also taking account of the need to prevent unacceptable levels of overlooking at neighbouring properties. Most of the proposed flats would be dual aspect and would have appropriate fenestration throughout. There would be adequate setting space around each of the proposed buildings to ensure that outlook from the units would not be unduly constrained by other buildings or trees and the level of outlook provided would therefore be adequate for future occupiers of the development.

External amenity space provision

Barnet Local Plan policy DM02 and London Plan policy 3.6 state that proposals for dwellings should make provision for play and informal recreation based on the expected child population generated and an assessment of future needs.

The requirements for provision of play space in new development are defined by policy 3.6 of the London Plan and the London Mayor's Shaping Neighbourhoods: Play and Informal Recreation Supplementary Planning Guidance. London Plan policy 3.6 states that proposals for housing should make provision for play and informal recreation based on the expected child population generated and an assessment of future needs. All developments with an estimated child occupancy of ten children or more should seek to make appropriate play provision on site to meet the needs arising from the development. The benchmark standard of the SPG recommends a minimum of 10m² of dedicated play space per child as a basis for assessing existing provision within an area. The area for Childs Play identified on the submitted drawings fully meets the requirements of the SPG. Further details are required by planning condition.

Guidance in Barnet's Residential Design Guidance SPD sets out minimum standards for outdoor amenity space provision in new residential developments. Flats are expected to be provided with 5m² of usable outdoor communal or private amenity space per habitable room proposed. Houses of the size proposed are expected to be provided with 85m² of usable outdoor private amenity space. For both houses and flats kitchens over 13m² are counted as a habitable room and habitable rooms over 20m² are counted as two habitable rooms for the purposes of calculating amenity space requirements.

The provision of a mixture of private balconies, gardens and communal garden space would ensure that the flatted section of the development meets the minimum standards in the SPD. Most of the flats would also have private outdoor space, in the form of a balconies / roof terraces or small gardens, to meet the requirements in the Residential Design Guidance.

Each of the houses is set within plots which significantly exceed minimum requirements. The quality of the space provided is also considered acceptable.

The proposal is considered to be compliant with the objectives of planning policy on the provision of outdoor amenity space.

Privacy and overlooking

The distance between directly facing windows to habitable rooms in the new dwellings would not be less than 21m. The distance from a habitable room window to a directly facing private garden area within the development would not be less than 10.5m. Subject to the conditions recommended it is considered that the design and layout of the windows, doors and amenity areas in the proposal are such that the new residential units would all be provided with an acceptable level of privacy and not suffer unacceptable overlooking. The proposal is therefore found to be acceptable in this regard.

Noise and air quality

As explained above, there is an existing access to the TfL land that adjoins the site. This is a secondary access to its operational land and is only used occasionally. It is not, as a result, considered that the use of this access would be detrimental to residential amenity of future occupiers. Following the amended layout arrangements, the access road would be separated from the residential that would also be protected and screened by boundary wall to the rear of the flatted block.

The Council's Environmental Health Service considers the site to be suitable for residential use and has not raised any objection to the scheme. They have however, recommended the inclusion of planning conditions in relation to the protection of future occupiers of the development. The proposal is therefore found to be acceptable in respect of the noise and air quality environment that it would provide for the occupiers of the flats proposed.

Conclusions on the amenities of future occupiers

The scheme is found to be compliant with development plan policy as it relates to the amenities of the future occupiers of the dwellings proposed and the design approach is considered, for the reasons outlined above, to provide future occupiers with acceptable amenities.

Affordable Housing

London Plan Policy 3.12 requires the maximum reasonable amount of affordable housing to be sought when negotiating on individual residential schemes, having regard to:

- Current and future requirements for affordable housing at local and regional levels identified in line with policies 3.8, 3.10 and 3.11.
- Affordable housing targets adopted in line with Policy 3.11.
- The need to encourage rather than restrain residential development (Policy 3.3).
- The need to promote mixed and balanced communities (Policy 3.9).
- The size and type of affordable housing needed in particular locations.
- The specific circumstances of individual sites.

It suggests that negotiations on sites should take account of their individual circumstances including development viability, the availability of public subsidy and other scheme requirements. It also makes it clear that affordable housing should normally be provided on site and off site contributions to affordable housing will only be accepted in exceptional circumstances.

This approach is reflected in Local Plan policy DM10 which requires the maximum reasonable amount of affordable housing to be provided on site, subject to viability, having regard to a borough wide target that 40% of housing provision should be affordable. To explain and justify this position the applicant has submitted a confidential report which evaluates the economic viability of the proposed development making a contribution to affordable housing provision. The Council has then commissioned Deloitte to independently review the viability report provided and examine its findings.

The application proposes to deliver 19 Affordable Rented units at the Stonegrove redevelopment. These would comprise of:

- 9 x 2 bed flats
- 2 x 3 bed flats
- 5 x 3 bed houses
- 3 x 4 bed houses

Taking account of the costs associated with bringing the development forward, including the associated planning obligations and likely CIL payments, and the value that the applicant would be likely to generate from the scheme, Deloitte have concluded that the proposed contribution represents the maximum reasonable amount of affordable housing that it is financially viable for the development to provide.

While development plan policy identifies that an off site contribution to affordable housing provision will only be acceptable in exceptional circumstances, it has been shown (through the review of the scheme's viability) that in this instance the off site contribution proposed results in a greater contribution to affordable housing provision than an on-site approach would viably deliver.

For these reasons in this instance the proposed contribution to affordable housing is considered to be acceptable and compliant with the objectives of planning policies and the NPPF in regard to development viability.

Trees and Landscaping:

Policy DM01 identifies that proposals will be required to include hard and soft landscaping that:

- Is well laid out in terms of access, car parking and landscaping.
- Considers the impact of hardstandings on character.
- Achieves a suitable visual setting for buildings.
- Provides appropriate levels of new habitat including tree and shrub planting.
- Contributes to biodiversity including the retention of existing wildlife habitat and trees.
- Adequately protects existing trees and their root systems.
- Makes a positive contribution to the surrounding area.

The policy also states that trees should be safeguarded and when protected trees are to be felled the Council will, where appropriate, require replanting with trees of an appropriate size and species.

A number of objections have been raised with regards to the loss of tree screening between the site and the Hampstead Garden Suburb Conservation Area. All mature trees along this boundary would remain following completion of the development and they would be afforded sufficient protection during construction subject to the planning conditions listed above. The applicant's initial landscaping proposals have identified the position of new trees to be planted along this boundary and this matter is conditioned.

The application submission includes an Arboricultural Implications Assessment and an Arboricultural Survey. The documents identify all trees within and immediately adjacent to the site as well as measures to protect their roots, trunks and canopies during construction. The proposals have been designed to ensure that the construction of the buildings would not result in the removal of any tree of special amenity value. The proposed layout and position of habitable room windows in relation to tree canopies would not lead to unacceptable future pressure for treatment. The application has been reviewed by tree officers who raise no objection subject to planning conditions.

Conditions have been recommended to ensure that the trees and wider landscaping implemented as part of the proposal would be of a sufficient quality, including new trees of a suitable size and species. The conditions recommended also include requirements to ensure that appropriate measures are taken to protect the trees immediately adjacent to the application site. Officers take the view that adequate consideration has been given to trees in this instance.

More generally the indicative landscaping proposed for the site is considered to include an adequate balance of hard and soft surfaces, given the constraints of the scheme. Conditions have been recommended to ensure that the landscaping finally installed is of an appropriate quality and makes a positive contribution to the area.

It is concluded that the scheme provides adequate mitigation for the existing protected trees and other landscaping which would be lost as part of the works proposed and that the development is acceptable and compliant with policy in respect of tree and landscaping matters with the conditions recommended.

Transport, parking and highways matters:

Policy CS9 of the Barnet Core Strategy (Providing safe, effective and efficient travel) identifies that the Council will seek to ensure more efficient use of the local road network, seek more environmentally friendly transport networks, ensure that development is matched to capacity and promote the delivery of appropriate transport infrastructure. Policy DM17 (Travel impact and parking standards) of the Barnet Development Management Plan Document sets out the parking standards that the Council will apply when assessing new developments. Other sections of policies DM17 and CS9 seek that proposals ensure the safety of all road users and make travel safer, reduce congestion, minimise increases in road traffic, provide suitable and safe access for all users of developments, ensure roads within the borough are used appropriately, require acceptable facilities for pedestrians and cyclists and reduce the need to travel.

Major development proposals with the potential for significant trip generation will be expected to be in locations which are, or will be made, highly accessible by a range of modes of transport and supported by a Transport Assessment that fully assesses the transport implications of the development across all modes.

The parking provision of 65 car parking spaces in the revised scheme is unchanged since the first submission but the parking layout has been revised to take into consideration the amendments to access to the basement. 40 parking spaces are being provided in the basement of the flatted development and the rest of the parking spaces are being provided for the residential houses including 5 visitor parking spaces. Two of the visitors parking spaces by the planting on the access road within the development appears to be less than 6 metres in length therefore are sub standard therefore they need to be revised or relocated. 64 cycle parking spaces are also being provided in the basement with 2 dedicated lifts for cycle access.

The proposed parking provision is in accordance with the parking standards set out in the Barnet Local Plan (Development Management Policies DM17). In order to comply with London Plan policy, there is a requirement of 20% active and 20% passive Electrical Vehicle Charging Points that will need to be provided. A condition to this effect will be placed on the application.

The application was submitted in 2012 and has since been revised to take into account changes to the access arrangements as follows.

Revised Access arrangements:

Access to Golders Green Depot:

In order to maintain the vehicular entrance to the Golders Green Depot at its current location, it is proposed to provide a new vehicular access road to the south-east of the proposed apartment block building. To restrict access to the depot a line of electronically operated rising bollards will be installed.

Access to Basement Car Park:

In order to maintain access to the depot, previously proposed two-way access ramp to the basement car park has been replaced by 2 car lifts. Car park layout has also been amended to ensure that it operates acceptably. SKM Colin Buchanan, consultants appointed by the applicant undertook swept path analysis of a large car to and from the car lifts to demonstrate that it operates acceptably. 40 car parking spaces are still being provided as proposed before with the revised car park layout.

Access to Basement Cycle Store:

Dedicated cycle lift is provided adjacent to the car lifts. The cycle parking is revised to provide 64 cycle parking spaces.

Trip Assessment:

The Transport Statement (TS) was prepared by transport consultants SKM Colin Buchanan appointed by the applicant. They carried out traffic surveys to assess the impact of the existing use. To assess the likely impact of the proposed development on public highway they have used industry standard TRVL database. The following table summarises the results of their assessment.

Traffic Attraction	AM Peak (0800-0900)		PM Peak (1700-1800)		Daily	
	Arrival	Departure	Arrival	Departure	Arrival	Departure
Existing Use Tennis Club	7	1	8	13	119	118
Proposed Use Residential	2	7	5	4	54	51
Net Traffic Attraction	-5	+6	-3	-9	-65	-67

It can be seen from the table above that the proposed residential use is likely to generate less trips than the existing use of the site therefore the proposed development is unlikely to have any additional detrimental impact on public highway.

A number of objections have been received on highways grounds. Objections have been carefully reviewed by highways officers who have made the following comments:

New and dangerous traffic patterns

Traffic survey Data for the operation of the Tennis Club was included in the Transport Statement as part of the application submission. The surveys demonstrated the trip generation as shown in the table above. The table demonstrates the proposed development unlikely to have any additional detrimental impact on public highway.

Risk of accidents

Interrogation of the Council's personal Injury accident records for Chandos Avenue and Wellgarth Road in the vicinity of site has indicated that there have been no personal injury accidents in the last 3 years to 31 July 2013. Considering the proposed residential development is likely to generate fewer trips it is unlikely that this will result in increased accidents.

Dangerous increase in traffic

The assessment of trip generation carried out by the consultants for the proposed residential development when compared to the existing traffic flow has demonstrated that the traffic flow generated by the residential development is likely to be less.

Insufficient number of parking spaces

The parking provision for the proposed development is in accordance with the parking standards as set out in Barnet's Local Plan, Development Planning Policies approved in September 2012.

Disturbance during construction caused from traffic

A planning condition will be applied to the proposed planning application for the provision of a Construction Management Plan to ensure that the impact of the construction is minimised on public highway.

Creating inclusive environments for all members of the community:

Planning policies make it clear that new developments should be accessible, usable and permeable for all users. Statements should be submitted with proposals explaining how the principles of inclusive design have been integrated into the development for which consent is sought.

Policy requires all the proposed dwellings (houses and flats) to meet the relevant Lifetime Homes standards and also that more than 10% of the dwellings proposed to be designed to meet wheelchair accessible standards or be easily adaptable to meet such requirements. A sufficient number of parking spaces proposed would be provided to a disabled parking space standard.

Conditions have therefore been recommended to ensure that all the proposed dwellings would meet the relevant Lifetime Homes standards and not less than 10% of the dwellings proposed would meet (or be easily adapted to meet) wheelchair accessible standards. Subject to these controls and the requirements in place under other legislation officers conclude that the design and layout of the proposal is such that it is acceptable in terms of creating a development that is accessible, useable, permeable and inclusive for all members of the community.

Flooding and water infrastructure matters:

The application site is located within Flood Risk Zone 1 which is classified as an area identified as being at risk of flooding. The submission of a Flood Risk Assessment is not required by the Environment Agency for site of less than 1 hectare in area within zone 1.

A condition has been recommended to ensure that suitable drainage infrastructure is implemented as part of the development proposed. Conditions are also recommended to ensure that water use by the development is minimised. Subject to these conditions the development is not objectionable in this respect.

Energy, climate change, biodiversity and sustainable construction matters:

London Plan Policy 5.2 requires development proposals to make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

- Be lean: use less energy
- Be clean: supply energy efficiently
- Be green: use renewable energy

Residential developments are currently required to achieve a 25% reduction in carbon dioxide emissions when compared to the 2010 Building Regulations. Policy 5.3 of the London Plan goes on to set out the sustainable design and construction measures required in developments. Proposals should achieve the highest standards of sustainable design and construction and demonstrate that sustainable design standards are integral to the proposal, including its construction and operation.

Local Plan policy DM01 states that all development should demonstrate high levels of environmental awareness and contribute to climate change mitigation and

adaptation. Policy DM04 requires all major developments to provide a statement which demonstrate compliance with the Mayor's targets for reductions in carbon dioxide emissions, within the framework of the Mayor's energy hierarchy. Proposals are also expected to comply with the guidance set out in the council's Supplementary Planning Documents (SPD) in respect of the requirements of the Code for Sustainable Homes. The council's adopted Sustainable Design and Construction SPD provides that schemes such as this should achieve Code Level 4 or above against the Code for Sustainable Homes.

Carbon dioxide emissions

The application is accompanied by a Sustainability Statement which includes an Energy Statement and Code for Sustainable Homes Pre-Assessment. The Sustainability Statement includes an assessment of the options considered under the Mayor's hierarchy. This document sets out the applicant's commitment to achieving level 4 under the Code for Sustainable Homes. As part of reaching this level under the Code for Sustainable Homes the dwellings proposed will need to achieve an improvement of 25% over the Target Emission Rate under the 2010 Building Regulations. Such an improvement is adequate for the scheme to comply with the requirements of policy on reductions in carbon dioxide emissions. A condition has been recommended to ensure that the development achieves Code Level 4 and this level of carbon dioxide reductions as a minimum. Subject to this condition the proposal is found to be acceptable and policy compliant in respect of reducing carbon dioxide emissions.

The Energy Statement submitted with the application identifies that the houses will be heated by ground source heat pumps and the flats with a community heating system. The use of these systems would result in a net reduction of carbon monoxide emissions by 14.81% and 9.47% respectively. Together with the use of passive energy saving and energy efficiency measures that would reduce emissions by 9.57%, the total reduction would be 30.26%, in line with policy.

Therefore the conditions recommended include requirements for the details of the CHP to be installed to be submitted and agreed with the Local Planning Authority.

The submission includes a preliminary Code for Sustainable Homes assessment for the scheme. This makes it clear that the proposal could meet Code for Sustainable Homes Level 4. It is considered that the details provided in the submission are acceptable in this regard and that the application would result in a development which reaches an appropriate standard in respect of sustainable design and construction matters. To ensure that the commitment to reaching Code Level 4 and certain other key elements of developing sustainably are carried through to implementation conditions on these aspects of the proposal have been recommended. Such an approach allows a degree of flexibility as to the precise sustainable design and construction measures to be incorporated in the development, while ensuring that, taken in the round, the scheme achieves an appropriate level of sustainability.

To address policies on urban greening specifically the development includes areas of planting and soft landscaping at a ground level, including new areas of communal amenity space and private rear gardens for each of the houses proposed. Conditions have been recommended to ensure that the site is appropriately landscaped at the implementation stage of the development

Biodiversity matters

Barnet Local Plan policy DM16 states that when it is considering development proposals the council will seek the retention, enhancement or creation of biodiversity. The application site has no specific designation relating to wildlife or habitat conservation, nor are there any nearby. Due to the nature of its use it consists mainly of hardstanding areas and buildings.

Notwithstanding this an Extended Phase 1 habitat survey was undertaken. The tree and wider landscaping conditions recommended are considered sufficient to ensure that the scheme makes appropriate contributions to biodiversity generally and that the new planting which takes place provides suitable levels of habitat.

Subject to the controls in place under the conditions recommended and the requirements in place under other legislation the proposal is found to be acceptable and compliant with the objectives of planning policy on biodiversity and nature conservation matters.

Environmental Impact Assessment Regulations:

The development for which consent is sought is not considered to be of a description identified in Schedule 1 of the Regulations (Town and Country Planning (Environmental Impact Assessment) Regulations 2011). However, the development is considered to be of a description identified in column 1 of Schedule 2 of the Regulations. The development described in the submission is deemed to fall within the description of 'urban development projects'. The site identified in the plans accompanying the application is not considered to be in or partly in a sensitive area as defined in Regulation 2. As a development falling within the description of an urban development project, the relevant threshold and criteria in column 2 of Schedule 2 of the Regulations is that the area of development exceeds 0.5 hectares. The area of development identified in the information submitted exceeds this threshold. The proposal is therefore Schedule 2 development.

The characteristics, location and the impacts of the development proposed are described in detail in other sections of this report and so are not repeated here. Having considered the characteristics of the development, the location of the development and the characteristics of the potential impacts of the proposal (the criteria set out in Schedule 3 of the Regulations) it is concluded that in each of these respects and taken in totality the proposal would not be likely to give rise to significant effects on the environment in the sense intended by the Regulations. It is considered that the proposal is not a major development which is of more than local importance, is not a proposal situated in (or partially within) a particularly environmentally sensitive or vulnerable location and is not a development with unusually complex or potentially hazardous environmental effects. This is considered to support further the conclusion that the proposal would not be likely to give rise to significant effects on the environment in the sense intended by the Regulations.

Taking account of the criteria set out in Schedule 3 of the Regulations and all other relevant factors it is considered that the development described in the information accompanying the application would not be likely to have significant effects on the environment, in the sense intended by the Regulations. Therefore an Environmental Impact Assessment is not necessary and an Environmental Statement, in line with the Regulations, is not required to be submitted with the application.

Planning obligation matters:

Policy CS15 of the Barnet Local Plan states that where appropriate the Council will use planning obligations to support the delivery of infrastructure, facilities and services to meet the needs generated by development and mitigate the impact of development.

As detailed in the above sections and in accordance with development plan policies and the Council's supplementary planning documents the following obligations are required to be secured through a legal agreement with the developer:

- No development shall commence until the new tennis club at East End Road has been constructed in its entirety and has been handed over to the club in accordance with planning application F/01320/12.
- No residential units shall be occupied until the off site units at Stonegrove identified on the approved plan and schedule listed in condition 1 pursuant to the permission have been completed and handed over to Family Mosaic acting as registered provider. This off site provision shall consist of 19 Affordable Rented units as follows:
 - 9 x 2 bed flats
 - 2 x 3 bed flats
 - 5 x 3 bed houses
 - 3 x 4 bed houses
- The off site affordable housing units shall be retained for such purposes in perpetuity.

With these obligations secured the proposal is considered to be acceptable in terms of delivering the infrastructure, facilities and services needed to mitigate the impacts it would generate. It is noted that education, healthcare and library provision is covered by the Barnet Community Infrastructure Levy.

Monitoring of the Section 106 Agreement

The delivery of the planning obligation from the negotiations stage to implementation can take considerable time and resources. As the Council is party to a large number of planning obligations, significant resources to project manage and implement schemes funded by planning obligation agreements are required. The Council therefore requires the payment of £500 per non-financial obligation towards the costs of undertaking the work relating to securing the planning obligations in line with the adopted Supplementary Planning Document for Planning Obligations. This amounts to £1,500 in this case.

Barnet Community Infrastructure Levy

The proposed development is liable for charge under the Barnet CIL (at a rate of £135 per square metre). Because of the nature of the way in which CIL is calculated it is only possible to estimate the contribution which will finally be made through the Barnet CIL at the time applications are determined. The existing floorspace on the site has been occupied lawfully for 6 of the last 12 months. As such it is possible that

only additional floorspace generated by the development (less the area of underground car parking proposed) would be potentially liable for charge under Barnet CIL. The development might be expected to generate a Barnet CIL charge of £872,100.

Mayoral Community Infrastructure Levy

The proposed development is liable for charge under the Mayoral CIL (at a rate of £35 per square metre). Because of the nature of the way in which CIL is calculated it is only possible to estimate the contribution which will finally be made through the Mayoral CIL at the time applications are determined. The existing floorspace on the site has been occupied lawfully for 6 of the last 12 months. As such it is possible that only additional floorspace generated by the development would be potentially liable for charge under Mayoral CIL. The development might be expected to generate a Mayoral CIL charge of £283,990.

4. EQUALITIES AND DIVERSITY ISSUES

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have 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.”*

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

Officers have in considering this application and preparing this report had regard to the requirements of this section and have concluded that a decision to grant planning permission for this proposed development will comply with the Council’s statutory duty under this important legislation.

The new buildings proposed as part of the application would be required to comply with current legislative requirements in respect of equality and diversity related matters, for example access for the disabled under Part M of the Building Regulations. In addition to this the development, as controlled by the conditions recommended, would ensure that in several regards the building constructed would exceed the minimum requirements of such legislation. Examples of this would include all the proposed residential units being constructed to meet the relevant

Lifetime Homes standards, the provision of level or appropriately sloping access within the site, not less than 10% of the residential units proposed being constructed to be wheelchair accessible or easily adaptable for residents who are wheel chair users and the inclusion of disabled standard parking spaces (as set out in greater detail in earlier sections of this report).

With the conditions recommended the proposal is found to accord with development plan policies as they relate to the relevant equalities and diversity matters, by providing a high quality inclusive design approach which creates an environment that is accessible to all and would continue to be over the lifetime of the development. The design of the proposed development is such that the site would, as an area of land, become significantly more accessible to all members of the community. In this sense the development would have a positive effect in terms of equalities and diversity matters.

It is considered by officers that the submission adequately demonstrates that the design of the development and the approach of the applicant are acceptable with regard to equalities and diversity matters. The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and support the council in meeting its statutory equality responsibilities.

5. COMMENTS ON GROUNDS OF OBJECTIONS

Planning matters are considered to have been covered in detail in the above appraisal.

6. CONCLUSION

The proposed use of the site for residential purposes is policy compliant subject to the relocation of the tennis club to the East End Road site. The replacement of the existing courts and structures with new residential development of the nature proposed would provide a high quality design approach which relates acceptably to its neighbouring properties, would be in keeping with the character of the area and the setting of the Hampstead Garden Suburb Conservation Area and Listed Buildings and would not cause any unacceptable harm to the amenities of the occupiers of neighbouring properties and would provide its future occupiers with a good standard of accommodation is considered to accord with policies that seek to optimise the use of sites such as this.

The design and layout of the development has been influenced significantly by the need to create a scheme that relates acceptably to the character of the nearby Hampstead Garden Suburb Conservation Area and which provides a suitable residential environment, while not impacting unacceptably on the setting of the Hampstead Garden Suburb Conservation Area, its listed buildings and the amenities of neighbouring occupiers.

More generally the proposal includes a number of measures to achieve a good standard in respect of sustainable design and construction, with the new dwellings all meeting Code for Sustainable Homes Level 4.

The scheme provides an appropriate level of car parking on site for the number and type of dwellings proposed. All vehicular access to and from the site would be from

the single existing access from Chandos Way. The scheme has been designed to provide appropriate and safe access for all users and would not be expected to result in any significant adverse impacts to the local road network (including when the transport impacts of other committed developments in the surrounding area are taken into account).

The landscaping proposed for the site is considered to include an adequate balance of hard and soft surfaces (including new areas of lawn and shrub planting), provides an appropriate setting for the buildings proposed and provide opportunities for the planting of new trees. No trees outside the application site are proposed for removal as part of the works.

A number of conditions and planning obligations have been recommended to ensure that the development achieves a suitable quality of residential environment, does not cause any unacceptable harm to the amenities of neighbouring occupiers, achieves the benefits that the submission advances in support of the scheme and mitigates any potential adverse impacts from the proposal. The development would also be liable for a charge under both the Mayoral and Barnet Community Infrastructure Levy regimes.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Council to determine any application in accordance with the statutory development plan unless material considerations indicate otherwise. All relevant policies contained within The Mayor's London Plan and the Barnet Local Plan, as well as other relevant guidance and material considerations, have been carefully considered and taken into account by the Local Planning Authority. It is concluded that the proposed development accords with the relevant local plan policies. It is therefore considered that there are material planning considerations which justify the grant of planning permission. Accordingly, subject to the satisfactory completion of the Section 106 Agreement, **APPROVAL** subject to conditions is recommended, as set out in the recommendations section at the beginning of this report.

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LOCATION: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
REFERENCE: F/01320/12 **Received:** 05 April 2012
WARD: Garden Suburb **Accepted:** 13 April 2012
Expiry: 13 July 2012 **AGENDA ITEM 8**

Final Revisions:

APPLICANT: BDW Trading Limited & The Chandos Lawn Tennis Club Limited
PROPOSAL: Demolition of non-listed buildings and structures and redevelopment to provide a private tennis club with four full-sized open clay court, four full-sized covered courts, one open mini-court, a single storey clubhouse including restaurant and changing facilities, storage, car and cycle parking, landscaping, and other associated works and relocation of gate on the listed north boundary wall and associated reinstatement and repair works.

APPROVE:

SUBJECT TO REFERRAL TO THE GREATER LONDON AUTHORITY (GLA) FOR CONSIDERATION BY THE MAYOR OF LONDON.

SUBJECT TO A SECTION 106 AGREEMENT

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 **Energy Efficiency Commitments £570.00**
 As the percentage energy efficiency savings level of carbon dioxide savings is below the 25% target in the London Plan Policy 5.2, the energy contribution to offset this of £19 per annum over a 30 year period has been committed to.
- 4 **Requirement to submit Travel Plan £5,000.00**
 Requirement to submit a Travel Plan for approval by the Council prior to first occupation of the development and the obligation to provide a contribution towards the Council's costs of monitoring the implementation of a Travel Plan.
- 5 **Monitoring of the Agreement £278.50**
 Contribution towards the Council's costs in monitoring the obligations of the agreement.

6 Special Site-Specific Obligation £0.00

Community access strategy to include the following terms:

Liaising with a nominated local school, within the East Finchley or Garden Suburb wards, willing to partner with Chandos to develop a programme whereby a Chandos tennis coach spends at least five hours a week during the whole of the school summer term providing free coaching at the school. The cost of such a coach would be at current rates around £35 per hour. The aims would include ensuring that:

1. Children at the school play tennis, keep fit and learn skills, all in an environment where there is a proper code of sporting conduct, fair play and respect for the opponent;
2. Talent is identified and nurtured; and
3. The children of that school are encouraged to play tennis at Chandos.

- In order to further encourage the school children to play tennis at Chandos and further their tennis career, Chandos would provide ten school children, selected on the criteria of talent and desire, with a scholarship so that each one would pay half of the standard yearly rate for a junior Chandos membership. Any three of those ten who have exceptional talent or need will be eligible for an entirely free junior membership.
- In order to ensure access to the club for junior members, the tennis club has agreed that at all times there will be 100 junior memberships on offer at not more than the current rate of £120 per annum subject to an annual increase of not more than any proportional increase in the senior membership rate for that year.
- The club would make available four of the courts, the car park and part of the clubhouse for charities to run open days on not less than two days in any calendar year.
- Chandos would host organised tennis tournaments for members of the club and non-members who are also LTA registered members (or members of an equivalent tennis organisation of a similar kind), such tournaments to take place on no less than five days in any year.
- Chandos is to make available access on at least two tennis courts during the summer (1 May - 30 September) for not less than six hours each during school hours for every week of a school term so as to be used by such nominated local school(s) within the East Finchley or Garden Suburb wards who are prepared to partner with Chandos.
- Chandos is to make available access on at least two tennis courts between 1 October and 30 April for not less than four hours each during school hours for every week of the school term so as to be used by such nominated local school(s) within the East Finchley or Garden Suburb wards who are prepared to partner with Chandos.

RECOMMENDATION II:

That upon completion of the agreement the Acting Assistant Director of Planning and Development Management approve the planning application reference: F/01320/12 under delegated powers subject to the following conditions: -

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 0000 rev D, 3001 rev G, 3002 rev F, 3003 rev E, 3010 rev D, 3011 rev D, 3020 rev D, 3152 rev G1, 3153 rev G, 3162 rev G, 3164 rev D, 4040 rev F, 4055 rev G, 4100 rev G, 4120 rev C, 4121 rev C, 4150 rev D, 4152 rev D, 4160 rev D, 4200 rev D, 4205 rev D, 4300 rev D, 4351 rev D, Air Quality Assessment, Aboricultural Impact Assessment, Aboricultural Survey, Chandos LTC Sequential Test Assessment, Design and Access Statement, Extended Phase 1 Habitat Survey, Foul Drainage and Utilities Statement, Heritage Impact Assessment, Updated Initial Bat Survey, Light Obtrusion report, Noise Impact Assessment, Planning Statement, Statement of Community Involvement, Surface Water Drainage Strategy, Sustainability and Energy Statement, Transport Assessment, Transport Assessment Addendum and PERS Audit, Energy Statement Addendum.

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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (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. Before the development hereby permitted commences, details of the materials to be used for the external surfaces of the building(s) and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

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 DM01 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012) and 1.1, 7.4, 7.5 and 7.6 of the London Plan 2011.

4. The premises shall be used for a private members tennis club and no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision

equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification).

Reason:

To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area.

5. Notwithstanding the plans submitted, before development commences, car and cycle parking spaces shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. Thereafter, the parking spaces shall be used only as agreed and not be used for any purpose other than the parking and turning of vehicles in connection with approved development.

Reason:

To ensure that adequate and satisfactory provision is made for the parking of vehicles in the interests of pedestrian and highway safety and the free flow of traffic in accordance with policies DM17 of the Adopted Barnet Development Management Policies DPD (2012) and 6.1, 6.2 and 6.3 of the London Plan 2011.

6. Before this development is commenced, details of the levels of the building(s), road(s) and footpath(s) in relation to adjoining land and highway(s) and any other changes proposed in the levels of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

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 DM01 and DM04 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF, CS1, CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.4, 7.5, 7.6 and 7.21 of the London Plan 2011.

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

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).

8. Part 1

Before development commences other than for investigative work:

- a. A desktop study shall be carried out which shall include the identification of previous uses, potential contaminants that might be expected, given those uses, and other relevant information. Using this information, a diagrammatical representation (Conceptual Model) for the site of all potential contaminant sources, pathways and receptors shall be produced. The desktop study and Conceptual Model shall be submitted to the Local Planning Authority. If the desktop study and Conceptual Model indicate no risk of harm, development shall not commence until approved in writing by the Local Planning Authority.
- 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

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 policies DM04 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF of the Adopted Barnet Core Strategy DPD (2012) and 5.21 of the London Plan 2011.

9. A scheme of hard and soft landscaping, including details of existing trees to be retained, shall be submitted to and agreed in writing by the Local Planning Authority before the development, hereby permitted, is commenced.

Reason:

To ensure a satisfactory appearance to the development in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and 7.21 of the London Plan 2011 and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012).

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

Reason:

To ensure a satisfactory appearance to the development in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

11. 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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

12. Before the development hereby permitted is commenced a scheme indicating the provision to be made for disabled people to gain access to the club house, changing facilities and tennis courts shall have been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason:

To ensure adequate access levels within the development in accordance with policies DM03 of the Adopted Barnet Development Management Policies DPD (2012) and 7.2 of the London Plan 2011.

13. The non-residential development is required to meet the following generic environmental standard (BREEAM) and at a level specified in the adopted Sustainable Design and Construction Supplementary Planning Document (2013). Before the development is first occupied the developer shall submit certification of the selected generic environmental standard.

Reason:

To ensure that the development is sustainable and complies with Strategic and Local Policies in accordance with policy DM02 of the Adopted Barnet Development Management Policies DPD (2012), the adopted Sustainable Design and Construction Supplementary Planning Document (June 2007) and policies 5.2 and 5.3 of the London Plan (2011).

14. No development shall take place until a 'Demolition & Construction Method Statement' has been submitted to, and approved in writing by, the Local Planning Authority. The Statement shall provide for: access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; the erection of any means of temporary enclosure or security hoarding and measures to prevent mud and debris being carried on to the public highway and ways to minimise pollution. Throughout the construction period the detailed measures contained within the approved Statement shall be strictly adhered to.

Reason:

In the interests of highway safety and good air quality in accordance with Policy DM17 and DM04 of the Adopted Barnet Development Management Policies DPD (2012) and policy 5.21 of the London Plan (2011).

15. The development hereby approved shall not be occupied until the existing redundant crossover(s) is reinstated to footway by the Highway Authority at the applicant's expense.

Reason:

To confine access to the permitted points in order to ensure that the development does not prejudice the free flow of traffic or conditions of general safety on the public highway and in accordance with the policies DM17 of the Adopted Barnet Development Management Policies DPD (2012) and 6.1, 6.2 and 6.3 of the London Plan 2011.

16. Before the club house hereby permitted is constructed written details of the proposed green roof for the club house shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details.

Reason:

To ensure a satisfactory appearance to the development in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and 7.21 of the London Plan 2011 and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012).

17. The level of noise emitted from any 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 any neighbouring property which existed at the time of this decision notice. 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 any existing neighbouring property at the time of this decision notice.

Reason

To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties.

18. Before the development hereby permitted is occupied secure cycle parking facility as shown on Drawing No. A/CHTC 3152 rev G1 shall be provided before the development is occupied.

Reason:

To ensure that cycle 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.

19. 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. The development shall be implemented in full accordance with the approved details prior to first occupation and thereafter shall be maintained as such.

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 policies 6.13 of the London Plan (2011) and Policy DM17 of Barnet's Local Plan (Development Management Policies).

20. No site works or works on this development shall be commenced before temporary tree protection has been erected around existing tree(s) in accordance with details to be submitted and approved in writing by the Local Planning Authority. 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.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS5 and CS7 of the Adopted Barnet Core Strategy DPD (2012) and 7.21 of the London Plan 2011.

21. The branches shall be pruned in accordance with the recommendations in British Standard BS3998: 2010 *Tree work – Recommendations*.

Reason:

To safeguard the health of existing tree(s) which represent an important amenity feature in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and 7.21 of the London Plan 2011.

22. A noise assessment, by an approved acoustic consultant, shall be carried out that assesses the likely impacts of noise on the development. This report and any measure to be implemented by the developer to address its findings shall be submitted in writing for the approval of the Local Planning Authority before the development commences. The approved measures shall be implemented in their entirety before (any of the units are occupied/ the use commences).

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 policies DM04 of the Adopted Barnet Development Management Policies DPD (2012) and 7.15 of the London Plan 2011.

23. The use hereby permitted shall not be open before 7am or after 11pm on weekdays and Saturdays or before 7am or after 10pm on Sundays.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

24. Tennis shall not be played before 7am or after 11pm on the indoor courts and before 7am or after 9.30pm (summer) or before 7am or after 9.30pm (winter) on the outdoor courts.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

Informative:

For the purposes of this condition summer is defined as the period during which British Summer Time operates.

25. The floodlights for the outdoor courts hereby permitted shall not be operated before 7am or after 9.30pm on weekdays and Saturdays or before 8am or after 9.30pm on Sundays.

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

26. The club house facilities hereby approved shall be ancillary to the use of the premises as a tennis club and shall not be let or hired for private or public functions or be made available to non-club members .

Reason:

To safeguard the amenities of occupiers of adjoining residential properties.

INFORMATIVE(S):

1. i) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.
- ii) In this case, formal pre-application advice was sought prior to submission of the application.

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 £36.04 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 **£96,594.41** 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 £0 payment under Barnet CIL.

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.

If affordable housing or charitable relief applies to your development 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 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 Community Infrastructure Levy 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: cil@barnet.gov.uk.

3. The applicant is advised that prior to any alteration to the public highway (including pavement) will require consent of the local highways authority. You may obtain an estimate for this work from the Chief Highways Officer, Building 4, North London Business Park (NLBP), Oakleigh Road South, London N11 1NP.
4. Any provision of a new crossover or modification to the existing crossovers will be subject to detailed survey by the Crossover Team in Environment and Operations, Crossover Team as part of the application for crossover under Highways Act 1980 and would be carried out at the applicant's expense. An estimate for this work could be obtained from London Borough of Barnet, Environment and Operations, Crossover Team, NLBP, Building 4, 2nd Floor, Oakleigh Road South, London N11 1NP.
5. Please ensure that appropriate dropped kerbs are provided for the pedestrian access and that the appropriate markings are provided on the access road to inform the vehicle drivers of the pedestrian crossing point.

RECOMMENDATION III

That if an agreement has not been completed by 31/03/2014, that unless otherwise agreed in writing, the Director of Development Management and Building Control should REFUSE the application F/01320/12 under delegated powers for the following reasons:

1. The development would require a section 106 agreement and no formal undertaking is given to the Council, as a result the proposed development would, by reason of the developer not meeting the costs of monitoring the traffic assessment scheme contrary to DM17 of the Local Plan Development Management Policies (Adopted) 2012; and contrary to Policies CS9 of the Local Plan Core Strategy (Adopted) 2012.
2. The development would require a section 106 and no formal undertaking is given to the Council, as a result the proposed development would, by reason of the developer not meeting the costs of the commitment to the energy efficiency savings level of carbon dioxide be contrary to policy DM05 of the Local Plan Development Management Policies (Adopted) 2012; and contrary to Policy CS13 of the Local Plan Core Strategy (Adopted) 2012.

This application was originally on the agenda of the December 2013 meeting. As a consequence of a number of residents being unable to attend the meeting, Councillor John Marshall, Ward Councillor for Garden Suburb moved that the item be deferred to award them the opportunity to do so. Councillor Jack Cohen seconded the deferral. The Committee RESOLVED TO DEFER the application to the next appropriate meeting of the Committee.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework:

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.

National planning policies are set out in the National Planning Policy Framework (NPPF). This 65 page document was published on 27 March 2012 and it replaces 44 documents, including Planning Policy Guidance Notes, Planning Policy Statements and a range of other national planning guidance. The NPPF is a key part of reforms to make the planning system less complex and more accessible.

The London Plan is recognised in the NPPF as part of the development plan.

The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The document includes a 'presumption in favour of sustainable development'. This is taken to mean approving applications, such as this proposal, which are considered to accord with the development plan.

The Mayor's London Plan July 2011:

Policies 3.19, 5.2, 6.13, 7.1, 7.4, 7.17

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 2031. It forms part of the development plan for Greater London.

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 Mayor for London has introduced a Community Infrastructure Levy. This applied from 1 April 2012 to most developments in London where the application is determined by the Local Planning Authority.

Within Barnet the levy will be charged at a rate of £35 per square metre of net additional floorspace.

Barnet's Local Plan (Adopted) September 2012:

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD).

Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS7, CS10, CS11, CS13

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy.

Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM06, DM13, DM14, DM15, DM17

Relevant Supplementary Planning Documents:

In June 2005 the Council published its "Three Strands Approach", setting out a vision and direction for future development, regeneration and planning within the Borough. The approach, which is based around the three strands of Protection, Enhancement and Growth, will protect Barnet's high quality suburbs and deliver new housing and successful sustainable communities whilst protecting employment opportunities. The second strand of the approach, "Enhancement", provides strong planning policy protection for preserving the character and openness of lower density suburbs and conservation areas. The Three Strands Approach will form the "spatial vision" that will underpin the Local Development Framework.

The Council has also adopted (May 2013), following public consultation, an SPD "Sustainable Design and Construction". The SPD provides detailed guidance that supplements policies in the Local Plan, and sets out how sustainable development will be delivered in Barnet.

The Council Guide 'Hampstead Garden Suburb Conservation Area Design Guidance' as part of the Hampstead Garden Suburb Character Appraisals was approved by the Planning and Environment Committee (The Local Planning Authority) in October 2010. This leaflet in the form of a supplementary planning guidance (SPG) sets out information for applicants on repairs, alterations and extensions to properties and works to trees and gardens. It has been produced jointly by the Hampstead Garden Suburb Trust and Barnet Council. This leaflet was the subject of separate public consultation.

Relevant Planning History:

Site Address:	Finchley Manor Garden Centre 120 East End Road London N2 0RZ
Application Number:	C16534B/06
Application Type:	Material Minor Amendment/Vary Condition
Decision:	Refuse
Decision Date:	18/09/2006
Appeal Decision:	No Appeal Decision Applies
Appeal Decision Date:	No Appeal Decision Date exists
Proposal:	Variation of Condition 9 of planning permission reference C01315H dated 03.02.1987 to allow growing, wholesaling, distribution and retailing of plants, trees, shrubs and garden requisites as well as the sale of associated garden products, gardening books, pictures, DVD's, outdoor clothes, garden clothing, protective footwear, patio furniture, conservatory furniture and furnishings, garden ornaments including wooden toys and animals, a fresco dining items, Christmas trees, Christmas lights, Christmas decorations, Christmas candles, crackers and nativity scenes for the months of November and December. Additional retail use (Class A1) in part of existing detached building adjoining north western boundary for the sale of greeting cards, pictures, children's toys, non-gardening books, CD's, DVD's, toffees and sweets, drinks and snacks for consumption off the premises.
Case Officer:	Karina Conway

Site Address:	Finchley Manor Nurseries 120 East End Road London N2 0RZ
Application Number:	C16534/06
Application Type:	Full Application
Decision:	Refuse
Decision Date:	31/03/2006
Appeal Decision:	No Appeal Decision Applies
Appeal Decision Date:	No Appeal Decision Date exists
Proposal:	Change of use from Gardens Centre (Sui Generis) to retail (class A1).

Case Officer: Karina Conway

Site Address: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
Application Number: C16534A/06
Application Type: Full Application
Decision: Refuse
Decision Date: 25/07/2006
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Demolition of existing building and erection of new building comprising Class B1 office space and one Class A1 retail unit.**

Case Officer:

Site Address: Finchley Manor Garden Centre East End Road London N2 0RZ
Application Number: C16534E/07
Application Type: Full Application
Decision: Refuse
Decision Date: 30/09/2008
Appeal Decision: Withdrawn
Appeal Decision Date: 30/09/2008
Proposal: **Conversion of existing buildings to form medical centre. Demolition of glass houses to form gardens with single storey day visitor centre. Formation of 41 car parking spaces.**

Case Officer: Karina Conway

Site Address: Finchley Manor Garden Centre 120 Eastend Road Finchley London N2 0RZ
Application Number: C16534F/07
Application Type: Material Minor Amendment/Vary Condition
Decision: Refuse
Decision Date: 28/01/2008
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Variation of Condition 9 of planning permission reference C01315H dated 03.02.1987 to allow growing, wholesaling, distribution and retailing of plants, trees, shrubs and garden requisites and associated garden products, gardening books, pictures, DVD's, gardening gloves, gardening aprons and wellington boots, patio furniture, garden ornaments including wooden toys and animals, Christmas trees, Christmas lights, Christmas decorations, Christmas candles, crackers and nativity scenes for the months of November and December. Additional retail use (Class A1) in part of existing detached building adjoining north western boundary for the sale of greeting cards, pictures, toffees and sweets, and drinks and snacks for consumption off the premises.**

Case Officer: Karina Conway

Site Address: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
Application Number: F/02672/08
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 18/09/2008
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Conversion of existing buildings to form medical centre. Demolition of glass houses to form gardens with single storey day visitor centre. Formation of 41 car parking spaces.**

Case Officer: Fabien Gaudin

Site Address: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
Application Number: F/04665/09
Application Type: Full Application
Decision: Approve with conditions

Decision Date: 17/03/2010
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Demolition of existing buildings and erection of a one storey building (with additional accommodation in basement) for use as a medical centre together with formation of 49 car parking spaces within landscaped forecourt.**
Case Officer: Fabien Gaudin

Site Address: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
Application Number: F/02460/09
Application Type: Full Application
Decision: Refuse
Decision Date: 15/10/2009
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Demolition of existing buildings and erection of a one storey building (with additional accommodation in basement) for use as medical centre together with formation of 41 car parking spaces within landscaped forecourt.**
Case Officer: Fabien Gaudin

Site Address: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
Application Number: F/01320/12
Application Type: Full Application
Decision: Not yet decided
Decision Date: Not yet decided
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Demolition of non-listed buildings and structures and redevelopment to provide a private tennis club with four full-sized open clay court, four full-sized covered courts, one open mini-court, a single storey clubhouse including restaurant and changing facilities, storage, car and cycle parking, landscaping, and other associated works and relocation of gate on the listed north boundary wall and associated reinstatement and repair works.**
Case Officer: Junior C. Moka

Site Address: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
Application Number: F/01405/12
Application Type: Conservation Area Consent
Decision: Not yet decided
Decision Date: Not yet decided
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: **Demolition of non-listed buildings and structures and redevelopment to provide a private tennis club with four full-sized open clay court, four full-sized covered courts, one open mini-court, a single storey clubhouse including restaurant and changing facilities, storage, car and cycle parking, landscaping, and other associated works and relocation of gate on the listed north boundary wall and associated reinstatement and repair works. (CONSERVATION AREA CONSENT)**
Case Officer: Junior C. Moka

Consultations and Views Expressed:

Neighbours Consulted: 266
Replies: 5
Neighbours Wishing To Speak 0

Of the five replies received one letter of objection related to the proposed redevelopment of the site in Chandos Way.

Two letters of objection and one with comments were received which raised the following concerns:

- Inappropriate development within a conservation area.
- Over intensive use of the site.
- Increased traffic for a narrow section of East End Road.
- Medical/garden centre is a much more appropriate use of this site.
- Concerns regarding potential parking on the road, residents would not want a repeat of what happens around LA fitness - more parking should be provided on site.
- Some of the facilities should be made available for community use.

Two letters of support were received which made the following points:

- The area could do with sport and social facilities and the use is much better than another block of flats.
- The current garden centre is an eyesore and has a negative impact on the area.

Internal /Other Consultations:

Greater London Authority: No objections following receiving additional information

Natural England: No objections

Urban Design & Heritage: No objections

Environment Agency: No objections

English Heritage: No objections

Hampstead Garden Suburb Trust: No objections

Date of Site Notice: 19 April 2012

2. PLANNING APPRAISAL

Site Description and Surroundings:

The site is situated on the south side of East End Road adjacent to St Marylebone Cemetery and has an area of 0.7 hectares. The site is currently occupied by a disused garden centre and is covered almost entirely by hard standing or buildings. There are four main buildings on the site: a house (occupied); a large greenhouse (largely derelict); a boiler house building (largely derelict); and two outbuildings. All are in a dilapidated state.

Along the northern boundary of the site, fronting onto East End Road, runs a Grade II listed wall and railings. There is a break towards the centre of the wall which currently provides the vehicular access to the site. Furthermore there are a number of listed buildings and features in close proximity to the site including the Gate Lodge, the Anglican Chapel and the Monument to Thomas Tate (all Grade II listed) within the adjoining cemetery and on the opposite side of the road the Convent of the Good Shepherd (also Grade II listed). The cemetery itself is Grade II* listed under the Historic Parks and Gardens register.

The site is designated as Metropolitan Open Land (MOL) and is situated along the boundary with the Hampstead Garden Suburb Conservation Area. The site itself is not within the Conservation Area but it is surrounded by it. The site falls within Flood Risk Zone 1, which means that there is a low risk of the site flooding. The adjoining cemetery is also designated as MOL and a Site of Local Importance for Nature Conservation. The cemetery also contains a number of trees and groups of trees that are the subject of Tree Preservation Orders.

The site has a public transport accessibility level (PTAL) of 1b (out of a range of 1 to 6, where 6 is the highest and 1 the lowest).

The area surrounding the Garden Centre site is predominately residential in character, with the Hampstead Garden Suburb to the south, and residential uses on the opposite side of East End Road, to the north. The residential accommodation in the area is characterised by large detached and semi-detached family houses, particularly within the Hampstead Garden Suburb Conservation Area, with some more recent flatted developments located immediately opposite the site providing 2 and 3 storey buildings for D1 and B1 uses with basement parking. There are also a number of community uses and sports facilities in the immediate area, including Finchley Cricket Club and LA fitness Centre to the north east, as well as several schools and colleges and the crematorium and cemetery to the south of the site.

Proposal:

The application is for the relocation of the Chandos Lawn Tennis Club which is currently located on Chandos Way within the same ward. The proposal is that the club's current site will be redeveloped for housing once a replacement new facility is constructed at this site. The Chandos Way site is subject to a separate planning application (ref: F/01319/12).

The development description of the proposal is:

Demolition of non-listed buildings and structures and redevelopment to provide a private tennis club with four full-sized open clay court, four full-sized covered courts, one open mini-court, a single storey clubhouse including restaurant and changing facilities, storage, car and cycle parking, landscaping, and other associated works and relocation of gate on the listed north boundary wall and associated reinstatement and repair works.

A separate application for Listed Building Consent (ref: F/01405/12) has been submitted for:

Relocation of gate on the listed north boundary wall and associated reinstatement and repair works.

The application site is approximately 24% smaller than the current Chandos Way site. However, the aim of the proposal is to reprovide the same facilities albeit in a more efficient layout.

The proposal will provide:

- 4 full sized covered acrylic courts;
- 4 synthetic outdoor clay courts;
- 1 synthetic outdoor mini clay court;
- a single storey club house with sedum roof;
- surface parking for 41 cars (including 4 for blue badge holders); and
- changes to entrance gate and railings.

The Lawn Tennis Association (LTA) have a number of set requirements regarding the layout and location of tennis courts which have predicated how the site could be laid out. In particular external tennis courts are required to be positioned in a north-south orientation and achieve a minimal size.

The four full-sized open clay tennis courts will be situated towards the front of the site, with parking and landscaping to the front of them which will create a buffer between the courts and the northern boundary of the site. These courts will be floodlit for use on winter afternoons and evenings.

The proposed covered courts would be located at the rear of the site. The rear boundary would be formed by the existing boundary wall that forms both the boundary for the adjoining cemetery and the Hampstead Garden Suburb Conservation Area. The proposal will utilise the metre drop in levels between the cemetery and the site, enabling the courts to be sunk into the ground by 1m. The courts will be under the cover of a permanent, purpose built, white PVC/PTFE fabric canopy. The LTA require a minimum clear height of 9m across the net for covered courts and the proposal has been designed to achieve this with the minimum height possible. To the east of the covered courts will be a further mini open synthetic clay court.

Separating the open and covered courts, will be a single storey flat roofed club house with a footprint of approx 567sqm. The clubhouse will consist of two blocks linked by an open sided entrance area. The changing block will accommodate members changing facilities and a plant room. The club block will accommodate an office and meeting room and a flexible lounge space and kitchen. The clubhouse will have an overall length of approx 118m; a width of 8m and a height of 4m.

41 on site car parking spaces will be provided along the northern and eastern sides of the site. Four of these spaces are for blue badge holders and are situated closest to the clubhouse entrance. 26 secure cycle storage spaces are also proposed adjacent to the changing block.

A new vehicular access to the site is to be created off East End Road, at the most north-westerly part of the site. This will involve the creation of a new gated entrance to the site in the Grade II listed front boundary wall, removing the listed railings of the eastern most section and closing the gap where the current access gate is situated.

Planning Considerations:

The Borough has an attractive and high quality environment that the Council wishes to protect and enhance. It is therefore considered necessary to carefully assess both the design and form of new development to ensure that it is compatible with the established character of an area.

The main issues are considered to be:

- Impact on Metropolitan Open Land
- Impact on adjoining land (in particular the Hampstead Garden Suburb Conservation Area and adjoining Listed Buildings)
- Loss of employment use
- Highway safety and parking provision
- Impact on the street scene
- Impact on the residential amenity of adjoining properties
- Sustainable design and construction
- Community access

Impact on Metropolitan Open Land (MOL)

MOL is defined as major open spaces that are within the urban area that have more than borough wide significance for their contribution to recreation, leisure and visual amenity, and which receive the same presumption against development as the Green Belt. MOL performs three valuable functions; protecting open space to provide a clear break in the urban fabric and contributing to the green character of London; protecting open space to serve the needs of Londoners outside their local area; and protecting open space that contains a feature or landscape of national or regional significance.

Adopted planning policy requires that MOL is to be protected as a permanent feature, any changes should be exceptional and made through the development plan process. Development that involves the loss of MOL in return for the creation of new open spaces elsewhere will not be considered appropriate. Essential facilities for appropriate uses will only be considered appropriate where they do not have an adverse impact on the openness of MOL.

The NPPF sets out that new buildings are inappropriate in the Green Belt. Some exceptions to this include the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it and limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

There is no definition of 'openness' in the NPPF or elsewhere. In general openness comprises the physical effects of development and its visual impact on the extent to which development can be seen. Thus, openness tends to be defined by footprint, mass and views which must be considered as a whole.

The London Plan and the Council's adopted Local Plan contain policies relating to development in MOL (London Plan Policy 7.17 and Local Plan policies CS NPPF, CS1, CS7, DM15). The adopted Local Plan advocates that applications for inappropriate development will have to demonstrate very special circumstances before the presumption against them is overridden. Where such special circumstances are proven, it will be treated as a departure from the development plan and referred to the Secretary of State.

Although the site is located within MOL, it has a significant amount of built form including large glass houses to the rear and two 2-storey buildings around the forecourt. Furthermore, the majority of the front forecourt has been hardsurfaced. It is therefore considered that the removal of the greenhouses would significantly contribute towards the opening up of the MOL and that the proposed landscaping would enhance this part of the site as well as views from surrounding sites. It is considered that proposed buildings have been designed in such a way as to minimise their bulk and mass to sit sensitively within the site thereby minimising its impact and retaining the 'openness' of the area in accordance with the principles of MOL and would not impact further on the openness of the MOL than the existing use.

Furthermore, given that the use of land is for a tennis club and club house i.e. sports facilities, the development has the potential be considered appropriate development for the purposes of MOL.

The proposed development on this matter is therefore considered to comply with national, London Plan and Local policies.

Impact on adjoining land (in particular the Hampstead Garden Suburb Conservation Area and adjoining Listed Buildings)

The rear boundary of the site forms the boundary of the Hampstead Garden Suburb Conservation Area and therefore whilst the site is not within a conservation area Local Plan Policy DM06 requires that the impact of the proposal on the character and appearance of the Conservation Area needs to be assessed. It is considered that the situation would be enhanced as a result of the current proposals replacing a collection of institutional dilapidated buildings with a holistically designed complex of buildings that have been designed to reflect both their use and setting. The buildings would be of a comparable scale to the existing buildings and the material proposed would reflect the location and use of the building. The landscaped setting and boundary treatment along the edges of the site are considered to enhance the setting of the building. The proposal is therefore considered to comply with the requirements of the NPPF and Policy DM06 of the adopted Local Plan.

The adjoining St Marylebone cemetery forms part of a conservation area but also contains a number of grade II listed buildings and itself is a grade II* listed park. The existing buildings on the site have minimal architectural value and would be removed as a result of the proposals. The site boundary adjoining the cemetery has the

benefit of an established mature vegetation screen which would be retained as part of the proposals and would therefore minimise views into the site. To further minimise the visual impact of the proposed development when viewed from the cemetery, the covered tennis courts are to be sunken by 1m to reduce their height and scale. The single storey clubhouse and storage building are to be set back from the East End Road boundary so as to not detract from views towards the adjoining listed lodge. The clubhouse, whilst contemporary in style, is considered to be sensitive to and complement the historic context of the surrounding Conservation Area and listed buildings. Furthermore, the proposal would result in the restoration of the street frontage railings, to match the originals and the similar, listed treatment on the cemetery frontage.

The proposals are therefore considered to be in accordance with the requirements of the NPPF and policies CS1 and DM06 of the adopted Local Plan in that they will have a minimal impact on the surrounding designated heritage assets and will improve the appearance of the site, and the setting of the conservation area..

Loss of employment use

Although currently vacant the last use of the site was as a garden centre and therefore Policy DM14 of the adopted Local Plan needs to be considered. Whilst Policy DM14 relates to the retention of B class uses and a Garden Centre is classified as Sui Generis (without a class) as the use involved the employment of people at the site, elements of the policy are applicable and need to be considered when determining this application.

Whilst the proposed use would not fall within a B Class use it would fall within class D2 (assembly and leisure). People will be employed at the site including staff within the club house; coaches; grounds staff etc. The proposal is therefore considered to maintain an employment use at the site and as a result is considered to comply with the requirements of Policy DM14.

Highway safety and parking provision

It is proposed that the existing vehicular site access on East End Road will be removed as part of the development proposals and a new access will be created on the northwest corner of the site. The new access will be wider than the existing one and will consist of a bell mouth arrangement to improve visibility between pedestrians flow on the footway and vehicles emerging from the site.

It is proposed to provide 41 car parking spaces on site and a total number of 26 cycle parking spaces in the form of Sheffield Stands will be provided. The cycle facilities should be secured covered and can be easily accessed by cyclists to ensure it would fully comply to London Plan Policy 6.9 - Cycling and a condition to secure this is recommended.

TfL officers consider that the proposed level of disabled parking and electrical charge point provision confirmed in the report, as well as the level of on site parking provision overall, when considering the club's increased usage on event days, to be acceptable and in compliance with London Plan policy. Further, the scope of the submitted PERS Audit was agreed with TfL officers prior to undertaking the audit, and officers confirmed that no contribution would be sought from TfL relating to PERS matters.

In terms of public transport impact, given the nature and location of the proposal, TfL accepted that the anticipated increase in demand for passenger transport services resulting from the proposal would be insignificant.

The proposal is therefore considered to conform with the requirements of the London Plan and Policy DM17 of the adopted Local Plan.

Impact on the street scene

Good design is central to all objectives of the NPPF, London Plan (2011) and Local Plan.

The requirements of NPPF, states in policy 57, 'It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes'.

London Plan Policy 7.1 sets out a series of overarching design principles for development in London. Other design policies in this chapter and elsewhere in the London Plan include specific design requirements relating to maximising the potential of sites, the quality of new housing provision, tall and large scale building, built heritage and World Heritage Sites, views, the public realm and the Blue Ribbon Network. New development is also required to have regard to its context, and make a positive contribution to local character within its neighbouring (policy 7.4).

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.

Policy DM02 states that where appropriate, development will be expected to demonstrate compliance to minimum amenity standards and that development makes a positive contribution to the borough. The development standards set out in Policy DM02: Development Standards are regarded as key for Barnet to deliver the highest standards of urban design.

The proposal provides a well designed tennis club. The proposed clubhouse would have floor to ceiling glazing and timber boards on the external facades. A neutral colour scheme is proposed and the overall appearance of the building would be modern but sympathetic to its surroundings. The roof of the clubhouse is to include a sedum green roof. The proposed court covers would be of a white, lightweight PVC/PTFE fabric which is designed to be durable. The covers are of a bespoke design with the two ends of the covered courts being translucent allowing views through the courts. The external courts would have a natural clay surface and will be surrounded by soft landscaping and box hedging to screen the facilities.

As outlined previously the adjoining St Marylebone cemetery forms part of the Hampstead Garden Suburb Conservation Area and also contains several listed buildings. Existing buildings on the site are considered to have minimal architectural value and would be removed as a result of the proposal. The surrounding cemetery land, which is generally open although punctuated by mature trees, is Metropolitan Open Land (MOL) and is therefore of strategic importance. In this case, given the open character of the affected land and views towards the site, heritage and MOL views considerations are similar.

The views assessment submitted with the application demonstrates that the proposals would not obscure views of important listed structures, from both inside the MOL, and from surrounding public viewpoints. The proposed roof of the covered tennis courts would be the most visible structure, and would appear incongruous in some views from within the cemetery. However, it is considered that the structure's impact is mitigated through the choice of materials and vegetation. The fabric roof of the structure would have a light colour that is likely to be more visible on clear days, but less so when overcast.

Within the site, the layout would be effective and accommodate a similar number of facilities to those found on the club's existing site, even though the application site would be arranged in accordance with the Lawn Tennis Association's guidance. The restoration of the street frontage railings, to match the originals and the similar, listed treatment on the cemetery frontage, is welcomed. Although there would be removal of a small number of reasonably healthy mature trees, the remaining trees and enhanced planting around the site is likely to reduce this impact.

As such the development is considered not to raise any design and openness issues and is considered to be acceptable in this respect.

Impact on the residential amenity of adjoining properties

Whilst the site is located within the Garden Suburb ward it has the benefit of being relatively isolated from adjoining residential properties. With the exception of the Lodge at St Marylebone Cemetery the nearest residential buildings (Thomas More Way/124 East End Road) are approx 100m away. If Members are minded to approve the application conditions restricting hours of opening; hours of use of the proposed floodlights and sound level conditions are recommended.

The proposals are therefore not considered to detrimentally harm the amenity of existing residents in accordance with national and strategic guidance and Policies DM01 and DM02 of the adopted Local Plan.

Climate Change

Development Management Policy DM04: Environmental Considerations for Development and Core Strategy Policy CS13: Ensuring the efficient use of natural resources highlights that reducing carbon dioxide (CO₂) emissions, adapting to future climate change, ensuring resource use is kept within acceptable levels, promoting biodiversity and improving quality of life are all key objectives for Barnet.

The London Plan climate change policies set out in Chapter 5 collectively require developments to make the fullest contribution to the mitigation of, and adaptation to, climate change, and to minimise carbon dioxide emissions. London Plan Policy 5.2 'minimising carbon dioxide emissions' sets out an energy hierarchy for assessing applications, London Plan Policy 5.3 'Sustainable design and construction' ensures future developments meet the highest standards of sustainable design and construction, and the London Plan Policies 5.9 – 5.15 promote and support effective adaptation to climate change. Further detailed policies on climate change mitigation and adaptation are found throughout Chapter 5 and supplementary guidance is also given in the London Plan sustainable design and construction SPG.

Barnet Council has an aspiration for the development to comply with Section 5.2B of the London Plan (July 2011), and achieve a reduction in carbon dioxide emissions of 25%.

The design team have maximised the use of measures to minimise carbon dioxide emissions for the Chandos Tennis Centre, in line with the Mayor of London's Energy Hierarchy, 'Be Lean, Be Clean, and Be Green.

However, these measures do not achieve the 25% threshold. A maximum of 4.1% has been calculated from the modelling carried out during design stage, through measures summarised in the table below:

Hierarchy stage	Design Measures	Reduction in Tonne CO₂/m² emissions and %reduction Chandos Tennis Club (excluding occupant energy use)
'Be lean'	Improved building thermal envelope Natural ventilation strategy	0.0012 Tn CO ₂ / m ² 0.35 tonnes/year 1.74 % reduction
'Be clean'	Gas-fuelled condensing boiler, Low temperature terminal units and distribution	0.0003 Tn CO ₂ / m ² 0.08 tonnes/year 0.41 % reduction
'Be green'	Solar thermal array Photovoltaic array	0.0013 Tn CO ₂ / m ² 0.38 tonnes/year 1.14 % (solar thermal) 0.77 % (PV)
TOTAL	0.0027 Tn CO ₂ /m ² 0.811 tonnes/year	4.1% reduction

As agreed by the GLA and accepted by the Local Planning Authority, although the energy figures didn't quite meet with the 25% savings required, a financial energy contribution of £19 per annum over a 30 year period so £570 has been accepted by the applicant. This is to be secured by means of a Section 106 agreement.

Community Access

The London Plan Policy 3.19 Sports Facilities sets out that proposals for new or enhanced sports facilities will be supported. As such the proposed use is considered acceptable in principle.

Policy CS10 advocates that the Council will work to ensure that community facilities are provided for Barnet's communities. Policy DM13 expands on this by stating that new community uses should be easily accessible to users. Whilst the current Chandos tennis club is a private members club as part of these proposals it is proposed that the facilities will be made available to the wider community in the following ways:

- Liaising with a nominated local school, within the East Finchley or Garden Suburb wards, willing to partner with Chandos to develop a programme whereby a

Chandos tennis coach spends at least five hours a week during the whole of the school summer term providing free coaching at the school. The cost of such a coach would be at current rates around £35 per hour. The aims would include ensuring that:

1. Children at the school play tennis, keep fit and learn skills, all in an environment where there is a proper code of sporting conduct, fair play and respect for the opponent;
 2. Talent is identified and nurtured; and
 3. The children of that school are encouraged to play tennis at Chandos.
- In order to further encourage the school children to play tennis at Chandos and further their tennis career, Chandos would provide ten school children, selected on the criteria of talent and desire, with a scholarship so that each one would pay half of the standard yearly rate for a junior Chandos membership. Any three of those ten who have exceptional talent or need will be eligible for an entirely free junior membership.
 - In order to ensure access to the club for junior members, the tennis club has agreed that at all times there will be 100 junior memberships on offer at not more than the current rate of £120 per annum subject to an annual increase of not more than any proportional increase in the senior membership rate for that year.
 - The club would make available four of the courts, the car park and part of the clubhouse for charities to run open days on not less than two days in any calendar year.
 - Chandos would host organised tennis tournaments for members of the club and non-members who are also LTA registered members (or members of an equivalent tennis organisation of a similar kind), such tournaments to take place on no less than five days in any year.
 - Chandos is to make available access on at least two tennis courts during the summer (1 May - 30 September) for not less than six hours each during school hours for every week of a school term so as to be used by such nominated local school(s) within the East Finchley or Garden Suburb wards who are prepared to partner with Chandos.
 - Chandos is to make available access on at least two tennis courts between 1 October and 31 April for not less than four hours each during school hours for every week of the school term so as to be used by such nominated local school(s) within the East Finchley or Garden Suburb wards who are prepared to partner with Chandos.

The proposal is therefore considered to enhance community sport provision within the East Finchley area in accordance with the requirements of the NPPF, the London Plan and the adopted Local Plan.

Environmental Impact Regulations (EIA 2011)

The application proposals have been assessed against the environmental impact of the development in accordance with the Environmental Impact Assessment

Regulations 1999 as EIA development. A screening opinion concluded that an Environmental Impact Assessment (EIA) was not required.

3. COMMENTS ON GROUNDS OF OBJECTIONS

These have been considered in the planning appraisal.

4. EQUALITIES AND DIVERSITY ISSUES

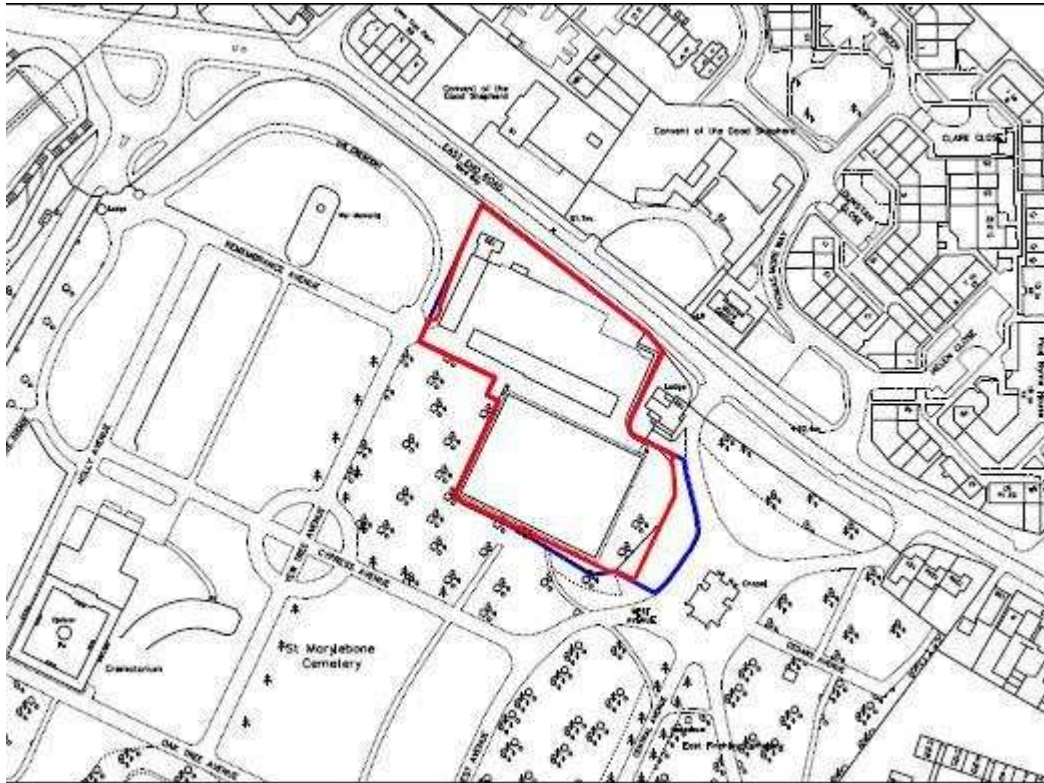
The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

The proposals are considered acceptable because of very special site specific circumstances which include the removal of a significant amount of built form (greenhouses), the reduction in the overall amount of hardstanding on site, significant improvements to landscaping and the openness of the land and limited increase in traffic. The proposed building would result in a suitable addition to the site which would blend in effectively with open character. On balance and based on those very special circumstances, the proposals would improve the openness of this particular MOL site without any significant demonstrable harm to the area. The proposals are acceptable on Highways Grounds subject to conditions. **APPROVAL** is recommended.

SITE LOCATION PLAN: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ

REFERENCE: F/01320/12



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LOCATION: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
REFERENCE: F/01405/12
WARD(S): Garden Suburb

Received: 05 April 2012
Accepted: 13 April 2012
Expiry: 08 June 2012

AGENDA ITEM 9

**Final
Revisions:**

APPLICANT: BDW Trading Limited & The Chandos Lawn Tennis Club Limited.
PROPOSAL: Relocation of gate on the listed north boundary wall and associated reinstatement and repair works. (Listed Building Consent)

RECOMMENDATION: APPROVE SUBJECT TO CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 0000 rev D, 3001 rev G, 3002 rev F, 3003 rev E, 3010 rev D, 3011 rev D, 3020 rev D, 3152 rev G1, 3153 rev G, 3162 rev G, 3164 rev D, 4040 rev F, 4055 rev G, 4100 rev G, 4120 rev C, 4121 rev C, 4150 rev D, 4152 rev D, 4160 rev D, 4200 rev D, 4205 rev D, 4300 rev D, 4351 rev D, Air Quality Assessment, Aboricultural Impact Assessment, Aboricultural Survey, Chandos LTC Sequential Test Assessment, Design and Access Statement, Extended Phase 1 Habitat Survey, Foul Drainage and Utilities Statement, Heritage Impact Assessment, Initial Bat Survey, Light Obtrusion report, Noise Impact Assessment, Planning Statement, Statement of Community Involvement, Surface Water Drainage Strategy, Sustainability and Energy Statement, Transport Assessment, Transport Assessment Addendum and PERS Audit, Energy Statement Addendum.

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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

2. This work must be begun not later than three years from the date of this consent.

Reason:

To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

3. The demolition works hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been executed and planning permission has been granted for the redevelopment for which the contract provides. Evidence that this contract has been executed shall be submitted to the Local Planning Authority and approved in writing by the Local Planning Authority prior to any demolition works commencing.

Reason:

To preserve the established character of the Conservation Area pending satisfactory redevelopment of the site in accordance with policy DM06 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF of the Adopted Barnet Core Strategy DPD (2012).

4. The wall is to be taken down carefully in such a manner that would allow the existing bricks to be used in the rebuild of the wall. All bricks including half batts are to be cleaned, numbered and stored for re-use.

Reason:

To preserve the established character of the Listed wall in accordance with policy DM06 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF of the Adopted Barnet Core Strategy DPD (2012).

5. The wall shall be rebuilt using the stored bricks. Any other bricks needed will be second hand stocks of a similar nature and date and shall be agreed in advance with the Local Planning Authority.

Reason:

To preserve the established character of the Listed wall in accordance with policy DM06 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF of the Adopted Barnet Core Strategy DPD (2012).

6. When the wall is rebuilt the bricks shall be laid in Flemish bond to match the existing bond.

Reason:

To preserve the established character of the Listed wall in accordance with policy DM06 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF of the Adopted Barnet Core Strategy DPD (2012).

7. The pointing is to match that of the existing in colour, mix and style. A sample area of pointing on an inconspicuous section of the wall should be shown to the council prior to works proceeding.

Reason:

To preserve the established character of the Listed wall in accordance with policy DM06 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF of the Adopted Barnet Core Strategy DPD (2012).

8. Written details at a scale of 1:20 of the proposed replacement railings and gate shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved plans.

Reason:

To preserve the established character of the Listed wall in accordance with policy DM06 of the Adopted Barnet Development Management Policies DPD (2012), CS NPPF of the Adopted Barnet Core Strategy DPD (2012).

INFORMATIVE(S):

1. i) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.

This application was originally on the agenda of the December 2013 meeting. As a consequence of a number of residents being unable to attend the meeting, Councillor John Marshall, Ward Councillor for Garden Suburb moved that the item be deferred to award them the opportunity to do so. Councillor Jack Cohen seconded the deferral. The Committee RESOLVED TO DEFER the application to the next appropriate meeting of the Committee.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework:

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.

National planning policies are set out in the National Planning Policy Framework (NPPF). This 65 page document was published on 27 March 2012 and it replaces 44 documents, including Planning Policy Guidance Notes, Planning Policy Statements and a range of other national planning guidance. The NPPF is a key part of reforms to make the planning system less complex and more accessible.

The London Plan is recognised in the NPPF as part of the development plan.

The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The document includes a 'presumption in favour of sustainable development'. This is taken to mean approving applications, such as this proposal, which are considered to accord with the development plan.

The Mayor's London Plan July 2011:

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 2031. It forms part of the development plan for Greater London.

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.

Barnet's Local Plan (Adopted) September 2012:

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD).

Relevant Core Strategy Policies: CS NPPF, CS1

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy.

Relevant Development Management Policies: DM01, DM06

Relevant Supplementary Planning Documents:

In June 2005 the Council published its "Three Strands Approach", setting out a vision and direction for future development, regeneration and planning within the Borough. The approach, which is based around the three strands of Protection, Enhancement and Growth, will protect Barnet's high quality suburbs and deliver new housing and successful sustainable communities whilst protecting employment opportunities. The second strand of the approach, "Enhancement", provides strong planning policy protection for preserving the character and openness of lower density suburbs and conservation areas. The Three Strands Approach will form the "spatial vision" that will underpin the Local Development Framework.

The Council Guide 'Hampstead Garden Suburb Conservation Area Design Guidance' as part of the Hampstead Garden Suburb Character Appraisals was approved by the Planning and Environment Committee (The Local Planning Authority) in October 2010. This leaflet in the form of a supplementary planning guidance (SPG) sets out information for applicants on repairs, alterations and extensions to properties and works to trees and gardens. It has been produced jointly by the Hampstead Garden Suburb Trust and Barnet Council. This leaflet was the subject of separate public consultation.

Relevant Planning History:

Site Address:	Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ
Application Number:	F/01320/12
Application Type:	Full Application
Decision:	Not yet decided
Decision Date:	Not yet decided
Appeal Decision:	No Appeal Decision Applies
Appeal Decision Date:	No Appeal Decision Date exists
Proposal:	Demolition of non-listed buildings and structures and redevelopment to provide a private tennis club with four full-sized open clay court, four full-sized covered courts, one open mini-court, a single storey clubhouse including restaurant and changing facilities, storage, car and cycle parking, landscaping, and other associated works and relocation of gate on the listed north boundary wall and associated reinstatement and repair works.
Case Officer:	Junior C. Moka

Consultations and Views Expressed:

Neighbours Consulted:	1	Replies:	0
Neighbours Wishing To Speak	0		

Internal /Other Consultations:

Urban Design and Heritage - No objections subject to a number of conditions

Date of Site Notice: 19 April 2012

2. PLANNING APPRAISAL

Site Description and Surroundings:

The site is situated on the south side of East End Road adjacent to St Marylebone Cemetery and has an area of 0.7 hectares. The site is currently occupied by a disused garden centre and is covered almost entirely by hard standing or buildings. There are four main buildings on the site: a house (occupied); a large greenhouse (largely derelict); a boiler house building (largely derelict); and two outbuildings. All are in a dilapidated state.

Along the northern boundary of the site, fronting onto East End Road, runs a Grade II listed wall and railings. There is a break towards the centre of the wall which currently provides the vehicular access to the site. Furthermore there are a number of listed buildings and features in close proximity to the site including the Gate Lodge, the Anglican Chapel and the Monument to Thomas Tate (all Grade II listed) within the adjoining cemetery and on the opposite side of the road the Convent of the Good Shepherd (also Grade II listed). The cemetery itself is Grade II* listed under the Historic Parks and Gardens register.

The site is designated as Metropolitan Open Land (MOL) and is situated along the boundary with the Hampstead Garden Suburb Conservation Area. The site itself is not within the Conservation Area but it is surrounded by it. The site falls within Flood Risk Zone 1, which means that there is a low risk of the site flooding. The adjoining cemetery is also designated as MOL and a Site of Local Importance for Nature Conservation. The cemetery also contains a number of trees and groups of trees that are the subject of Tree Preservation Orders.

The site has a public transport accessibility level (PTAL) of 1b (out of a range of 1 to 6, where 6 is the highest and 1 the lowest).

The area surrounding the Garden Centre site is predominately residential in character, with the Hampstead Garden Suburb to the south, and residential uses on the opposite side of East End Road, to the north. The residential accommodation in the area is characterised by large detached and semi-detached family houses, particularly within the Hampstead Garden Suburb Conservation Area, with some more recent flatted developments located immediately opposite the site providing 2 and 3 storey buildings for D1 and B1 uses with basement parking. There are also a number of community uses and sports facilities in the immediate area, including Finchley Cricket Club and LA fitness Centre to the north east, as well as several schools and colleges and the crematorium and cemetery to the south of the site.

Proposal:

The application is for Listed Building Consent for the relocation a gate on the listed north boundary wall and associated reinstatement and repair works. The works are required as a result of a planning application that has been submitted for the

redevelopment of the site to enable the relocation of the Chandos Lawn Tennis Club (our ref: F/01320/12).

Planning Considerations:

The Borough has an attractive and high quality environment that the Council wishes to protect and enhance. It is therefore considered necessary to carefully assess both the design and form of new development to ensure that it is compatible with the established character of an area.

The key consideration is the impact on a designated heritage asset.

The proposal is for the demolition of and reconfiguration of the listed front boundary wall and railings. The wall would be taken down to the level of the original footings/foundations and then these would be reused as a basis to reconstruct the new wall. It is proposed that the existing bricks will be reused and new railings to match the existing shall be installed the Design and Heritage Officer has requested a number of conditions requiring the bricks to be laid in Flemish bond; the pointing shall match the existing and that details of the replacement railings shall be agreed.

As the wall will match the existing wall it is considered that the integrity of the designated heritage asset would be retained and as a result the proposal is considered to comply with the requirements of the NPPF and Policy DM06 of the adopted Local Plan.

3. COMMENTS ON GROUNDS OF OBJECTIONS

None.

4. EQUALITIES AND DIVERSITY ISSUES

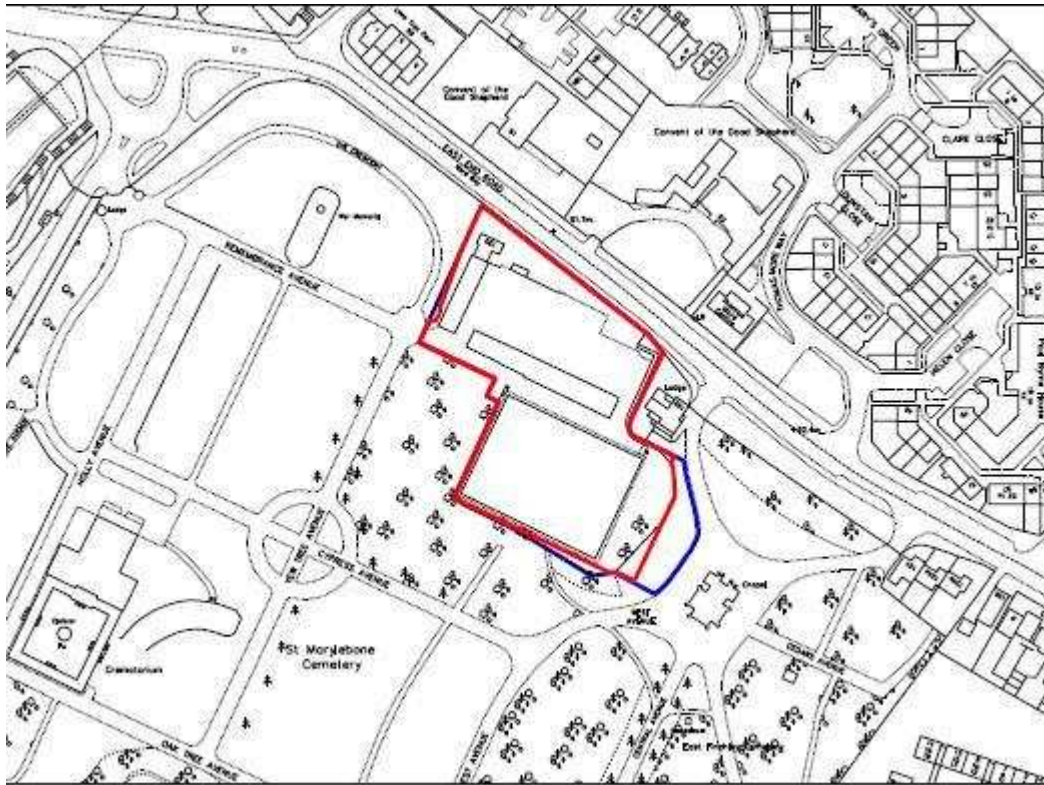
The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and supports the council in meeting its statutory equality responsibilities.

5. CONCLUSION

The proposal will result in the demolition and rebuilding of a section of listed wall. The existing bricks will be reused and relaid and repointed to match the retained section of the wall. The proposal is therefore considered to maintain the integrity of a designated heritage asset in accordance with the requirements of the NPPF and policy DM06 of the adopted Local Plan. Accordingly, APPROVAL is recommended.

SITE LOCATION PLAN: Finchley Manor Garden Centre, 120 East End Road, London, N2 0RZ

REFERENCE: F/01405/12



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LOCATION: Brookside Walk Children's Play Area, London, NW4

REFERENCE: H/05584/13 **Received:** 26 November 2013

Accepted: 11 December 2013

WARD(S): Hendon

Expiry: 05 February 2014

AGENDA ITEM 10

**Final
Revisions:**

APPLICANT: London Borough of Barnet

PROPOSAL: Installation of swings and multi use climbing frame to existing children's play area.

RECOMMENDATION: APPROVE SUBJECT TO CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Site location Plan, P02 Rev.A, Project Information: Agito Gamber (climbing frame), Product Information: 2.4m Olympic 2 seat swing with 2no. flat seats.

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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (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.

INFORMATIVE(S):

1. i) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in accordance with the Council's relevant policies and guidance.
2. The applicant is informed that Flood Defence Consent may be required for any works within 8m of the main river. The applicant is advised to contact the Environment Agency.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework

- Policy 5.3 – Sustainable design and construction
- Policy 7.4 – Local Character

Core Strategy Policies 2012

- Policy CS 1 Barnet's Place Shaping Strategy – The Three Strands Approach
- Policy CS 5 Protecting and Enhancing Barnet's character to create high quality places
- Policy CS 7 Enhancing and Protecting Barnet's Open Spaces
- Policy CS 15 Delivering the Core Strategy

Development Management Policies 2012

- DM01 Protecting Barnet's character and amenity
- DM03 Accessibility and inclusive design
- DM04 Environmental considerations
- DM15 Green Belt and Open Spaces

Supplementary Planning Document: Sustainable Design and Construction

Relevant Planning History:

Site Address: Land at Brookside Walk, Bridge Lane NW4
Application Number: H/03451/10
Application Type: Full Application
Decision: Approve with conditions
Decision Date: 22/10/2010
Appeal Decision: No Appeal Decision Applies
Appeal Decision Date: No Appeal Decision Date exists
Proposal: Use of land as children's play area.
Case Officer: Lesley Feldman

Consultations and Views Expressed:

Neighbours Consulted: 94 Replies: 28
Neighbours Wishing To Speak 1

27 letters of support and 1 letter of objection were received in respect of this application. The objections raised may be summarised as follows:

- Childrens play area built illegally as misappropriated neighbour's fence
- Impact on protected and priority species in the adjacent brook
- Hours of opening incorrect as sometimes used until 10:00pm in the summer
- Increased intensification of users which will increase the cars using the surrounding streets exacerbating the existing parking problems in the area
- Noise and disturbance
- Loss of privacy

Internal /Other Consultations:

N/A

Date of Site Notice: 19 December 2013

2. PLANNING APPRAISAL

Site Description and Surroundings:

The site comprises part of an area of open space laid to grass known as Brookside Walk. Planning permission was granted in 2010 (H/03451/10) to convert this area into a childrens play space. The area is bordered to the south by Mutton Brook and to the west by Dollis Brook . There are footpaths crossing the area alongside the brooks going north/ south and west/east.

To the north of the site are semi-detached properties within Southbourne Crescent. The gardens of those properties immediately adjacent to the play area are approximately 20m in depth. Some screening near this boundary is provided by existing trees. To the south of Mutton Brook are residential blocks of flats and 2 houses along Bridge Lane. The nearest block is approximately 22m from the play area. To the west of the site lies the River Brent with properties in Kings Close beyond. The nearest garden in Kings Close is approximately 50m from the edge of the play area and there is extensive tree screening along this boundary. To the east of the area Brookside Walk continues via the underpass below the North Circular Road.

The site is designated as part of a wider area of Metropolitan Open Land and Site of Borough Importance for Nature Conservation. It forms part of a green chain and green corridor and adjacent to the route of a metropolitan walk.

The site lies within Flood Zones 2 and 3 (part) and an Area of Archaeological Significance.

Proposal:

The application seeks permission for the installation of swings and multi use climbing frame to existing children's play area.

The proposed climbing frame will measure 7.5 metres in length, 5.8 metres in width and 3.08 metres in height.

The proposed swing set will measure 3.75 metres in length, 2.23 metres in width and 2.4 metres in height.

Planning Considerations:

The main issues in this case are whether or not the additional play equipment would:

- have an acceptable impact upon the amenity of the occupiers of the neighbouring property
- have an acceptable impact on the character and appearance of the area

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.

Policy DM04 states that proposals to locate development that is likely to generate unacceptable noise levels close to noise sensitive uses will not normally be permitted.

Policy DM15 states that open space will be protected from development. In exceptional circumstances loss of open space will be permitted where it can be satisfied that the development proposal is a small scale ancillary use which supports the use of the open space. It is considered to be the case of the application which therefore complies with this policy.

The proposal would not involve the increase of the existing children's play space area as the additional equipment would be located within the existing designated children's playspace. The new climbing frame would be located in the south-west corner of the site adjacent to the footbridge whilst the new swings will be located along the southern boundary of the site. Given the existing use of the site as a playground for younger children it is not considered that the two additional pieces of equipment would result in any significant increase in noise, disturbance and general activity which would warrant refusal of the application. The proposals are also not considered to generate any increase in traffic that would detrimentally impact on the residential amenity of neighbouring residents or cause prejudice to the free flow of traffic in neighbouring streets.

In relation to the site's location on Metropolitan Open Land, it is considered that, given that the equipment would be situated within the existing fenced play area, that there would be no additional harm to the appearance or function of the MOL arising from this development.

3. COMMENTS ON GROUNDS OF OBJECTIONS

Mostly addressed in the above report. Party Wall Issues are not material planning considerations. The proposal does not seek to increase the opening hours of the existing play ground. It is not considered that the two additional pieces of equipment in the existing designated play space area would have a detrimental impact on protected and priority species in the existing area.

4. EQUALITIES AND DIVERSITY ISSUES

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

5. CONCLUSION

The application is recommended for APPROVAL.

SITE LOCATION PLAN: **Brookside Walk Children's Play Area, London, NW4**

REFERENCE: **H/05584/13**



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LOCATION: Phase 3a (central community park) of Mill Hill East development to Phases 3a, 8, 9, 10 and 11, London, NW7 1PX
REFERENCE: H/03441/13 **Received:** 23 July 2013
Accepted: 23 July 2013
WARD(S): Mill Hill **Expiry:** 22 October 2013 **AGENDA ITEM 11**

Final 27 January 2014
Revisions:

APPLICANT: Inglis Consortium

PROPOSAL: Reserved matters application seeking approval for Phase 3a (Central Community Park) and advanced infrastructure works in relation to phases 3a, 8, 9, 10 and 11 of Millbrook Park (Mill Hill East) pursuant to Outline planning permission reference H/04017/09 dated: 22/9/2011, together with details to discharge the requirement of condition 5 (Reserved matter details), 25 (East-West and North-South links), 26 (Pedestrian and vehicular access points), 48 (Design of open spaces) and 52 (Children's play spaces).

RECOMMENDATION: APPROVE SUBJECT TO CONDITIONS

1. 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.

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

Site Location Plan 5106655_MB_GE_800 Rev P02
Existing Levels Sheet 1 of 3 5106655_MB_GE_801 Rev P01
Existing Levels Sheet 2 of 3 5106655_MB_GE_802 Rev P01
Existing Levels Sheet 3 of 3 5106655_MB_GE_803 Rev P01
Block Plan Sheet 1 of 3 5106655_MB_GE_804 Rev P02
Block Plan Sheet 2 of 3 5106655_MB_GE_805 Rev P01
Block Plan Sheet 3 of 3 5106655_MB_GE_806 Rev P01
Proposed Block Plan Sheet 1 of 3 5106655_MB_GE_807 Rev P02
Proposed Block Plan Sheet 2 of 3 5106655_MB_GE_808 Rev P02
Proposed Block Plan Sheet 3 of 3 5106655_MB_GE_809 Rev P02
Proposed Levels Plan Sheet 1 of 3 5106655_MB_GE_810 Rev P01
Proposed Levels Plan Sheet 2 of 3 5106655_MB_GE_811 Rev P01
Proposed Levels Plan Sheet 3 of 3 5106655_MB_GE_812 Rev P01
Proposed Drainage Plan Sheet 1 of 3 5106655_MB_GE_813 Rev P02
Proposed Drainage Plan Sheet 2 of 3 5106655_MB_GE_814 Rev P02
Proposed Cross Sections Plan 5106655_MB_GE_816 Rev P01
Proposed Road Long Sections 5106655_MB_GE_819 Rev P01

Vehicle Tracking Sheet 1 of 2 5106655_MB_GE_820 Rev P01
 Vehicle Tracking Sheet 2 of 2 5106655_MB_GE_821 Rev P01
 Central Park Long Sections A & B 2133-CP-SE-03 Rev B
 Central Park Landscape Proposals 2123-CP-LA-02 Rev D
 Central Park Planting Plan 2133-CP-PP-01
 Tree Pit Detail 2133-P8Ai-DT-01
 Swale Detail 2133-8Ai-DT-02
 Knee Rail to Swale 2133-8Ai-DT-03
 Hard Landscape Proposals 2133-8Ai-LA-01
 Infrastructure Hard Landscape Proposals 2133-8Ai-LA-02
 Planting Plan 1 of 2 2133-8Ai-PP-01
 Planting Plan 2 of 2 2133-8Ai-PP-02
 Existing Trees Retained and Protective
 Fence Landscape 2133-8Ai-TS-01
 Protective Measures for Trees During Construction and Demolition 2133-
 TS-08 Rev C N/A
 Design Capacity Statement - Highways 5106655_MB_RM8_001
 Design Capacity Statement – Drainage and Utilities
 5106655_MB_RM8_002
 Site-wide Drainage Strategy - Chapter 7 Update dated 31 October 2013
 Construction Traffic Management Plan 5106655_MB_RM8_003
 Contamination Assessment Engineer's Report 5106655/MB/RM8/004
 Habitat Survey Update for Phases 3a, 8, 9, 10 and 11
 5106655/MB/RM8/005
 Landscape Design Statement 2133-PPK-CP-DS01
 Landscape Management and Maintenance 2133-CP-RE-01
 Arboricultural Impact Assessment Report APA/MP8-11/AIA/01

Archaeological Written Scheme of Investigation PRHMHE-RPT-X-0007

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 DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

3. Secure visitor cycle parking spaces shall be provided for visitors as shown on the approved plans and thereafter maintained for the life of the development.

Reason:

To ensure the cycle storage is secure and to encourage sustainable forms of travel in accordance with Policies CS9 of the Core Strategy (2012) and DM17 of the Development Management Policies (2012).

4. No part of the development hereby permitted with the exception of remediation and ground re-profiling works shall be commenced until final details of all the play equipment shown on the approved plans have been submitted to and approved in writing by the Local Planning Authority. The

details shall also include the timescale of installation of the play equipment. The development shall be implemented in accordance with such details as approved.

Reason:

To safeguard the visual amenities of the locality and prevent disturbance to existing and future occupants thereof and to ensure the free flow of vehicular and pedestrian traffic and security of the site in accordance with Policies CS9 of the Core Strategy (2012) and DM01, DM04 and DM17 of the Development Management Policies (2012).

5. No siteworks or works on this development shall be commenced before a method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 Trees in relation to design, demolition and construction – Recommendations and expanding on the recommendations outlined in the Arboricultural Impact Assessment Report hereby approved are submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with such approval.

Reason:

To safeguard the health of existing trees which represent an important amenity feature in accordance with policies CS5 and CS7 of The Core Strategy (2012) and DM01 of the Development Management Policies (2012).

6. Before development hereby permitted is commenced, details of bat and bird boxes to be installed including the timescale shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

Reason:

In the interest of nature conservation and in accordance with Policies CS7 of the Core Strategy (2012) and DM16 of the Development Management Policies (2012).

7. Notwithstanding the details shown on plans otherwise hereby approved and prior to development commencing (with the exception of remediation and ground re-profiling works) a detailed lighting scheme including siting of lighting columns and a site plan with lux lines within the Panoramic Park shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as approved.

Reason:

To safeguard the visual amenities of the locality and prevent disturbance to existing and future occupants thereof and to ensure the free flow of vehicular and pedestrian traffic and security of the site in accordance with Policies CS9 of the Core Strategy (2012) and DM01, DM04 and DM17 of the Development Management Policies (2012).

8. Prior to the first occupation of any dwellings in subsequent phases of development which would directly adjoin this application site approved under Reserved Matters applications linked to the outline planning permission granted the under Barnet application reference H/04017/09 plans, specifications and other relevant details shall be submitted to the Local Planning Authority and approved in writing (to the Local planning Authorities Satisfaction) either:

1. Demonstrating that the street lighting on the road implemented under the consent hereby granted would not be detrimental to the amenities of the occupiers of nearby residential properties in terms of light spill.

Or

2. Proposing a suitable alternative scheme of street lighting that would not be detrimental to the amenities of the occupiers of nearby residential properties in terms of light spill.

If an alternative street lighting scheme is submitted and approved under this condition the existing street lighting shall be removed (where this is shown in the approved scheme) and the alternative scheme of street lighting installed in full prior to the first occupation of any dwellings in subsequent phases of development which would directly adjoin this application site approved under Reserved Matters applications linked to the outline planning permission granted the under Barnet application reference H/04017/09.

Reason:

To protect the amenities of the future occupiers of adjacent sites in accordance with policy DM01 of the Barnet Local Plan.

9. The development shall be carried out in accordance with the approved Landscape Management and Maintenance Plan and the management and maintenance regimes shall be reviewed on an annual basis for a minimum period of 5 years as set out in the approved document.

Reason:

To secure opportunities for the enhancement of nature conservation value of the site and in accordance with Policies CS7 of the Core Strategy (2012) and DM16 of the Development Management Policies (2012).

INFORMATIVE(S):

1. The applicant is reminded that the conditions and planning controls in the outline permission H/04017/09 dated 22/09/2011 are still relevant and must be complied with. There are also conditions that require to be discharged prior to the occupation of the development.
2. The applicant is reminded that Condition 63 (iv) and Condition 65 of the outline consent requires the submission and approval of a contamination remediation verification report, which will require the

developer to demonstrate completion of the works set out in the approved remediation strategy.

3. The costs of any associated works to the public highway, including temporary traffic order making and related implementation works and reinstatement works will be borne by the applicants and carried out either under rechargeable works Agreement or may require the applicant to enter into a 278 Agreement under the Highways Act 1980. Detailed design will have to be approved by Traffic & Development Section – Environment, Planning and Regeneration Directorate.
4. Your attention is drawn to the attached comments received from the National Grid dated 24/09/2013 and the requirements for works not to affect electrical or gas apparatus in the course of construction.

SUMMARY

Outline planning consent was granted on 22nd September 2011 for the redevelopment of Inglis Barracks situated in Mill Hill East. Consent was granted for a residential-led mixed use development, involving the demolition of all existing buildings (excluding the Officers' Mess building) and ground re-profiling works, to provide 2,174 dwellings, a primary school, GP surgery, 1,100sqm of 'High Street' (Class A1, A2, A3, A4 and A5) uses, 3,470sqm of employment (Class B1) uses, a district energy centre and associated open space, means of access, car parking and infrastructure.

This application site covers an area approximately 5.75 hectares (Ha) comprising a parcel of land which covers the south western section of the Millbrook Park development site (land identified as Phases 3a (POS), 8, 9, 10 and 11 identified on the approved Phasing Plan).

The proposed development is for the advanced infrastructure works to be undertaken prior to the sale of Phase 8, 9, 10 and 11 land to developers for residential development. This comprises: Site preparation works including demolition of existing buildings and ground reprofiling; Laying of sub-surface utility infrastructure; construction of roads; and construction of Sustainable Urban Drainage System (SUDS) infrastructure and are works that are necessary to support the development of the above phases.

The proposed development would also involve constructing and landscaping works to create the 'Central Park'. The advanced infrastructure works necessary to serve these phases include works that form an integral part of the landscaping of the Central Park.

The Central Park is to be accessible to the public, but will eventually be managed and maintained by the Residents Management Company for Millbrook Park.

1. BACKGROUND TO THE CURRENT APPLICATION

1.1 The Mill Hill East Area Action Plan

Mill Hill East is designated as an Area of Intensification in the London Plan (2011) and as a key growth area in the Barnet Core Strategy (2012). The area covered by this designation includes the former Inglis Barracks; Mill Hill East station; International Bible Students Association (IBSA House); the Council Depot and recycling centre; Bittacy Court; the Scout Camp and former Mill Hill Gas Works (the area now centred around Lidbury Square).

The area was first highlighted as an area which could be redeveloped in the London Plan in 2004. This is primarily as a result of Project MoDEL (Ministry of Defence Estates London) which involves the consolidation and sale of surplus MoD properties around London. The activities from Inglis Barracks were transferred to RAF Northolt and the base vacated in 2008 thereby providing an opportunity for redevelopment. The Council recognised that Mill Hill East was an area where more detailed policies were required to guide future development and in 2009 adopted an Area Action Plan (AAP) which covered an area of 48 hectares focused primarily on the former Inglis Barracks site. The aim of the AAP is to seek to ensure that development takes place in a balanced and coordinated manner by setting out a comprehensive framework to guide the delivery of housing, employment, leisure and associated community facilities, infrastructure, transport initiatives and environmental protection and enhancement.

A partnership comprising of a number of the key landowners and developers (the Inglis Consortium) prepared and submitted the outline application in 2009 for the comprehensive redevelopment of most of the area covered by the AAP.

1.2 The outline planning permission

In September 2011 outline planning permission was granted for the redevelopment of Mill Hill East regeneration site (now also known as Millbrook Park). This site covers an area of approximately 33.6 hectares (83 acres) and is located within the Mill Hill ward. The site is bounded to the east by Frith Lane, to the north by Partingdale Lane and to the west by Bittacy Hill (B552). Bittacy Business Park is immediately to the south of the site and Mill Hill East Underground station (Northern Line) lies to the south west.

The site is divided into a number of Development Land Parcels (DLP) or otherwise known as phases. Following approval of the site wide pre-commencement requirements, reserved matters applications will be brought forward for all detailed elements of the development for each phase, which would deal with all matters not fully addressed within the outline consent (layout, design, appearance and landscaping).

Each phase is to be brought forward in 2 stages (which can be subject to separate reserved matters approvals):

- Firstly, a programme of advance infrastructure works (AiW) to serve the phase; and

- Secondly, the development of the phase itself.

This is controlled by Conditions 5b and 5 respectively of the outline permission (ref H/04017/09, dated 22nd Sept 2011).

In addition to the plan drawings submitted, the following information was also submitted in support of the application and forms the supporting information:

2. MATERIAL CONSIDERATIONS

2.1 Key Relevant Planning Policy

National Planning Policy Guidance / Statements: The National Planning Policy Framework (NPPF)

On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and how these are expected to be applied. The NPPF replaces 44 planning documents, primarily Planning Policy Statements (PPS's) and Planning Policy Guidance (PPG's), which previously formed Government policy towards planning.

The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The document includes a 'presumption in favour of sustainable development'. This is taken to mean approving applications, such as this proposal, which are considered to accord with the development plan.

The Mayor's London Plan: July 2011 2.13 (Opportunity Areas and Intensification Areas), 3.6 (Children and Young People's Play and Informal Recreation Facilities), 3.7 (Large Residential Development), 5.12 (Flood risk management), 5.13 (Sustainable drainage), 5.14 (Water quality and wastewater infrastructure), 5.21 (Contaminated land), 6.3 (Assessing effects of development on transport capacity), 6.9 (Cycling), 6.10 (Walking), 6.13 (Parking), 7.1 (Building London's neighbourhoods and communities), 7.2 (An inclusive environment), 7.3 (Designing out crime), 7.4 (Local character), 7.5 (Public Realm), 7.8 (Heritage Assets and Archaeology), 7.19 (Biodiversity and Access to Nature), 7.21 (Trees and Woodlands).

Core Strategy (Adoption version) 2012

Development Management Policies (Adoption version) 2012

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD).

Relevant Core Strategy Policies: CS NPPF (National Planning Policy Framework – Presumption in Favour of Sustainable Development), CS4 (Providing Quality Homes and Housing Choice in Barnet), CS5 (Protecting and Enhancing Barnet's Character to Create High Quality Places), CS7 (Enhancing and Protecting Barnet's Open Spaces), CS9 (Providing safe, effective and efficient travel), CS12 (Making Barnet a Safer Place), CS13 (Ensuring the Efficient Use of Natural Resources)

The Development Management Policies document provides the borough wide planning policies that implement the Core Strategy. These policies will be used for day-to-day decision making.

Relevant Development Management DPD Policies: DM01 (Protecting Barnet's Character and Amenity), DM02 (Development Standards), DM03 (Accessibility and Inclusive Design), DM04 (Environmental Considerations), DM06 (Barnet's Heritage and Conservation), DM15 (Green Belt and Open Spaces), DM16 (Biodiversity), DM17 (Travel Impact and Parking Standards).

Mill Hill East Area Action Plan (AAP) 2009

The Mill Hill East Area Action Plan (AAP) was adopted by the Council in 2009 and forms part of Barnet's Local Plan containing policies relevant to the determination of planning applications in the area. The AAP forms a material consideration in the determination of Planning Applications in this area.

The relevant policies for the consideration of this application are: MHE7 (Parks and Public Open Space), MHE8 (Children's Play Space), MHE9 (Protection of Green Belt and Biodiversity), MHE10 (Making the Right Connections), MHE14 (Creating a Sustainable Development), MHE15 (Design), MHE16 (Delivering Design Quality), MHE18 (Delivering the AAP).

Approved Design Code

The approved Design Code pursuant to Condition 4 of the outline consent (ref H/04565/11, 21st Dec 2011) also sets out the guidelines for how the site, its neighbourhoods, open spaces and key amenities could be designed and built. It informs the formulation of individual reserved matter applications related to specific phases of development. Site-wide or phase related reserved matters must be in compliance with the agreed Design Code unless satisfactorily justified and this will be assessed in detail below.

2.2 Relevant Planning History:

Application Reference:	H/04017/09
Case Officer:	Jo Dowling
Proposal:	Outline application for the comprehensive redevelopment of the site for residential led mixed use development involving the demolition of all existing buildings (excluding the former officers mess) and ground re-profiling works, to provide 2,174 dwellings, a primary school, GP Surgery, 1,100sqm of 'High Street' (A1/2/3/4/5) uses, 3,470sqm of employment (B1) uses, a district energy centre (Sui Generis) and associated open space, means of access, car parking and infrastructure (with all matters reserved other than access). Full application for the change of use of former officers' mess to residential (C3) and health

	(D1) uses.
Stat Start Date	30/10/2009
Application Type	EIAO
Decision	APL
Decision Date	22/09/2011

Application Reference:	H/00480/12
Case Officer:	Colin Leadbeatter
Proposal:	Reserved matters application seeking approval for advance infrastructure works in relation to Phase 1A of Millbrook Park (Mill Hill East) pursuant to outline planning permission reference H/04017/09 dated: 22/9/2011.
Stat Start Date	07/02/2012
Application Type	APD
Decision	APC
Decision Date	08/05/2012

Application Reference:	H/00642/12
Case Officer:	Colin Leadbeatter
Proposal:	Reserved matters application seeking approval for advance infrastructure works in relation to Phase 2 of Millbrook Park (Mill Hill East), pursuant to outline planning permission H/04017/09 dated 22/09/2011
Stat Start Date	20/02/2012
Application Type	APD
Decision	APC
Decision Date	20/04/2012

Application Reference:	H/04338/11
Case Officer:	Colin Leadbeatter
Proposal:	Submission of details for condition 6 (Overarching Phasing Plan) pursuant to planning permission H/04017/09 dated 22/09/11.
Stat Start Date	24/10/2011
Application Type	APD
Decision	Approve
Decision Date	15/12/2011

Application	H/04337/11
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Reference:	
Case Officer:	Colin Leadbeatter
Proposal:	Submission of details for Condition 9 (Open Space Strategy) pursuant to planning permission H/04017/09 dated 22/09/11
Stat Start Date	24/10/2011
Application Type	APD
Decision	Approve with conditions
Decision Date	03/01/2012

Application Reference:	H/00670/13
Case Officer:	Wing Lau
Proposal:	Environmental impact assessment screening opinion for infrastructure works for Phase 3, 4a, 4b, 5,10 and 11 of the Mill Hill East development.
Stat Start Date	12/02/2013
Application Type	ES Screening
Decision	ES not required
Decision Date	12/03/2013

Application Reference:	H/00668/13
Case Officer:	Wing Lau
Proposal:	Reserved matters application seeking approval for construction of associated advanced infrastructure works and landscaping associated with Phase 3 (public open space OS4) of Mill Hill East development to create 'Panoramic Park' and advance infrastructure works in relation to Phases 3, 4a, 4b and 5, pursuant to Conditions 5 and 5b of Outline planning permission reference H/04017/09 dated: 22/9/2011, together with details to discharge the requirements of conditions 26 (Pedestrian and Vehicular Access Points), 48 (Design of Open Space) and 52 (Children's Play Space). Ground re-profiling works to Phases 10, 11 and part of Phase 7.
Stat Start Date	25/02/2013
Application Type	APD
Decision	APC
Decision Date	22/04/2013

Application Reference:	H/03458/13
Case Officer:	Andrew Dillon
Proposal:	Environmental impact assessment screening opinion for infrastructure works for Phase 3a, 8, 9, 10 and 11 of the

	Mill Hill East development.
Stat Start Date	06/08/2013
Application Type	ES Screening
Decision	ES not required
Decision Date	09/08/2013

2.3 Consultations and Views Expressed:

Public Consultation

Neighbours Consulted: 158

Replies: 0

Neighbours Wishing 0

To Speak

At the time of writing no responses from neighbouring residents have been received.

Residents Associations

Mill Hill Preservation Society

'We have looked at the documents on line and we have no significant objections to raise concerning the various proposals.'

Elected Representatives

Email received from Cllr Khatri – no specific comments raised.

Internal /external and Other Consultations:

Transport for London

'TfL has no observation toward the proposed discharge of condition 48 and 52.

It is also content that condition 5, 25 and 26 may be discharged concerning this part of the development.'

Environment Agency

'Initial comments received from the Environment Agency (EA) raised queries on the surface water discharge limit, which did not tally with the information in the site wide drainage strategy. Following the receipt of amended calculations the Environment Agency have confirmed that they have no objections to the proposal.'

Metropolitan Police Service

'Barnet Police have no objections in principal to the development proposals.

As with other planning applications within the London Borough of Barnet, I would welcome compliance with the Association of Chief Police Officers (ACPO) 'Secured By Design' (SBD) Scheme. SBD supports the Barnet Local Plan: Development Plan

Document 2.6 Security in Design and 3.9 Secured by Design (adopted September 2012).'

Thames Water

'Waste Comments

Thames Water have reviewed the documentation provided and agree to discharge Condition 5.

National Grid

National Grid has identified that it has apparatus in the vicinity of your enquiry which may be affected by the activities specified.

Environmental Health

The Council's Environmental Health Officer has assessed the remediation strategy for contaminated land (document ref 5106655.MB.RM8.004 dated July 2013) for phases 3A, 8, 9, 10, 11 and open space 6 and confirmed that it is a thorough report that fulfils the requirements of the reserved matters application for the relevant condition. They are satisfied that the condition can be discharged in relation to this part of the site.

Highways and Transportation

No objections in principle raised however comments expressed regarding areas which need clarification in the detailed design phase.

Green Spaces

The Council's Green Spaces Officer has raised no objection to the amended playground layout.

3. DESCRIPTION OF THE SITE, SURROUNDINGS AND PROPOSAL

3.1 Site Description and Surroundings:

Site in relation to the outline consent:

The site to which this reserved matters application relates covers an area 5.75 hectares (Ha) comprising a parcel of land which covers the south western section of the Millbrook Park development site. The site falls within a number of phases of the outline consent (phasing approved pursuant Condition 7 ref H/03362/12).

It covers the south western section of the Mill Hill East regeneration site (land identified as Phases 3a (POS), 8, 9, 10 and 11 identified on the approved Phasing Plan).

Physical features:

The application site area currently accommodates buildings and infrastructure associated with the site's former military use (Inglis Barracks), houses and flats, a Council Transport Services Depot and land cleared by previous planning permissions in preparation for redevelopment.

3.2 Proposal

The application is in two parts, but both are for the approval of matters reserved under the outline consent ref H/04017/09. An Environmental Impact Assessment Screening Opinion for this phase has been submitted separately and it was considered that an Environment Statement was not required (application ref H/03458/13) on the 09/08/2013.

The Advanced Infrastructure Works (AiW)

The AiW comprises the following works:

(i) Site Preparation

Demolition of all existing buildings, structures (surface and sub-surface), and hardstanding within the application site boundary.

Following demolition works, the site is to be subject to ground remediation works, which is in accordance with the site-wide Remediation Strategy approved under the discharge of Condition 63 of the outline consent (permission ref: H/00643/12).

The northern part of the site has been re-profiled as part of works approved under permission ref. H/00668/13. However, this land is included within the red line as further reprofiling is required to prepare the whole site for the delivery of the proposed infrastructure works. The proposed level changes are in accordance with the approved levels strategy set out on Parameter Plan 6 (ref: A6157/2.1/08 Rev A) and Design Code Section 2.8.

Existing trees within and adjacent to the site will be protected by fencing in accordance with the details approved pursuant to Condition 53 of the OPP, and is compliant with the requirements of Condition 5b of the OPP.

(ii) Advance Infrastructure Works (AiW) to Serve Phases 3a (POS), 8, 9, 10 and 11

The proposal includes the construction of the southern section of the Primary Residential Street (PRS), as defined in the Design Code. The road will connect to infrastructure approved under permission ref. H/04606/12 (AiW to serve Phase 2a), and will run past the south eastern boundary of Phase 3a POS land, along the northern and eastern boundaries of Phase 11 land and the eastern boundary of Phase 10. It will also run along the western boundary of Phase 8 and eastern boundary of Phase 9 to where it joins Bittacy Hill on the southern boundary of the Millbrook Park Site.

The proposed section of PRS will meet London Borough of Barnet (LBB) standards for adoption and Transport for London (TfL) requirements for bus routes and, in accordance with the OPP, the highway specification will be as follows:

- Designated as a 30mph road;
- Carriageway width of 6.75m;
- 2m wide footpath along either side of the road; and
- 2m wide on-street parallel car parking (in banks of no more than 3).

A 'Bus Gate' is provided at the junction with Bittacy Hill to allow only buses to enter and exit the site via this route, a temporary turning area is also provided for cars which mistakenly enter the junction.

Multi-media/utilities will be provided in a 'utilities trench' beneath the proposed footpaths, in accordance with the Design Code. The proposed siting of service runs has been selected to avoid any current and future conflict with street tree planting.

Details of the preliminary position of proposed street lighting is included in the application, however it is acknowledged that the position of the proposed lighting may need to change once the reserved matters application for the individual plots come forward to ensure no adverse impact upon amenity. As such it is not proposed to install any street lighting under the relevant reserved matters for adjacent blocks have been granted.

The application proposes that surface water and foul water drainage is to be provided beneath the proposed highways following the route of the proposed section of the PRS and Urban Street and connect to swales proposed adjacent to highways and the Central Park. Provisions is also made for connections to adjacent, future development phases. The foul drainage network is proposed to follow a similar route to the surface water drainage and connections are to be provided to enable both systems to discharge into the drainage provision beneath Bittacy Hill to the south west and Frith Lane to the east.

The Design Code requires the installation of Urban (Rain Garden) Swales along the northern side of the proposed Central Park and along the eastern side of the majority of the proposed PRS. The Urban Swale along the northern boundary of the Central Park was previously approved as part of the Phase 1 Reserved Matters permission (ref. H/00480/12). However, it has been included within the application boundary as the enclosed plans show that its layout and planting arrangement have been slightly altered during the detailed design stage.

(iii) Central Park

This application also seeks approval of reserved matters for the Phase 3 public open space (POS). Parameter Plan 2 (Landscape) of the outline consent, the approved 'Revised Public Realm and Open Space Strategy' and the Design Code identify the general location and extent of land to be used as public open space within Phase 3 and this is known as the 'Central Park'.

Condition 15 (Level of Open Space) of the outline consent sets out the level/target of open space to be provided across the whole Millbrook Park site. It stipulates that not less than 5.95 Hectares of open space shall be provided in the development which will consist of a target provision in a number of areas across the development site. The target provision that relates to this phase is: Central Park 0.46Ha.

This application therefore proposes the landscaping of the public open space OS6 and necessary AiW required in respect of this land, which in summary provides the following:

- Ground re-profiling to create a highly accessible park providing 500mm high grassed terraces edged with natural stone to create a 'vineyard' structure which creates an amphitheatre;
- Approx. 440sqm local playable space located in the northern section of the Park;
- Creation of a central focal space in the southern section of the Park;
- Retention of many existing trees on the site and planting of new native trees, plus appropriate shrubs;
- Provision of Bat and bird boxes on trees within the Park; and
- Provision of 3m wide Urban (Rain Garden) swales along the northern boundary of the Park.

4. PLANNING CONSIDERATIONS

4.1 The Principle of Development

Advanced infrastructure works

The principle of an access road and the construction/landscaping of a public open space is established by the outline planning consent. Condition 5 and 5b (Reserved Matters Details) seeks details (layout, scale, landscaping and appearance and in the case of the AiW details of drainage, ecology and contamination strategy) to be submitted to and approved by the Local Planning Authority (LPA) prior to the commencement of development.

The outline planning permission consists of a series of parameter plans which establish a series of parameters and principles to create a clear framework of planning control and fix the quantum of development, land uses, levels and access arrangements.

The key parameter plans of relevance to the consideration of this application are:

- Parameter Plan 1: Access and Movement
Establishes the main vehicular and pedestrian access points and vehicular movement hierarchy.
- Parameter Plan 2: Landscape

- Establishes the location and extent of areas of public open space.
- Parameter Plan 3: Land use
Establishes the location and distribution of land uses and open spaces.
- Parameter Plan 4: Scale
Establishes the maximum height permissible across the whole Millbrook Park site.
- Parameter Plan 5: Character Areas
Establishes the extent and disposition of the strategic character areas.
- Parameter Plan 6: Levels Strategy
Establishes the proposed spot levels at street junctions and maximum permissible gradients along each of the streets.

In order to support the detail contained within the parameter plans the outline consent has a number of additional documents that form a 'strategic development framework' in accordance with the requirements of Policy MHE18 of the AAP. The 'framework' establishes a series of development principles that will be used to guide detailed elements and the preparation of reserved matter applications. Of relevance to the consideration of this application are the following documents:

- Design Principles Document;
- Revised Transport Assessment
- Phasing and Delivery Strategy
- Technical/Infrastructure Strategy
- Revised Public Realm and Open Space Strategy (MHE/OPA/5.1)
- Technical and Infrastructure Strategy (MHE/OPA/6)
- Revised Phasing and Delivery Strategy (MHE/OPA/10.2) which includes phasing plan ref Figure 4.1

Design Code

In addition to the above a site wide design code has been approved in the clearance of condition 4 of the outline application and forms the guide to the assessment of reserved matters applications. This reserved matters application is therefore considered within the framework of established broad development principles, Parameter Plans, and a detailed design code.

The applicant has submitted a statement of compliance with this application to describe the proposed development and demonstrates general compliance with the outline planning permission.

The proposals comply with the approved Parameter plans in terms of location of the proposed road and levels.

The proposed roads have been designed to link in to the future road network and designed to take the capacity of traffic envisaged by the Transport Assessment that accompanied the outline application and the roads proposed have been designed to link acceptably into the anticipated and currently existing parts of the surrounding road network.

For the reasons set out above it is considered that the principle of the AiW development is acceptable and in accordance with the relevant parameters and principles of the outline consent to which it relates.

Central Park

The principle of the public open space is also established in the outline consent. The open green spaces in Millbrook Park is considered to be a key element of the outline consent as it provides essential amenity space for residents, along with maintaining the overall green nature of the site.

The park sits within the spatial parameters defined on Parameter plans 2 (Landscape) and 3 (Land Use) and though there might be minor variations to the boundaries set out on these plans, the location of the public open space is acceptable and in accordance with the outline consent. The approved 'Revised Public Realm and Open Space Strategy August 2010' at the outline stage sets out the key principles for the design of each open space and the Central Park sit broadly within the parcel of land that has been allocated covering an area of 0.46 hectares.

Discharging of conditions

This application also involves the discharge of a number of planning conditions attached to the outline consent that require information to be submitted for each phase of the development. Those conditions that are to be approved in relation to this proposal are as follows:

- **Condition 26 – Pedestrian and Vehicular Access Points**
This requires details of access points, estate roads and footways to be submitted and approved.
- **Condition 48 – Design of Open Space**
This requires details on the construction of any communal open space and should be in accordance with the principles and parameters contained within Parameter Plan 2, Landscape (A6157/2.1/04) and the Revised Public Realm and Open Space Strategy (MHE/OPA/5.1).
- **Condition 52 – Children's Play Space**
This requires details of children's play areas to be submitted and approved and shall be provided within 12 months of the first occupation of any dwelling located within that phase.

4.2 Transport, Highways and Parking

Policy CS9 of the Barnet Core Strategy identifies that the Council will seek to ensure efficient use of the local road network, require that development is matched to capacity, seek more environmentally friendly transport networks and promote the delivery of appropriate transport infrastructure. Policies DM17 and CS9 seek that proposals ensure the safety of all road users and make travel safer, reduce

congestion, minimise increases in road traffic, provide suitable and safe access for all users of developments, ensure roads within the borough are used appropriately and require acceptable facilities for pedestrians and cyclists.

A hierarchy of street types are set out in Parameter Plan 1 and is further detailed in the Design Code. Its objective is to create streets that have distinctive characters but also fit together to create a coherent development.

The OPP requires the construction of a Primary Residential Street (PRS), which will run from the north eastern corner of the site and south through its centre. As well as connecting to the approved Phase 1a East-West Primary Link Road (approved under reserved matters permission ref. H/00480/12) in the north and the existing Bittacy Hill to the south, Urban Streets will also extend east and west from the PRS.

The proposed section of PRS will meet London Borough of Barnet (LBB) standards for adoption and Transport for London (TfL) requirements for bus routes and, in accordance with the OPP, the highway specification will be as follows:

- Designated as a 30mph road;
- Carriageway width of 6.75m;
- 2m wide footpath along either side of the road; and
- 2m wide on-street parallel car parking (in banks of no more than 3).

A 'Bus Gate' is provided at the junction with Bittacy Hill to allow only buses to enter and exit the site via this route, a temporary turning area is also provided for cars which mistakenly enter the junction. It is anticipated that direct vehicle access to individual homes/plots could be provided in the future. However, this level of detail is not proposed under this application as layout details of development phases served by this street will not be known until the preparation/approval of reserved matters applications for those phases are made.

Twelve parallel parking bays are proposed in this application. In addition to this secure cycle parking will be provided adjoining the Central Park, which is in accordance with the provisions of the Design Code and the Outline Consent.

4.3 Design, Character and Amenity

Local Plan policy DM01 states that all development should represent high quality design that is based on an understanding of local characteristics, preserves or enhances local character, provides safe, secure and attractive streets and spaces respects the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. It also states that proposals for lighting schemes should not have a demonstrable impact on residential amenity and seeks generally to protect the amenities of adjoining and potential occupiers and users.

Design matters relating to the hard landscaped areas proposed are considered in the Transport, Highways and Parking section of this report. Multi-media and utilities infrastructure would be provided in a 'utilities trench' beneath footpaths and this is

considered to be an acceptable approach that accords with the objectives of the Design Code.

Visual impact

No buildings are proposed in this application, but it is envisaged that the future buildings surrounding the block in the future phases would provide an appropriate enclosure around the Central Park. The park is located on higher ground in the centre of the Millbrook Park development and the design maintains an 'open' character that optimises the panoramic views out towards London. The tallest physical structures proposed within the park are towards the northern edge with the play equipment, but the remainder of the park is generally open with a few existing trees retained.

The approved 'Revised Public Realm and Open Space Strategy' and the Design Code establishes the design principles for the landscape works. The submitted plans demonstrate that the proposals are broadly in compliance with the design principles. The key spaces have been laid out appropriately; The park will not be enclosed and there will be multiple access points along the boundaries. Level access to the space and resting points will be provided along the main pedestrian route.

- 500mm high terraces create a 'vineyard' structure which in turn creates an amphitheatre and multiple places to sit. They will be grassed and edged with natural stone.
- A Local Playable Space of approximately 441sqm is proposed to the north of the park. The play area will include bench seating and will cater for children in the 0-11 years age range, providing fixed equipment within an area of set-pour safety surface.
- The Urban Swale along the northern boundary of the Central Park was previously approved as part of the Phase 1a Reserved Matters permission (ref. H/00480/12). However, it has been included within the application boundary as the enclosed plans show that its layout and planting arrangement have been slightly altered during the detailed design stage.
- There will be a central focal space at the lower part of the park which can be used for informal recreation, gatherings, performances or other community events.
- A small paved area is proposed in the southern corner of the park, connecting the main space through a gateway feature retaining wall. Seating will provide a stopping point along the main pedestrian north south route.
- Formal tree planting is proposed along the east west link and the southern boundary to formalise and define the space. Due to the distance away from buildings there is the opportunity to use larger tree species in these locations.

The street furniture proposed under this application mainly involves timber benches, litter bins, picnic benches, cycle stands and timber bollards and it is considered that these are in accordance with the Design Code guidelines and are appropriate.

This application also proposes the installation of street lighting columns (street lights) and the proposed locations of these are shown in the plans submitted. It is accepted that the street lights are needed to provide a safe environment for users of the roads proposed. It is recognised however that as no detailed proposals have yet been brought forward for adjacent residential developments within the Mill Hill East site this aspect cannot be assessed fully at this time. The submission confirms that street lamp locations can be reconsidered as phases adjoining the site come forward and conditions have been recommended to control this aspect of the development.

Access and security matters

Access paths within the park are of appropriate gradient and help to promote connectivity and movement through and around the park. Whilst an inclusive accessible environment should be achieved for the public, steep topography has made this challenging. The park has been designed to incorporate paths at gradients no steeper than 1:12. This, in places, results in the use of steps which will be designed to include hand rails and landings. Where steps are used, an alternative 'level' route is provided. The park is to be open to all members of the public and no restriction is in place to prohibit other users outside of the Millbrook Park site.

The access aspirations of the Design Code is to ensure the parks and open spaces are open to all with no gated or restricted access and should be designed with as many access points as possible. Whilst the equipped play area is fenced and gated, these are low level and visually permeable and help to define this space. Location is critical in generating a sense of social safety and security and the facilities are close to walking or cycling 'desire lines' and with informal oversight from nearby future housing.

Landscaping

The soft landscaping includes amenity grass and wildflowers/bulb planting along the northern boundary. A line of standard trees is also proposed along the northern and southern boundaries of the park with multi stemmed trees proposed to the south of the play area and along the eastern boundary. The proposed landscaping is considered commensurate with the character of the different key spaces and entrances and is considered in accordance with the Design Code.

Trees

Position regarding the retention and removal of existing trees on the Millbrook Park site

The Council has accepted that a number of trees on the site are to be removed in order to allow for development approved under outline consent to proceed, which satisfies development plan policy requirements. This position was formalised via the approval of the following:

- Parameter Plan 2 (at outline stage) - identifies existing trees to be retained and those existing trees to be removed.
- The Revised Public Realm and Open Space Strategy (at outline stage) – this adds a further layer of detail to Parameter Plan 2 in the form of an Existing Tree Strategy. It sets out an objective that reserved matters applications should seek to retain the best quality A/B trees, which should be supplemented by new planting.
- Details approved pursuant to Condition 53 - (discharge of condition for protective fencing)
- The Prior Notification of Demolition Works - (separate application following the outline consent).

Condition 53 required details of protective fencing around trees to be submitted to the LPA for approval. In order to discharge this condition, the Council required each existing tree to be identified on a plan and to be labelled as either:

- Tree to be removed at demolition
- Tree to be removed (to be confirmed following preparation of detailed proposals at reserved matters stage)
- Trees to be retained.

It is envisaged that reserved matters applications should be prepared in the context of the above documents and that the Council accepts that these trees are to be removed. However, the loss of any further trees that are not identified for removal on the aforementioned plans is a relevant consideration and should be considered in accordance with relevant development plan policies which require their loss to be justified either in arboricultural terms or practicability (and appropriate mitigation measures put in place).

Proposed works to trees

All trees scheduled for removal under previous consents have been removed. The site currently contains 3 trees within the confines of the proposed Central Park. A false acacia tree on the southern portion of the site and two hornbeams on the western part of the site. All of these trees are early mature specimens with a medium landscape contribution (Category B).

The application proposes the retention of these trees. No hard landscaping is proposed within the RPZ's of these trees and the trees will be additionally protected by protective fencing. All soft landscaping will be by hand only to prevent root disturbance.

Initial concerns were raised by the Council's tree officer regarding the impact of the proposed terracing on waterflow to the false acacia tree located on the southern part of the Central Park. The application has confirmed that the terracing will be permeable and as such would not affect the flow of water to this tree.

Surface materials

The surface materials for the park are in accordance with the Design Code guidelines ensuring legibility, consistency and durability.

Overall, the layout, appearance and hard and soft landscaping are considered acceptable in principle and it is considered that the design approach would result in a high quality development in accordance with the requirements detailed within the Design Code and Policies CS5 and DM01.

4.4 Amount of open and play space

Condition 15 (Level of Open Space) of the outline consent sets out the level/target of open space to be provided across the whole Millbrook Park site. It states the following:

“Not less than 5.95 Hectares of open space shall be provided in the development which will consist of a target provision in the following areas:

- *Panoramic Park 1.37 Hectares*
- *Central Community Park 0.46 Hectares*
- *Officers’ Mess Gardens 0.76 Hectares*
- *Eastern Park 0.42 Hectares*
- *Public Square 0.3 Hectares*
- *Northern Pocket Parks 0.35 Hectares*
- *Open Space to north/south of Officers’ Mess 0.29 Hectares*
- *School Playing Fields 1.30 Hectares*
- *Woodland 0.70 Hectares*

As detailed in Parameter Plan 2(A6157/2.1/04) and the Revised Public Realm and Open Space Strategy (MHE/OPA/5.1) unless otherwise agreed in writing by the Local Planning Authority”.

This condition was imposed to ensure that appropriate provision of open space is provided throughout the development, but it is set out to allow some variation as each area is to achieve a ‘target’, with the minimum of 5.95Ha across the whole site to be provided. 0.46Ha of public open space has been proposed in this application for the Central Park and conforms to Condition 15.

Play

The ‘Revised Public Realm and Open Space Strategy’ at outline stage calculated a minimum of 7,980sqm of ‘playable space’ across the whole Millbrook Park site. It had committed the Central Park to deliver a local playable space for ages 0-11. The proposal includes the provision of an equipped play area (441 Sq.m) covering the northern part of the park. The play area is predominately intended for smaller children incorporating a pirate ship with slides and climbing net, octopus see-saw, a sailing themed roundabout and other elements such as balance posts and boulders.

The submitted plans have been amended following discussions with the Council's Green Spaces Officer to incorporate the provision of a set of swings including a basket swing and is considered to provide a reasonable choice of play equipment for the intended use. There is sufficient distance from future properties in subsequent phases to ensure residential amenity is not compromised (in terms of noise and privacy).

The proposal hereby satisfies the requirements of Conditions 48 (Design of Open Space) and 52 (Children's Play Space).

4.5 Drainage and Flooding

Drainage information for the wider site covered by the outline planning permission to which this application relates was submitted (under application ref H/04340/11) under conditions 43, 44 and 46 of that consent. The current application includes a plan providing details of surface and foul water drainage and a Drainage Strategy technical note. These documents set out how the drainage infrastructure proposed would be consistent with the site wide approach to drainage.

The application proposes that a surface water drainage network will be installed within the highway to drain surface water runoff from the paved surfaces and adjacent residential development plots.

A piped drainage network will be installed within the east west section of the Primary Residential Street which connects into drainage built within the Phase 2A Advanced Infrastructure Works.

A second system will utilise a linear rain garden swale within the north south section of the Primary Residential Street corridor which will drain the adjacent highway areas via trapped gully's as well as providing a conveyance conduit for incoming development flows. The linear rain garden swales would allow for runoff from adjoining residential footways to drain directly into the swale by overland flow. The proposed swale addresses a number of SuDS issues by increasing the time of concentration of the drainage network, removing suspended solids, attenuating water volumes as well as providing a biodiversity amenity.

At the southern extent of the Primary Residential street adjacent to Bittacy Hill the surface water drainage network will be conveyed by a temporary pipe to the outfall in Bittacy Hill. This temporary drainage will be replaced during the residential development of Phase 8 when a large sub surface attenuation tank and an online flow control device will be constructed to limit peak outfalls from the site. Both networks outfall from the site via a new connection into the existing Thames Water surface water drain present in Bittacy Hill.

The foul water drainage network follows a similar route to the surface water network, flowing from north to south along the proposed highways. The ultimate outfall from the site is to the existing Thames Water drainage network in Bittacy Hill. The applicant further advises that it is anticipated that all foul water drainage will be eligible for adoption by Thames Water.

The Environment Agency originally raised queries regarding the proposed discharged figures and the data has been updated to accord with Environment Agency requirements who have confirmed that they have no objection to the proposal.

The proposal is considered to be acceptable and compliant with the principles and objectives of the outline consent to which this application relates in terms of drainage and flooding matters.

4.6 Biodiversity and Nature Conservation

Policy DM16 of the Barnet Local Plan states that when considering development proposals the Council will seek the retention and enhancement, or the creation of biodiversity. Policy DM01 states that proposals for lighting schemes should not have a demonstrably harmful impact on biodiversity. Policy MHE9 of the AAP states that ecological surveys will be required before development can commence, to ensure appropriate mitigation measures are undertaken.

The Environmental Statement at outline stage concluded that there are no overriding concerns with respect to ecology and nature conservation preventing redevelopment taking place. It is acknowledged by the AAP that the site is of limited nature conservation importance and it is considered that the development provides the opportunity to enhance the diversity of habitats across the site through the planting of native species.

An Ecological Mitigation and Management Plan (EMMP) was approved in order to discharge Condition 60 of the outline planning consent under application reference H/04184/11 (24th November 2011). The purpose of the EMMP was to set out a management programme for the enabling phases of works to safeguard and enhance the features of importance to nature conservation present within the wider application site.

This application is accompanied by an updated Habitat Survey Update (by Atkins) covering the area of this application. No additional significant impacts have been identified as a result of subsequent surveys and subject to the mitigation that has been agreed for Millbrook Park site, no additional significant impacts on ecological receptors would be predicted as a result of the proposed works within the current application site subject to compliance with agreed site wide mitigation measures and subject to inspection of buildings prior to demolition for the presence of bats.

It is not proposed to remove any additional trees and a significant number of new trees are proposed to be planted. Bat and bird boxes are proposed in the proposed Central Park which would enhance biodiversity. A condition requiring details of the position of the proposed boxes is suggested.

The mitigation measures identified in the Habitat Survey Update submitted with the application shall be carried out as part of the implementation of the development proposed and this is listed as an approved plans condition.

Natural England was consulted and made no comments to the scheme as submitted and it is considered that there are no significant ecological issues raised in this proposal.

4.7 Contaminated land issues

Following demolition works, the site is to be subject to remediation works, which is in accordance with Condition 63 (Contaminated Land) of the outline consent. A contamination strategy for the whole site has been dealt with under Condition 63 of the outline consent (ref H/00643/12, approved April 2012). This condition is split into 4 parts and parts i) and ii) which includes desk top studies and site investigation have been approved. Parts iii) of the condition requires the approval of a remediation strategy and part iv) requires a verification to be submitted for each phase.

The applicant has submitted a Contamination Assessment Report dated July 2013 which provides the findings of ground investigation and the approach to dealing with contamination.

The information submitted is for Condition 63 (iii) of the outline consent. Part iv) of the Condition 63 and Condition 65 of the outline consent would require a contamination remediation verification report to demonstrate completion of the works set out in the approved remediation strategy. The Council's Environmental Health Service has confirmed that the report is comprehensive and recommends that the relevant conditions are discharged in so far as they relate these phases.

4.8 Construction Management and Site Waste Management

A Construction Management Plan for the whole of Millbrook Park was approved pursuant to Condition 17 of the outline consent (ref H/04183/11). The document incorporates the view that succinct method statements will be required for each reserved matters application. The Construction Management Plan submitted for this reserved matters application sets out the arrangements that will be implemented to ensure the environmental issues are managed and minimum impact on the surrounding environment by this development including noise disturbances, vibration, dust, smoke, plant emissions and traffic.

The submitted report follows the principle set out in the site-wide Construction Management Plan and addresses the requirements of the actions. During the early construction stage the existing on-site road infrastructure will be used to provide haul routes through the development until the infrastructure is sufficiently advanced. It is proposed to use the access off Frith Lane (via Phase 1A access) and Bittacy Hill (via the remaining section of Bray Road) for construction routes and is considered to be acceptable as they provide the most direct route to the wider strategic highway network and avoid any environmental weight limit restricted roads.

Condition 18 of the outline consent to which this current application relates requires the submission of a Demolition and Site Waste Management Plan before the commencement of the development. A submission to discharge condition 18 was

made in September 2011 (application reference H/04188/11) and approved in November 2011. The development is required to be carried out in accordance with the plan approved under this application and it is considered that this is sufficient to address the waste management issues potentially raised by the current proposal. The application is therefore found to be acceptable in this regard.

4.9 Management and Maintenance of open space

Condition 5 of the outline consent (Reserved Matters Details) requires that a schedule of landscape maintenance for a minimum period of 5 years be submitted. A Landscape Management and Maintenance Plan outlines the management objectives, regimes and standards to ensure that the Central Park is kept in good condition and safe. Management of the Central Park will be undertaken by specialist landscape contractors appointed by the Inglis Consortium's Management Company (which will eventually be the responsibility of the Residents Management Company for Millbrook Park).

4.10 Archaeology

Policy DM06 of the Barnet Local Plan states that any development which may affect archaeological remains will need to demonstrate the likely impact upon the remains and the mitigation proposed to reduce the impact.

When the outline planning application (H/04017/09) was considered an archaeological assessment established that no physical archaeological remains are known to be present in the site but that the potential exists for such remains to be present. The potential adverse impacts identified by the assessment would arise from the loss of physical remains.

Details relating to Condition 61 (Written Scheme of Archaeological Investigation) attached to the outline planning permission was approved under application reference H/04189/11 on 23rd November 2011. Details were submitted that cover a written scheme of investigation for trial trenching on the site. In consultation with Greater London Archaeological Advisory Service (GLAAS) the applicants proposed a series of trial trenches to be dug on the site to evaluate the potential for archaeological finds.

An informative was added to the consent H/04189/11 to ensure any heritage assets of significant archaeological interest that may be uncovered during the course of initial trial trenching, further mitigation may be required.

Notwithstanding this investigation English Heritage Archaeology were consulted on the current application and no comments have been made to the proposal. It is considered that there would be no adverse impacts in relation to archaeology that will arise from the proposal and that it therefore complies with the relevant national, regional and local policies.

4.11 Other matters

National Grid had advised that there is apparatus in the vicinity of the site which may be affected by the activities specified. An informative is attached drawing the applicant's attention to the comments made which is subject by control under other legislation.

5. EQUALITIES AND DIVERSITY ISSUES

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have 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.”*

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

Officers have in considering this application and preparing this report had regard to the requirements of this section and have concluded that a decision to grant planning permission for this proposed development will comply with the Council's statutory duty under this important legislation.

The areas of open spaces are publicly accessible and have level access. A disabled visitor parking bay has been provided to aid access to the park.

It is considered by officers that the submission adequately demonstrates that the design of the development and the approach of the applicant are acceptable with regard to equalities and diversity matters. The proposals do not conflict with either Barnet Council's Equalities Policy or the commitments set in our Equality Scheme and support the council in meeting its statutory equality responsibilities.

6. CONCLUSION

As conditioned the proposal would not compromise the outline planning permission (H/04017/09) for the redevelopment of the wider site. It accords with the relevant development plan policies, conforms to the design principles and the parameters established in both the approved outline application for the former Inglis Barracks site and the Design Code. The proposal is acceptable on visual amenity, access, highways, biodiversity, and drainage grounds.

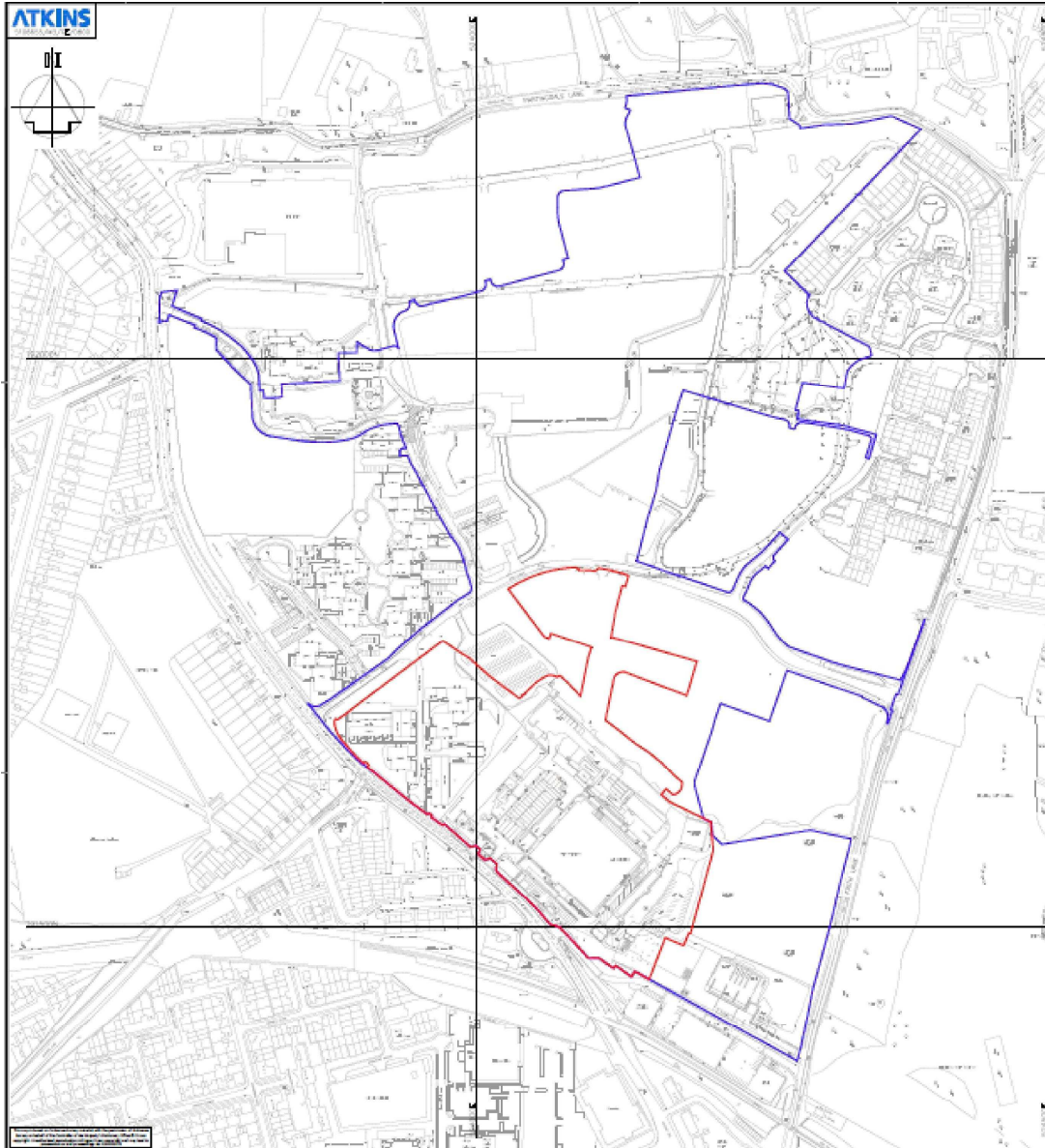
The accessible public open space proposed would provide for quality green recreational spaces for existing residents nearby and future residents of the development.

The application also satisfies the requirements of Conditions 26, 48 and 52 of the outline consent (insofar as it relates to this phase).

It is recommended that the application be **Approved** subject to discharging the attached conditions.

SITE LOCATION PLAN: Phase 3a (central community park) of Mill Hill East development to Phases 3a, 8, 9, 10 and 11, London, NW7 1PX

REFERENCE: H/03441/13



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LOCATION: Blocks F3 to F7, Beaufort Park (Land at Former RAF East Camp Site), Aerodrome Road/ Grahame Park Way, London, NW9

REFERENCE: H/05373/13 **Received:** 27/11/2013 **AGENDA ITEM 12**
Accepted: 03/12/2013

WARD: Colindale **Expiry:** 04/03/2014
Final
Revisions:

APPLICANT: St George Central London Ltd

PROPOSAL: Reserved matters application seeking approval for appearance, layout and design in relation to buildings F3 to F7 comprising 177 homes with associated car parking and landscaping, pursuant to condition 6 of outline permission W/00198/AA/04 for 'Redevelopment of site comprising 2800 residential units (Class C3), approximately 7850sqm of retail (Class A1), financial and professional services (Class A2), food and drink (Class A3), business (Class B1), leisure and community (Class D1 and D2) uses and driving test centre (sui generis) with associated landscaped open space, car parking and access arrangements. Submission of Environmental Statement dated 08-04-2005.

BACKGROUND

In April 2005 Outline Planning Permission (Ref W00198AA/04) was granted for the residential-led mixed use redevelopment of the former RAF East Camp site (now known under the development name of Beaufort Park), following completion of a Section 106 Agreement. The outline consent allows for 2,800 residential homes and approximately 7,850 sqm of non-residential and commercial floorspace. A subsequent full planning application was approved in 2009 for an additional 190 homes and 799 sqm of non-residential accommodation on the site of the former Listed Watch Tower building which was relocated to the RAF Museum directly to the north of the development. The total number of homes approved at Beaufort Park is therefore 2,990 with 8,649 sqm of non-residential floorspace.

The approved outline planning permission established an overall masterplan for the development of the site which is divided into phases. Detailed designs have been approved for each of the phases through Reserved Matters and a number of phases have been completed and several blocks are currently under construction. The development is now close to being 50% complete. Reserved matters for Block F have previously been submitted and approved in March 2010 (Council ref: H/00123/10). This consent approved 533 units within Block F.

The original s106 agreement for Beaufort Park secured a total of 641 affordable units (427 social rent and 214 shared ownership) plus 257 Discount Market Sale units. A total of 250 social rented, 139 shared ownership and 51 DMS units have been delivered at Beaufort Park to date.

PROPOSAL

The application seeks reserved matters approval for details of design, including floor areas, height and massing, external appearance and landscaping for Blocks F3 – F7 at Beaufort Park pursuant to the outline permission dated 8th April 2005 (ref:W00198AA/04). Blocks F3-F7 comprise 177 affordable rented homes with associated landscaped open space and car parking provision.

Reserved matters for Block F have previously been approved on 18/03/2010 for 533 units. The current reserved matters application relates to 177 units (half of the block). This new submission looks to alter the architectural style and appearance of the building from what was previously approved whilst still remaining within the parameters of the Outline planning consent.

RECOMMENDATION:

Resolution to approve subject to the following conditions:

1. Approved Plans

This development hereby permitted shall be carried out in accordance with the following approved plans and documents:

29720-A-F3-F7-01P-000 Rev.01
29720-A-F3-F7-01P-001 Rev.01
29720-A-F3-F7-01P-002 Rev.01
29720-A-F3-F7-01P-003 Rev.01
29720-A-F3-F7-03P-000 Rev.01
29720-A-F3-F7-03P-001 Rev.01
29720-A-F3-F7-03P-002 Rev.01
29720-A-F3-F7-03P-003 Rev.01
29720-A-F3-F7-03P-004 Rev.01
29720-A-F3-F7-03P-005 Rev.01
29720-A-F3-F7-03P-006 Rev.01
29720-A-F3-F7-03P-007 Rev.01
29720-A-F3-F7-03P-008 Rev.01
29720-A-F3-F7-05P-101 Rev.01
29720-A-F3-F7-05P-102 Rev.01
29720-A-F3-F7-05P-103 Rev.01
29720-A-F3-F7-05P-104 Rev.01
29720-A-F3-F7-05P-105 Rev.01
29720-A-F3-F7-05P-106 Rev.01
29720-A-F3-F7-05P-107 Rev.01
29720-A-F3-F7-05P-201 Rev.01
29720-A-F3-F7-05P-202 Rev.01
29720-A-F3-F7-05P-203 Rev.01
29720-A-F3-F7-05P-204 Rev.01
29720-A-F3-F7-05P-205 Rev.01
29720-L-F3-F7-90-001 Rev.01
29720-L-F3-F7-90-002 Rev.01
29720-L-F3-F7-90-003 Rev.01

Reason:

For the avoidance of doubt and in the interests of proper planning.

2. Temporary West Elevation

Prior to the occupation of the development, details of temporary screening to the western elevation of Block F and additional landscaping treatment shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

In the interests of the visual amenity of the area and existing residents of the development.

INFORMATIVE(S):-

1. The reasons for this grant of planning permission or other planning related decision are as follows: -
 - i. The proposed development accords with strategic planning guidance and policies as set out in the NPPF, the London Plan (2011) and Barnet's Local Plan made up of the Core Strategy 2012 and Development Management Policies Development Plan Documents (DPD) 2012. Those policies being:
 - CS NPPF, CS1, CS3, CS4, CS5, CS8, CS9, CS12, CS13, CS14, CS15; and
 - DM01, DM02, DM03, DM04, DM05, DM08, DM16, DM17.
 - ii. The proposal is acceptable for the following reason(s): -

This application represents a key phase of a major regeneration project that will bring significant changes and benefits to the Colindale area. The details submitted are considered to be in accordance with the parameters established by the outline consent. The design would provide a high quality residential environment while respecting the character and context of the other approved buildings on the development.
2. As the application site is adjacent to Network Rail's operational railway infrastructure, Network Rail requires the developer to contact Network Rail's Asset Protection team prior to any works commencing on site. Network Rail strongly recommends the developer agrees an Asset Protection Agreement with Network Rail prior to the approval of detailed works. More information can also be obtained from the following website at www.networkrail.co.uk/asp/1538.aspx.

1. KEY RELEVANT PLANNING POLICY

1.1 Introduction

Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that development proposals shall be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan is The London Plan and the development plan documents in the Barnet Local Plan. These statutory development plans are the main policy basis for the consideration of this planning application.

Barnet's Local Plan is made up of a suite of documents, including the Core Strategy and Development Management Policies development plan documents. The Core Strategy and Development Management Policies documents were both adopted by the Council in September 2012.

A number of other planning documents, including national planning guidance and supplementary planning guidance and documents are also material to the determination of this application.

Since the adoption of the London Plan in 2011 the Mayor has adopted (in October 2013) 'Revised Early Minor Alterations' to this document. These make a number of changes to policies and other text in the 2011 London Plan. A key objective of these changes is to ensure that the London Plan is consistent with the National Planning Policy Framework. They also seek to update the position on affordable housing (to reflect changes to national policy) and make changes to cycle parking standards. The changes to London Plan as adopted under the 'Revised Early Minor Alterations' have been used as the basis for the assessment of this application.

1.2 National Planning Policy Framework

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.

1.3 The Mayor's London Plan July 2011

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 2031. 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 Mayor's Housing Supplementary Planning Guidance (November 2012) provides guidance on how to implement the housing policies in the London Plan.

1.4 Relevant Local Plan (2012) Policies

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents (DPD). Both DPDs were adopted on 11 September 2012.

Relevant Core Strategy DPD (2012): Policies CS NPPF, CS1, CS3, CS4, CS5, CS8, CS9, CS12, CS13, CS14, CS15.

Relevant Development Management DPD (2012): Policies DM01, DM02, DM03, DM04, DM05, DM08, DM16, DM17.

1.5 Supplementary Planning Documents and Guidance

The Council has a number of adopted Supplementary Planning Documents (SPDs) which are material considerations for the determination of planning applications. The Residential Design Guidance SPD and Sustainable Design and Construction SPD provide detailed guidance that supplements policies in the adopted Local Plan, and sets out how sustainable development will be delivered in Barnet including generic environmental requirements to ensure that new development within Barnet meets sufficiently high environmental and design standards.

1.6 Colindale Area Action Plan

The Colindale Area Action Plan (AAP) was adopted in March 2010. This provides a planning policy and design framework to guide and inform the development and regeneration of Colindale up to 2021 in response to the London Plan's designation as an Opportunity Area. The AAP post dates the planning consent for Beaufort Park. The plan therefore recognises the outline planning consent that has been approved for the site and identifies the site for 3,000 new homes and a mixture of other uses including community, retail and employment.

The AAP contains guidance on sustainable development and identifies a number of key infrastructure improvements needed to support the delivery of growth in Colindale. It identifies four character areas, the "Corridors of Change", which identify specific development sites and set specific policy objectives to be achieved from redevelopment. Beaufort Park falls within the Aerodrome Road Corridor of Change. It also sets out general policies and standards for new developments in the area. Policies relevant to this application include:

Policy 4.2 – Aerodrome Road Corridor of Change

Policy 5.1 – Urban Design

Policy 5.3 – Building Heights

Policy 6.3 – Creating Sustainable Buildings

2. RELEVANT PREVIOUS DECISIONS

Application Ref.	Address	Description of Development	Decision and Date
W/00198AA/04	Land at Former RAF East Camp Site, Aerodrome Road/ Grahame Park Way, London, NW9	Redevelopment of site comprising 2800 residential units (Class C3), approximately 7850sqm of retail (Class A1), financial and professional services (Class A2), food and drink (Class A3), business (Class B1), leisure and community (Class D1 and D2) uses and driving test centre (sui generis) with associated landscaped open space, car parking and access arrangements. Submission of Environmental Statement.	APPROVED 08/04/2005 following completion of S106 agreement.
H/00123/10	Land at Former RAF East Camp Site, Aerodrome Road/ Grahame Park Way, London, NW9	Reserved matters application seeking approval for i) design of the buildings, including floor areas, height and massing; ii) external appearance; iii) Landscaping; in relation to Block F comprising 533 residential units pursuant to Condition 6 of outline planning permission reference W00198AA/04 dated 08/04/05.	APPROVED 18/03/2010
W/00198AA/04	Land at Former RAF East Camp Site, Aerodrome Road/ Grahame Park Way, London, NW9	<u>5th Deed of Variation approved at P&E Committee to allow:</u> <ul style="list-style-type: none"> • the remaining discount market sale (DMS) units (206) to be sold as full market value private tenure units and that the 20% covenant value stake that the Council owns from the already built DMS units (51) is transferred to St George; • 75 Shared ownership to be sold as private tenure units; • Change in mix and tenure of the remaining 177 rented homes to be provided from social rent to affordable rent and the provision of 26 x 1 bed, 80 x 2 bed, and 71 x 3 bed flats. 	APPROVED 11/09/2013

3. STATUTORY AND NON-STATUTORY CONSULTATION RESPONSES

3.1 Consultations and Views Expressed

2114 local residents and businesses along with the Beaufort Park Residents Association and Notting Hill Housing Trust were consulted by letter on the 10 December 2013. The application was advertised in the local press on the 19 December 2013 and site notices were displayed outside the site. Statutory bodies were also consulted.

This section provides a summary of the representations received from residents, statutory bodies and internal consultees at the time of writing this report. Where appropriate, short responses are given in relation to objections, otherwise the issues are addressed within the planning appraisal section of this report.

3.2 Comments from Residents

Neighbours Consulted:	2114	Replies:	1
Neighbours Wishing To Speak:	0	In favour:	0
		In objection:	1

A total of 1 reply were received from a local resident in response to the application objecting to the proposals. The comments raised have been summarised below.

- The area is already extremely overcrowded and will lead to further impact on local GPs.
- Schools are overcrowded because the influx has suddenly affected the places in the schools. Not everyone can get a place.
- Impact of providing social housing along-side privately owned properties. The social housing has brought a lot of crimes with it i.e. theft and drugs sale and anti-social behaviour in the form of drugs being smoked in the open, noise pollution, vandalism of the buildings/lifts, graffiti, careless damages of the walls and littering.
- Impact on the environment from dog fouling by pets belonging to existing residents and people smoking on balconies or outside their buildings.

Officer Response

- *Policy 7.3 of the CAAP seeks to ensure that new health facilities will be provided in the Colindale Avenue Corridor of Change, to complement facilities that are planned to be reprovided as part of the regeneration of Grahame Park Estate. It is intended that these facilities would provide for primary health care, comprising GPs, dentistry and pharmacy. The Council is currently engaging the Clinical Commissioning Group (CCG) to establish what their strategy is for health care provision in the Borough following the decision by Barnet PCT in 2010 not to take up the offer of a facility within the development on the former Colindale Hospital site.*
- *The Council is building a new 4 form entry primary school on the site of the former Mill Hill Sports Club on Grahame Park Way. This will enable the existing Orion School to relocate and expand from 2FE to 4FE and release the existing school for the Blessed Dominic school to expand by 2 FE. This will generate 4 new forms of*

entry at primary school level in the Colindale area. A further two primary school sites are identified in the Colindale AAP one the Peel Centre and Barnet & Southgate College sites to meet future demand.

- *Planning policy at a local and regional level (Core Strategy Policy CS4, Development Management Policy DM10 and London Plan Policy 3.12) supports the delivery of affordable housing in order to create successful communities with a range of sizes and types of accommodation that can meet aspirations and increase access to affordable and decent new homes. An amendment to the mix of affordable homes on the Beaufort Development was approved by the P&E committee in September 2013 to secure the delivery of 177 affordable rented units which comprise the balance of the affordable rented tenure to be provided on the site. These units will be delivered in Block F subject to the approval of the reserved matters under this application.*
- *Issues of anti-social behaviour, illegal substances and vandalism are the responsibility of the Police and not considered to be a material reason to refuse the application which would deliver housing that will meet an identified demand. St George have recently brought on board a new Managing Agent to improve the management of the estate and they are actively engaging with the Registered Providers (RPs) on site to address any issues with affordable tenants.*

3.3 Consultation Responses from Statutory Consultees and Other Bodies

Thames Water Development Control

The reserved matters application does not affect Thames Water and as such they have confirmed that they have no observations to make.

Natural England

Have responded to the consultation and have not raised any objections to the proposal or requested that conditions are placed upon any grant of consent.

Network Rail

Network Rail have responded to the consultation and provided a number of comments. An informative is proposed to advise the applicant of the requirement to contact Network Rail prior to commencement.

Development

Prior to the commencement of any works on site, developers must contact Network Rail to inform them of their intention to commence works. This must be undertaken a minimum of 6 weeks prior to the proposed date of commencement.

Construction

Any scaffold, cranes or other mechanical plant must be constructed and operated in a "fail safe" manner that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports. To avoid scaffold falling onto operational lines, netting around the scaffold may be required.

Earthworks and Excavations

Prior to commencement of works, full details of excavations and earthworks to be carried out within 10 metres of the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details.

Landscaping

Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing.

As the application site is adjacent to Network Rail's operational railway infrastructure, Network Rail requires the developer to contact Network Rail's Asset Protection team prior to any works commencing on site. Network Rail strongly recommends the developer agrees an Asset Protection Agreement with us to enable approval of detailed works.

Environment Agency

No response received.

Barnet NHS

No response received.

Metropolitan Police Service

Have responded to the consultation and not raised any objections to the development proposals. The Met Police Designing Out Crime Officer has confirmed that dialogue has taken place with the applicants with regard to appropriate measures relating to 'Designing Out Crime'. The applicants have indicated an intention to apply for the below mentioned Association of Chief Police Officers (ACPO) 'Secured By Design' (SBD) Scheme. SBD supports the Barnet Local Plan: Development Plan Document 2.6 Security in Design and 3.9 Secured by Design (adopted September 2012).

Notting Hill Housing Trust

An email has been received from Notting Hill Housing Trust confirming that they have been involved with St George North London Limited since the summer of 2013 in relation to Block F at Beaufort Park. NHHT have worked with St George to improve the layout and design of a number of units. They have confirmed that they are satisfied with the scheme as currently designed and the subject of the reserved matters application is acceptable to Notting Hill. Notting Hill Housing Trust have full Board approval to enter into a development agreement for St George to develop the 177 homes within Blocks F3 – F7 for Notting Hill.

3.4 Internal Consultation responses

Traffic and Development

No objections subject to details to be submitted prior to commencement of construction.

Environmental Health

The EH officer made comments in relation to noise levels in the vicinity of the site. A letter prepared by Hann Tucker Associates dated 4/02/2014 has been submitted by the applicant which provides a response on noise issues. This is covered in section 5.9. The EH officer has confirmed that given the extant permissions for the site, both at outline stage and reserved matters approved in 2010, and the completed Block E adjacent to this site, that the principle of residential accommodation adjacent to the railway has been established. The EH officer has confirmed that they are satisfied with the current proposals.

Housing Development Team

The Housing Officer has reviewed the proposals for Block F and confirmed that they meet the requirements of the S106 agreement for the development and that St George has secured an Registered Provider partner.

4. DESCRIPTION OF SITE, THE DEVELOPMENT, AND SURROUNDING AREA

4.1 Description of Site and Surrounding Area

The application relates to Blocks F3 – F7 within the Beaufort Park development on the former RAF East Camp site. The overall development site comprises some 10.2ha of brownfield land bounded by the Midland Mainline railway and M1 motorway to the east. Aerodrome Road to the south, the RAF Museum to the north and Middlesex University Platt Hall and Writtle House to the west.

The approved Beaufort Park development comprises a series of perimeter blocks numbered A1 to G5 arranged along new streets and spaces. Buildings A and B are now complete, Buildings C, E and G partially complete with works on going to Buildings C and E (see Figure 2). Blocks F3-F7 make up half of Building F which lies towards the north-eastern corner of the Beaufort Park masterplan. This plot is located adjacent to, and backs onto, the Midland Mainline railway line to the east and the RAF Museum to the north. Block E within the Beaufort Park development is located to the south of the site and is nearing completion. A new park has been laid out to the west of the site and will form a central space to the overall Beaufort Park development.

The area surrounding the application site contains a mixture of uses and building forms. Colindale underground station is about 10 minute walk from the centre of the site. A number of other significant developments are under construction in the vicinity including Phase 1B of the Grahame Park Regeneration and the redevelopment of the former Colindale Hospital adjacent to Colindale Tube Station.

4.2 Approved Development at Beaufort Park

In April 2005 Outline Planning Permission (Ref W00198AA/04) was granted for the residential-led mixed use redevelopment of the former RAF East Camp site (now known

as Beaufort Park), following completion of a Section 106 Agreement securing community and infrastructure benefits. The outline consent allows for 2,800 residential homes and approximately 7,850 sqm of non-residential and commercial floorspace. A subsequent full planning application was approved in 2009 for an additional 190 homes and 799 sqm of non-residential accommodation on the site of the former Listed Watch Tower building which was relocated to the RAF Museum directly to the north of the development. The total number of homes approved at Beaufort Park is therefore 2,990 with 8,649 sqm of non-residential floorspace.

The approved outline planning permission established an overall Masterplan for the development of the site which is divided into phases. Detailed designs have been approved for each of the phases through Reserved Matters and a number of phases have been completed and are under construction. The development is now close to being 50% complete.

The original s106 agreement for the development secured a total of 641 affordable units (427 social rent and 214 shared ownership) plus 257 Discount Market Sale units.

A total of 250 social rented, 139 shared ownership and 51 DMS units have been delivered at Beaufort Park to date. 93 social rent and 60 shared ownership homes have been constructed in Blocks A & B, 65 social rent and 24 shared ownership in block G, and a further 92 social rent and 55 shared ownership in Block E.

Reserved Matters for Block F have previously been approved for Block F on 18/03/2010 for 533 units. The current proposal seeks to receive reserved matters approval for 177 units (half of the block).

4.3 Description of Proposed Development

The current application seeks approval for the reserved matters of detailed design, appearance and landscaping for Blocks F3 – F7 within the Beaufort Park development pursuant to Condition 6 of outline planning permission W00198AA/04.

Condition 6 identifies the Reserved Matters as:

- Design of the buildings, including floor areas, height and massing;
- External appearance; and
- Landscaping (including trees to be removed and new landscaping proposed).

The landscape details submitted set broad principles for the landscaping (including tree removal and planting) within the site area, however, as with previous submissions, details of landscaping will be submitted pursuant to condition 22 of the outline planning permission under separate cover.

Condition 6 of the outline planning permission requires that Reserved Matters applications should be made in accordance with, inter alia, the Planning and Design Statement (April 2004) and the Supplementary Design Statement (April 2004) which accompanied the application. The current proposals for F3 to F7 reflect the contents of these documents. These documents set out the philosophy behind the design of Beaufort Park, its relationship to its site context and design approach to the development. These matters remain relevant and applicable to the current proposals.

Following the grant of planning permission in 2005 a number of Reserved Matters applications and details pursuant to condition 6 have been approved in relation to the different Buildings across the site, including Block F.

As explained, only part of Building F is being submitted for approval at this time due to the need to finalise the development agreement with Notting Hill Housing Trust and secure the delivery of the remaining 177 affordable housing units at Beaufort Park.

This current application looks to alter the architectural style and appearance of Block F from what was previously approved in 2010 whilst still remaining within the parameters of the Outline planning consent.

Blocks F3 - F7 will contain 177 flats, all are proposed as affordable rented homes. The housing mix consists of:

26 x 1 bed

80 x 2 bed

71 x 3 bed

The building will be part 7 part 8 storeys in height with the top (8th storey) is also stepped back from the eastern façade of the building.

The scheme will include 1,582sqm of landscaped amenity area to the east of the proposed building along with 1,395sqm of additional private balcony and terrace space.

108 internal car parking spaces will be provided (including 13 disabled spaces) and 16 external car parking spaces, making a total of 124 car parking spaces for this first phase of the development in accordance with the 0.7 approved Development Parking Ratio for Beaufort Park. The scheme will also provide 248 secured covered cycle parking spaces.

5. PLANNING APPRAISAL

5.1 Environmental Impact Screening Opinion

The applicant has submitted a letter dated 14th November 2013 comprising information to allow the Council to adopt a Screening Opinion.

The outline planning permission for Beaufort Park was accompanied by an Environmental Impact Assessment (EIA) dated June 2004. Condition 5 of the permission states that no variation to the approved plans shall be made which creates new environmental impacts which exceed the range or scale of those assessed in that EIA.

As required by condition 6, the current proposals reflect the Planning and Design Statement (April 2004) and the Supplementary Design Statement (April 2004) which accompanied the outline application and are within the scope of that approved at outline stage. Furthermore the reserved matters now proposed do not significantly differ from those previously approved in terms of scale, layout and relationship to the wider site context, and it is noted that the previous reserved matters application did not require a further EIA. It is not considered that the current proposals would result in new environmental impacts which exceed the range of scale assessed in the EIA dated June 2004, in accordance with Condition 5.

The proposed development does not fall within 'Schedule 1' development as defined in the EIA Regulations. The development could be considered to constitute Schedule 2 development if it was judged to qualify as an 'urban development project' in accordance with Section 10(b) of Schedule 2 of the Regulations. The threshold identified for such projects is an area exceeding 0.5ha. The site is not located in a sensitive area as defined in the regulations.

However, as identified above a full EIA was undertaken at the outline planning application stage. This application constitutes submission of reserved matters pursuant to condition 6 of that permission. The scale, nature and location of this reserved matters application falls within the scope of that approved at outline stage as set out in the description of development. It is considered that the previous EIA provides a sufficient assessment of significant environmental effects to enable consideration of this reserved matters application for Blocks F3 to F7. It is not considered that the development now proposed for this block would generate any new significant environmental effects over and above those already considered, given the nature, scale and location of the proposals. It is considered that the proposals do not constitute an EIA development and that an Environmental Statement is not required to be submitted with the application.

5.2 Relationship and compliance with the outline permission

There are two conditions of the outline permission which are of particular relevance to this reserved matters submission:

Condition 4:

"No development shall take place unless in accordance with the Approved Drawings:

Proposed Massing Plan 21425/PL05B

Proposed Masterplan 21425/PL06B

Land Use 1 – Ground Level Uses 21425/PL08A

Land Use 2 – Podium Level Uses 21425/PL09A

Land Use 3 – Typical Upper floor Uses 21425/PL10A

Land Use 4 – Open Space 21425/PL11A

Amenity Space 21425/PL020”

Condition 5:

“No variation to the approved plans shall be made which in the reasonable opinion of the council creates new environmental impacts which exceed the range or scale of those assessed and measured in the EIA dated June 2004 and/or which the Council consider may require further or additional mitigation measures.”

Condition 4 prevents development that is not in accordance with the specified approved plans. Condition 5 recognises that the approved plans can be varied provided that no new environmental impacts exceed the scale or range of those assessed in the Environmental Statement (ES) (June 2004) and/or which the council considers may require additional mitigation.

To date, throughout the life of the development, the approved drawings specified in Condition 4 have been varied by amendments to the footprint and in some cases massing of the buildings.

In each case a judgement has been made as to whether the changes would give rise to environmental impacts which exceed the range or scale of those originally assessed. Using this approach to consider Reserved Matters have been approved which vary the approved plans provided these do not take the scheme outside the scope of the outline permission.

The same approach can be taken in respect of Blocks F3 to F7 provided the proposals would remain within the scope of the outline permission, as set out in the description of development. On this basis it is not considered that the proposals give rise to any additional impact beyond the scale or range tested at outline stage, or as approved in the previous Reserved Matters, having regard to the sensitivity of receptors and appearance of the building in local and long distance views.

The principle of the proposed development has already been established at the outline application stage where permission was granted for a major mixed use development which was found to generally accord with the national, regional and local policy at the time. The principle of residential homes being located in Building F has been established further through a Reserved Matters application which was approved in March 2010 for 533 residential homes, including 204 affordable homes, 184 of which were located in Blocks F3 to F7.

It is considered that the detailed proposals now submitted for Blocks F3 to F7 would fully accord with the general principles of national, regional and local planning policy representing a highly efficient use of brownfield land which will deliver new homes and would accord with the principles established in the original planning permission and subsequent reserved matters.

5.3 Number of Homes and Housing Mix

Number of Homes

Whilst planning permission has been granted for 2990 homes on the wider Beaufort Park Site, reserved matters approvals have been granted for a total of 3140 homes. These are summarised below.

Table 2: Number of Homes		
Building	No of Homes	Constructed
A	485	Yes
B	191	Yes
C	895	Partially
D	350	No
E	377	Partially
F	533	No
G	309	Partially
Total	3140	

The reserved matters for Blocks F3 to F7 in Building F will result in 177 affordable rented homes being constructed within these buildings. This falls within the 533 already approved in Building F and is less than the 184 homes previously approved within these 5 cores. The proposals will not result in an increase in the number of homes approved or constructed at Beaufort Park over and above that already approved. St George have also previously signed a unilateral undertaking (dated 6th December 2012) in relation to the outline consent for the overall development and detailed permission for C3 & C4 to only build 2990 units despite the reserved matters approvals that have been approved for 3140 homes. Further revised reserved matters applications will be submitted for unbuilt blocks to bring the numbers of units in line with the outline consent.

Housing Mix

All 177 units proposed in Blocks F3 – F7 are proposed as Affordable Rented units. The mix would consist of 26 x 1 bed, 80 x 2 bed, and 71 x 3 bed units.

A change to the mix and number of affordable homes within the Beaufort Park development was approved at the Planning and Environment Committee in July and September 2013. The Section 106 agreement for the development was subsequently amended through a deed of variation which was completed in December 2013. The 177 units proposed for Blocks F3 – F7 will comprise the remaining balance of affordable units to be provided on the Beaufort Park development. An offer has been received from Notting Hill Housing Trust to deliver these homes and the applicant is in the process of agreeing a development agreement with them.

The tenure of the units proposed accords with the amended section 106 agreement for the development and the mix of unit sizes is considered to accord with Development Management Policies DPD Policy DM08 in that it provides variety and choice with a large percentage being family sized flats.

5.4 Design, Heights and Massing

Reserved matters have previously been approved for Block F in 2010 under application H/00123/10. The applicant and their design team have undertaken a review of the detailed design of Block F in order to deliver the remaining affordable homes associated with the Beaufort Park development. This has led to optimisation of the design of the Building to suit the requirements of Notting Hill Housing Trust to satisfy the required mix and to meet current housing design standards.

Since the masterplan for Beaufort Park was approved eight years ago, the design of new residential development across London has moved on. The introduction of the Mayor's London Housing Design Guide has set new standards for housing and has generated much debate about what constitutes quality in housing design. There are several interlinked elements relating this to the design approach to the elevational treatment.

- Functionally, there is a prescribed mix that has to be adhered to in line with the planning permission, and as agreed with Notting Hill Housing.
- The affordable mix requirements and the social aspect of the larger family sized units to be located on the lower floors means that balconies and fenestration do not always stack vertically.
- The proposed scheme has to satisfy Lifetime Homes requirements where all balconies are to be 1500mm deep. This requirement has a significant impact in the articulation of the façade compared to the approved scheme which are all Juliette balconies.
- The London Housing Design Guide has area requirements for private outdoor amenity space. These have been, as far as possible, achieved to these target areas.

The development has been designed in accordance with the principles established in the outline planning permission and approved in the previous Reserved Matters application. The layout of the block has been improved to remove the arched over-sail of the end wings previously covering the access to the rear courtyard. Vehicular access to this area has also been removed. The new configuration provides a more open pedestrian entrance to this area. As a result of this change the wings at either end of the block do not project as far out towards the railway. The footprint is otherwise broadly in line with what was previously agreed with the wings of the building enclosing the garden area to the west of the block.

The approved scheme has several setbacks of 560mm, 675mm and 700mm. The revised design has greater articulation by providing a simple rhythm of bays and setbacks with each plane projected by circa 2 metres. This visually breaks up the massing of the building into distinct bays and creates vertical emphasis to reduce the visual impact of the block. The projecting bays are further articulated with a projecting parapet, whilst the recessed bay has a simpler flush parapet. This is illustrated in the elevation and strip plan in **Appendix 1**.

The height of the Blocks are 7 storeys with a further 8th storey set back in the centre of the block. These heights are in line with heights approved through the previous Reserved Matters application. The top floor has been set back by 600mm to articulate the massing of the building, and is treated in a different material which creates a roof like top to the

building and provides visual interest. The principle material is proposed to be varying coloured brick with some rendered elements to create vertical emphasis and break up key parts of the block. Balconies are included to provide private amenity space and create additional articulation and interest in the façade of the Blocks.

Balconies are generally stacked in the main projecting bays. There are some balconies located to the upper floors only and this reflects the functional requirements of the apartment mix and disposition. Within the brickwork, windows are in simple “punched holes” in a traditional format grouped to emphasise the bottom, middle, and top bands of the façade. The windows will have a deep reveal (170mm) which will help articulate the punched nature of the openings within a skin of brick. Within the façade treatment, some of the punched windows are further articulated with a 25mm recessed brick panel which sits adjacent to the window. This adds another layer of detail and interest to the elevational design. Grey windows are used in contrast with the lighter buff bricks while the white window frames are used in contrast with the darker brick to the set back planes. White render is used sparingly for recessed balconies between the contrasting brick work in order to separate and lighten.

The elevations to the south and north facades are split into two bays, one buff bay which stands slightly proud and turns the corner, and the other in the darker brick. Each is separated from its neighbour by a recessed balcony which is white rendered.

The use of brick has also simplified the appearance of the building whilst improving the quality of the building’s finish when compared to the previously approved scheme that relied on large amounts of render. Condition 18 of the outline permission requires the submission of materials for each block approved. The applicant has also committed to the provision of sample brick panels on site to clearly depict how the brick will be laid, mortar colour and pointing, and how the windows to be used will appear against the brick.

The latest reserved matters details seek to follow the established principles of the outline consent whilst meeting current housing design standards. The improved design and proposed materials significantly lifts the design quality of the building compared to the previous reserved matters approval. The proposal is considered to meet the Council’s general design requirements and accords with Core Strategy Policies CS4 and CS5; and Development Management Policies DM01, DM02 and DM03.

5.5 Housing Standards

Regional and Local planning policy set out guidance on achieving reasonable standards of residential accommodation. The London Housing Design Guide sets out detail on how to deliver good quality homes. The Council also has supplementary planning documents called Sustainable Design and Construction and Residential Design Guidance which set out the principles for achieving good standards in residential design. Policy CS4 of the Core Strategy sets out how the borough will seek to provide quality homes and housing choice. Policy DM02 of Barnet’s Development Management Policies DPD outlines relevant national and regional standards which should be included in new development where appropriate.

The detailed design and layout of the flats has been as a result of detailed discussions with Notting Hill Housing Trust. As a result of these discussions and design development the design and layout of the flats has been significantly improved compared to the previously approved scheme. As far as possible all flats have been designed to meet the

London Housing Design Guide standards and the scheme aims to deliver accommodation of an exemplary standard. Notting Hill Housing Trust has confirmed that they are happy with the design and layout of the flats shown in the application documentation and are keen to start the development in order to be able to deliver these new homes by Summer 2016 (letter from Notting Hill Housing Trust dated November 2013).

All of the homes will be built to lifetime homes standards and 10% will be accessible for those with disabilities which is in line with London Plan and local policy requirements and the outline planning permission. The layout of the flats has been designed to ensure the greatest possible levels of daylight and sunlight reaching all homes as well as achieving good levels of privacy. Overall it is considered that the homes have been carefully designed to a high standard of accommodation and would be generally in line with regional and local policy and guidance.

5.6 Amenity space provision

Amenity space is provided in the form of the outdoor landscaped area to the east of the proposed building which will be communal for the residents of the block, as well as private terraces and balconies for each flat. There are also other open spaces within Beaufort Park in the form of the central park, LEAPs and LAPs that are readily accessible to residents of the proposed development.

The scheme will provide 1,582 sq m of landscaped communal amenity space for use by the residents in addition to 1,395 sq m of private balconies and terraces. In addition to this a Multi Use Games Area (MUGA) with an area of 590 sq m has been included to the north of Block F3 for use by the wider development as well as Blocks F3 to F7. The MUGA will be managed by concierge in the same way as the other play areas across the site. This area will also be covered by CCTV. In total this phase will provide 3,557 sq m of amenity space which is considered to be sufficient to meet the requirements of the residents of Blocks F3 to F7.

5.7 Landscaping and trees

The proposal includes formal landscaping in front of the main elevation (eastern elevation) between the building and the railway embankment along with some defensible spaces at ground level. Only indicative plans have been submitted at this stage given that conditions 22, 25, and 26 of the outline permission require the details of any landscaping and play space/equipment be submitted for approval.

A substantial garden measuring approximately 80m long by 20m wide with an equipped local area of play has been incorporated into the design running along the eastern boundary. F3 and F7 encloses and defines this space making it secure. This major offering of communal realm will be focused on pedestrians and young children. The garden, which incorporates existing trees where possible, will ensure parents and toddlers safe access and use through natural surveillance and reduces the need to walk far to enjoy the excellent facilities on site.

The level of proposed landscaping is considered to be acceptable and the information submitted is considered sufficient to set the principles for the landscaping of this phase in accordance with the requirements of part iii of condition 6.

15 of the existing trees on the site are required to be removed to facilitate the development (11 of which are subject to a TPO) (Aboriginal Implications Report dated November 2013). The removal of 11 of these 15 trees was approved as part of the previous Reserved Matters application. None of the trees to be removed are considered to contribute positively towards the visual amenity of the area. The principle of landscaping set out in this application includes considerable replacement tree planting and improved quality landscaping in this location which is considered to compensate for the loss of the 15 trees proposed to be removed. The proposed landscaping including replacement trees will be of high quality and will enhance the long-term character and appearance of the site in accordance with policy DM01.

5.8 Overlooking and Overshadowing

Condition 19 of the outline permission states that 'a detailed assessment of overlooking and overshadowing will be undertaken as part of the preparation of the reserved matters application'. In accordance with Condition 19, the detailed design of Blocks F3 – F7 maintain the same principal line of footprint to the internal courtyard side when compared with the approved scheme. This maximises the degree of privacy for future residents as well as the security through natural surveillance. To maintain privacy and prevent overlooking careful thought has also been given to potential overlooking of the flats on internal corners of the blocks, and this has been minimised through a combination of carefully positioned windows and the arrangement of the internal layouts. To eliminate the potential overlooking from and onto balconies, screens have been intelligently placed to provide a reasonable degree of privacy to future occupiers. Officers are satisfied that a reasonable degree of privacy is offered to future residents of the development in accordance with the requirements of Development Management Policy DM02.

5.9 Noise and Air Quality

The proposed design of Block F includes residential balconies along the eastern elevation facing towards the train lines and M1 motorway which run along the eastern boundary of the whole development site. The daytime noise levels in this location have been estimated by DEFRA to be in the 60-69dBA range. The balconies would be approximately 45m – 50m away from the railway lines and some 100m away from the M1.

The proposed layout of Block F accords with the masterplan block layout approved by the outline permission in 2005. An Environmental Impact Assessment was carried out at the time of the outline application which would have assessed noise and air quality for the site in relation to the proposed residential development. The outline consent approved a building backing onto the railway line in this location. The outline consent does not include a condition applied relating to noise mitigation, however St George have advised that the internal accommodation of the units proposed will be designed to achieve the requisite internal noise levels suitable for residential accommodation.

In terms of external balconies, reserved matters consent has already been granted in 2010 for the design and layout of Block F and the current proposals are consistent with this approved layout. The balconies are partly sheltered by the wings of the block which extend to enclose the central communal garden. It is considered more beneficial to provide private external amenity space for each home rather than not provide balconies at all. Furthermore the private spaces are supplemented by the communal private garden at the ground floor. The adjacent residential block (Block E) which also faces the adjacent

train lines and M1 motorway in the same form and configuration as Block F, has been occupied for some time and there have been no complaints or expressed concerns regarding external noise levels from the residents of this block.

Taking into account the EIA assessment at the time of the outline application, the extant reserved matters consent for the block, the distance between the proposed balconies and the railway line and M1, and the large area of communal garden, the application is considered to be acceptable on noise grounds.

5.10 Transport and Highways

Local Plan DM17 sets out maximum car parking standards of 1.5 to 1 space per 2 to 3 bedroom flat and less than 1 space per unit for 1 bedroom flats. The London Plan sets out a requirement for 1 cycle parking space per 1 – 2 bedroom flat and 2 per 3+ bedroom flat.

The application proposes 108 internal car parking spaces and 16 external car parking spaces (including 13 disabled spaces) providing a total of 124 car parking spaces for Blocks F3 – F7 at a ratio of 0.7. This is in line with the Development Parking Ratio for Beaufort Park, and is in accordance with maximum parking standards set out in regional and local policy. The level of disabled parking provision is in accordance with policy requirements of 10% of parking spaces. The development would also include 248 enclosed secure cycle parking spaces which meets policy requirements.

All visitors will park in the public streets within the site. Residents parking will be accommodated in undercroft parking levels, wrapped and concealed by the active commercial and residential frontages facing surrounding streets and spaces. Since this application only seeks approval for the reserved matters of detailed design and appearance, further information and details on car parking layout and management are expected to be submitted separately for approval prior to construction.

LBB Highways is monitoring the parking situation on streets surrounding this development. The developer has paid contributions in relation to the planned CPZ and will continue to monitor the parking as further phases are constructed and can vary the parking provision according to the demand, as previously agreed under the terms of the S106.

The development would have appropriate levels of car parking, including disabled parking, and cycle parking in line with policy requirements and the principles established in the outline consent and previously approved reserved matters. It is considered that the proposals would have an acceptable impact on highway and pedestrian safety, and would make adequate provision for car parking on site.

6. EQUALITY AND DIVERSITY ISSUES

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have 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.”*

For the purposes of this obligation the term “protected characteristic” includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

Officers have in considering this application and preparing this report had regard to the requirements of this section and have concluded that a decision to grant planning permission for this proposed development will comply with the Council’s statutory duty under this important legislation.

The site is accessible by various modes of transport, including by foot, bicycle, public transport and private car, thus providing a range of transport choices for all users of the site.

10% of the flats will be wheelchair accessible and/or able to be modified to accommodate a wheelchair occupier.

The development includes level, step-free pedestrian approaches to the main entrances to the building to ensure that all occupiers and visitors of the development can move freely in and around the public and private communal spaces.

13 dedicated disabled car parking spaces will be provided close to the entrance to the development.

The proposals are considered to be in accordance with national, regional and local policy by establishing a high quality inclusive design, providing an environment which is accessible to all.

7. CONCLUSION

This application represents a key phase of a major regeneration project that will bring significant changes and benefits to the Colindale area. The details submitted are considered to be in accordance with the parameters established by the outline consent. The design would provide a high quality residential environment while respecting the character and context of the buildings setting.

The proposed development will achieve the following:

- The provision of new affordable rented homes of an appropriate mix and type to make an important contribution towards new affordable homes in the borough;

- The provision of the final phase of affordable housing in the Beaufort Park development in line with the section 106 agreement for the outline planning permission;
- The delivery of new homes in accordance with London Housing Design Guide housing standards where possible;
- Inclusion of an area of usable amenity space and child playspace for Blocks F3 to F7, in excess of that previously offered with the original Reserved Matters application;

All relevant policies contained within the Adopted Colindale AAP, the London Plan (2011), Barnet's Local Plan made up of the Core Strategy 2012 and Development Management Policies Development Plan Documents (DPD) 2012, NPPF have been fully considered and taken into account by the Local Planning Authority. For the reasons set out in this report, it is considered that the proposal represents an appropriate development of the site and would deliver a number of strategic benefits in Colindale that will act as a catalyst for continued regeneration in the area. Accordingly, subject to the conditions detailed in the recommendation, the application is recommended for approval.

APPENDIX 1 - Elevations

East Elevation and strip floor plan illustrating bay articulation and steps in plan

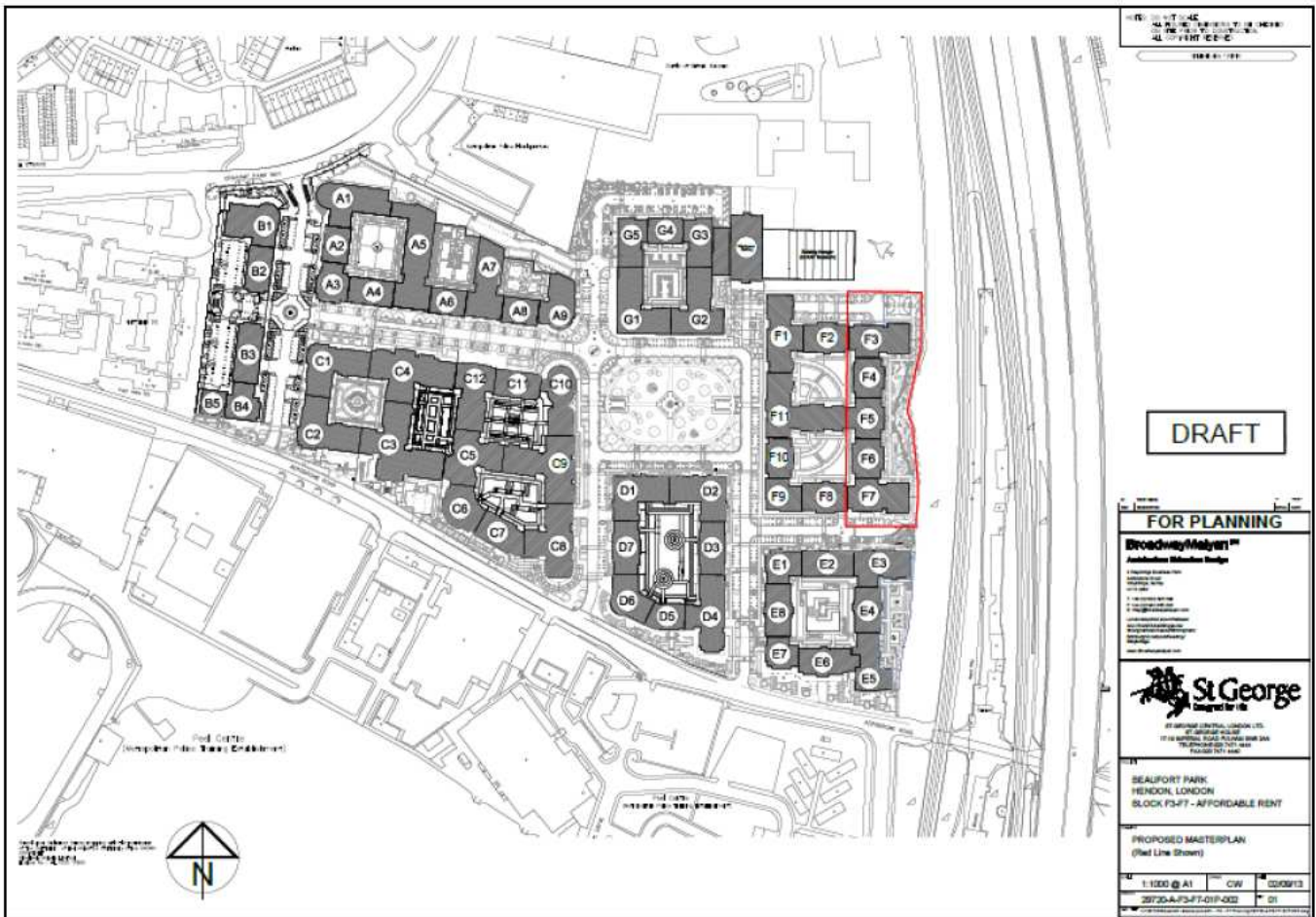


Typical bay and typical recess detail



REFERENCE: H/05373/13

SITE LOCATION PLAN: Blocks F3 to F7, Beaufort Park (Land at Former RAF East Camp Site), Aerodrome Road/ Grahame Park Way, London, NW9



Meeting	Planning and Environment Committee
Date	13 February 2014
Subject	Application to Register Land to the West of Friern Barnet Library, N11 as a Town or Village Green.
Report of	Assistant Director of Planning and Development Management
Summary	This report contains the results of the independent public inquiry held into the relevant facts and legal issues in relation to the current application to register the subject land as a Town or Village Green under the Commons Registration Act 2006.

Officer Contributors	Fabien Gaudin, Finchley and Golders Green Area Planning Manager
Status (public or exempt)	Public
Wards Affected	Coppetts
Key Decision	Not applicable
Reason for urgency / exemption from call-in	Not Applicable
Function of	Council
Enclosures	Appendix 1 - 3: Inspector's report and recommendation to the Registration Authority – London Borough of Barnet – 10 th January 2014 Appendix 4: Application Site Plan
Contact for Further Information:	Fabien Gaudin, Finchley and Golders Green Area Planning Manager, 020 8359 4258.

1. RECOMMENDATIONS

- 1.1 That the application for registration as a Town or Village Green under Section 15(2) of the Commons Act 2006 be rejected in respect of the land known as 'land to the West of Friern Barnet Library' on the basis that the qualifying criteria laid down in the Act for a new Town or Village Green are not satisfied.**
- 1.2 That the applicant and landowner be informed of this decision in writing.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 On 13 February 2013, the Planning and Environment Committee decided that the application for registration as a Town or Village Green under Section 15(2) of the Commons Act 2006 be referred to an independent inspector to conduct a non-statutory public inquiry.

3. CORPORATE POLICIES AND POLICY CONSIDERATIONS

- 3.1 The Council as the Registration Authority is obliged by law to determine applications to register land as a Town or Village Green.

4. RISK MANAGEMENT ISSUES

- 4.1 Case law has firmly established that Registration Authorities should hold public inquiries to examine the evidence when a Town or Village green application is contested as is the case in this instance.
- 4.2 The application is likely to be challenged in the courts should a decision go against the Inspectors recommendation. The public inquiry held into the case concluded that the qualifying criteria laid down in Section 15 of the Commons Act 2006 for a new green in the case of the application site are not satisfied. The Council would therefore be likely to have to bear the full costs.

5. EQUALITIES AND DIVERSITY ISSUES

5.1 Equality Duties and the Equality Act 2010

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

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

The proposals would not result in any physical alterations to the site. It is not considered that any of the protected groups listed above would be affected by the proposal.

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”

The proposals would not result in any physical alterations to or change of use of the site. It is not considered that there would be any change in the type of relation of any protected groups listed above who would remain unaffected by the proposals.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 None in the context of this report.

7. LEGAL ISSUES

7.1 This application is to be considered under the Commons Act 2006. The application was deemed to be received in whole by the Registration Authority on 28 November 2011.

7.2 Section 15 (1) of the 2006 Act provides that any person may apply to a commons registration authority to register land as a town or village green, where one of subsections (2), (3) or (4) applies.

7.3 Section 15(2) applies where:

(2) This subsection applies where—

(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and

(b) they continue to do so at the time of the application.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

8.1 Council Constitution Part 3, paragraph 2, Planning and Environment Committee Function 3, Commons registration and town and village greens.

9. BACKGROUND INFORMATION

- 9.1 The site is located to the west of Friern Barnet Library. It fronts Friern Barnet Road in the Coppetts ward. It is an open area of land of approximately 575 m².
- 9.2 On 13 February 2013, the Planning and Environment Committee decided that the application for registration as a Town or Village Green under Section 15 of the Commons Act 2006 be referred to an independent Inspector to conduct a non-statutory public inquiry.
- 9.3 It was decided by the Inspector following representations by both the Objector and the Applicant that the non-statutory public inquiry would only concentrate on determining whether use of the application land had been 'as of right.' It was agreed that this would be a more resourceful use of time and costs in this particular application.
- 9.4 The public inquiry took place on 28th October 2013 at Hendon Town Hall and representations were made by Paul Wilmshurst for the applicants and Zack Simons for the Council.

10. INSPECTOR'S FINDINGS

- 10.1 The key conclusions are set out below.
- 10.2 In light of records detailed in the Inspector's report (available in Appendix 1), his view is that it had been decided to hold the application land site for the purposes of public recreation by 1950.
- 10.3 The Inspector has detailed a clear history of decision-making over a number of years relating to the intended use of the land as an ornamental garden which was made available, without restriction, for public use.
- 10.4 The decisions detailed in the Inspector's report resulted in the outlay of expenditure on the improvement of the land which was set out, used and maintained for public recreation over the years.
- 10.5 The Inspector concludes that these factors appear to have given rise to a strong evidential basis with the result that public recreational user since at least 1950 has been 'by right' rather than 'as of right'. In the result, the application to register fails on this ground.

11. LIST OF BACKGROUND PAPERS

- 11.1 A copy of the Inspector's full report following the conclusion of the inquiry is attached as Appendix 1.
- 11.2 The application site is shown edged in red in Appendix 4

Cleared by Finance (Officer's initials)	Not Applicable
Cleared by Legal (Officer's initials)	PAR

**IN THE MATTER OF AN APPLICATION TO REGISTER LAND TO THE
WEST OF FRIERN BARNET ROAD, FRIERN BARNET, LONDON N11
AS A NEW TOWN OR VILLAGE GREEN**

- APPLICATION REFERENCE B/1/11/VG -

**INSPECTOR'S REPORT AND RECOMMENDATION TO THE
REGISTRATION AUTHORITY – LONDON BOROUGH OF BARNET**

Introduction

1. I am instructed by the London Borough of Barnet (acting by Poonam Rajput of their Planning and Regeneration Team) in their capacity as the commons registration authority ('the registration authority') to advise on an application to register a small parcel of land to the west of Friern Barnet Library on Friern Barnet Road, London N11 ('the application land') as a new town green under the provisions of section 15(2) of the Commons Act 2006 ('the CA 2006') in so far as qualifying user was claimed to be continuing at the time of the application. A scaled down version of the plan of the application land which accompanied the application to register will be found at Appendix 1 ('App/1') together with photos (aerial and street view) at Appendix 2 which I have taken from Google earth as I was not provided with photos.
2. The application in Form 44 was made by Friern Barnet and Whetstone Residents' Association and Friern Village Residents' Association and is dated 22/11/2011. It was accompanied by completed evidence questionnaires from over 60 local inhabitants living within a locality or neighbourhood which included Friern Barnet and part of North Finchley. Put shortly, the grounds on which such application was made were that local inhabitants had used the

application land for informal recreation for a period of at least 20 years before the application was made.

3. The application was duly publicised by the registration authority in accordance with the regulations (The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007). The publicity notice invited objections and a single objection was received from the London Borough of Barnet (acting by their Property Services Department) in whom the freehold of the application land is vested ('LBB').
4. After being instructed by the registration authority I gave directions on 30/07/2013 dealing with the procedure at a public inquiry on 28/10/2013 at Hendon Town Hall where it was intended that all the elements of the definition of a new town green would be considered.
5. However, there followed a debate between the registration authority and solicitors acting on behalf of the applicants (Public Law Solicitors of Birmingham) who took the view that there was no necessity for a public inquiry in that the only contentious issue concerned whether use of the application land had been 'as of right'. It was suggested that there could be a determination on paper with a view to saving costs.
6. In the event, the registration authority took the view (on my advice) that it was (a) simply too late to cancel the public inquiry even though this is what the parties evidently wanted, and (b) there was a clear public interest in the inquiry process proceeding as planned and it could not be left to the parties to choose whether to have an inquiry or not.
7. On 11/10/2013 the registration authority circulated amended directions drafted by me for the public inquiry which were limited to the preliminary issue of whether or not the claimed use of the application land for lawful sports and pastimes qualified as use 'as of right' within the meaning of section 15(2) CA 2006. These directions were designed to ensure that the public inquiry could proceed as planned on 28/10/2013 and the bundle service date was put back to 4pm on 24/10/2013 to allow the parties sufficient time to prepare their cases and assemble their evidence on the preliminary issue.

8. I should perhaps add that LBB were requested to deal as fully as they could with the history of the application land and they were specifically directed (at para 4) to *'provide copies of any relevant transfers or minutes or decisions of the authority and any other relevant documentation which they consider affords evidence of the purpose for which the Application Land has been held during the relevant qualifying period or any part of such period'*.
9. The public inquiry took place on 28/10/2013 at Hendon Town Hall. Representation at the public inquiry was as follows: Paul Wilmshurst acted for the applicants and Zack Simons acted for LBB. In the event, only limited disclosure was made and only then by the applicants who produced a batch of Middlesex County Council ('MCC') records (minutes of meetings of the county Highways and Education Committees) for the period 1928-33. For its part, LBB produced only their documents of title having evidently made no effort at all to inquire into the history of decision-making in so far as it concerned the application land from the date of acquisition by the predecessor authority, namely Friern Barnet Urban District Council ('FBUDC'), in 1931.
10. For the record, LBB is the statutory successor of FBUDC. The new Borough was established under the London Government Act 1963 and all property and liabilities of FBUDC vested in LBB under the London Authorities (Property etc.) Order 1964: Art 16 and Sched 4.
11. The inquiry nonetheless went ahead on 28/10/2013 and I heard submissions (written and oral) from both counsel. However, it troubled me that the registration authority was being asked to arrive at a decision on the basis of what had been wholly inadequate investigation on the part of LBB of its own and/or its predecessor's internal records. It seemed to me to be likely that documents were available which had the potential to provide a complete answer to the application. So it was that on 29/10/2013 the registration authority circulated a note in which I expressed my concern at the fact that there had been no comprehensive trawl of the available records. I noted that LBB's counsel had invited me, in effect, to look at matters in the round and to determine whether there must have been, on the balance of probabilities, a

history of decision-making which led to the laying out and management of the application land as formal open space whereas, in my view, the evidential basis for such an approach was questionable.

12. It seemed to me that a registration authority should not be reluctant to acquaint itself with relevant material otherwise there is a serious risk that it might arrive at an erroneous decision which would be open to challenge. In the result, I directed that LBB should be given a further opportunity to adduce documents and make further submissions with the applicants being afforded the opportunity of responding to such documents and submissions. Furthermore, and in the interests of clarity in the light of Mr Simons' submissions at the inquiry, LBB was also asked to clarify (a) whether it was being contended that the application land was acquired for purposes which included those within the meaning of section 164 of the Public Health Act ('PHA 1875'); alternatively (b) was it being alleged that there had been a later appropriation onto these statutory purposes and, if so, what decision or decisions of FBUDC were being relied on for such purposes?
13. These directions were questioned by Mr Wilmshurst who reminded me of the well-known dictum of Lord Hoffmann in *Oxfordshire County Council v Oxford City Council* [2006] 2 AC 647 at [61] who noted that the registration authority had no investigative duty which required it to find evidence or reformulate the applicant's case and that it was 'entitled' to deal with the application and evidence as presented by the parties. Plainly a registration authority would be open to criticism if it unfairly assisted one party in the formulation of its case to the detriment of the other. However, because LBB had evidently failed to investigate the historical documentary material which really ought to have been adduced at the public inquiry, it seemed to me that there was a real risk that any determination by the registration authority on the preliminary issue would be made on a flawed basis and it can scarcely be imagined that this state of affairs fell within the embrace of Lord Hoffmann's dictum in *Oxfordshire*. In these circumstances, it seemed to me that it was open to the registration authority to direct that further researches were required in order to resolve the 'as of right' issue if it was to consider the application fairly, impartially and in accordance with the law.

14. This approach was also consistent with that of Vivian Chapman QC in his report on the *Filton Park* application dated 2/09/2010 at [43] - [46] where he took the view that further investigations were required in order to satisfactorily resolve the 'as of right' issue. In that case Mr Chapman gave the parties 8 weeks in order that they might carry out further research into the documents on the issue of appropriation and make further submissions on the point. In *Filton Park* there had been a joint objection by the current owner of the land, namely the Homes and Communities Agency, and by Bristol City Council as former owner with contingent liabilities. The same authority was also the registration authority. One of the heads of objection in that case was that any recreational user of the park since 1974 had not been 'as of right' since the public had had the use of the park for recreation since the park was appropriated on 6/03/1974 onto statutory powers which gave rise to trusts for public recreation under section 164 of the Public Health Act 1875 ('PHA 1875') or under section 10 of the open Spaces Act 1906 ('OSA 1906'). Mr Chapman had been asked by the registration authority to advise on the merits of the 'as of right' point and whether the application could be disposed of on that point without the need for a public inquiry. The view he took was that he did not at that stage consider that the application could be rejected on a paper consideration of the 'as of right' issue, nor did he consider that it would be necessary to convene a non statutory public inquiry. However, as indicated, he did think that further researches were required in order to resolve the 'as of right' issue since the fact that the land had been maintained as a public park for many years did suggest to him that at some stage it may have been expressly or impliedly appropriated to public park use. The same possibility occurred to me in the case of the application land upon reflection of the evidence disclosed and submissions made on 28/10/2012.
15. In the event, I received further submissions dated 13/11/2013 and historical documentation from Mr Simons along with further written submissions from Mr Wilmshurst dated 26/11/2013 who again reminded me of Lord Hoffmann's dictum in *Oxfordshire* at [61]. Suffice to say, that he opposed my decision to re-open the inquiry and to direct further disclosure although it is unclear whether it is the applicants' case that even if the further documentation gave

rise to a complete answer in law to the correct determination of the application, I should still ignore it in light of Lord Hoffmann's dictum in *Oxfordshire*.

16. On 9/12/2013 LBB sent me an extract from the OS map on which the boundaries of the application land and the land included within 5 conveyances had been identified by reference to the colouring and particulars shown in the legend. As this plan is so helpful I am including at Appendix 3 (the 'App/3 plan'). It should, however, be noted that in the case of the green land, the conveyance between Brown and FBUDC was in fact dated 20/08/1931 and not 30/08/1931 as is stated in the legend.

Legal framework

17. Section 15(1) of the CA 2006 enables any person to apply to register land as a new town green in a case where subsections 2, 3 or 4 applies.
18. Section 15(2) applies where -
 - (a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged **as of right** in lawful sports and pastimes on the land for a period of at least 20 years;*
 - (b) they continue to do so at the time of the application.*
19. It is only necessary to consider the 'as of right' requirement at this stage.
20. Although a new green by 20 years' use does not depend on the inference or presumption of a grant or dedication, the expression 'as of right' echoes the requirements of prescription in relation to easements and public rights of way. In both cases, qualifying use must be 'as of right' because the existence of the right enjoyed by local people depends on the long acquiescence of the landowner in the exercise of the right claimed.
21. The traditional formulation of the requirement that user must be 'as of right' is that the user must be without force, secrecy or permission.

22. 'Force' does not just mean physical force. Use is by force if it involves climbing or breaking down fences or gates or if it is contentious or under protest. Prohibitory signs render use contentious and so not 'as of right'.
23. Use that is secret or by stealth will not be use 'as of right' because it would not come to the attention of the landowner.
24. 'Permission' can be express eg by erecting notices which in terms grant temporary permission to local people to use the land. Permission can be implied but not by inaction or by acts of encouragement by the landowner. It was held in *R (Beresford) v Sunderland City Council* [2004] 1 AC 889 that permission must be revocable or time limited. Permission that is unlimited and irrevocable amounts to acquiescence.
25. A local authority is a creature of statute. It can only acquire land under some statutory power. If the instrument by which the land is acquired does not specify the statutory power under which the land is acquired, the relevant statutory power must be inferred from the contents of the conveyance and the surrounding circumstances: *R (Beresford) v Sunderland City Council* [2004] 1 AC 889 (per Lord Scott at para 30) and *R (Malpass) v Durham County Council* [2012] EWHC 1934 (Admin).
26. 'As of right' means 'as if by right'. If use is in fact pursuant to a legal right eg under a statutory right of public recreation under the PHA 1875 (s.164) or the OSA 1906 (s.10) then use is 'by right' or 'of right' rather than 'as of right'. This point was discussed by the House of Lords in *Beresford* and confirmed by the Court of Appeal in *(R (Barkas) v North Yorkshire County Council* [2012] EWCA Civ 1373.
27. This principle arising from *Barkas* is that where land is made available and maintained as public open space by the exercise of statutory powers then it is used by the public 'by right' and not 'as of right'. In other words, having exercised their power to make the land available to the public for recreation, the authority is under a public law duty to use the land for those purposes until such time as the land has been formally appropriated to some other statutory purpose under section 122 of the Local Government Act 1972.

28. The position in *Barkas* is that land was laid out as amenity open space in connection with the provision of public housing under what in that case was section 80 of the Housing Act 1936 ('HA 1936'). It was held that local people had a right to use the land whether or not it was actually laid out for the housing in which they lived. This being the case the rights engaged mirror those arising under the PHA 1875 (s.164) or OSA 1906 (s.10) with the result that their user was non-qualifying for the purposes of the CA 2006. Sullivan L.J took the view that there was no sensible reason for drawing a distinction between land held under the PHA 1875/OSA 1906 and land which had been appropriated for recreational purposes under any other statute. The land in question continued to be held for housing purposes. It is just that the exercise of the enabling power within HA 1936 to lay out land as amenity open space gave rise in law to an appropriation of such land for public recreation and there was no practical distinction between land which had initially been acquired as public open space under the OSA 1906 and land which had been appropriated for open space purposes from some other use. In both cases the public's informal user of the land will not be 'as of right'.
29. I should also mention appropriation which may be express or may arise by implication from a decision or decisions of a local authority which necessarily indicates an intention to hold the land for a purpose other than the purpose for which it was acquired: *Oxy-Electric v Zainuddin* [1990] (unrep) per T Cullen QC.
30. *Oxy-Electric* and the issue of implied appropriation was addressed by Vivian Chapman QC in his advisory report dated 30/03/2009 for Bristol City Council ('BCC') in the application to register *Castle Park* in Bristol as a new town green (see paras [172] – [193]). Mr Chapman said that, as a creature of statute, a local authority can only hold property pursuant to a statutory power to do so. If it acquires land for one purpose it can only lawfully use the land for another purpose if it appropriates the land to that other purpose pursuant to a statutory power of appropriation. He said that these propositions were supported by the analysis of the Court of Appeal in *Dowty Boulton Paul Ltd v Wolverhampton Corporation (No.2)* [1976] 1 Ch, esp at 24D-26C. He then analysed the decision in *Oxy-Electric* which he said determined that if a local

authority resolved to use lands in a way that would only be lawful if there were an appropriation to a new statutory purpose, an appropriation is implicit in the appropriation.

31. It follows (see [177] in *Castle Park*) that one has first to identify the statutory purpose for which the relevant land is acquired and if it did not engage a public right of recreation then one has to see whether the authority passed any resolution to use the land for a purpose for which it could not lawfully have used the land unless an appropriation to new purposes was implicit in the resolution.
32. In *Castle Park* the land had been compulsorily acquired by BCC in 1946 under section 2(1) of the Town and Country Planning Act 1944 for the purpose of dealing with war damage. It was accepted that this enabling power did not include the maintenance and management of the Park as a public open space after it had been laid out.
33. On 24/08/1978 the Land & Administration Committee of BCC resolved to accept the recommendation of the report of the City Engineer in which he stated that the landscaping work in the Park was substantially completed and that: *'it would be appropriate to mark its completion by a formal declaration of its availability for the use and enjoyment of the public'*.
34. The same report went on to propose an official opening ceremony by the Lord Mayor on 30/09/1978 and recommended: *'that your committee agree to the transfer of the responsibility for Castle Park to the Open Spaces and Amenities Committee with effect from 30th September 1978, being the official opening of the Park by the Rt. Hon The Lord Mayor of Bristol'*.
35. It was Mr Chapman's view that the effect of the resolution of 24/08/1978 was that, as from 30/09/1978, BCC, through its Open Spaces and Amenities Committee, was to manage and maintain *Castle Park* as a park for the use and enjoyment of the public. He said that because BCC were unable to lawfully manage and maintain Castle Park as a public park under the 1944 Act, it was implicit in the resolution of 24/08/1978 that the land was appropriated to statutory purposes under which it was lawful for BCC to

manage and maintain *Castle Park* as a park for the use and enjoyment of the public. Having identified the PHA 1875/OSA 1906 as the enactments which conferred the relevant powers, it was Mr Chapman's view that the implied appropriation in the resolution of 24/08/1978 could have been onto the statutory powers conferred by either of these statutes from which, in his view, it followed that recreational use of *Castle Park* by the public after 30/09/1978 had been 'by right' and not 'as of right' and the application to register failed on this ground.

36. The issue of implied appropriation has been raised in other decisions of non-statutory inspectors. For instance, in his report in the *Filwood Park* application (2010) Vivian Chapman QC said at [30] that an appropriation could be implied in that case as the land had '*been set out, used and maintained as a public park since the 1970s. If it was held for education (or airport or housing) purposes but never expressly appropriated to a new purpose, the decision of the council to authorise substantial capital expenditure on the improvement of the park as a public park appears to me to give rise to a powerful case for implied appropriation to public park purposes*'. His finding at [42] was that the recreational use of the park by the public was non-qualifying.
37. In his report in the *Port Solent* application (20/11/2012) Vivian Chapman QC again addressed the issue of appropriation at [93]. He reiterated his earlier view (citing *Oxy-Electric*) that where '*a local authority passes a resolution to do something that would only be valid if there were a statutory appropriation of the land to a new purpose, such an appropriation can be inferred from the resolution*'. He also went on to explain *Barkas* on this basis: '*where a local authority held land for a widely expressed statutory purpose which allowed the land to be used in various ways, the decision of the local authority to use the land in one of the authorised ways could also be regarded as a type of appropriation*'.
38. In the *Westfield Playing Fields* application (report of Anthony Booth dated 26/02/2013) the objector contended that the passing of byelaws under the OSA 1906 constituted evidence of the fact that the relevant land should be taken as having at that time been appropriated to use for open space

purposes if prior to that time the land had been held on any other basis. The inspector accepted this submission citing *Oxy-Electric* – see paras [70-78].

39. In the *Brewery Field* application (report dated 14/05/2013) Mr Wilmshurst (the non-statutory inspector retained by Somerset County Council to advise on the application involving a parcel of land in Bridgewater) concluded that the grant of byelaws under PHA 1874 (s.164) constituted evidence of an implied appropriation of the land onto the purposes of that Act. Mr Wilmshurst said that it was implicit in the *Oxy-Electric* case that in imposing byelaws the land would be held henceforth under the provisions of the PHA 1875 as it expressed the clear will of the members – see paras [246]-[249].

Procedural issues

40. The regulations which deal with the making and disposal of applications by registration authorities outside the pilot areas make no mention of the machinery for considering the application where there are objections. In particular no provision is made for an oral hearing. A practice has, however, arisen whereby an expert in the field is instructed by the registration authority to hold a non-statutory inquiry and to provide an advisory report and recommendation on how it should deal with the application.
41. In *Regina (Whitmey) v Commons Commissioners* [2004] EWCA Civ 951 Waller L.J suggested (at para 62) that where there is a serious dispute, the procedure of ‘conducting a non-statutory public inquiry through an independent expert’ should be followed ‘almost invariably’. However the registration authority is not empowered by statute to hold a hearing and make findings which are binding on the parties by judicial process. There is no power to take evidence on oath or to require the disclosure of documents or to make orders as to costs. However, the registration authority must act impartially and fairly and with an open mind.
42. It was said at first instance by Carnwath J (as he then was) in *R v Suffolk County Council ex parte Steed* [1995] 70 P&CR 102, 487 (at pp.500/501) that an authority has an implied duty to take reasonable steps to acquaint itself with the relevant information to enable it to correctly answer the correct

question under the Act – as it was put by Carnwath J: *‘Some oral procedure seems essential if a fair view is to be reached where conflicting recollections need to be reconciled’.*

43. Having said that, however, the registration authority does have a discretion as to the procedure to be adopted but that discretion is not unfettered and it must be exercised in a manner which is not unfair to applicants or objectors.
44. The role of the expert inspector is thus to provide a report and to make a recommendation to the registration authority on whether the application should be accepted or not. His job is to hear the facts and make findings in circumstances where the facts are in dispute and then apply the facts to the relevant law. Inspectors have no power to decide anything and provided they act lawfully, the registration authority is free to accept or reject the recommendations of their inspector and would also be free to seek further advice from another person as to the content of their inspector’s report before deciding whether to accept its recommendation. However, having said that, it is still the case that the registration authority should still have a very good reason for not following their inspector’s recommendation.
45. The only question for the registration authority is whether the statutory conditions for registration are satisfied. In its determination there is no scope for the application of any administrative discretion or any balancing of competing interests. In other words, it is irrelevant that it may be a good thing to register the AL as a new town or village green on account of the fact that the land has been long enjoyed by locals as a public open space of which there may be an acute shortage in the area or because it is a beautiful habitat teeming with wildlife.
46. The onus lies on the applicant for registration and there is no reason why the standard of proof should not be the usual civil standard of proof on the balance of probabilities.
47. The procedure is governed by the Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007. The 2007 Regulations follow closely the scheme of The Commons Registration (New

Land) Regulations 1969 which governed applications to register new greens under section 13 of the 1965 Act. In a number of small pilot authorities The Commons Registration (England) Regulations 2008 apply. In Wales the regulations are different but they are very similar to the 2007 regulations.

48. The prescribed procedure is very simple: (a) anyone can apply without fee; (b) unless the registration authority rejects the application on the basis that it is not 'duly made', it proceeds to publicise the application inviting objections; (c) anyone can submit a statement in objection to the application; and (d) the registration authority then proceeds to consider the application and any objections and decides whether to grant or to reject the application.
49. I should make two further points under this head: (a) it should be emphasised that it is no trivial matter for a landowner to have land registered as a green and all the elements required to establish a new green must be '*properly and strictly proved*' (*R v Suffolk CC ex p Steed* (1996) 75 P&CR 102 at p.111 per Pill LJ, and approved by Lord Bingham in *R (Beresford) v Sunderland City Council* [2004] 1 AC 889, at para 2); and (b) the reforms in this branch of the law contained in the Growth and Infrastructure Act 2013 do not apply to this application.

Consequences of registration

50. Registration gives rise to rights for the relevant inhabitants to indulge in lawful sports and pastimes on the application land.
51. The owner is not excluded altogether from his land. He still has the right to use it in any way which does not interfere with the recreational rights of the inhabitants. In practice, however, there is a massive mismatch between what an applicant has to do to obtain registration and the practical and financial consequences of this upon the landowner.
52. Upon registration the land becomes subject to (a) s.12 of the Inclosure Act 1857, and (b) s.29 of the Commons Act 1876.

53. Under s.12 of the Inclosure Act 1857 it is an offence for any person to cause damage to a green or to impede *'the use or enjoyment thereof as a place for exercise and recreation'*.
54. Under s.29 of the Commons Act 1876 it is deemed to be a public nuisance (and an offence under the 1857 Act) to encroach or build upon or to enclose a green. This extends to causing any *'disturbance or interference with or occupation of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green'*.
55. Under both Acts development is prevented and the land is effectively blighted. In most cases, its value will be massively reduced. These reasons explain why these cases are extremely contentious.

Description of the AL

56. As will be seen from the photos at Appendix B, we are dealing with a small parcel of landscaped open space adjoining Friern Barnet public library. The central area is grassed on which there are two mature trees. There is a made-up path on the north and eastern sides behind which there are raised borders with the border on the eastern side, where abutting the library building, being quite wide and comprising trees, shrubs and the like. In the photos at Appendix/2 there are 4 bench seats on the path running on the northern side although I gather from the App/3 plan that there is now only one seat closest to the library building.
57. The application land adjoins the pavement on its south side which fronts onto what seems to be a service road running alongside Friern Barnet Road. On its western side, the application land abuts the pavement running on the eastern side of Ramsden Road. To the east, there is the library (beyond which there is MacDonald Road) and on the north, behind a run of panel fencing, there is a block of 4 flats and a service road leading to garages. This is Ramsden Court. I have also included a photo of the junction of Macdonald Road and Friern Barnet Road showing a telephone kiosk and pillar box in the foreground. This area of open space belongs to LBB but is not material to the application to

register. It is, I think, helpful to those reading this report to see how the library appears on its eastern side.

58. I have not visited the application land but the photos I have are quite adequate for my purposes seeing as the preliminary issue is essentially one of law from the documents. At any rate, I have not the slightest doubt from what I have heard and seen from the photos that the application land is a valuable local amenity.

Land History

59. The documents that are material to the application comprise the conveyancing history and the minutes of committees of MCC and FBUDC which have been disclosed to the inquiry. I will deal with these documents in date order.
60. At the meeting of FBUDC's General Purposes Committee on 30/12/1927 the authority's Engineer and Surveyor reported that MCC had approved the intended widening of Friern Barnet Road between Macdonald Road and Ramsden Road ('the road widening scheme') to which they would contribute.
61. At the meeting of MCC's Highways Committee on 26/01/1928 reference is made to the intended acquisition of land for the road widening scheme to the cost of which MCC, FBUDC and the Ministry of Transport would be contributing in unequal shares.
62. Further mention of the road widening scheme is made at a later meeting of MCC's Highways Committee held on 6/06/1928 when the committee approved of the proposal to acquire land for such purposes. The report of the committee noted that MCC had agreed to contribute to the proposed road widening scheme in 1925 and the committee resolved to approve the acquisition of the necessary land (by FBUDC) to the cost of which MCC would be making a contribution. Evidently the intention was to widen the road (from 50ft) to 80ft with a 10ft building line to accommodate development on land fronting this section of the widened road.

63. At a meeting of the full council on 6/06/1929, MCC gave their approval to FBUDC acquiring land for the road widening scheme (albeit subject to recoupment) and also agreed to contribute one-half of the estimated cost (namely £2,450) subject to the Ministry of Transport meeting the balance.
64. MCC's approval to the acquisition of the land required for the road widening scheme was noted in the minutes of FBUDC's Housing and Town Planning Committee meeting on 13/06/1929.
65. At the meeting of FBUDC's Highways and Public Works Committee on 14/06/1929 the committee recommended that MCC be informed that FBUDC were willing to proceed with the road widening scheme provided MCC undertook to be responsible for the whole of the cost of the scheme once it had become a publicly maintainable highway for which they assumed responsibility.
66. At a meeting of MCC's Highways Committee on 15/10/1930 a resolution was made to the effect that the MCC's Education Committee be notified of land which was going to be surplus to requirements which was going to be reserved for the site for a library.
67. At a meeting of MCC's Sites and Buildings Sub-Committee on 13/01/1931 the committee recommended the purchase of land for the erection of a library, such land to be purchased at the same time as the land required for the foregoing road-widening scheme.
68. The report of the County Engineer was read at a meeting of MCC's Highways Committee on 14/01/1931 who noted that once the road widening scheme had been carried out there would *'remain a piece of surplus land having a frontage of 294ft and an average depth of 59ft, and the District Valuer has reported that this surplus should realise £1,400 if the buildings are allowed to be brought out to the frontage, and £1,000 if buildings have to be set back to the Town Planning Building Line, viz 10ft ... With regard to the surplus land, the Elementary Education Committee have asked the Highways Committee to reserve a part of this land for the purposes of the erection of a library ...'* The Highways Committee duly resolved to refer the matter to the District Valuer so

that the land required *'for the widening of Friern Barnet Road including back land'* (ie the surplus land earmarked for the new library and potential development) could be acquired despite the fact that by that stage the Ministry of Transport had not given approval to their grant to the road-widening scheme.

69. At a meeting of FBUDC's Highways and Public Works Committee on 20/03/1931 the clerk to the authority reported that the District Valuer had come to terms with the two vendors of the land required for the road widening scheme.
70. At their meeting on 28/05/1931 MCC's Education Committee recommended that MCC acquire land on the proposed new frontage line of the proposed road widening scheme for the purpose of the erection of a new public library.
71. The minutes of the meeting of MCC's Education Committee on 30/07/1931 noted that MCC had at its meeting on 28/05/1931 decided to purchase land on the proposed new frontage line of Friern Barnet Road for the erection of a new public library and the committee resolved to recommend the acceptance of a tender from a builder for its construction and other ancillary matters.
72. By a deed dated 20/08/1931 and made between George Sweetland (as vendor) and FBUDC all that land shown coloured blue on the App/3 plan was conveyed to FBUDC. The second recital to the deed stated that the land was *'required by the Council for the purposes of the Public Health Act 1925 and the Acts incorporated therewith'*.
73. By a further deed dated 20/08/1931 and made between Charles Brown (as vendor) and FBUDC all that land coloured green on the App/3 plan was conveyed to FBUDC. The second recital to the deed again also stated that the land was *'required by the Council for the purposes of the Public Health Act 1925 and the Acts incorporated therewith'*.
74. It should be mentioned that the layout of the proposed road widening scheme is shown on the plans to both conveyances to FBUDC. The revised frontage is described as the 'Town Planning Widening Line' and the new road was

intended to be between 83ft – 90ft wide and was going to lead to much wider visibility splays at the junctions of Macdonald Road and Ramsden Road.

75. By a deed dated 13/09/1931 and made between Barclays Bank Ltd and MCC all that land shown edged blue on the App/3 plan was conveyed to MCC (I have not seen this deed but I shall accept its existence seeing as it is noted on the App/3 plan).
76. By a further deed dated 30/09/1931 and made between Barclays Bank Ltd and MCC all that land shown coloured pink on the App/3 plan was conveyed to MCC for (per recital 2) the purposes of the Public Libraries Acts 1892-1919.
77. The minutes of the meeting of FBUDC's Highways and Public Works Committee on 23/10/1931 noted that the purchases of the land required for the road widening scheme had been completed and that the authority had secured vacant possession of all but one parcel of land where the purchase had been subject to a tenancy between the vendor (Brown) and Kruse Ltd on which there was a hoarding which needed to be re-sited along the road widening line. The committee recommended that such tenancy could continue subject to termination on 3 months notice.
78. The minutes of FBUDC's full council on 6/11/1931 noted that the tenancy mentioned in (77) would only continue until the land was required by the authority for other purposes and since the road widening scheme was due to take place in the near future the rental was only nominal.
79. The minutes of MCC's Highways Committee on 26/11/1931 resolved to recommend that FBUDC be reimbursed the sum of £2,875 13s. 7d (later adjusted to £2,887 13s) which had been incurred in connection with the acquisition of land for the road widening scheme (as per the resolution of MCC on 6/06/1929) and there is no reason to suppose that FBUDC did not recoup such sum from MCC. The minutes also noted that it was *'anticipated that considerable recoupment will be obtained by the re-sale of the back land, although a part of the back land is proposed to be placed at the disposal of the Education Committee through the erection of a Library'*.

80. The minutes (and report) of MCC's Education Committee meeting on 25/05/1933 noted that MCC had, at its meeting on 30/07/1931, accepted a tender for the erection of new library buildings but despite the approval of a loan for such expenditure the matter was reviewed in light of the 'national financial crisis'. However with the prospect of the levying of a local library rate by FBUDC and a further grant from the Trustees of the Carnegie United Kingdom Trust towards the outlay on the new library, MCC had approved in principle the provision of new library buildings and authorised the Education Committee to invite tenders for the necessary building works and at the meeting the committee resolved to accept the lowest tender and also made other ancillary recommendations in relation to such development.
81. In the report and recommendations of the meeting of FBUDC's Parks Committee at their meeting on 14/01/1937, the committee noted the history surrounding the acquisition of land for road improvement and the erection of a new public library on land fronting Friern Barnet Road and the fact that there would *'be a certain amount of land surplus to requirements'*. The minutes go on to say this:

'The piece between Ramsden Road and the Library is very shallow and unsuitable for development and the Committee suggest that the County Council may be willing to dedicate this piece of land to the Public as a Public Garden providing this Council will bear the cost of laying it out and maintaining it.

The Committee recommend that the observations of the County Council be invited.'

The piece of land on the other side of the Library, adjoining Macdonald Road, is probably suitable for a small development and the County Council might be reluctant to dedicate this piece as well, although such dedication is desirable and would considerably enhance the appearance of and the surroundings to the Public Library'.

The suggestion of a dedication by MCC is confusing since virtually all the land to the west of the library already belonged to FBUDC with the exception of the

small parcel of pink land which is identified on the App/3 plan (I might add that no one has suggested that the library land – which was thought to be a couple of metres wide or thereabouts at the inquiry but is a good deal narrower than this in light of what one sees on the App/3 plan – has been used any differently to the adjoining land to the west). These minutes obviously deal with such land as was vested in MCC. At any rate, the aspirations of FBUDC in the case of those parcels which they hoped would not be developed are plain.

82. In the report and recommendations of the meeting of FBUDC's Parks Committee at their meeting on 15/07/1937, it was noted that the committee had received a letter from MCC stating:

'that the Education Committee would be pleased if the plots of land on each side of the Public Library in Friern Barnet Road could be laid out and maintained by the Council as ornamental gardens and the Committee recommend that the Engineer and Surveyor be instructed to submit a proposed layout of these gardens to the next meeting of the Committee, such work to be carried out at the same time as the widening of the road at this point.'

83. In the report and recommendations of the meeting of FBUDC's Parks Committee on 9/12/1937 the following is noted at item (7):

- '7. LAND ADJOINING THE LIBRARY. *The Committee had before them several proposed schemes for the layout of the two pieces of land adjoining the library and recommend the Council to authorise the Engineer & Surveyor to proceed on the following lines:-*

Both pieces of land to be laid out with turf with a shrubbery at the rear and sides. The turf to be divided from the shrubbery by pathways laid in colourcrete and suitable seats to be inset into the shrubbery. Small shrubs to be planted and post and chain fencing to be erected along the Friern Barnet Road and Macdonald Road frontages.

The total estimated cost of the works is £300.'

84. By a further deed dated 31/12/1937 and made between MCC and FBUDC all that land shown coloured yellow on the App/3 plan was conveyed to FBUDC. MCC. I have not seen this deed either but I shall accept its existence seeing as it is noted on the App/3 plan. The yellow land is not relevant to the application to register.

85. In the report and recommendations of the meeting of FBUDC's Parks Committee on 12/05/1938 the following is again noted at item (7):

'7. FRIERN BARNET LIBRARY. *A communication has been received from the Middlesex County Council intimating that the Sites and Building Committee of the County Council are prepared to recommend that permission be granted to this Council extending the ornamental gardens across part of the passageway on each side of the Library building providing a passageway of from 5' to 6' wide is left on each side to enable access to be obtained to the rear of the building.*

The Engineer & Surveyor reports that the provision of passageways with flank fences on either side of the Library would mar parts of the scheme as a whole. The improvement desired is to do away with the side passageways altogether and to merge the library into the layout of gardens, but the proposals outlined by the County Council would have the reverse effect.

The Committee understand that the Local Library Committee is in favour of this Council's proposals and has notified the County Library Committee accordingly and this Committee suggest that members of the County Council be invited to inspect the site with a view to this Council's suggested scheme receiving further consideration.'

86. In the report and recommendations of the meeting of FBUDC's Parks Committee on 15/07/1938 the following is again noted at item (8):

'8. COUNTY LIBRARY, Gardens. *Further to Minute No.9 (it should in fact be a reference to No.7) of the report and recommendations of this Committee of May last, the Sites Visiting Sub-Committee of the County Council have now made an inspection in connection with the layout of the gardens adjoining the County Library in Friern Barnet Road and have recommended agreement to*

this Council's proposals in regard thereto. The proposals have been submitted to the County Council for confirmation.'

87. In the report and recommendations of the meeting of FBUDC's Parks Committee on 15/09/1938 the following is again noted at item (7):

'7. FRIERN BARNET LIBRARY, Ornamental Gardens. A communication has been received from the Middlesex County Council relating to the layout of the small areas of land surrounding and forming part of the Public Library and intimating that the County Council has approved of the same being laid out and maintained by this Council as part of the adjoining ornamental gardens subject to:-

- (a) any necessary approval of the Board of Education.
- (b) the details of the arrangements being approved by the Chairman of the Education Committee.
- (c) this Council entering into an arrangement containing terms as may be considered necessary in the interests of the County Council.

The County Council have been provided with a plan showing the works proposed to be carried out and the draft of the proposed agreement is awaited.

It will be remembered that the larger areas of land adjoining (excluding Library site) which were paid for by the County Council are surplus to road widening requirements and the County Council have given instructions for the District Valuer's valuation to be obtained with a view to the disposal of the land or reimbursement to the County Council by this Council of the ascertained value.

When the District Valuer's valuation has been received this Committee will give further consideration to the question as to whether the Council's proposals to use the land as an ornamental garden should be proceeded with'.

88. In the report and recommendations of the meeting of FBUDC's Parks Committee on 8/06/1939 the following is noted at item (9):

- ‘9. LIBRARY GARDENS. *The Engineer & Surveyor reported that a Sub-Committee of the Middlesex County Education Committee had visited Friern Barnett to inspect the vacant land on either side of the County Library and that he had been informed that the Sub-Committee had decided to recommend that the land on the west side of the Library be leased to this Council at a nominal rental, and that the land on the east be reserved by the County Council for possible library extensions but that this Council be given permission to lay out the land as ornamental gardens, until such time as it was required for the extension of the Library.*

A further report will be submitted to the committee in due course.’

Obviously only a small parcel or parcels of land would have to be leased to FBUDC. At any rate, it was intended that such land would be laid out as ornamental gardens.

89. In the report and recommendations of the meeting of FBUDC’s Parks Committee on 13/01/1947 the following is noted at item 10(g):

- ‘(g) Library Gardens, Friern Barnet Road. *The Sub-Committee recommended that the scheme approved by the Council some years ago for the layout of this land as a pleasure garden be proceeded with when circumstances permit.*

The Committee are of the opinion that this work could be carried out at the present time and recommend that the Clerk be directed to enquire of the Middlesex County Council whether they would be prepared to cooperate with the Council in arranging for the layout of the site as a garden.’

90. In the report and recommendations of the meeting of FBUDC’s Parks Committee on 12/05/1947 the following is noted at item 12:

- ‘12. *Provision has been made in the estimates for the coming year of £150.0.0d for the improvement of the Library Gardens in Friern Barnet Road, and the Engineer & Surveyor reported that at the present time it would only be possible to carry out improvements to the land on the western side of the Library, as the land on the eastern side had been let by the Council as a war time allotment’.*

91. In the report and recommendations of the meeting of FBUDC's Parks Committee on 9/06/1947 the following is noted at item 13:

'13. LIBRARY GARDENS, FRIERN PARK ROAD. With reference to Minute No.12 of this Committee on 12th May, 1947, the Engineer & Surveyor reported that as this site might possibly be required for the provision of a Community Centre for the District, the work of improvement to the gardens would not be commenced until a final decision on the matter had been received from the Middlesex County Council.'

92. In the report and recommendations of the meeting of FBUDC's Parks Committee on 7/09/1948 the following is noted at item 9:

'9. ORNAMENTAL GARDENS.

(a) Library Gardens. The Engineer and Surveyor reported the completion of the work on the lay-out and grass seeding of this site. Three trees will be planted in the lawn in the Autumn.

(b) Proposals for Future Planting. The Committee have referred the question of the carrying out of the work on the remaining selected sites to the Ornamental Gardens Sub-Committee.'

93. In the report and recommendations of the meeting of FBUDC's Parks Committee on 1/06/1950 the following is noted at item 11(d):

'(d) Library site, Friern Barnet Road. With reference to Minute No.8(a) of the Report of this Committee dated the 8th September, 1949, it was reported that the Middlesex County Council has now re-aligned the boundary fences on either side of the library so as to permit the extension of the roadside garden layouts up to the building. An estimate of the cost of including these additional areas in the garden layouts was submitted to and approved by the County Valuer and the necessary work has been put in hand.'

94. In the report and recommendations of the meeting of FBUDC's Parks Committee on 6/07/1950 the following is noted at item 9:

- ‘9. ROADSIDE GARDENS – LIBRARY SITE, FRIERN BARNET ROAD. *With reference to Minute No.11(d) of the Report of this Committee dated the 1st June 1950, the additional areas of land added to this site on either side of the Library have now been cleared, prepared and planted with Summer bedding plants.*’
95. In light of the foregoing records, the whole of the application land is likely to have been laid out as an ornamental garden as long ago as 1950.
96. I should perhaps add that the land acquired in 1931 is now registered in the name of LBB under a single consolidated title, namely AGL266015. It is also worthy of note that the undeveloped land to the east of the library at the junction of Macdonald road and Friern Barnet Road is also vested in LBB under title number P33021 (at least it was in 2003).
97. Before closing on the land history, I should deal with the recitals in the 1931 conveyances whereby the blue and green parcels on the App/3 plan were noted to be held by FBUDC ‘*for the purposes of the Public Health Act 1925 (‘PHA 1925’) and Acts incorporated therewith*’ seeing as this was an explicit declaration of the original acquisition purpose.
98. As the land in question was required for the purposes of a road widening scheme it seems probable that FBUDC must have intended to rely on the enabling power contained in PHA 1925 (s.33) under which a local authority has power to acquire land for widening a street up to what is termed in section 33(1) as ‘*the improvement line*’ but which, in this instance, on the plans attached to the 1931 conveyances, is described as the ‘*Town Planning Widening Line*’. There is no evidence that any plan showing the proposed improvement line was ever deposited for inspection by the public and/or whether any objections were raised thereto but section 33(8) enables land to be acquired by an authority which lies between the improvement line and the boundary of the existing street which is being widened to which such land would be added under section 33(9).
99. On the face of it, section 33(8) does not authorise an authority to acquire more land than is actually needed for the road widening and although the

recitals in both conveyances state that the parcels were required for the ‘purposes’ (and Mr Simons invites me to place emphasis on the plural – in the sense that it was capable of covering more than just a single statutory purpose) ‘of the PHA 1925 (and the Acts incorporated therewith)’ this was only partially correct. I suppose it might be argued, that is, if it was only authorised to act under PHA 1925 (s.33(8)) that the surplus land was acquired by FBUDC in excess of its powers (unless, perhaps, as Mr Wilmshurst argued, there must be an implied power to acquire more land which is outside the boundary of the road widening line in order to bring about the proposed road improvement) but I cannot see that anything turns on this in this instance in view of (a) the power arising under the PHA 1875 (s.154) which is raised by Mr Wilmshurst in his recent submissions, and (b) the principle that administrative acts are valid unless and until quashed by the court – see for instance, *R (oao The Noble Organisation Ltd) v Thanet District Council & ors* [2005] EWCA Civ 782 at [42] – [43].

100. Another candidate section in the PHA 1925 is section 69 under which a local authority is given power to purchase and lay out land for the purpose of cricket, football or other games and recreations (the objector did not rely on this section). I should not overlook section 56 either which adds to the raft of powers available under section 76 of the Public Health Acts Amendment Act 1907 (‘PHAAA 1907’) which concern the management or control of recreation grounds but as there is no evidence that it was ever FBUDC’s intention to acquire the application land for public recreation I fail to see the relevance of these enactments.
101. Put shortly, the application land was acquired for the purposes of the road widening scheme. There was no suggestion that the land was being acquired by FBUDC for public recreation.

Submissions of Counsel (outline only)

Those by Mr Simons on behalf of LBB – his written submissions are those dated 24/10/2013 and 13/11/2013

102. In his initial submissions it was contended by Mr Simons that the application land was acquired under an express statutory power (ie the PHA 1925 and the Acts incorporated therewith) to provide and thereafter maintain it as a place of public recreation the effect of which in law (in consequence of the decision of the Court of Appeal in *Barkas*) would be to preclude such land from being registrable as a new town green.
103. It was argued that the effect of the recitals mentioned in paras 72/73 above and section 1(3) PHA 1925 (which stipulates that sections 1-84 are to be construed as one with the Public Health Acts 1975 to 1907) is to engage, by express reference, the PHA 1875 (s.164) the effect of which is to entitle local inhabitants to use the application land for public recreation rendering use 'by right' and not 'as of right'. This would undoubtedly be true if the application land had been acquired for the purposes of PHA 1875 (s.164) but this was never the intention of FBUDC in 1931.
104. Mr Simons cites at length from *Barkas* in the Court of Appeal which, as I have already indicated, has confirmed what was only discussed in *Beresford* in the House of Lords, namely that user pursuant to a legal right, eg under a statutory right of public recreation under the PHA 1875 (s.164) or the OSA 1906 (s.10), will not qualify for registration.
105. It was Mr Simons' primary case that the application land had, in light of the recitals contained in the 1931 conveyances, been acquired for the purpose of public recreation although he says that the position would be just the same if the application land had been appropriated for the purpose of public recreation which was the finding in *Barkas* arising from the authority's exercise of statutory powers which enabled them to lay out and maintain land as a recreation ground under the Housing Acts 1936-85.
106. In his recent submissions (which I am invited to read alongside his earlier submissions) Mr Simons contends that the recent disclosure substantiates

LBB's case as put forward at the inquiry. It seems to be his case that the purpose for which the application land was acquired and thereafter held authorised the laying out of such land as an ornamental garden.

107. Although Mr Simons refers to '*a clear history of decision-making which leads to the application land's holding and maintenance by the Council as an ornamental garden since, at the latest, 1949*', he is not evidently saying (at least as I understand his case) that even if the application land had not been acquired for purposes which authorised such work and holding (ie in the event that the PHA 1875 (s.164) was not been engaged at the time of acquisition), it would nonetheless still have been within the scope of a later (express or implied) appropriation of land (which included the application land) onto the statutory purposes of this enactment (which Mr Simons says '*was plainly the power engaged in this case*').
108. The difficulty I face is that Mr Simons appears to predicate his entire case on the basis that the scope of the recitals in the 1931 conveyances were such as to incorporate an acquisition purpose which included the powers of an authority to lay out and maintain land for the purpose of being used as public walks and pleasure grounds under PHA 1875 (s.164).

The submissions of Mr Wilmshurst on behalf of the applicants – his written submissions are those dated 23/10/2013 26/11/2013

109. In his initial submissions Mr Wilmshurst did not accept that the application land had been held pursuant to the PHA 1925 or that use had been 'by right' and not 'as of right'.
110. Mr Wilmshurst poses, as it seems to me, the core issue which (as I understand his submission) is whether the application land was ever held by LBB (either at the time of acquisition or by virtue of later decision-making) for a purpose which entitled it to make it available for public recreation?
111. I think Mr Wilmshurst is saying that in order to rely upon the PHA 1925, and thereby satisfy the above question, Mr Simons would have to show that section 69 was engaged. Under this section it will be recalled that a local authority is given power to purchase and lay out land for the purpose of

cricket, football or other games and recreations. This section was repealed and replaced by section 4(5) of the Physical Training and Recreation Act 1937 which itself was replaced by section 19 of the Local Government (Miscellaneous Provisions) Act 1976.

112. There is an unresolved issue as to whether section 19 (under which an authority is given a discretion as to whom to make any facilities provided by it available for use, either with or without payment) confers an entitlement on members of the public to use the relevant land on which the recreational facilities are located. Mr Simons contends that a power to charge is not inconsistent with use 'by right' and he cites the fact that the PHA 1875 (s.164) power is subject to regulation (by the making of byelaws) whereas Mr Wilmshurst said it would be and he relies on the view about this of Vivian Chapman QC in the application to register land at *The Triangle* in Gosport (2010) with which decision I am familiar. However, other inspectors have determined that land held under the 1937/1976 Acts is used 'by right' and not 'as of right' (see report of Richard Honey in the application to register land at *Nottingham Road Recreation Ground* in Ripley (2013) at paras [28] to [34]).
113. Mr Wilmshurst rightly submits that *Barkas* is not authority for the proposition that whenever land is used for recreation it is automatically held for the purposes of a recreational statute or applied for those purposes. I agree with him when he says that the authority must make a decision on how the land is to be held or applied.
114. Arising out of the recent disclosure, Mr Wilmshurst submits that the evidence discloses that the application land was purchased for road widening purposes in accordance with the powers that were available to FBUDC for this purpose and he cites PHA 1875 (s.154) and PHA 1925 (s.33) to which reference has already been made.
115. Section 154 briefly provides that '*Any urban authority may purchase any premises for the purposes of widening opening enlarging or otherwise improving any street, or (with the sanction of the Local Government Board) for the purpose of making any new street*'. This section was repealed by

Schedule 25 of the Highways Act 1959 and thus would have been in play in 1931.

116. It necessarily follows, and as Mr Wilmshurst rightly submits, that these provisions dealing with street improvements are obviously not wide enough to encompass recreation with the result that the reasoning in *Barkas* on appropriation is not engaged.
117. If Mr Wilmshurst is right then it must also follow that, subject to any formal statutory appropriation having taken place under either section 163 of the Local Government Act 1933 ('LGA 1933') (for which ministerial approval was required – although Section 23 of the Town and Country Planning Act 1959 removed the requirement for ministerial consent except in certain specified classes of land, including open space) or section 122 of the Local Government Act 1972, the application land will still be held for street improvements.
118. In *Barkas* the laying out and maintenance of the recreation ground under the Housing Acts was merely a form of appropriation for the purpose of public recreation and the land continued to be held by the authority for housing purposes. In my view, Mr Wilmshurst is right when he submits that *Barkas* does not set down any principle that local inhabitants will enjoy a legal right to use land for recreation whenever they factually use it for this purpose. One only has to look at the outcome in *Beresford* to see that this is not the case.
119. Under section 122(2A) of the Local Government Act 1972 (in common with disposals of land under section 123), appropriations cannot occur in the case of land consisting or forming part of an open space unless the council has first advertised their intention to do so in a local newspaper and have considered any objections to the proposed appropriation which may be made to them. Section 122(2A) was, however, inserted by the Local Government, Planning and Land Act 1980.
120. It will also be recalled from the earlier citation from *R (on the application of the Noble Organisation) v Thanet DC* [2005] EWCA Civ 782 that it now seems probable that a local authority's failure to refer a decision for ministerial

approval will not render that decision void unless and until the decision itself is quashed.

121. Mr Wilmshurst invites me to consider whether, in light of the recently disclosed minutes, the application land had in fact been the subject of a statutory appropriation which, in practice, could only sensibly involve the statutory purposes of PHA 1875 (s.164) or OSA 1906 (s.10).
122. Mr Wilmshurst encourages me to attach weight to the decision *R (Malpass) v Durham County Council* [2012] EWHC 1934 (Admin) where he says that the judge appeared to accept the submission that the formalities for an appropriation under section 163 LGA 1933 needed to be complied with in order to apply the provisions of the OSA 1906. Consistently with this, Mr Wilmshurst submits that it must accordingly be shown that the authority effected a formal statutory appropriation (by which he presumably means an express decision of the authority duly recorded in the minutes and supported by the required ministerial approval) in the case of the application land and he says that the evidence establishes no such thing. He contends that the authority never applied its mind to the issue of appropriation and the laying out of the application land as an ornamental garden in the absence of a formal appropriation would not in law suffice to alter the purpose for which the land was acquired, namely for street improvements.
123. I might add that Mr Wilmshurst also cites *Third Greytown Properties Ltd v Peterborough Corporation* [1973] 3 All ER 731 where land was found to be held for the purposes of an open space even though it had in fact been built on. At pp.735g-j and 736a Templeman J said that the factual position is irrelevant if the land was held in trust under section 10 of the OSA 1906.
124. I should also mention for the sake of completeness that it was, as I understand it, Mr Wilmshurst's case that even if the preliminary issue went against the applicants in relation to the FBUDC parcels on the western side of the library building, he still asserted that a claim to registration existed in relation to the library land between the eastern edge of these parcels and the western flank wall of the library building. We are dealing here with the very small triangle of land shown coloured pink on the App/3 plan. In my view, a

claim to register so small a parcel of land would be absurd and should not be entertained.

Discussion

125. I think this is a convenient point to deal more fully with *Malpass*. My view about this case is that the decision turned on its own facts in view of the inspector's treatment of the Deed of Dedication dated 4/02/1964. Of greater importance perhaps is the fact that the decision in the *Oxy-Electric v Zainuddin* case (see para 28) was not evidently cited in *Malpass* nor were any of the decisions of inspectors dealing with these cases in which an appropriation onto the purposes of the PHA 1875/OSA 1906 had either been implied from decisions of the authority or where the circumstances were such that an appropriation for such purposes could be inferred.
126. *Malpass* was a case where it was evidently unclear what the acquisition purpose of the land had been. However in 1964 the above-mentioned Deed had been executed by the authority (the former Consett UDC) which purported to make clear for what purpose the land was held. It was accepted on both sides that the references in the Deed to 'Open Spaces' and 'Public Walks, Parks and Pleasure Grounds' reflected the language of section 164 PHA 1875/section 10 OSA 1906 yet the judge still refused to consider that the Deed gave rise to an appropriation in law and the decision not to register was quashed and the matter remitted for further review by the registration authority which had refused to register the land (on the advice of its non-statutory inspector) on the basis that it had been appropriated onto the statutory purposes of one or other of the foregoing enactments such that user was 'by right' and thus non-qualifying.
127. It was alleged that the inspector's decision was flawed and vitiated the decision of the registration authority not to register the land. It was argued that the court was unable to substitute its own decision or its own reasons for that of the registration authority and that the decision not to register ought to be quashed and the matter remitted for re-consideration and review of evidence (fresh minutes) which had not been presented to the inspector. In the event, this is the course which was taken by the court.

128. It appears that the judge rejected the argument that the Deed ‘was tantamount to a record of a decision by the local authority to hold the land on the statutory trust for public recreation’. It seems clear that the judge accepted the submissions of the landowner that it was necessary to comply with the statutory formalities to effect an appropriation whereas, in light of what was said in *Barkas* and elsewhere, it seems clear that an appropriation does not need to be express and may be inferred although *Barkas* did not contain a detailed consideration as to the nature of the evidence which would give rise to such an inference.
129. Sullivan L.J did though say that he did not agree with the decision of the House of Lords in *Beresford* and as to why the statutory approval of the Corporation’s New Town Plan 1973 by the Minister, which had the effect of granting planning permission for the development of the land in that case as ‘parkland/open space/playing field’, when coupled with the subsequent laying out and grassing over of the land, would not have been sufficient to amount to an appropriation of the land as recreation open space sufficient to render use of the land ‘by right’. However, the House of Lords ruled against any appropriation on the facts in *Beresford*. For instance, Lord Rodger said that the designation of the land as open space in the New Town Plan did not confer any right to use the land as a sports arena. Lord Walker also emphasised the fact that the land had not been acquired for any particular purpose, nor was the Corporation under any obligation to appropriate the land for any specific purpose such as housing, public buildings or open space.
130. It is also noteworthy that Sullivan LJ did say that the land in *Barkas* would continue to be held under Housing Act powers until a ‘formal decision is taken that it shall be used for some other housing purpose’ [42]. Later on, he also said this at [43]: ‘A local authority holding land for a particular statutory purpose may not use it for any purpose unless it has been formally appropriated to that purpose ...’, which, as it seems to me, implies at least a decision to appropriate or at least evidence from which this may be inferred from another express decision of the authority.

131. Whilst I accept that the decision in *Malpass* cannot be put to one side, it is, as I have already explained, evident that the only reported first instance decision involving appropriation (ie before *Barkas*), namely that of *Oxy-Electric Ltd v Zainuddin [1990]* (a decision well known to practitioners in this field) was not apparently cited. The decision is clearly of importance and was very helpfully explained by Vivian Chapman QC in the *Castle Park* application whose view it was that if a local authority resolved to use land in a way that would only be lawful if there were an appropriation to a new statutory purpose, an appropriation is implicit in the appropriation.
- 132 In my view, *Malpass* turned on its own facts. Speaking for myself, it is difficult to see why the 1964 Deed did not evidence a clear intention on the part of the authority to hold the land as recreation open space sufficient to preclude its registration as a new town green.
133. In my view, in the absence of an express resolution to appropriate where the records are complete, the correct approach is to identify the statutory purpose for which the land is held by the authority by (a) identifying the purpose for which it was purchased, and (b) any purpose for which it was subsequently expressly appropriated, and then (c) to ascertain whether the authority subsequently passed any resolution or resolutions to use the land for a purpose for which it could not lawfully have used the land unless an appropriation to new purposes was implicit in the resolution. Put another way, is it possible to infer a decision to appropriate from another decision or decisions of the authority? I accept that where there is no such decision an appropriation cannot, without more, be inferred merely from the use to which the land is put if that use would be lawful according to the statutory power under which the land is for the time being held.
134. Accordingly, I take the view that it is perfectly legitimate to imply or infer a decision to appropriate (thereby indicating an intention to hold the land for a purpose other than the purpose for which it was acquired) from other decisions of the authority and that the law does not require an appropriation to be express. For instance, in *Beresford* at [88-90] Lord Walker said that the evidence did not establish, or give grounds for inferring any appropriation of

the land as open space. These observations are highly persuasive although he did not elaborate on the circumstances in which this might happen. Although the views of Lord Walker were *obiter dicta* they are entitled to great respect and ought to be followed in the absence of some compelling reason to the contrary.

135. The first question is to identify the purpose for which the application land was acquired. In my view, the answer to this is plain and obvious, namely that the land was required for road widening or street improvements. It seems plain enough that PHA 1875 (s.154) and PHA 1925 (s.33) would have applied to authorise the acquisition of the land required for the road widening scheme and there was no challenge to this at the time. Mr Wilmshurst is also right when he says that these provisions were obviously not wide enough to encompass recreation.
136. On an analysis of the minutes it is plain that it was understood by MCC/FBUDC that there would be land which was going to be surplus to the requirements of road widening scheme which in part would be earmarked for a new library. FBUDC were reimbursed their outlay by MCC following their acquisition of the material parcels in 1931. This evidently entitled MCC to a say in how the surplus land would be utilised since mention was made in the minutes of MCC's Highways Committee on 26/11/1931 that it was '*anticipated that considerable recoupment will be obtained by the re-sale of the back land, although a part of the back land is proposed to be placed at the disposal of the Education Committee through the erection of a Library*'.
137. By 1937 FBUDC realised that the land on the west of the library site was unsuitable for development (as it was too narrow) and they were thinking in terms of laying it out as a public garden, albeit with the concurrence of MCC as owner of the library land on the eastern side. In the event, MCC were content to see their land on either side of the library laid out and maintained by FBUDC as ornamental gardens and, at their meeting on 9/12/1937, FBUDC's Parks Committee resolved to recommend to the authority that both pieces of land be laid out in the manner described in the minutes. This work did not evidently proceed at that time and the minutes of the same committee

for the meeting on 12/05/1928 disclose that discussions were still ongoing with MCC in relation to the details of the intended works on land belonging to both MCC and FBUDC.

138. It seems that by the time of the same committee's meeting on 15/09/1938 agreement in principle had in fact been reached with MCC *'relating to the layout of the small areas of land surrounding and forming part of the Public Library (ie referring to those small areas which were vested in MCC) and intimating that the County Council has approved of the same being laid out and maintained by this Council as part of the adjoining ornamental gardens subject to .. etc'*. However, it appears from the minutes of this meeting that FBUDC were still considering (at MCC's prompting) whether the larger areas of land on either side of the library should be disposed of (with MCC being duly reimbursed the value of such land) and it seems that the District Valuer was asked to consider this possibility. As the same minute explains: *'When the District Valuer's valuation has been received this Committee will give further consideration to the question as to whether the Council's proposals to use the land as an ornamental garden should be proceeded with'*.
139. By the time of the meeting of FBUDC's Parks Committee on 8/06/1939 it seems that any possibility of disposing of the surplus land held by FBUDC was no longer on the cards. One sees that at this meeting it was noted that MCC were agreeable in principle to lease such land on the west side of the library as belonged to them to FBUDC, albeit at a nominal rental. It also appears that FBUDC were being given permission to lay out land on the east side of the library as ornamental gardens until such time as it was required by MCC for the extension of the library on this side of the building.
140. The war then supervened. Much later on, at the meeting of FBUDC's Parks Committee on 13/01/1947, the committee noted that the Sub-Committee of MCC's Education Committee had recommended that the scheme approved by FBUDC some years previously for the laying out of what was described as the 'Library Gardens' as a pleasure garden could be proceeded with when circumstances permitted. It was the view of the committee that this work could be carried out at that time and they recommended that the Clerk be directed

to enquire of MCC whether the latter would be prepared to cooperate with FBUDC in arranging for the layout of the site as a garden.

141. Matters proceeded quite quickly after this and, as has already been noted, at the meeting of FBUDC's Parks Committee on 12/05/1947 the committee noted that provision had been made in the estimates of *'the coming year ... for the improvement of the Library Gardens in Friern Barnet Road, and the Engineer & Surveyor reported that at the present time it would only be possible to carry out improvements to the land on the western side of the Library, as the land on the eastern side had been let by the Council as a war time allotment'*.
142. However, at the next meeting of FBUDC's Parks Committee on 9/06/1947, the proposed public garden was placed on hold as it was noted that the site may be required for a Community Centre. This proposal seems to have gone nowhere as by the time of the meeting of the same committee on 7/09/1948 one notes (against the heading *'Library Gardens'*) that FBUDC's Engineer and Surveyor reported the completion of the work on the lay-out and grass seeding of the site and also stated that three trees would be planted in the lawn in the Autumn.
143. By the time of the meeting of FBUDC's Parks Committee on 1/06/1950 the minutes note that MCC had re-aligned the boundary fences on either side of the library so as to permit the extension of the roadside garden layouts up to the building. By the time we get to the meeting of the same committee on 6/07/1950 one sees (under the heading: *'Roadside Gardens - Library Site, Friern Barnet Road'*) the following noted in the minutes: *' ... the additional areas of land added to this site on either side of the Library have now been cleared, prepared and planted with Summer bedding plants'*.
144. In light of the foregoing records, it is, in my view, plain and obvious that by 1950 at the latest, FBUDC had decided to hold the application land site for the purposes of public recreation. There had, I think, been a clear history of decision-making over a number of years relating to the intended use of the land as an ornamental garden (which was made available, without restriction,

for public use) which would have been wholly incompatible with the purpose for which such land had been acquired.

145. It is, I think, clear that FBUDC, as the relevant authority, had done something which was only valid if there had been a statutory appropriation of such land to a new purpose. The decisions outlined above resulted in the outlay of expenditure on the improvement of the land which was set out, used and maintained for public recreation over the years and (as one might have expected) was evidently also managed by FBUDC's Parks Committee. These factors appear to me to have given rise to a strong evidential basis from which to infer a decision to appropriate such land onto the statutory purposes of the PHA 1875 (s.164) or the OSA 1906 (s.10) with the result that public recreational user since at least 1950 has been 'by right' rather than 'as of right'. In the result, the application to register fails on this ground.

Recommendation

146. In light of the above discussion, I recommend that the application to register the application land (being application reference B/1/11/VG) should be rejected.
147. Under reg.9(2) of the 2007 Regulations, the registration authority must give written notice of its reasons for rejecting the application. I recommend that the reasons are stated to be *'the reasons set out in the inspector's report dated 10th January 2014'*.

William Webster
12 College Place
Southampton

Inspector

10th January 2014

APPENDIX 1

APPENDIX 2





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51°36'48.95" N 0°09'13.26" W elev 68 m eye alt 71 m







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Imagery Date: 7/2012 51°36'48.80" N 0°09'11.10" W elev 69 m eye alt 71 m

APPENDIX 3

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Appendix 4 - Application Site Plan



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Meeting	Planning and Environment Committee
Date	13 February 2014
Subject	Application to Register Land known as The Reddings Green between Reddings Close and Lawrence Street, Mill Hill, NW7 as a Town or Village Green.
Report of	Assistant Director - Development Management and Building Control
Summary	This report contains the result of officers' investigations into the relevant facts and legal issues in deciding whether or not to register the subject land as a Town or Village Green under the Commons Act 2006.

Officer Contributors	Dave Prince, Chipping Barnet Area Planning Manager
Status (public or exempt)	Public
Wards Affected	Mill Hill Ward
Key Decision	Not applicable
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Plan showing the subject land
Contact for Further Information:	Dave Prince Chipping Barnet Area Planning Manager, 020 8359 4671.

RECOMMENDATIONS

- 1.1 That the application for registration as a Town or Village Green under Section 15(2) of the Commons Act 2006 in respect of the land known as The Reddings Green, between Reddings Close and Lawrence Street, Mill Hill, NW7, as shown on the site location plan 2 is either;**
- **REFUSED** as the application cannot meet the requirements of s15(2) of the Act as the applicant's use has been 'by right' and not 'as of right' and it cannot be established that the use of the land by the applicants has been without permission of the landowner which in this case is LB Barnet; or,
 - **REFERRED** to a non-statutory public inquiry for an independent Inspector to determine the Village Green status of the land

Members should note the following advice in the relevant sections of the report as set out below:

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Such matters should not form part of the Committee's considerations

3. CORPORATE POLICIES AND POLICY CONSIDERATIONS

- 3.1 The Council as the Registration Authority is obliged by law to determine applications to register land as a Town or Village Green.

4. RISK MANAGEMENT ISSUES

- 4.1 Such matters should not form part of the Committee's considerations.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 Equality Duties and the Equality Act 2010

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

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

The proposals would not result in any physical alterations to the site. It is not considered that any of the protected groups listed above would be affected by the proposal.

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”

The proposals would not result in any physical alterations to or change of use of the site. It is not considered that there would be any change in the type of relation of any protected groups listed above who would remain unaffected by the proposals.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 None in the context of this report.

7. LEGAL ISSUES

7.1 S.15(1) of the 2006 Act provides that any person may apply to a commons registration authority to register land as a town or village green, where one of subsections (2), (3) or (4) applies.

7.2 This application is made under s.15 (2), which states:

(2) This subsection applies where—

(a) a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, **have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and**

(b) they continue to do so at the time of the application. (*Emphasis added*)

7.3 “A significant number”

7.4 There is no statutory definition of a “significant number” of local inhabitants . It does not mean considerable or substantial. What matters is that the number of people using the land in question has to be significant to indicate that their use of the their land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers. It is considered that the application would meet this criteria.

7.5 “of any locality”

7.6 A “locality” cannot be created by drawing a line on a map. A “locality” must be a division of the county known to the law, such as a borough, parish or manor.

7.7 “or of any neighbourhood within a locality”

7.8 A neighbourhood need not be a recognised administrative unit. A housing estate can be a neighbourhood.

7.9 “As of right during the relevant period “

7.10 To be “as of right” the use must have been without force, without secrecy and without permission. There is open access to the land and the use has not taken place secretly.

7.11 In this case, the land is owned by the London Borough of Barnet. The land was originally acquired for Housing under the Housing Act 1936 on 8th January, 1953. The area acquired was some 19.7 acres. In October 1953, 16.66 acres was sold to AW Curton, leaving 3.04 acres in the Council’s possession. On 15th April 1954 approval was given by the Minister of Housing and Local Government for the appropriation of 3.04 acres for open space purposes. On 27th August approval was given by the Minister of Housing and Local Government for the further appropriation of 3.19 acres for street improvement. This evidence illustrates that the appropriation of the vast majority of the land which is the subject of the village green application was for the purpose of S164 of the Public Health Act, 1875. In addition the ground maintenance records show that the Council maintain the whole area subject to the village green application and it is known as Lawrence Green. The 1964 Ordnance Survey map and all subsequent maps show all the area to be “Lawrence Green”. The Council therefore has evidence to show that the land was appropriated “for the use of the public”

7.12 The most significant evidence is that found in the Bye-Laws of London Borough of Barnet relating to Pleasure Grounds 1978. These Bye-Laws are explicitly made under s164 of the Public Health Act 1875 and s15 of the Open Spaces Act 1906. In the First Schedule the land is identified as “Lawrence Green” and is subject to Bye-Laws.

7.13 It is clear that in 1978 with the adoption of the Bye-Laws, whatever the statutory purpose the land had been held for previously, the land became subject to the Bye-Laws and therefore at that point the land was appropriated for that statutory purpose. For the whole of the period of **1992-2012** the land has been held by LB Barnet for the purpose of public recreational use under the Public Health Act and Open Space Act. This as a result confirms that the public were permitted by the Council to use the land for recreational activities for the period in question. Therefore, the use of the land has been ‘by right’ and not ‘as of right’ and the application cannot fulfil the requirements of s15(2) of the Commons Act 2006.

7.14 On 22 January 2014, the applicant was also informed via email that the Council was minded to refuse the application. He was provided a link to the

bye-laws and the land documents referred above in paragraph 7.11 on the same date to allow him an opportunity to review the material upon which the Council's considerations have been based. The applicant was provided this information in order to view and respond to the results of the Council's investigations and to possibly allow him the possibility to conduct his own search of archive material. He was provided the opportunity to make further submissions if he thought, for any reason, that the Council's conclusion about 'user by right' is incorrect. He was informed that his responses would then be put for the attention of the committee who will then take his view into consideration before making a final decision. He was requested that he provide his responses by 11 February 2014. The applicant was provided with a hard copy of all the evidence relied upon by the Council, including all relevant documents relating to the land via post on 23 January 2014.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 Councils Constitution, Responsibility for Functions, the Planning and Environment Committee Terms of Reference include "Commons registration and town and village greens".

9. BACKGROUND INFORMATION

- 9.1 The site comprises open space is located on the south eastern side of Reddings Close, opposite numbers 1 -9 (consecutively) Reddings close and adjoining the side boundary of 19 Reddings Close as well as the rear boundary of 107 Sunnyfield. To the south east of the open space is Lawrence Street.
- 9.2 The application is made by the Mill Hill Preservation Society ('the Applicants').
- 9.3 The application was received on 18 January 2012. It was accompanied by a statutory declaration in support, relevant maps and evidence forms.

10. ANALYSIS OF APPLICATIONS AND REPRESENTATIONS

- 10.1 The application was advertised by way of press notice, site notice and letters sent to 171 addresses.
- 10.2 An objection was originally received from highway officers. However this related to the inclusion of the public highway within the application site. This has subsequently been omitted and the plan amended accordingly. Highways Officers have raised no objection to the amended plan.

11. LIST OF BACKGROUND PAPERS

- 11.1 Plan showing the subject land shaded
- 11.2 The application and correspondence in relation of the application.
- 11.3 Anyone wishing to inspect the background papers listed above should telephone 020 8359 4671

Cleared by Finance (Officer's initials)	JH
Cleared by Legal (Officer's initials)	PAR

Plan showing the subject land

