

<b><u>MEETING</u></b>	
<b>CHIPPING BARNET AREA PLANNING COMMITTEE</b>	
<b><u>DATE AND TIME</u></b>	
<b>TUESDAY 13TH NOVEMBER, 2018</b>	
<b>AT 7.00 PM</b>	
<b><u>VENUE</u></b>	
<b>HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BG</b>	

**TO: MEMBERS OF CHIPPING BARNET AREA PLANNING COMMITTEE (Quorum 3)**

Chairman: Councillor Stephen Sowerby MA  
Vice Chairman: Councillor Wendy Prentice

Alison Cornelius  
Tim Roberts

Laurie Williams  
Reema Patel

Roberto Weeden-Sanz

**Substitute Members**

Caroline Stock  
Pauline Coakley Webb  
Lisa Rutter

David Longstaff  
Thomas Smith

Paul Edwards  
Jo Cooper

Please note that the below agenda may not reflect the order in which items will be heard at the meeting.

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

**Andrew Charlwood – Head of Governance**

Governance Services contact: Naomi Kwasa 020 8359 4144 [naomi.kwasa@Barnet.gov.uk](mailto:naomi.kwasa@Barnet.gov.uk)  
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**ASSURANCE GROUP**

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## ORDER OF BUSINESS

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3.	DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)	
4.	REPORT OF THE MONITORING OFFICER (IF ANY)	
5.	ADDENDUM (IF APPLICABLE)	
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6.	LAND TO REAR OF WEST WALK EN4 8NU	13 - 34
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7.	50 MOXON STREET BARNET EN5 5TS	35 - 58
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8.	42 WOODSIDE AVENUE, LONDON, N12 8AX	59 - 70
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## **Decisions of the Chipping Barnet Area Planning Committee**

15 October 2018

Members Present:-

**AGENDA ITEM 1**

Councillor Stephen Sowerby (Chairman)  
Councillor Wendy Prentice (Vice-Chairman)

Councillor Alison Cornelius  
Councillor Tim Roberts

Councillor Laurie Williams  
Councillor Lisa Rutter (sub for Councillor  
Weeden-Sanz)

Apologies for Absence

Councillor Reema Patel

Councillor Weeden-Sanz

### **1. MINUTES OF LAST MEETING**

**RESOLVED** that the minutes of the meeting held on 4 September 2018, be agreed as a correct record.

### **2. ABSENCE OF MEMBERS (IF ANY)**

Councillor Reema Patel had sent her apology. Councillor Roberto Weeden-Sanz had also sent his apology and Councillor Lisa Rutter substituted for him.

### **3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY)**

None.

### **4. REPORT OF THE MONITORING OFFICER (IF ANY)**

None.

### **5. ADDENDUM (IF APPLICABLE)**

Items contained within the addendum would be considered under individual agenda items.

### **6. SITE OF BARNET MARKET CHIPPING CLOSE BARNET EN5 4LP (HIGH BARNET)**

The Chairman informed the Committee, that he had decided to refer the Chipping Barnet Market planning application to the main Planning Committee by virtue of paragraph 2.3 (e) of the Council's constitution. The reasons being that the former site of Barnet Market

was a town centre strategic site and the planning application was relevant to the regeneration of a town centre and regenerating town centres was a strategic objective. Councillor Sowerby considered that the Barnet Market application would be more appropriately determined by the main Planning Committee which was principally responsible for strategic and regenerative applications.

It was also noted that the speakers' rights would also be automatically transferred to the main Planning Committee.

## **7. 81 QUINTA DRIVE BARNET EN5 3DA (UNDERHILL)**

The Committee received the report.

Representations were heard from Barry Henderson and Nick Kasler, both in objection.

The Committee voted on the Officer's recommendation to approve the application, subject to the conditions detailed in the report and subject to the addendum:

**For approval: 1**

**Against approval: 5**

**Abstained: 0**

It was moved by Councillor Roberts and seconded by Councillor Prentice, that the application be **refused** for the following reasons:

The use of the property as a House in Multiple Occupation, would be out of keeping with the established character of the area as single-family dwellings. The proposal would therefore be contrary to Policy 7.4 London Plan (2016) Policy DM01 of the Development Management Policies DPD (adopted September 2012), and the Residential Design Guidance SPD (adopted 2016).

**For refusal: 6**

**Against refusal: 0**

**Abstained: 0**

**RESOLVED that the application be REFUSED for the reasons detailed above.**

## **8. 100-104 LANCASTER ROAD BARNET EN4 8AL (EAST BARNET)**

The Committee received the report and the addendum to the report.

Representations were heard from Sohail Mansaf (in objection) and the applicant's agent.

The Committee voted on the Officer's recommendation to approve the application, subject to the conditions detailed in the report and subject to the addendum.

**For approval: 1**

**Against Approval: 1**

**Abstained: 4**

**The Chairman used his casting vote, in favour of approval.**

**RESOLVED that the application be approved, subject to the conditions detailed in the report and subject to the addendum.**

**9. 17 BERKELEY CRESCENT BARNET EN4 8BS (EAST BARNET)**

The Committee received the report.

Representations were heard from Marilyn Budden, in support of the application and from the Applicant.

The Committee voted on the Officer's recommendation to **refuse** the application:

**For refusal: 2**

**Against refusal: 3**

**Abstained: 1**

**It was moved by Councillor Williams and seconded by Councillor Roberts that the application be approved, subject to pre-commencement and other conditions being agreed with the applicant's agent and for the following reasons:**

The proposal will provide a single family dwelling unit in an area of housing shortage.

1 Plans

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

Drawing 1134-P-001 - Site Location and Block Plans; Drawing 1134-S-01 - Existing Site Plan; Drawing 1134-S-02 - Existing Floor Plans and Elevations; Drawing 1134-S-03 - Existing Roof Plan; Drawing 1134-P-200 - Proposed Site Plan; Drawing 1134-P-210 - Proposed Floor Plans and Elevations; Drawing 1134-P-211 - Proposed Roof Plan; Design and Access Statement.

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

2 Standard Time Limit

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 Materials

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

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

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2016.

### 4 Site Levels

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

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

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

### 5 Car Parking

Before the development hereby permitted is occupied 1 no. car parking space as shown on Drawing No. 1134-P-200 submitted with the planning application including the access to the parking spaces shall be provided and shall not be used for any purpose other than parking of vehicles in connection with the 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 London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

### 6 Construction Management Plan

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



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

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

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

### 7 Cycle parking

a) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

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

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards set out in Policy 6.9 and Table 6.3 of The London Plan (2016) and in the interests of promoting cycling as a mode of transport in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

### 8 Refuse storage

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

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

Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

## 9 Boundary Treatments

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

b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway in accordance with Policies DM01, DM03, DM17 of the Development Management Policies DPD (adopted September 2012), and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).

## 10 Construction Hours

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 pm 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 Development Management Policies DPD (adopted September 2012).

## 11 Landscaping

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

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

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 7.21 of the London Plan 2016.

## 12 Water Consumption

Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.

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

## 13 Carbon Dioxide Reduction

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

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

## 14 M4(2).

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

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

**For approval: 5**

**Against approval: 1**

**Abstentions:0**

**10. ANY ITEM(S) THE CHAIRMAN DECIDES ARE URGENT**

None.

The meeting finished at 8.27pm

**Location**                      **Land To The Rear Of West Walk Barnet EN4 8NU**

**Reference:**                      **18/1689/FUL**

Received: 15th March 2018

Accepted: 6th July 2018

**Ward:**                              Brunswick Park

Expiry 31st August 2018

**Applicant:**                      Mr Freed Developments

**Proposal:**                      Construction of 5 no. two storey terraced dwelling houses including accommodation in the roof. Provision of 8 no. off-street parking spaces, associated refuse storage and amenity space and replacement allotments. Creation of new pedestrian access on Uplands Road and proposed refuse and recycling collection point.

## AGENDA ITEM 6

**Recommendation:** Approve subject to conditions

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

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

- Extended Phase 1 Ecological Habitat Survey Report by Hone Ecology (Final Report V1, 20th October 2017)
- Flood Risk Assessment for the Proposed Development at Land to the Rear of West Walk, Barnet by Herrington Consulting Limited(Revision 2, February 2018)
- Arboricultural Report: Arboricultural Impact Assessment and Arboricultural Method Statement by David Clarke (April 2015)
- Drawing No: TPP/LROWWB/010 E
- Drawing No. 1424.P.01
- Drawing No. 1142 P 100
- Drawing No. 1142 P 200
- Drawing No. 1142 P 120
- Drawing No. 1142 P 121
- Drawing No. 1142 P 110

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

2      a) No development other than demolition works shall take place until details of the materials to be used for the external surfaces of the building(s) and hard surfaced

areas hereby approved have been submitted to and approved in writing by the Local Planning Authority.

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

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2016.

- 3 a) No development or site works shall take place on site 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.

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

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

- 4 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.

- 5 a) Before the development hereby permitted is first occupied, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority.

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

Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

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

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

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 7.21 of the London Plan 2016.

- 7 Before the development hereby permitted is first occupied or the use first commences the parking spaces/garages shown on Drawing No. 1142 P 100; shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

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

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

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

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

the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted October 2016).

- 9 Prior to occupation hereby permitted a Community Use Agreement Plan for the allotments shall be submitted to and approved in writing by the Local Planning Authority. The Community Use Agreement submitted shall include, but not be limited to, details of the following:
- (i) Hours of opening for the allotments provided at the site.
  - (ii) Pricing policy on charging for use of the facilities provided at the site.
  - (iii) Policy on access and availability to the sites facilities for non-residents and non-members.
  - (iv) Management arrangements for the site and facilities provided, including a mechanism for review of the Community Use Agreement.
  - (v) Parking arrangements for users of the site.
  - (vi) Code of conduct for users of the site.
- The development shall be occupied in full accordance with the approved Community Use Agreement.

Reason: To secure well managed access and appropriate availability to the community facilities provided by the scheme in accordance with policy CS10 of the Barnet Local Plan.

- 10 a) No development shall take place until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s) and any other changes proposed in the levels of the site have been submitted to and approved in writing by the Local Planning Authority.
- b) The development shall thereafter be implemented in accordance with the details as approved under this condition and retained as such thereafter.

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

- 11 a) The site shall not be brought into use or first occupied until details of the means of enclosure, including boundary treatments, have been submitted to and approved in writing by the Local Planning Authority.
- b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway in accordance with Policies DM01, DM03, DM17 of the Development Management Policies DPD (adopted September 2012), and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).



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

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

- 13 Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.

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

- 14 Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 40% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.

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

- 15 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A - E of Part 1 of Schedule 2 of that Order shall be carried out within the area of site identified within the site location plan hereby approved.

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

- 16 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 windows or doors, other than those expressly authorised by this permission, shall be placed at any time in the East and West elevation facing.

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

- 17 The premises shall be used for C3 and for 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.

- 18 a) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until the temporary tree protection as detailed in the approved Arboricultural Report dated May 2015 has been erected around existing trees on the site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time

Reason: To safeguard the health of existing trees which represent an important amenity feature in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012), Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy 7.21 of the London Plan 2016.

- 19 a) No site works or works in connection with the development hereby approved shall be commenced until details of the no-dig construction technique for the construction of the hereby approved new hardstanding and driveway have been submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented in accordance with the approved details.

Reason: To safeguard the health of existing trees which represent an important amenity feature.

- 20 The hereby approved pedestrian access from Uplands Road shall only be accessible to pedestrians and shall at no time be used as a vehicular access.

Reason: In the interests of pedestrian and highway safety, the free flow of traffic and in order to protect the amenities of the area in accordance with Policy DM17 of the Development Management Policies DPD (adopted September 2012) and Policies 6.1, 6.2 and 6.3 of the London Plan 2016.

- 21 a) Before first use of the pedestrian access, a scheme of lighting accompanied by a light survey report shall be submitted to and agreed in writing by the Local Planning Authority.

b) The development shall be implemented in full accordance with the information approved under this condition before the pedestrian access is first brought into use and the development shall be managed in accordance with the information

approved under this condition in perpetuity once occupation of the site has commenced.

Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the neighbours and area in accordance with Policy CS14 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted October 2016).

- 22 a) Prior to first occupation of the hereby approved residential units a Drainage Strategy detailing all 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 Authority.

b) The development hereby approved shall not be first occupied or brought into use until the drainage works and Sustainable Urban Drainage System features approved under this condition have been implemented in their entirety.

Reason: To ensure that the development provides appropriate drainage infrastructure and to comply with Policy CS13 of the Local Plan Core Strategy (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policies 5.13 and 5.14 of the London Plan 2016.

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

b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway in accordance with Policies DM01, DM03, DM17 of the Development Management Policies DPD (adopted September 2012), and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).

#### **Informative(s):**

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

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

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

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

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

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

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

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

Relief or Exemption from CIL:

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

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

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

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

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

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

- 3 The applicant is advised that 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 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 [street.naming@barnet.gov.uk](mailto:street.naming@barnet.gov.uk) or by telephoning 0208 359 4500.

- 4 Applicants and agents are encouraged to sign up to the Considerate Contractors Scheme ([www.ccscheme.org.uk](http://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.
- 5 Any and all works carried out in pursuance of this permission will be subject to the duties, obligations and criminal offences contained in the Wildlife and Countryside Act 1981 (as amended). Failure to comply with the provisions of the Wildlife and Countryside Act 1981 (as amended) may result in a criminal prosecution.

## **Officer's Assessment**

### **1. Site Description**

The application site, a triangular vacant plot historically used as allotment land is located between West Walk, Woodfield Drive and Uplands Road. Whilst the site benefits from several access points, the development that is the subject of this report is currently accessed via a private road from West Walk. This road also serves garages that belong to properties on West Way.

The site is not subject to any specific restrictive Planning designations.

It should be noted that previously approved scheme of 5 residential units under Planning Permission Reference 16/4682/FUL has been implemented and substantially completed.

### **2. Site History**

16/4682/FUL - Construction of 5 no. two storey terraced dwellinghouses. Provision of 8 no. off-street parking spaces, associated refuse storage, amenity space (Including allotments) - Approved: 17/10/2016 (Planning Committee)

15/02741/FUL - Construction of 5 no. two storey terraced dwellinghouses. Provision of 8 no. off-street parking spaces, associated refuse storage, amenity space (Including allotments) - Approved: 17/09/2015 (Planning Committee)

### **3. Proposal**

The current submission seeks planning permission for the 'Construction of 5 no. two storey terraced dwelling houses including accommodation in the roof. Provision of 8 no. off-street parking spaces, associated refuse storage and amenity space and replacement allotments. Creation of new pedestrian access on Uplands Road and proposed refuse and recycling collection point.'

Dimensionally, the development remains unchanged from the approved scheme of application referenced: 16/4682/FUL (dated: 17/10/2016). For clarity of the members, the previous application's Officer proposal description has been provided below to highlight what has previously been considered and approved.

*The proposed terrace of 5 houses will contain a depth, width and height of 10m x 26m x and 8.5m (At its highest point), respectively. The new block will have an combined internal floor area of circa 260m<sup>2</sup>. Each four bedroom house will contain an internal floor area of circa 104m<sup>2</sup> and external amenity space of 73m<sup>2</sup>. The proposed building will be located 2m from the Eastern, 5m from the Western boundary, 14.1m from the Southern boundary and in excess of 50m from the Northern boundary. 6 allotments plots, 8 parking spaces and refuse storage would be located to the North of the building. The new terrace will be of a fairly traditional design with hipped roofs, subordinate dormers, modest porches with Georgian fenestration.*

In the current application (18/1689/FUL) the only changes from the previously approved scheme that is being considered in this Officer assessment report is the creation of a new pedestrian access route and refuse set-down point on Uplands Road. The applicant

proposes to separate a narrow corridor of land (between 1.5m and 4m in width) from the plot of No. 29 Uplands Road to create a new pedestrian access route parallel to, and independent of, the existing private access route adjacent to No. 29 Uplands Road. A new refuse set-down point (for day of collection only) is proposed at the front of the new pedestrian access.

#### **4. Public Consultation**

Consultation letters were sent to 184 neighbouring properties.  
35 responses have been received, comprising 34 letters of objection.

Cllr Lisa Rutter requested the application be heard before committee on the grounds that the development is contrary to Barnet and National policies designed to protect back land sites.

The objections received can be summarised as follows:

- Proposed space for wheelie bins and food bins is not big enough and a number of issues have been raised around this: they will create obstruction; the space is not big enough and will lead to them spilling out onto Uplands Road; too far from proposed houses; the space for all the bins will be unsightly; and, will not be removed from collection site till residents have returned from work
- The area is prone to flooding often, any more water and sewerage will cause a strain on these services and more flooding implications.
- Overstretched drains and sewerage could pose a health hazard. Currently the sewers cannot cope and 62 West Walk experiences unclean water coming up the garden path, if more properties are added to the sewer then it is likely that contaminated water will reach the fountains of the house and cover the front garden.
- House value loss for surrounding area
- Increase in traffic generation
- Concerns and uncertainty over lighting on pedestrian access that could affect houses on West Walk
- Developer has trespassed on private land and chopped down plants belonging to other local residents without seeking their permission
- Concerns that vehicles will use proposed pedestrian access
- Concerns of access for emergency services
- Infringement of private land and ownership rights
- There is a current court case concerning access ownership/ right infringement, the application should not be determined until this is decided
- The private track is owned by freeholders and the developer wants to run services along this proposed pedestrian access which currently has no permission for

- To provide pedestrian access, the planning application requires the developer to demolish the garage which is on his land beside no.29 Uplands Road. One of the main walls of this garage is part of a fence which separates no.29 Uplands from the private space track behind 12 of the properties in West walk. If this wall is not replaced by a fence, the occupants of the 5 houses built will trespass
- The proposed pedestrian access will cause several problems
- Increased security risk to surrounding neighbours
- Unsocial behaviour and disturbance in the alley way
- The Council have not consulted the public correctly as several neighbours did not receive letters.

#### **4.1 Internal/Other Consultation**

##### Highways:

*No objection in principle - however there have been a number of issues relating to the construction phase and rights of way. The impact of vehicles not being able to access and park within the development could have an impact on Highway safety, traffic (its generation and movement) and parking (generation of over spill parking on the surrounding highway network) which are material considerations.*

*In light of these factors, without the information on rights of way a recommendation for approval cannot be fully supported by this team. If applicants wish to overturn this recommendation details will be required which illustrate the agreement which permits future residents the ability to access from the public highway to the development.*

##### London Fire Brigade:

*Initial comments [10.09.2018]: The Commissioner is not satisfied with the proposals, for the following reasons: Insufficient information provided in relation to access and facilities for fire fighters, as set out in Section B5 Approved Document B.*

*Follow-up Comments following additional information [31.10.2018]:*

*The proposal appears to be satisfactory, subject to adherence with written comments and additional information provided in the email forwarded to London Fire Brigade on 22/10/2018.*

##### Waste & Recycling:

No objections



## **5. Planning Considerations**

### **5.1 Policy Context**

#### National Planning Policy Framework and National Planning Practice Guidance

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

The National Planning Policy Framework (NPPF) was published on 24th July 2018. 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, creates better places in which to live and work and helps make development acceptable to communities.... being clear about design expectations, and how these will be tested, is essential for achieving this'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

#### The Mayor's London Plan 2016

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

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

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

#### Barnet's Local Plan (2012)

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

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5.
- Relevant Development Management Policies: DM01, DM02, DM04, DM08, DM17.

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

minimum amenity standards and make a positive contribution to the Borough. The development standards set out in Policy DM02 are regarded as key for Barnet to deliver the highest standards of urban design.

### Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)

- Sets out information for applicants to help them design an extension to their property which would receive favourable consideration by the Local Planning Authority and was the subject of separate public consultation. The SPD states that large areas of Barnet are characterised by relatively low density suburban housing with an attractive mixture of terrace, semi detached and detached houses. The Council is committed to protecting, and where possible enhancing the character of the borough's residential areas and retaining an attractive street scene.
- States that extensions should normally be subordinate to the original house, respect the original building and should not be overly dominant. Extensions should normally be consistent in regard to the form, scale and architectural style of the original building which can be achieved through respecting the proportions of the existing house and using an appropriate roof form.
- In respect of amenity, states that extensions should not be overbearing or unduly obtrusive and care should be taken to ensure that they do not result in harmful loss of outlook, appear overbearing, or cause an increased sense of enclosure to adjoining properties. They should not reduce light to neighbouring windows to habitable rooms or cause significant overshadowing, and should not look out of place, overbearing or intrusive when viewed from surrounding areas.

Sustainable Design and Construction SPD (adopted October 2016)

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

## **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Principle of Development
- Whether harm would be caused to the character and appearance of the locality;
- Whether harm would be caused to the living conditions of neighbouring residents;
- Whether the proposal would provide adequate amenities for future occupants;
- Whether harm would be caused to highway safety;
- Whether harm would be caused to trees.

## **5.3 Assessment of proposals**

As outlined in the 'History' section of this report, similar proposals have been granted permission by the Planning Committee in 2015 and 2016. The current application seeks planning permission for an additional pedestrian access route and refuse set-down point on Uplands Road to be used in conjunction with the approved 5no. residential developments.

As such, the 5no. residential units and its associated parking provisions, refuse storage area, and allotments will not be re-assessed here. However, for the clarification purposes

of the Members of the Committee the previous Officer's Committee report is provided below to inform what has previously been considered and granted Planning Permission.

### Principle of Development

*The discussion around the principle of development centres around two key issues. Firstly, the concept of a back-land development and secondly the loss of allotment or open space.*

#### *a) Back-land Development/Garden Grabbing*

*Core Principle 8 of the NPPF 2012 advises that housing should be located in suitable locations and that this should be achieved by 'encouraging the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value'. This would not preclude development on land that does not fall within the definition of previously developed land. As such, applications that are for development on land not defined as previously developed land should be assessed on their merits with reference to the development plan. In this case Development Management Plan Policy DM01 states:*

*'i) Protecting Barnet's Character and Amenity states that development proposals should preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. In order to protect character Policy DM01: Protecting Barnet's Character and Amenity requires development to demonstrate a good understanding of the local characteristics of an area. Proposals which are out of keeping with the character of an area will be refused.'*

*Policy DM01 does not preclude development on vacant space. The last sentence of this policy is very clear, '...Development that is out of scale and does not respect the setting of other buildings will not be acceptable'. Conversely, development that does respect the setting of other buildings and is of an appropriate scale could be acceptable in the locality. The proposal envisages an acceptable scheme (as discussed below)*

*'Back-land development' or 'Garden Grabbing,' relates to taking a rear garden of a house and seeking to build more houses. The Council supports London Plan Policy to limit the inappropriate development of back gardens that erode the character of suburban areas, as reflected in the Councils Development Management Policies. As discussed above, Policy DM01 does not preclude development of this nature, rather requires development to be of an appropriate scale and to respect the setting of surround buildings. The proposal seeks permission for a two storey terrace constituting 5 units with generous gardens and allotment space, thus making effective use of an underused site in a scale, mass and bulk that is relational to the locality. The proposal is considered to comply with all relevant policy and the principle of development is accepted.*

#### *a) Loss of Allotment/Open Space*

*Allotments, Open Space and recreational facilities are planned for, managed and maintained by a variety of agencies operating in a complex legislative and policy context. The NPPF (Para 74) prohibits the loss of open space except in exceptional circumstances. Exceptional circumstances constitute one of the following circumstances:*

- i) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- ii) The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- iii) The development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.'*

*It is noteworthy that DM15 echoes these requirements, however there is no explicit policy protecting allotment.*

*The Barnet 'Open Space, Sport and Recreational Facilities Needs Assessment' provides qualitative and quantitative evidence of the Boroughs open space network and its intrinsic values. It provides a basis for improving the quality and potential uses of open spaces to cater for increasing demand arising from growth and the changing needs of the community. The document does not identify site as an area of public amenity but does score the locality to have good access to public amenity.*

*The proposal seeks permission for new housing (x5) and allotment plots (x6). During the passage of time the pre-existing allotments ceased use and became derelict. As the proposal seeks to resurrect the pre-existing use, and provide much needed housing in a form that respects the character of the area, the principle of development is considered to be acceptable.*

#### *Impact on the Character and Appearance of the site and wider area*

*Policies DM01 and DM02 seek to ensure that new development positively enhances the character and amenity of an area. The character of this area is generally suburban and defined by terraced and semi-detached of no more than 2-storeys immediately surrounding the area. It is considered that there is no objection to a development on site however, this would be on the basis that the resulting development would not detract from the well-established character of the area, and would positively enhance the area.*

*The form of development on West Walk, Woodfield Drive and Uplands Road are characterised by short runs of terraced properties. Typically these terraces constitute circa 4 units. Given the proposal seeks planning permission for a row of 5 houses in a linear form closely resembling that of a traditional terrace, officers consider the character of pattern of development proposed to acceptable in the context of the immediate area.*

*The new terrace will be located on the Southern end of the site causing the proposed building to be positioned within its own landscaped setting. The two storey terrace is comparable in height with neighbouring properties located on West Walk, Woodfield Drive and Uplands Road. The architectural vernacular proposed is traditional in spirit with modest roofs, modest porches and traditionally designed windows. Overall the design of the proposal is considered to respect the character of the locality.*

*8 car parking bays will be provided to the front of the new terrace. The new forecourt will contain sufficient landscaping to ensure the forecourt is not dominated by parking and manoeuvring. Details of landscaping shall be secured by condition.*

*The proposed bin storage would be located on the forecourt and subject to appropriate screening would not be detrimental to the character and appearance of the street.*

*Rear dormer windows are not alien features to the area. Viewing properties on Woodfield Drive, Uplands Road and West Walk a number of similar and indeed larger dormer windows exist. The proposed dormer windows are also considered to be of a size, design and siting that is considered to respect the proposed vernacular of the proposed houses. No objection is raised with the proposed dormer windows.*

#### *Impact on Neighbouring Amenity*

*Properties located on Woodfield Drive, West Walk and Uplands Road are separated by service roads. The new buildings will be located 6m away from the rear boundary with Woodfield Drive, 8m away from the rear boundaries with West Walk and 18m away from the rear boundaries with Uplands Road. Further it is important to note that actual neighbouring buildings will be further away, i.e 30m away from Woodfield Drive, 32m away from properties on West Walk and 41m away from Uplands Road. With a minimum separation of 30m from any part of the new building, it is not considered that neighbouring privacy will be harmed to a point of detriment.*

*Furthermore, and again owing to the adequate separation distances the proposed building including the introduction of rear dormers and an increase of 0.7m in height would not appear overbearing or visually intrusive when viewed from neighbouring properties.*

*In the previously approved scheme, the Council's Highway Officer considered the access to be sufficiently wide to accommodate service vehicles and whilst details of construction cannot constitute a reason for refusal, details of a construction method statement will be secured by condition to manage any potential neighbouring amenity impacts during the construction phase of the development.*

#### Highways

*In the previously approved scheme the Council's Highways Officer found the access and parking provision to be sufficient to accommodate both adequate parking and access to accommodate pedestrian, cars, emergency and service vehicles. Accordingly, the turning facilities within the site will allow vehicles to manoeuvre and leave in a forward gear. The vehicular access and parking arrangements for this scheme remain unchanged and therefore Officer's consider this aspect of the scheme to be acceptable on planning grounds.*

#### Trees

*Whilst the subject site contains dense vegetation no tree within the site is covered by a tree protection order. One tree outside the site is noted to be protected. The application seeks to protect this tree during construction - as is normally required. The proposal also seeks to landscape the site. Details of which shall be secured by condition.*

#### Other Matters

*Whilst the majority of the site is located with zone 1, the edge of the site is located within Flood Zone 2. Notwithstanding the fact that a small portion of the site is located with zone 2, the development is not considered to be at risk of flooding.*

*Details of community access to the allotments shall be secured by condition.*

*There are no designated statutory or non-statutory wildlife sites on or immediately adjacent to site.*

#### **Assessment of new proposed pedestrian access and refuse set-down point**

The applicant proposes to separate a narrow corridor of land (between 1.5m and 4m in width) from the plot of No. 29 Uplands Road to create a new pedestrian access route

parallel to, and independent of, the existing private access route adjacent to No. 29 Uplands Road. This will involve the demolition of the garage building at this property. The new access is not considered to have a demonstrably harmful impact on the character and appearance of the site and will not substantially impact the character of No. 29 Uplands Road's plot in relation to neighbouring properties - it's urban grain will still be comparable to the wider area.

It should be noted, that since the approval of the previous scheme in 2016, the Local Planning Authority have been made aware (anecdotally) through neighbour consultation responses and the applicant's agent that there is a current legal dispute between the applicant and a number of the neighbouring residents over the vehicular rights of way of the site. A hearing is alleged to have taken place in July 2018 and the judgement of this is still awaited. Accordingly, a number of objections have been received reasoning that the application should not be determined until a judgement on this civil matter has been made. Furthermore, the Local Authority's Highways and Development Team have stated that whilst they have no in principle objection to the scheme and its previously approved parking arrangements, the potential impact of the legal challenge succeeding and consequently vehicles not being able to access and park within the development could have an impact on Highway safety, traffic (its generation and movement) and parking (generation of over spill parking on the surrounding highway network). As such, the Highways and Development Team have stated a recommendation for approval of this scheme cannot be fully supported, unless the legal challenge is quashed.

Officers have sought legal advice from the Council's Legal Officer on this matter, and they have advised as follows:

*'1) Matters such as 3rd party private property rights, disputes or legal proceedings arising out of them etc are not material considerations to be taken into account in deciding planning applications.*

*2) It is the responsibility of the applicant to ensure those non-material issues are resolved satisfactorily by way of private agreement or otherwise so as to allow the PP to be implemented*

*3) The LPA can only decide the application on the basis of the weight to be given to the recognised material considerations.*

*4) If then the applicant cannot resolve the issues in question and consequently the PP (assuming the application is granted on the material considerations) becomes unimplementable that is not the concern of the LPA.*

*The conclusion therefore in my view is that the LPA can proceed to determine this current application notwithstanding the potential lack of access due to the 3rd party challenges.'*

In light of the legal advice given, Officers consider that the 3rd party challenge over the rights of land cannot be afforded weight in the determination process of the current application, and is therefore outside the scope of this assessment.

The security of the site is not considered to change substantially over the existing arrangements - given that there will be 5 new residential dwellings in this location it is considered that this will offer improved natural surveillance to this area of land which will reduce and deter any potential criminal activity. The new pedestrian access will need to be adequately lit for safety of access, and again, this will be to the benefit of the site and

surrounding areas security. A scheme of lighting will need to be agreed by planning condition, prior to first use of the new access, to ensure that the lighting scheme minimises light nuisance to the nearest residential neighbours.

The proposed refuse and recycling set-down point is not a permanent location for the storage of the bin receptacles and therefore, the weekly cyclical temporary nature of its use will not amount to an eyesore or public health nuisance to the surrounding environment and neighbours. The future residents of the scheme will be required to return the bins, once serviced, back to their previously approved designated storage location within the site.

The new refuse set down point is intended for collection day purposes only, and therefore, there will be no permanent, physical manifestation of this element of the proposals as future residents will retain their bins closer to the properties within the site, as previously considered.

In respect of flood concerns, the flood risk level for the site has not demonstrably changed since the previous approved scheme, and given that the only change in this application from the previously approved scheme is the pedestrian walk way it is considered that the assessment and interpretation of the flood risk aspect of the proposed scheme does not change from the previously approved proposal. Furthermore, safe access and egress from the site in the event of a flood risk emergency could be achieved through the access point on Woodfield Drive.

## **5.4 Response to Public Consultation**

Officers have reviewed and considered all of the comments received through the public consultation response process and addressed these, where possible, in the above Officer assessment of the scheme.

In relation to matters not addressed by the main report, the following responses are provided:

- Proposed space for wheelie bins and food bins is not big enough and a number of issues have been raised around this: they will create obstruction; the space is not big enough and will lead to them spilling out onto Uplands Road; too far from proposed houses; the space for all the bins will be unsightly; and, will not be removed from collection site till residents have returned from work.

**Officer Response:** *The proposed pick up location is a temporary storage point. As refuse collections and recycling collections often take place on different days it is not considered that the proposed set-down point will result in obstruction of the pedestrian footway. Storage locations are enforceable by means of planning condition.*

- Overstretched drains and sewerage could pose a health hazard. Currently the sewers cannot cope and 62 West Walk experiences unclean water coming up the garden path, if more properties are added to the sewer then it is likely that contaminated water will reach the fountains of the house and cover the front garden.

**Officer Response:** *A drainage strategy condition will be recommended requiring the applicant to submit further details of the drainage strategy for the proposed development and demonstrate that it will not cause surface water flooding or sewer flooding issues.*

- House value loss for surrounding area

**Officer Response:** *This is not a material planning consideration.*

- Developer has trespassed on private land and chopped down plants belonging to other local residents without seeking their permission

**Officer Response:** *Third party land, property and trespass disputes are not a material planning consideration, and are outside the scope of consideration for this assessment.*

- Concerns that vehicles will use proposed pedestrian access

**Officer Response:** *A planning condition requiring the use solely for pedestrian access can be recommended, thereby preventing access by vehicle.*

- Concerns of access for emergency services

**Officer Response:** *Access is deemed adequate for emergency services and additional fire measures have been put in place for the Fire Services, as deemed appropriate by the London Fire Brigade*

- Infringement of private land and ownership rights
- The private track is owned by freeholders and the developer wants to run services along this proposed pedestrian access which currently has no permission for
- To provide pedestrian access, the planning application requires the developer to demolish the garage which is on his land beside no.29 Uplands Road. One of the main walls of this garage is part of a fence which separates no.29 Uplands from the private space track behind 12 of the properties in West walk. If this wall is not replaced by a fence, the occupants of the 5 houses built will trespass

**Officer Response:** *Installation of services are not a material planning consideration and therefore outside the scope of consideration in this assessment. A condition will be recommended to detail the boundary treatments to ensure the pedestrian access is separate from the private access track, although it should be noted that there is no Planning requirement to ensure that this necessary.*

- Neighbours did not receive public notification of this development (i.e. no public consultation letter)

**Officer Response:** *The Local Planning Authority conducted the public consultation process in accordance with its statutory duty, providing letters by post to all relevant parties and displaying a site notice close to the application site. Furthermore, the applicant has signed Certificate B certifying that they have given requisite notice to all parties who have an interest within the land to which the application relates.*

## **6. Equality and Diversity Issues**

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



## **7. Conclusion**

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

# Site Location Plan



**Location**                      **50 Moxon Street Barnet EN5 5TS**

**Reference:**                      **18/4442/FUL**

Received: 17th July 2018

Accepted: 18th July 2018

**Ward:**                              High Barnet

Expiry 12th September 2018

**Applicant:**                      Berkshore Ltd

**Proposal:**                      Additional storey at third floor level to provide 7 x 2 bed self-contained flats with terrace area. Associated cycle store, refuse and recycling store.

## AGENDA ITEM 7

**Recommendation:** Approve subject to s106

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

### 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.      3. Alteration to Traffic Regulation Order - £2000
4.      4. Monitoring of the Agreement - £100

### RECOMMENDATION II:

That upon completion of the agreement specified in Recommendation I, the Service Director – Planning and Building Control or Head of Strategic Planning approve the planning application subject to the following conditions and any changes to the wording of the conditions considered necessary by the Service Director – Planning and Building Control or Head of Strategic Planning:

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

Drawing PL-001 - Site Location Plan

Drawing PL-010 - Existing Ground Floor Plan

Drawing PL-011 - Existing First Floor Plan

Drawing PL-012 - Second Floor Plan as Existing

Drawing PL-013 - Third Floor Plan as Existing

Drawing PL-020 - Existing Sections

Drawing PL-031 - Existing North and South Elevations

Drawing PL-032 - Existing East and West Elevations

Drawing PL-050 Rev 2 - Proposed Site Plan

Drawing PL-102 Rev 2 - Proposed Second Floor Plan

Drawing PL-103 Rev 3 - Proposed Third Floor Plan

Drawing PL-104 Rev 2 - Proposed Roof Plan

Drawing PL-153 - Proposed Third Floor Plan (Coloured)

Drawing PL-301 Rev 3 - Proposed North & South Elevations

Drawing PL-302 Rev 3 - Proposed East & West Elevations

Drawing PL-401 - Preventing overlooking - Cross sections

Planning Statement, Jones Lang Lasalle, 20 July 2018

Design & Access Statement, RnH Architects, Revision 02, 10.09.2018

Energy and Sustainability Statement, Hodkinson, July 2018.

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

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

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

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

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

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2016.

4 Before the residential development hereby permitted is first occupied, the change of use of the existing building to B1 business use as approved by planning permission Reference 17/0355/FUL shall be implemented.

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 Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016), and 7.15 of the London Plan 2016.

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

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

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

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

6 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 pm 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 Development Management Policies DPD (adopted September 2012).

7 a) Notwithstanding the details submitted with the application and otherwise hereby approved, before the development hereby permitted is first occupied details of (i) A Refuse and Recycling Collection Strategy, which includes details of the collection arrangements

and whether or not refuse and recycling collections would be carried out by the Council or an alternative service provider, (ii) Details of the enclosures, screened facilities and internal areas of the proposed building to be used for the storage of recycling containers, wheeled refuse bins and any other refuse storage containers where applicable, and (iii) Plans showing satisfactory points of collection for refuse and recycling, shall be submitted to and approved in writing by the Local Planning Authority.

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

Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with Policy CS14 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted 2016).

8 Prior to occupation of the development details of refuse collection must be submitted to and approved in writing by the Local Planning Authority. Refuse collection points should be located within 10 metres of the Public Highway, at ground floor level, otherwise, the development access needs to be designed and constructed to allow refuse vehicles to access the site and turn around within the site, including access road construction to be designed in accordance with the Council's adoptable standards.

The applicant will be expected to sign a Waiver of Liability and Indemnity Agreement to indemnify the Council against any claims for damage caused to private roads arising from and/ or in connection with the collection of waste by the Council vehicle from the premises.

Reason: To ensure that the access is satisfactory in terms of highway safety development and to protect the amenity of the area and in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted September 2012).

9 No works on public highway including provision of a crossover as a result of the proposed development shall be carried out until detailed design drawings have been submitted and approved by the Highway Authority and works shall only be carried out in accordance with the approved plans.

The applicant will be expected to enter into with the Highways Authority under Section 278 Agreement of the Highways Act, for works affecting public highway including creation of new accesses and reinstatement of the existing accesses and consequential damage to public highway as a result of the proposed development.

Reason: To ensure that the works on public highway are carried out to the satisfaction of the highway authority in the interest of highway safety in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

Before development commences other than for investigative work:

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

b) If the desktop study and Conceptual Model indicate any risk of harm, a site investigation shall be designed for the site using information obtained from the desktop study and Conceptual Model. This shall be submitted to, and approved in writing by, the Local Planning Authority prior to that investigation being carried out on site. The investigation must be comprehensive enough to enable:

- a risk assessment to be undertaken,
- refinement of the Conceptual Model, and
- the development of a Method Statement detailing the remediation requirements.

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

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

## Part 2

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

Reason: To ensure the development can be implemented and occupied with adequate regard for environmental and public safety in accordance with Policy CS NPPF of the Local Plan Core Strategy DPD (adopted September 2012), DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 5.21 of the London Plan 2016.

11 a) No development other than demolition works shall take place on site until a noise assessment, carried out by an approved acoustic consultant, which assesses the likely impacts of noise on the development and measures to be implemented to address its findings has been submitted to and approved in writing by the Local Planning Authority. The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations

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

Reason: To ensure that the amenities of occupiers are not prejudiced by rail and/or road traffic and/or mixed use noise in the immediate surroundings in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 7.15 of the London Plan 2016.

12 a) No development shall take place until details of mitigation measures to show how the development will be constructed/adapted so as to provide sufficient air borne and structure borne sound insulation against internally/externally generated noise and vibration has been submitted to and approved in writing by the Local Planning Authority.

This sound insulation shall ensure that the levels of noise generated from the adjoining B1 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.

The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

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

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 Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016), and 7.15 of the London Plan 2016.

13 Other than the areas indicated on drawing PL-103 Rev 3 as amenity terrace areas, the existing and proposed flat roof areas of the development hereby permitted shall only be used in connection with the repair and maintenance of the building and shall at no time be converted to or used as a balcony, roof garden or similar amenity or sitting out area.

Reason: To ensure that the amenities of the occupiers of adjoining properties are not prejudiced by overlooking in accordance with policy DM01 of the Development Management Policies DPD (adopted September 2012).

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

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

Reason: To ensure that the proposed development does not prejudice the enjoyment of the occupiers of their homes in accordance with Policies DM04 of the



Development Management Policies DPD (adopted September 2012) and 7.15 of the London Plan 2016.

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

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

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 7.21 of the London Plan 2016.

16 a) Before the development hereby permitted is first occupied, details of privacy screens to be installed shall be submitted to and approved in writing by the Local Planning Authority.

b) The screens shall be installed in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the development does not prejudice the amenity of future occupiers or the character of the area in accordance with policies DM01 and DM02 of the Development Management Policies DPD (adopted September 2012), the Residential Design Guidance SPD (adopted October 2016) and the Sustainable Design and Construction SPD (adopted October 2016).

17 a) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

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

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards set out in Policy 6.9 and Table 6.3 of The London Plan (2016) and in the interests of promoting cycling as a mode of transport in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

18 Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.

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

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

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

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

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

21 a) No additional external lighting shall be installed and used unless details of the appearance and luminance of the proposed lighting have first been submitted to and approved in writing by the Local Planning Authority.

b) Any additional external lighting shall thereafter be implemented and retained in accordance with the approved details.

Reason: To safeguard the residential and visual amenities of the site and wider area in accordance with Policy CS NPPF of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2016.

RECOMMENDATION III:

## 1 RECOMMENDATION III

That if the above agreement has not been completed or a unilateral undertaking has not been submitted by 8 January 2019, unless otherwise agreed in writing, the Planning Performance and Business Development Manager REFUSE the application under delegated powers for the following reason(s):

The proposed development does not include a formal undertaking to meet the costs of amending the road traffic order. The proposal would therefore not address the impacts of the development, by causing a significant risk to highway safety and the free flow of traffic in the area due to difficulties in finding a parking space, consequent extended journey times and potentially parking inappropriately, contrary to Policy CS15 of the Local Plan Core Strategy (adopted September 2012), Policy DM17 of the Development Management Policies DPD (adopted September 2012) and the Planning Obligations SPD (adopted 2016).

### **Informative(s):**

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

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

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

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

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

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

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

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

#### Relief or Exemption from CIL:

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

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

1. Charity: If you are a charity, intend to use the development for social housing or feel that there are exception circumstances affecting your development, you may be eligible for a reduction (partial or entire) in this CIL Liability. Please see the documentation published by the Department for Communities and Local Government at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6314/19021101.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf)
2. Residential Annexes or Extensions: You can apply for exemption or relief to the collecting authority in accordance with Regulation 42(B) of Community Infrastructure Levy Regulations (2010), as amended before commencement of the chargeable development.
3. Self Build: Application can be made to the collecting authority provided you comply with the regulation as detailed in the [legislation.gov.uk](http://legislation.gov.uk)

Please

visit

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

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

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

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

- 4 If a concrete pump lorry is operated from the public highway, the surface of the highway and any gullies or drains nearby must be protected with plastic sheeting. Residue must never be washed into nearby gullies or drains. During the development works, any gullies or drains adjacent to the building site must be maintained to the satisfaction of the Local Highways Authority. If any gully is damaged or blocked, the applicant will be liable for all costs incurred. The Applicant shall ensure that all watercourses, drains, ditches, etc. are kept clear of any spoil, mud, slurry or other material likely to impede the free flow of water therein.
- 5 The submitted Construction Method Statement shall include as a minimum details of:
- Site hoarding
  - Wheel washing
  - Dust suppression methods and kit to be used
  - Site plan identifying location of site entrance, exit, wheel washing, hoarding, dust suppression, location of water supplies and location of nearest neighbouring receptors. Explain reasoning if not applicable.

- Confirmation whether a mobile crusher will be used on site and if so, a copy of the permit and indented dates of operation.
- Confirmation of the following: log book on site for complaints, work in accordance with British Standards BS 5228-1:2009+A1:2014 and best practicable means are employed; clear contact details on hoarding. Standard construction site hours are 8am-6pm Monday - Friday, 8am-1pm Saturday and not at all on Sundays and Bank Holidays. Bonfires are not permitted on site.
- Confirmation that an asbestos survey has been carried out.

6 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 (including CLR11 'Model Procedures for the Management of Land Contamination');
- 2) National Planning Policy Framework (2012) / National Planning Practice Guidance (2014);
- 3) BS10175:2011 - 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;
- 5) CIRIA report C665 - Assessing risks posed by hazardous ground gases to buildings;
- 6) CIRIA report C733 - Asbestos in soil and made ground: a guide to understanding and managing risks.

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.

7 The applicant is 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 Sustainable Design and Construction Supplementary Planning Document 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(2003) Pt 1, BS7445 (1991) Pts 2 & 3 - Description and measurement of environmental noise;
- 2) BS 4142:2014 - Method for rating industrial noise affecting mixed residential and industrial areas;
- 3) BS 8223: 2014 - Guidance on 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) National Planning Policy Framework (2012)/ National Planning Policy Guidance (2014).

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.

- 8 The London Fire Brigade promotes the installation of sprinkler suppression systems, as there is clear evidence that they are effective in suppressing and extinguishing fires; they can help reduce the numbers of deaths and injuries from fire, and the risk to firefighters.

## **Officer's Assessment**

### **1. Site Description**

The application site is located within the Hadley Manor Trading Estate, towards the eastern end of Moxon Street on its southern side.

Total floor area of the existing building is 2,697 sq.m. over three stories with a building footprint of 1,361 sq.m. and plot size of approximately 2,173 sq.m.

An internal access road is routed around the other three sides of the building. Due to the steep gradient of this part of Moxon Street, the road frontage varies between one and three stories in height on its street frontage.

The ground floor as shown on the existing drawings consists mainly of access into the building on its eastern side, together with a sheltered loading / unloading area which is beneath the projecting first and second floors at the eastern end of the building.

The habitable areas of the building are the first and second floor, and due again to the gradient of the street, both have separate street level entrances.

At roof / third floor level there is currently a large roof lantern / clerestory window structure (measuring approximately 40m in length, 7.5m wide and 1.8m in height). This serves to provide natural light to the second floor below.

The site is immediately adjacent to, although outside, the Chipping Barnet Town Centre boundary, and is located 230m from the High Street and just under 800m from the High Barnet Northern Line station. Also nearby is the Wood Street Conservation Area, which takes in much of the High Street and adjacent areas, with its closest point approximately 75 metres from the application site.

While the portion of Moxon Street immediately adjacent to the town centre is in a mix of residential and business uses, the approaches to the application site along the central part of Moxon Street is more predominantly residential. 48A Moxon Street is the closest residential property, located on the southern side of Moxon Street immediately west of the application site, while 39 Moxon Street and 8 - 18 South Close are located on the opposite (northern) side of the street. Hornbeam Court and Blackthorn Court are two x four storey apartment buildings directly to the south of the site, taking their access from Laburnum Close.

Also within the Trading Estate boundaries, Hadley Wood Hospital adjoins the site on its eastern side, and there are two commercial properties beyond that, adjacent to the eastern end of Moxon Street (a car dealership and Howdens Joinery).

The existing building is currently vacant and the lawful use of the site is B8 (storage and distribution). Planning permission was granted in July 2017 for change of use to B1 business use, although this has not yet been implemented.

### **2. Site History**

Relevant planning history for the site is as follows:



Reference: 17/6982/NMA  
Decision: Approved subject to conditions  
Decision date: 22.12.2017  
Description: Non-material amendments pursuant to planning permission reference 17/0355/FUL dated 10/07/2017 for Change of use and reconfiguration of the building to provide Class B1 use with associated parking. Amendments include to amend the permission with respect to Condition 10 to amend the use class restriction of B1(a) and allow all Class B1 uses.

Reference: 17/0355/FUL  
Decision: Approved following legal agreement  
Decision date: 10.07.2017  
Description: Change of use and reconfiguration of the building to provide Class B1 use with associated parking

Reference: 16/5605/FUL  
Decision: Withdrawn  
Withdrawal date: 08.12.2016  
Description: Change of use and reconfiguration of the building to provide a flexible use comprising of offices (Class B1a) and/or storage and distribution (Class B8) and associated parking.

Reference: N02454B  
Decision: Approved subject to conditions  
Decision Date: 06.08.1997  
Description: Erection of glazed entrance screen to front elevation.

Reference: N02454A  
Decision: Approved subject to conditions  
Decision Date: 29.01.1979  
Description: Portakabin to be used as office.

Reference: N02454  
Decision: Refused  
Decision Date: 23.09.1970  
Description: Office extension

### **3. Proposal**

The application as amended seeks permission for an additional storey at third floor level to provide 7 x 2 bed self-contained flats with terrace areas along with associated cycle store, refuse and recycling store.

As originally submitted, the application proposed an additional storey at third floor level to provide 9 no. flats (5 x 3 bed, 2 x 2 bed and 2 x 1 bed).

Officers considered the footprint of the structure proposed originally to be overly large, lacking sufficient setbacks from the elevations of the existing building necessary to mitigate visual impact and potential for overlooking. Concerns were also expressed in relation to the single aspect nature of the units and the position of some of the amenity terraces and windows.

Therefore, during the course of the application, amendments were sought by Officers resulting in revised drawings being provided on 10th September 2018.

The changes to the original scheme as shown on the amended final drawings can be summarised as follows:

- Number of units reduced from 9 no. (5 x 3 bed, 2 x 2 bed, 2 x 1 bed) to 7 no. 2 bed units.
- All units now dual aspect.
- Setbacks increased from all sides of the existing building so that all habitable room windows and amenity terraces are over 21m from facing habitable room windows and over 10.5m away from neighbouring gardens (48a Moxon Street).
- Amenity terrace and windows removed from west end elevation facing 48a Moxon Street.
- Green roof, landscaping and planting added.

The final scheme can be described as follows:

The existing roof lantern / clerestory window structure (measuring approximately 40m in length, 7.5m wide and 1.8m in height) would be removed.

The proposed additional storey comprising 7 x 2 bed flats would measure approximately 49m in length, 10m wide with a maximum height of 3.5m.

The additional storey would be set in from the original building below by approximately 4m at the front (north) and east elevations, approximately 7m from the rear (south) elevation and approximately 6m from the west elevation.

Access would be via the existing second floor entrance from Moxon Street where the existing staircase will be extended upwards and a lift added. The second floor entrance would provide a lobby along with internal refuse/recycling and bicycle stores.

7 no flats are proposed (total 24 habitable rooms) as follows:

- Flat 1 - 76 sq m (2b, 4p over 1 storey, 4 habitable rooms)
- Flat 2 - 62 sq m (2b, 3p over 1 storey, 4 habitable rooms)
- Flat 3 - 61 sq m (2b, 3p over 1 storey, 3 habitable rooms)
- Flat 4 - 61 sq m (2b, 3p over 1 storey, 3 habitable rooms)
- Flat 5 - 61 sq m (2b, 3p over 1 storey, 3 habitable rooms)
- Flat 6 - 65 sq m (2b, 3p over 1 storey, 4 habitable rooms)
- Flat 7 - 70 sq m (2b, 4p over 1 storey, 3 habitable rooms)

The following Amenity space is proposed:

- Flat 1 - Terrace 20 sq m
- Flat 2 - Terrace 17 sq m
- Flat 3 - Terrace 15 sq m

Flat 4 - Terrace 15 sq m  
Flat 5 - Terrace 15 sq m  
Flat 6 - Terrace 20 sq m  
Flat 7 - Terrace 56 sq m

Total = 158 sq m.

All amenity terraces are south/east facing.

No car parking is proposed.

Materials and privacy screen details are shown indicatively on the drawings, however both of these matters are subject of a planning condition requiring submission and approval of further details.

A Green Roof, Landscaping and planting is proposed.

#### **4. Public Consultation**

Consultation letters were sent to 200 neighbouring properties on 24.07.18.

The same properties were re-consulted on 28.09.18 for 14 days following receipt of amended drawings.

Eleven (11) objections were received following the original consultation. The comments received can be summarised as follows:

- Fails to reduce carbon dioxide emissions
- Will increase on-street car parking demand
- No affordable housing
- Additional demand on drainage and sewage
- Overlooking
- Noise and disturbance from building works
- Loss of outlook
- Loss of sunlight and daylight.

Seven (7) further objections were received following the second consultation. Comments received (that are not covered in the original list above) can be summarised as follows:

- Impact on character of the building and surrounding area
- Existing building is used as a yoga studio
- The reduction in footprint is appreciated, however the proposal will still result in loss of light and outlook
- Increase in traffic
- Amended scheme has addressed some issues but has not gone far enough
- Building should remain in business use
- Noise pollution from roof terraces, especially during summer.

#### **5. Planning Considerations**

##### **5.1 Policy Context**

## National Planning Policy Framework and National Planning Practice Guidance

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Government's 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.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The revised National Planning Policy Framework (NPPF) was published on 24th July 2018. This is a key part of the Government's reforms to make the planning system less complex and more accessible, and to promote sustainable growth. It is a material consideration in planning decisions. Similar material considerations are the Government's planning policy for traveller sites, and its planning policy for waste as well as Written Ministerial Statements where relevant to planning decisions.

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

### The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2036. 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.

### Draft London Plan 2017

Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the 2016 London Plan.

### Barnet's Local Plan (2012)

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

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5
- Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM08, DM14, DM17.

The Council's approach to development proposals as set out in Policy DM01 is to minimise their impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Core Strategy Policy CS9 seeks to promote walking and cycling, alongside other strategic transport objectives. Policy DM14 seeks to protect existing employment space, and to promote B1 office space in town centre and edge of centre locations.

The Hadley Manor Trading Estate is identified as a Locally Significant Industrial Site in Appendix 7, Map 7 in the Development Management Policies DPD.

### Supplementary Planning Documents

Residential Design Guidance SPD (adopted October 2016)

Sustainable Design and Construction SPD (adopted October 2016)

## **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Whether the principle of residential accommodation is acceptable in principle;
- Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents;
- Whether the proposals would provide suitable living conditions for future occupiers of the proposed dwellings; and
- Whether the proposal would result in any detrimental impact on the highway network.
- Environmental Health considerations.

## **5.3 Assessment of proposals**

### Whether the principle of residential accommodation is acceptable

The site is located within the Hadley Manor Trading Estate which is identified as a Locally Significant Industrial Site in Appendix 7, Map 7 in the Development Management Policies DPD.

The existing building is currently vacant and the existing lawful use of the site is B8 (storage or distribution). Planning permission was granted in July 2017 (Ref: 17/0355/FUL) for change of use to B1 business use, although this has not yet been implemented.

Chapter 15 and Policy DM14 of the Development Management Policies DPD relates to 'New and existing employment space'.

Policy DM14 a) i) states that proposals which result in a redevelopment or change of use of a Locally Significant Industrial Site to a non B class use will not be permitted. Part a) iv) states that proposals to redevelop or re-use an existing employment space which reduces the levels of employment use and impacts negatively on the local economy will be resisted.

The planning application proposes an additional storey on top of the existing three storey building which would remain in employment use and as such would not result in a significant loss of employment floorspace (the only change of use being the second floor

entrance lobby area of approximately 100 sq m which would become communal space for the residential units above).

The existing employment floorspace at ground, first and second floor levels could still be accessed from the existing and approved ground and first floor entrances and a new entrance door to the second floor from the west end elevation.

The application proposes the introduction of a residential element to the existing building and this would result in a mixed use building comprising B1 business uses at ground, first and second floor levels, with residential at third floor level.

Whilst the approved B1 use has not yet been implemented, the applicant has advised that this change of use (from B8 storage or distribution) will be implemented and a planning condition is proposed requiring the change of use from B8 to B1 to be implemented before the proposed residential units are first occupied.

The reason for this condition is in order to protect the residential amenity of future occupiers of the residential units. B1 business uses are generally considered to be compatible with neighbouring residential uses, whereas B8 storage or distribution uses are not. It would therefore not be appropriate to locate residential dwellings above an operational B8 use.

Planning permission 17/0355/FUL (change of use from B8 to B1) includes a condition requiring details to be submitted of any 'after hours' use of the proposed B1 use. After hours being defined as any hours outside of 0700 to 1900 hours Monday to Friday and 0800 to 1400 hours on Saturdays, and in addition after hours use is defined to include Sundays and Public Holidays. This condition further protects the residential amenity of the future occupiers of the flats proposed by the current application.

In summary, it is not considered that the proposed development conflicts with the requirements of policy DM14 and there is no objection in principle to the proposed additional storey to provide residential accommodation above the B1 business floorspace below.

Whether harm would be caused to the character and appearance of the existing building, the street scene and the wider locality

Currently at third floor / roof level there is a roof lantern / clerestory window structure (measuring approximately 40m in length, 7.5m wide and 1.8m in height). This would be removed as part of the proposal and replaced with the additional storey.

Whilst the additional storey would be larger (measuring approximately 49m in length, 10m wide with a maximum height of 3.5m) than the glazed structure, the proposed additional storey would be well set in from all sides of the existing building below limiting its visual impact from Moxon Street and from the wider surrounding area. As amended the proposal is considered to be a suitable subordinate addition to the existing building.

Furthermore, it is noted that there are examples of 4 storey residential buildings in the immediate surrounding area (Hornbeam Court, Blackthorn Court and Clementine Court to the south) and the houses opposite to the north (South Close) are three storeys. As such the proposal for a fourth storey to 50 Moxon Road would not be out of character with the surrounding area.

Suitable building materials will be agreed by way of planning condition.

A Green Roof and planting is proposed at third floor level along with landscaping at ground floor level and this will serve to enhance the appearance of the proposed development.

In summary, it is not considered that the proposed development would cause unacceptable harm to the character or appearance of the existing building, street scene or surrounding area and is therefore acceptable in this respect.

#### Whether harm would be caused to the living conditions of neighbouring residents

The proposed additional storey is set well in from all sides of the existing building below and as such it is not considered that the proposal would result in a harmful loss of sunlight daylight to any neighbouring residential properties.

Similarly, due to the subordinate nature of the proposed additional storey it is not considered that the proposal would result in an unacceptable loss of outlook or impact on visual amenity to the occupiers of any neighbouring properties.

Whilst no car parking is proposed, the applicant will be required to enter into a legal agreement preventing future occupiers of the proposed flats from applying for residents parking permits. This will ensure that no additional demand for on street car parking within the CPZ arises.

#### Overlooking

West - the western end of the proposed additional storey would be set in by 5.6m. The proposed western flank wall would be a minimum of 11m from the flank wall and rear garden of 48a Moxon Street. This separation distance to the rear garden exceeds the minimum 10.5m to a neighbouring garden required by the Residential Design Guidance. Whilst there are secondary windows in the flank of 48a, no windows are proposed within the west elevation. There is no amenity terrace to the west of the proposed addition and the western end of the south facing terrace to Unit 1 will include a 1.8m privacy screen to ensure no overlooking of No 48a's rear garden would occur.

North - the front/northern elevation of the proposed additional storey would be set in from the front elevation by 4.2m. The separation distance between the north facing habitable rooms of the proposed flats and the nearest facing habitable rooms of the houses on South Close would be over 30m. The flats would be accessed by a walkway in front of the structure, however this walkway would be over 25m from the facing South Close habitable room windows, which is in excess of the minimum 21m separation distance between facing habitable room windows stipulated by the Residential Design Guidance. There is also existing screening in the form of mature street trees and proposed planting and a 1.5m high balustrade would also ensure no loss of privacy arises.

East - the eastern end of the proposed additional storey would be set in approximately 4m from the eastern elevation. The amenity terrace for Unit 7 would be located further to the east. Views from the East facing habitable room windows and roof terrace are over the hospital and Trading Estate and therefore no overlooking of residential habitable rooms would occur in this direction.

South - the rear/southern elevation of the proposed additional storey would be set in from the rear elevation by 7m. The south facing habitable room windows and amenity terraces

would be a minimum of 21m from the facing habitable room windows of Hornbeam Court and Blackthorn Court. Privacy screening to the terraces would also further mitigate potential for mutual overlooking.

In summary, it is not considered that the proposed development would have a harmful impact on the residential or visual amenities of the occupiers of any neighbouring properties and is therefore acceptable in this respect.

#### Whether the proposal would provide suitable living conditions for future occupiers of the proposed dwellings

All of the proposed flats are dual aspect.

All of the proposed flats meet the minimum London Plan space standards (2 bed 3 person over a single storey - minimum 61 sq m and 2 bed 4 person over a single storey - minimum 70 sq m) as follows:

Flat 1 - 76 sq m (2b, 4p over 1 storey, 4 habitable rooms)  
Flat 2 - 62 sq m (2b, 3p over 1 storey, 4 habitable rooms)  
Flat 3 - 61 sq m (2b, 3p over 1 storey, 3 habitable rooms)  
Flat 4 - 61 sq m (2b, 3p over 1 storey, 3 habitable rooms)  
Flat 5 - 61 sq m (2b, 3p over 1 storey, 3 habitable rooms)  
Flat 6 - 65 sq m (2b, 3p over 1 storey, 4 habitable rooms)  
Flat 7 - 70 sq m (2b, 4p over 1 storey, 3 habitable rooms)

Total 24 habitable rooms.

All bedrooms meet the required minimum sizes and all habitable room windows would enjoy a good level of outlook.

Amenity space is provided in the form of south/east facing roof terraces as follows:

Flat 1 - Terrace 20 sq m  
Flat 2 - Terrace 17 sq m  
Flat 3 - Terrace 15 sq m  
Flat 4 - Terrace 15 sq m  
Flat 5 - Terrace 15 sq m  
Flat 6 - Terrace 20 sq m  
Flat 7 - Terrace 56 sq m

Total = 158 sq m.

The amenity space provision exceeds the minimum requirement of 120 sq m based on 5 sq m per habitable room.

In summary, it is considered that the proposed development would provide suitable living accommodation for future occupiers of the proposed units.

#### Transport, parking and highways matters

The site is located just outside of the Chipping Barnet Town Centre. The Public Transport Accessibility Level (PTAL) for the site is 4 which is considered good.



The site location is within a Controlled Parking Zone (CPZ), which operates 8 a.m. to 6.30 p.m. Monday to Saturday. Some spaces on Moxon Street use a pay-by-phone payment system, and there is an off-street free car park for up to 1 hour also. For stays of over one hour there is a charge with a maximum stay of 4 hours.

No car parking is proposed.

The proposed 7 no. 2 bed units would require parking provision of between 7.0 and 10.5 spaces based on the requirements of Policy DM17.

The Highways department advises that, taking the following into consideration:

- The site is located in a Town Centre location and with local amenities;
- The site is within a PTAL rating of 4; and
- The site is within a Control Parking Zone (CPZ);

the proposed development is acceptable on highway grounds subject to permit exemption for the occupiers of the new development. A contribution of £2,000 would be required towards the amendment of the Traffic Management Order (TMO). This would be secured by way of S106 legal agreement.

Subject to completion of the legal agreement and to the conditions recommended in the Highway Officer's comments, there is no objection to the proposal on Highways grounds.

The applicant has confirmed that they are prepared to enter into a legal agreement.

#### Health considerations

The Environmental Health department was consulted on the proposal and responded to state that it has no objection, subject to a condition requiring the change of use of the floors below to B1 to be implemented prior to the proposed residential units being occupied, along with conditions relating to noise mitigation, construction management and contaminated land.

#### Access for Fire Service

A consultation response was received from the London Fire Commissioner. The response states that the Commissioner is not satisfied with the proposals as insufficient information has been provided in relation to access and facilities for fire fighters, as set out in Section B5 Approved Document B of Building Regulations (Access for Fire Service).

The letter also states that the London Fire Brigade promotes the installation of sprinkler suppression systems in new developments.

In the event that planning permission is granted, full details in relation to access and facilities for fire fighters will be agreed at Building Control stage in due course.

An informative will be added to any planning permission issued advising the applicant that the London Fire Brigade promotes the installation of sprinklers.

## **5.4 Response to Public Consultation**

The comments raised by the objectors have been addressed elsewhere in this report and by way of the proposed planning conditions and legal agreement.

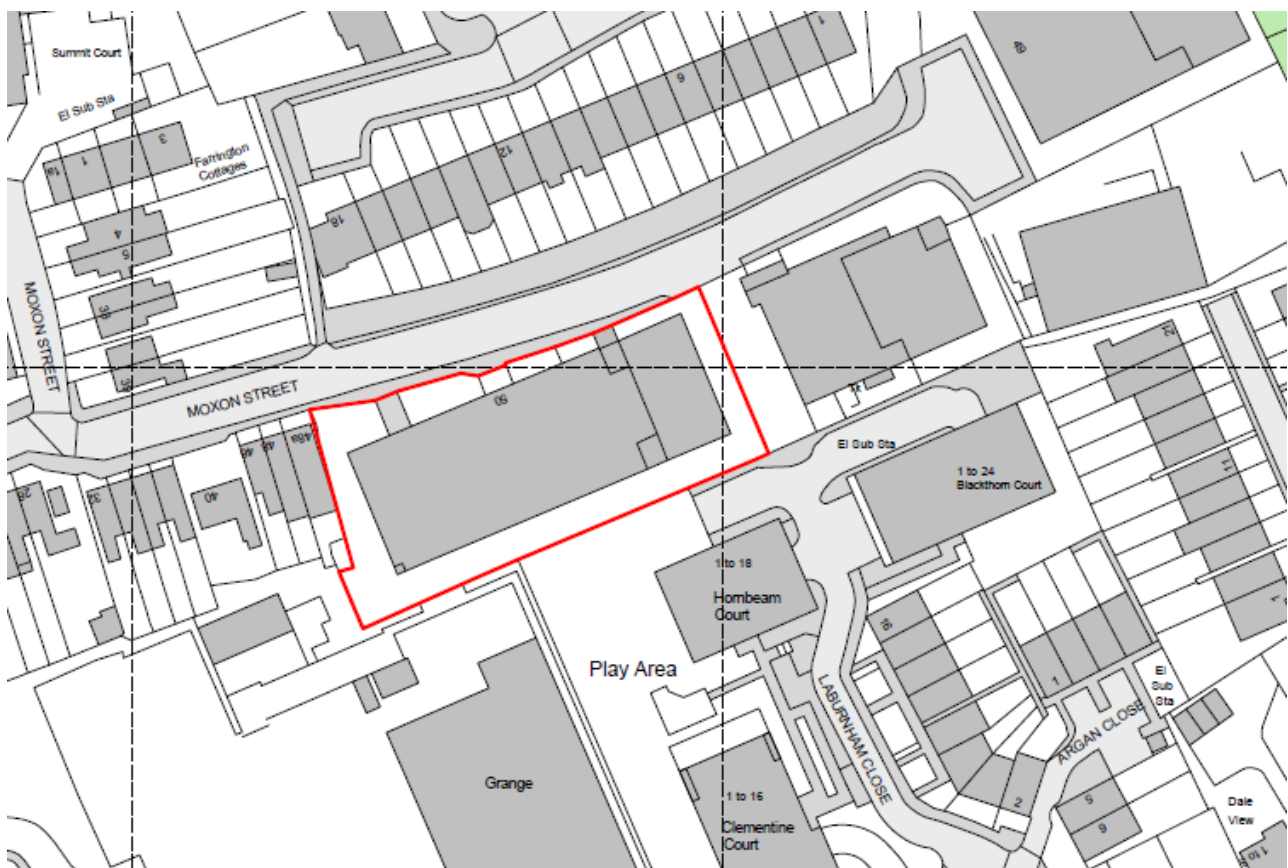
## 6. Equality and Diversity Issues

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

## 7. Conclusion

Having taken all material considerations into account, it is considered that subject to compliance with the attached conditions, the proposed development would have an acceptable impact on the character and appearance of the application site and the locality. The development is not considered to have an adverse impact on the amenities of neighbouring occupiers and the quality of the living accommodation is satisfactory.

This application is therefore recommended for Approval, subject to conditions and completion of the legal agreement.



**COMMITTEE REPORT**

**LOCATION:** 42 Woodside Avenue, London, N12 8AX.

**REFERENCE:** TPF/0364/18

**Received:** 1<sup>st</sup> August 2018

**WARD:** Totteridge

**Expiry:** 26<sup>th</sup> September 2018

**CONSERVATION AREA** N/A

**APPLICANT:** MWA Arboriculture Ltd

**PROPOSAL:** 2 x Conifer (applicant's ref. TG1) - Remove. Group G106 of Tree Preservation Order.

**RECOMMENDATION:**

**That Members of the Planning Sub-Committee determine the appropriate action in respect of the proposed removal of 2 x Conifer (applicant's ref. TG1) – Group G106 of the Tree Preservation Order, either:**

REFUSE CONSENT for the following reason:

The loss of these trees of special amenity value is not justified as a remedy for the alleged subsidence damage on the basis of the information provided.

Or:

APPROVE SUBJECT TO CONDITIONS

1. The species, size and siting of two replacement trees shall be agreed in writing with the Local Planning Authority and these replacement trees shall be planted before the end of the next planting season following the commencement of the approved treatment (either wholly or in part). If within a period of five years from the date of any planting, the tree(s) is removed, uprooted or destroyed or dies (or becomes, in the opinion of the local planning authority, seriously damaged or defective), further planting of appropriate size and species shall be planted at the same place in the next planting season.

Reason: To maintain the visual amenities of the area.

2. Within 3 months of the commencement of the approved treatment (either wholly or in part) the applicant shall inform the Local Planning Authority in writing that the work has / is being undertaken.

Reason: To maintain the visual amenities of the area.

## Consultations

Consultation was undertaken in accordance with adopted procedures which exceed statutory requirements:

Date of Site Notice: 9<sup>th</sup> August 2018

Consultees:

Neighbours consulted: 3

Replies: 0

## MATERIAL CONSIDERATIONS

### Relevant Recent Planning History:

Work to the 2 x Conifer (Thuja) Group G106 of Tree Preservation Order.

**TREN05349L** – An application to undertake works to 2 x Thuja trees standing in Group G107 and 2 x Thuja trees standing in Group G106 of Tree Preservation Order necessary to lay a duct within the adjacent footpath as indicated on Plan Drawing No. R82 C08.

- Conditional approval 1<sup>st</sup> September 1997

Building works at 42 Woodside Avenue, London, N12 8AX since the making of the Tree Preservation Order.

**N05349F** – Retention of existing house and the erection of 7 three-bedroomed houses at the rear of the site with parking provision for 8 cars (Outline).

- Conditional approval 25<sup>th</sup> May 1977

**N05349G** – Retention of existing house and the erection of 7 three-bedroomed houses at the rear of the site with parking provision for 8 cars.

- Conditional approval 25<sup>th</sup> January 1978

**N05349H** – Application to discharge details required under condition 4 of the planning permission granted on the 25<sup>th</sup> January 1978 “Retention of existing house and the erection of 7 three-bedroomed houses at the rear of the site with parking provision for 8 cars.”

- Approved 24<sup>th</sup> May 1978

**N05349J** – Single storey rear extension.

- Conditional approval 17<sup>th</sup> June 1986

No relevant development applications for 25, 26, 27, or 28 Claire Court.

Please note that there has been work to other Tree Preservation Order trees in the vicinity of 42 Woodside Avenue / 25, 26, 27 and 28 Claire Court details of which are not listed within this report.

## PLANNING APPRAISAL

### 1. Introduction

An application form proposing felling of “TG1 of MWA Arboricultural report” at 42 Woodside Avenue adjacent to the boundary with 25, 26, 27 and 28 Claire Court in connection with alleged property damage at 25, 26, 27 and 28 Claire Court was submitted via the Planning Portal in May 2018. Trees TG1 are described in the MWA report as “Cypress group” without clarification of number of trees. However, the position of the trees corresponds with group G106 of the Tree Preservation Order which comprises 2 Thuja – for the avoidance of doubt the trees are identified as “2 x Conifer” for this application.

There were various discrepancies and shortcomings in the information - clarification and additional information was thus requested. Following the receipt of further information and correspondence from the agent the application was registered on the 1<sup>st</sup> August 2018.

The application has been submitted by MWA Arboriculture Ltd acting on behalf of loss adjusters dealing with alleged subsidence at 25, 26, 27 and 28 Claire Court.

Claire Court is a development comprising 32 maisonettes which have been constructed on the former properties of 46 to 56 Woodside Avenue. Historic Ordnance Survey maps indicate that the Claire Court development was constructed between 1962 and 1969. The block including 25, 26, 27 and 28 Claire Court is located near to the south-eastern corner of the site close to the roadway (Woodside Avenue) and also the boundary with 42 Woodside Avenue.

It should be noted that there are mature Lime trees located in the Woodside Avenue pavement to the front of Claire Court. The street Limes are Council owned / maintained trees not included in a Tree Preservation Order. The potential involvement of the Highways Limes in the alleged property damage at Claire Court is being currently investigated and assessed by the Council's Greenspaces / Insurance teams as a separate claim.

### 2. Appraisal

#### Tree and Amenity Value

The subject Conifer trees stand at 42 Woodside Avenue in front of the house and adjacent to the flank boundary with 25, 26, 27 and 28 Claire Court. They stand to the left of the driveway entrance/egress onto Woodside Avenue (the driveway of 42 Woodside Avenue can also be accessed from another entrance/egress onto Little Cedars).

The Conifer trees subject of this application have both been identified on site as Thuja. They are mature trees approximately 18 to 20 metres in height. The tree closest to the roadway has a trunk diameter of over 66cm (at 1.5 metres above ground level) and the other tree in the group has a trunk diameter of 64cm. Both trees have had some minor previous lifting treatment to provide clearance over the driveway and public footpath in front of the property. Both trees appear in reasonable health with foliage of good form, colour and density showing throughout the vast majority of their crowns. There are a couple of very small isolated patches of brown foliage and also some very minor

deadwood close to the trunks of the trees - which is typical of the species. These two trees have no obvious major structural faults.

The two trees stand next to each other and have a collective group amenity value that exceeds the value of the individual trees. They are clearly visible from along Woodside Avenue (with views of the trees being increased during the winter months due to their evergreen nature). Along with other mature trees adjacent, these subject Conifer trees make a very important contribution to the character and appearance of the area – helping to screen and soften the built form of the adjacent residential dwellings next to a very busy roadway, which is part of a thoroughfare running almost parallel and to the west of the main High Road (A1000). Retention of mature trees, such as the subject Conifers, helps to retain the suburban feel to the roadway, which is becoming increasingly urbanised in character.

### The application

The application submitted by MWA Arboriculture Ltd was registered on the 1<sup>st</sup> August 2018. The reasons for the proposed removal of the two Conifer (Thuja) trees (applicant's ref. TG1) cited on the application form are:

*The above trees are considered to be a contributory cause of root induced clay shrinkage subsidence damage to the subject property.*

*Investigations in to the damage have been conducted and the following information/evidence obtained:*

- 1. Engineering opinion is that damage is due to clay shrinkage subsidence.*
- 2. Foundations are bearing on to clay.*
- 3. The clay subsoil has a medium to high volume change potential (NHBC Guidelines).*
- 4. A comparison between moisture content and the plastic and liquid limits suggests residual desiccation in TH/BH2 (March 2018) located to the right of the building and close to TG1.*
- 5. Live Cupressaceae spp. (cypress/thuja)) roots were recovered from below foundation depth in TP/BH2 to a depth of 3.0m below ground level, significantly below the foundation depth of 1.0m.*
- 6. The observed desiccation is coincident with recorded root activity.*
- 7. Desiccation is at depths beyond ambient soil drying effects and consistent with the soil drying effects of significant vegetation.*
- 8. Level monitoring for the period 15/06/2017 to 03/05/2018 has recorded a cyclical pattern of movement to the front of the building indicative of the contributory influence of TG1 on soil moisture and volumes. The uplift phase of the building can only be attributable to an expanding clay soil from a desiccated (shrunk) state due to the soil drying effects of vegetation.*
- 9. Drains can be discounted as a causal factor given the recorded desiccation and by reference to the level monitoring data.*
- 10. No tree works have been carried during the claim, monitoring period or in the recent past.*
- 11. A root barrier has been considered and discounted due to the separation distance between the trees and the building..*
- 12. The technical evidence establishes there to be a nuisance and the damage makes it an actionable nuisance which needs to be abated.*

*Established evidential and legal tests pertinent to subsidence damage claims have been met and the evidence confirms that on the balance of probabilities the cause of the movement and associated damage is clay shrinkage subsidence with the subject trees being a contributory cause.*

*Given their proximity to the property, removal offers the only predictable arboricultural solution in abating their influence.*

The supporting documentation comprises:

- MWA Arboriculture Ltd “Arboricultural Appraisal Report Subsidence Damage Investigation at: 25-28 Claire Court Woodside Avenue London N12 8TD” dated 2<sup>nd</sup> May 2018.
- CET “Site Investigation Factual Report” for site investigations undertaken on 6<sup>th</sup> March 2018 (including trial pit / borehole data 06/03/2018; soil testing report 12/03/2018; root id 09/03/2018).
- Crawford “Technical Report of a suspected subsidence claim 25-28 Claire Court Woodside Avenue, London, N12 8T” dated 8<sup>th</sup> March 2017.
- Crawford “Addendum Technical Report... 25-28 Claire Court Woodside Avenue, London, N12 8TD dated 3<sup>rd</sup> April 2018.
- Crawford “Addendum Technical Report... 25-28 Claire Court Woodside Avenue, London, N12 8TD dated 23<sup>rd</sup> July 2018
- E-mail from the agent dated 25<sup>th</sup> May 2018 in which they state: *“please note that the repair costs are 22k for superstructure repair only and approx. 100k if a localised underpinning scheme is required to stabilise the property.”*
- Letter from the agent dated 28<sup>th</sup> June 2018 in which they state: “The property has not been underpinned and no building work undertaken” and made some further comments about the information in the other reports submitted as part of their application.
- Knight Associates Level Monitoring – 7 sets of Relative Survey Readings taken between 15<sup>th</sup> June 2017 and 13<sup>th</sup> September 2018.

The Council’s Structural Engineer having assessed all the submitted information, notes:

*“1. There is some evidence of clay soil desiccation below the foundations. Ideally, if we had control borehole results and additional types of testing (as BRE recommended) e.g. Oedometer or soil suction tests the extent of soil desiccation could be confirmed.*

*2. Cypress [Cupressaceae spp.] roots identified at underside of foundation. Note Lime tree roots extend full depth of borehole 2.*

*3. Borehole relatively shallow and BH2 did not extend beyond zone of roots.*

*4. Some of the cracking to this wall can be attributed to the type of brick used, i.e. calcium silicate, and a lack of movement joint.*

*5. Level monitoring does show seasonal movement.*

*On basis of the above Thuja likely to be implicated as a contributory factor in the damage, on basis of root ID the Lime probably the more significant factor.”*

In the Crawford “Technical Report of a suspected subsidence claim 25-28 Claire Court Woodside Avenue, London, N12 8T” dated 8<sup>th</sup> March 2017 it is stated:

*“[the policy holder] advised that external cracking was noted by the previous owners of number 25 [Claire Court] in 2013. They contacted insurers at that time and Cunningham Lindsey were appointed to inspect. We viewed their report at the initial visit which confirmed that they inspected all of the flats. Only external cracking was present at that stage and they declined the claim on the basis the external cracking was not the result of foundation movement. A further inspection took place in May 2013 when [the policy holder] purchased number 25. The surveyor at the time noted only external cracking and considered this to be the result of thermal movement. The current internal cracking was noted in flat 25 by [the policy holder] over summer 2016. This progressed and insurers were notified.”*

The Crawford report dated 8<sup>th</sup> March 2017 includes photographs and an “abbreviated description” of the damage which is summarised below:

- Flat 25  
Diagonal (hairline, 3mm and 4mm) cracks in the Dining Room.  
Cracking in the Porch, *“unrelated water ingress damage to ceiling.”*  
Hairline cracks in the Kitchen and Bathroom - *“not subsidence related damage.”*
- Flat 28  
Diagonal and vertical cracks (hairline, 1mm and 2mm) in the Rear Right-hand Bedroom, Rear Left-hand Bedroom, Hallway, Bathroom and Dining Room / Lounge.
- Flat 27  
Diagonal and vertical cracks (hairline, 1mm and 3mm) in the Dining Room, Lounge, Rear Left-hand Bedroom, Rear Right-hand Bedroom and Hallway.
- Flat 26  
Vertical cracks (2mm and 3mm) in the Kitchen and Dining Room (some crack(s) previously repaired).
- EXTERNAL  
Vertical and stepped/tapering cracks (1mm, 2mm, 3mm, 5mm, 7mm) in the Rear Elevation, Right-hand flank and Left-hand flank of the building (some cracks previously repaired).

The Crawford report dated 8<sup>th</sup> March 2017 states that: *“the damage falls into Category 3 of Table 1, Building Research Establishment Digest 251, which describes it as “moderate”.*

BRE Digest 251 *Assessment of damage in low-rise buildings* includes a ‘Classification of visible damage to walls with particular reference to ease of repair of plaster and brickwork



or masonry'. It describes category 3 damage as *"Cracks which require some opening up and can be patched by a mason. Repointing of external brickwork and possibly a small amount of brickwork to be replaced. Doors and windows sticking. Service pipes may fracture. Weather-tightness often impaired. Typical crack widths are 5 to 15mm, or several of say, 3mm."*

However, the majority of the cracks referred to in the Crawford Report dated 8th March 2017 are stated to be less than 3mm (which would correspond to Categories 0, 1 and 2 of the BRE classification).

In addition, a number of the observed cracks may not be attributable to vegetation related subsidence damage.

In the discussion section of the Crawford report dated 8th March 2017 it is stated:  
*"The external leaf of the cavity wall appears to be constructed using calcium silicate brickwork. This type of brick is prone to cracking as a result of thermal movements and a number of previous external repairs are evident around this property and the other blocks in the development where such movement has taken place in the past. Cracking is evident in areas which have previously been re-pointed and there is cracking visible which has not been repaired previously to all elevations. This external cracking could be due to further thermal movement or could be indicative of localised foundation movement. The pattern and nature of the relatively recent internal cracking noted within flats 25, 26 and 28 appears to be indicative of an episode of subsidence however further investigations will be required to confirm this."*

As stated above our own structural engineer has commented that: *"Some of the cracking to this wall can be attributed to the type of brick used, i.e. calcium silicate, and a lack of movement joint."*

Details of the site investigations that have been undertaken on the 6<sup>th</sup> March 2018 are included within the submitted CET "Site Investigation Factual Report."

The "Investigation layout plan" contained in the CET "Site Investigation Factual Report" appears to have incorrectly identified the location of the four flats (numbers 25 to 28) within the block. The site plans included within the submitted Crawford reports have identified the correct location of the four flats within the block.

Boreholes/trial pits were dug – Trial Pit 1 (TP1) was dug adjacent to the front elevation of flat 25 Claire Court (incorrectly stated to be flat 28 on the "Investigation layout plan" of the CET "Site Investigation Factual Report"). Borehole 1 (BH1) was dug next to this trial pit. Trial Pit/Borehole 2 (TP2/BH2) was dug adjacent to the front elevation of 27 Claire Court. The submitted root identification indicates that *Tilia* spp. (Lime) roots were found in Borehole 1. *Tilia* spp. (Lime) roots and *Cupressaceae* spp. (a family of plants which includes a number of sub families and genus') were found in TP2/BH2.

The *Thuja* trees subject of this application are within the *Cupressaceae* family. However, there are a number of other trees in the vicinity of 25 to 28 Claire Court that are also included within this plant family (including other *Thuja* and *Cypress* trees). The agent has

not submitted any DNA testing to demonstrate that the Cupressaceae spp. roots found in TP2/BH2 at the underside of the foundations belong to the subject trees, however, "TG1" are the closest.

The excavation of Trial Pit 1 was abandoned at 1.7 metres although the underside of foundation had not been found and consequently the depth of the foundations of flat 25 Claire Court have not been established. The depth of the foundation for the 27 Claire Court corner of the building (as found in the Trial Pit/Borehole (TP2/BH2)) appears to be 1 metre. It is unclear why the depths of the foundations at either end of this block of flats are different as the agent has stated that: *"The property has not been underpinned and no building work undertaken and this would have been advised in the application if relevant."*

As noted above, the Crawford report dated 8th March 2017 includes details of damage at flats 25 and 26 Claire Court – both on the opposite side of the block of flats from the Thuja trees that are subject of this application. Indeed, it appears from the submitted information that the insurance claim was initiated by the owner of flat 25 Claire Court. It is thus unclear why, when asked for clarification, the agent asserted: *"[Trial Pit 1] TP1 is on the opposite side of the building from TG1 and is irrelevant in the context of the application."*

In addition to incorrect identification of trees, there were other weaknesses in the application – for example, with reference to the site investigations submitted, our Structural Engineer noted: *"Ideally, if we had control borehole results and additional types of testing (as BRE recommended) e.g. Oedometer or soil suction tests the extent of soil desiccation could be confirmed."* - however, the agent declined to provide this information.

Given their inclusion in the Order, it appears likely the Thuja predate the construction of Claire Court - thus the Local Planning Authority requested that the agent submit a ground heave assessment with this application. In their letter of the 28<sup>th</sup> June 2018 the agent responded: *"The technical information required under the guidance is listed in your letter. Heave assessment is not one of them. This is not a valid reason for refusing to register the application. Further, the trees do not predate the property and as such present no significant risk of heave."*

It appears that the agent has sought to submit the minimum amount of information necessary to enable the registration of an application - rather than undertaking thorough investigation and assessment such as establishing the depth of foundations for the 25 Claire Court part of the building, why the building has differential foundations and whether this is having any impact on the observed damage, or trying to confirm exactly what of the observed damage is attributable to which trees and which to thermal movement.

Our Structural Engineer has confirmed that the submitted levels monitoring "does show seasonal movement" and that the "Thuja [are] likely to be implicated as a contributory factor in the damage."

However, the damage noted in the Crawford report dated 8th March 2017 appears to be attributable to more than one cause (i.e. some of the damage appears to be attributed to thermal movement of the calcium silicate brickwork and other damage could be attributed to other trees that are not subject of this TPO application).

In the circumstances it appears that removal of the TPO Thuja trees that are subject of this application would not address all of the observed damage and the properties of 25 to 28 Claire Court are likely to still suffer damage even if this application were to be approved (indeed removal of the subject Thuja trees could result in additional heave damage to the properties).

### 3. Legislative background

As the two Thuja trees are included in a Tree Preservation Order, formal consent is required for their treatment from the Council (as Local Planning Authority) in accordance with the provisions of the tree preservation legislation.

Government guidance advises that when determining the application the Council should (1) assess the amenity value of the tree(s) and the likely impact of the proposal on the amenity of the area, and (2) in the light of that assessment, consider whether or not the proposal is justified, having regard to the reasons put forward in support of it. It should also consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.

The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provide that compensation is payable for loss or damage in consequence of refusal of consent or grant subject to conditions. The provisions include that compensation shall be payable to a person for loss or damage which, having regard to the application and the documents and particulars accompanying it, was reasonably foreseeable when consent was refused or was granted subject to conditions. In accordance with the 2012 Regulations, it is not possible to issue an Article 5 Certificate confirming that the trees are considered to have 'outstanding' or 'special' amenity value which would remove the Council's liability under the Order to pay compensation for loss or damage incurred as a result of its decision.

In the agent's e-mail dated 25<sup>th</sup> May 2018 it is stated: *"please note that the repair costs are 22k for superstructure repair only and approx. 100k if a localised underpinning scheme is required to stabilise the property."* In their letter dated 28<sup>th</sup> June 2018 the agent states: *"The options are superstructure repairs only (crack repair, redecorating etc) and underpinning. The repair costs for superstructure works only and underpinning should the trees not be removed were advised to the council via email on the 25<sup>th</sup> May. To confirm, the estimated costs are £22k and approx. £100 respectively."*

However, as noted above, even if it is concluded that the Thuja are implicated, the damage appears to be attributable to more than one cause (i.e. some of the damage appears to be attributed to thermal movement of the calcium silicate brickwork and other damage could be attributed to trees that are not subject of this TPO application). It would not be possible to claim several times over for the same repairs, so there would be some apportionment between multiple causation.

The Court has held that the proper test in claims for alleged tree-related property damage was whether the tree roots were the 'effective and substantial' cause of the damage or

alternatively whether they ‘materially contributed to the damage’. The standard is ‘on the balance of probabilities’ rather than the criminal test of ‘beyond all reasonable doubt’.

In accordance with the Tree Preservation legislation, the Council must either approve or refuse the application i.e. proposed removal. Unlike the Council owned / maintained street Limes, the Local Planning Authority has no powers to require lesser works or a programme of cyclical pruning management to the privately owned TPO Thuja that may reduce the risk of alleged tree-related property damage. If it is considered that the amenity value of the Thuja trees is so high that the proposed removal is not justified on the basis of the reason put forward together with the supporting documentary evidence, such that TPO consent is refused, there may be liability to pay compensation. It is to be noted that the Council’s Structural Engineer has noted that the *“Thuja [are] likely to be implicated as a contributory factor in the damage”* - albeit that he has advised there are other causative factors in the damage e.g. *“Some of the cracking to this wall can be attributed to the type of brick used, i.e. calcium silicate, and a lack of movement joint.”*

The statutory compensation liability arises for loss or damage in consequence of a refusal of consent or grant subject to conditions - a direct causal link has to be established between the decision giving rise to the claim and the loss or damage claimed for (having regard to the application and the documents and particulars accompanying it). Thus, the cost of rectifying any damage that occurs before the date of the decision, or rectifying damage which is not attributable to the subject trees, would not be subject of a compensation payment.

If it is concluded that other factors (e.g. the use of calcium silicate bricks and lack of movement joint, and / or other trees that are not subject of this TPO application) were a substantial cause of damage and / or addressing such factors together with pruning would resolve the alleged problem, regardless of the proposed Thuja removal; or if the removal of the Thuja trees would create even greater problems due to heave; it may be argued that loss or damage would not be in consequence of a refusal of TPO consent to remove the subject Conifer trees (applicant’s ref. TG1).

However, if it is concluded on the balance of probabilities that the roots of the two Thuja trees are the ‘effective and substantial’ cause of damage or alternatively whether they ‘materially contributed to the damage’ and that the damage would be addressed by the trees’ removal, there may be a compensation liability if consent for the proposed felling is refused - the applicant/agent indicates repair works for 25, 26, 27 and 28 Claire Court may be an extra £78,000 if the subject Conifer trees are retained (reference to underpinning costing only £100 in the agent’s letter dated 28<sup>th</sup> June 2018 is likely to be a typographic error).

## **COMMENTS ON THE GROUNDS OF OBJECTION**

N/A.

## **EQUALITIES AND DIVERSITY ISSUES**

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies requires the Council to have due regard to the need to eliminate discrimination and promote equality in relation 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.

The Council have considered the Act but do not believe that the application would have a significant impact on any of the groups as noted in the Act.

## **CONCLUSION**

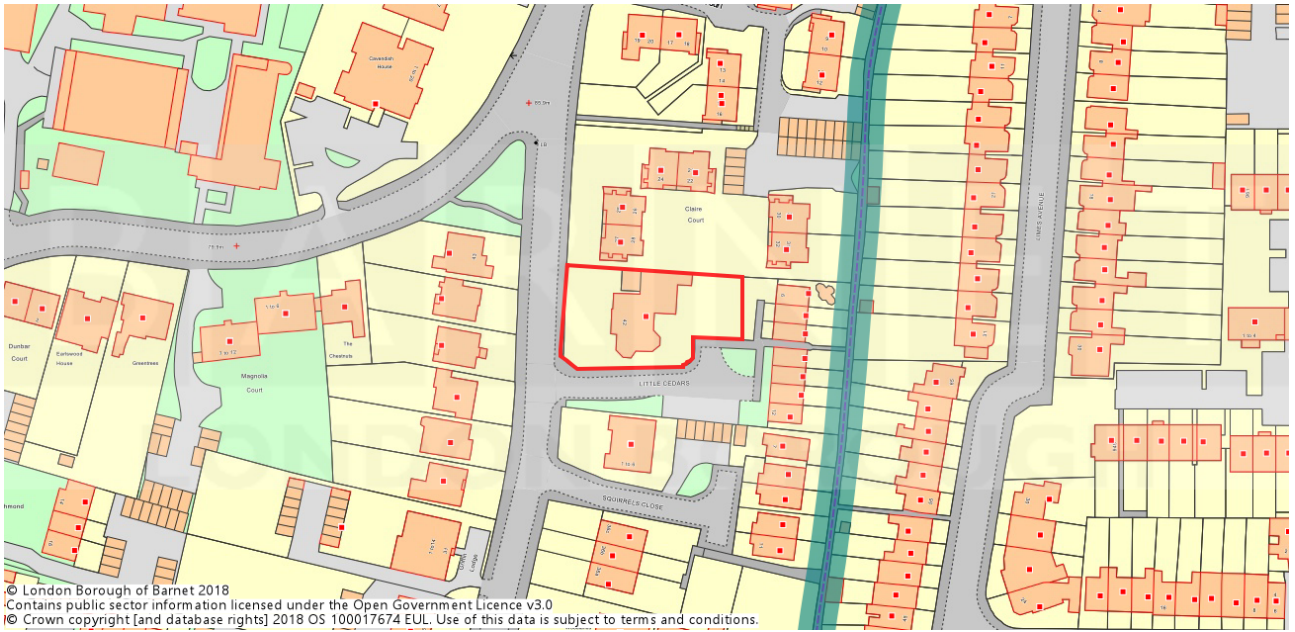
The agent, MWA Arboriculture Ltd, proposes to remove two Conifer (Thuja) trees standing at 42 Woodside Avenue because of their alleged implication in subsidence damage to 25, 26, 27 and 28 Claire Court.

The Council's Structural Engineer has assessed the supporting documentary evidence and has noted that the subject Conifer trees are likely to be implicated as a contributory factor in the damage. However, there are shortcomings in the information provided, other trees could be contributory factors in the damage, and some of the damage noted can be attributed to the thermal movement (expansion/contraction) of the calcium silicate brickwork – not *"of root induced clay shrinkage subsidence."*

Bearing in mind the potential implications for the public purse, as well as the public amenity value of the subject Conifer trees, it is necessary to consider whether or not the proposed removal of these trees is justified as a remedy for the alleged subsidence damage on the basis of the information provided.

If it is concluded on the balance of probabilities that the two Thuja trees' roots are the 'effective and substantial' cause of damage or alternatively whether they 'materially contributed to the damage' and that the damage would be addressed by the removal of these two trees, there may be a compensation liability (the applicant/agent has indicated that repair works to 25, 26, 27 and 28 Claire Court may be an extra £78,000 if the trees are retained) if consent for the proposed tree removals is refused.

However, particularly given the amenity value of the trees, if it is concluded on the basis of the available information that removal of the two Thuja trees is excessive and has not been demonstrated to be necessary; or if the removal of these trees would create even greater problems due to heave; it may be argued that loss or damage would not be in consequence of a refusal of TPO consent to fell, and that it would be justifiable to refuse the application.



**Location**                      **39 Lullington Garth London N12 7LT**

**Reference:**                      **18/4996/FUL**

Received: 13th August 2018

Accepted: 14th August 2018

**Ward:**                              **Totteridge**

Expiry 9th October 2018

**Applicant:**                      **Akiva Lawson**

**Proposal:**

Erection of a new two-storey detached dwelling following demolition of existing single storey double garage. Single storey rear extension to existing property at no.39 Lullington Garth. New vehicular access to provide off street parking. Associated refuse and recycling store and amenity space

## AGENDA ITEM 9

**Recommendation:** Approve subject to conditions

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

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

- Site Location Plan (P-000)
- Existing Ground Level (P001)
- Proposed Ground Level (P002)
- Existing Level 1 (P003)
- Proposed Level 1 (P004)
- Existing Level 2 (P005)
- Proposed Level 2 (P006)
- Existing and Proposed North Elevations (P007)
- Existing and Proposed South Elevations (P008)
- Existing and Proposed West Elevations (P009)
- Existing and Proposed North-West Elevations (P010)
- Existing and Proposed North-East Elevations (P011)

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

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

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

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

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

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

- 4 a) Prior to their installation, details of the materials to be used for the external surfaces of the building and hard surfaced areas hereby approved shall have been submitted to and approved in writing by the Local Planning Authority.

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

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2016.

- 5 a) No development or site works shall take place on site 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.

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

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

- 6 Before the development hereby permitted is first occupied, the refuse and recycling bins show on drawing no. P002 shall be provided and retained as such thereafter.



Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

- 7 a) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and 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) have been submitted to and approved in writing by the Local Planning Authority.

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

Reason: To safeguard the health of existing trees which represent an important amenity feature in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012), Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy 7.21 of the London Plan 2016.

- 8 a) Prior to first occupation of the hereby approved development, a scheme of hard and soft landscaping to the front forecourt area of both the approved development and no.39 Lullington Garth, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall have been submitted to and agreed in writing by the Local Planning Authority.

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

c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 7.21 of the London Plan 2016.

- 9 Before the building hereby permitted is first occupied, the proposed flank wall window(s) at first floor level on both the western and eastern elevations facing

no.37 and no.39 Lullington Garth 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 Development Management Policies DPD (adopted September 2012) and the Residential Design Guidance SPD (adopted October 2016).

- 10 Before the development hereby permitted is first occupied or the use first commences the parking spaces shown on Drawing No. P002 shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

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

- 11 Before the development hereby permitted is first occupied, the cycle parking and storage facilities show on drawing no. P002 shall be fully implemented and retained as such thereafter.

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards set out in Policy 6.9 and Table 6.3 of The London Plan (2016) and in the interests of promoting cycling as a mode of transport in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

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

b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway in accordance with Policies DM01, DM03, DM17 of the Development Management Policies DPD (adopted September 2012), and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).

- 13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development otherwise permitted by any of Classes A, B, C, D, E, F, G and H of Part 1 of Schedule 2 of that Order shall be carried out within the area of the application site hereby approved.

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

- 14 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 6.00 pm 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 Development Management Policies DPD (adopted September 2012).

- 15 Prior to the first occupation of the new dwellinghouse(s) (Use Class C3) hereby approved they shall all have been constructed to have 100% of the water supplied to them by the mains water infrastructure provided through a water meter or water meters and each new dwelling shall be constructed to include water saving and efficiency measures that comply with Regulation 36(2)(b) of Part G 2 of the Building Regulations to ensure that a maximum of 105 litres of water is consumed per person per day with a fittings based approach should be used to determine the water consumption of the proposed development. The development shall be maintained as such in perpetuity thereafter.

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

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

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

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

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

## Informative(s):

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered and the Applicant engaged with this prior to the submissions of this application. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.
- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

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

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

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

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

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

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

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

#### Relief or Exemption from CIL:

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

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

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

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

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

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

- 3 The applicant is advised that 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 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 [street.naming@barnet.gov.uk](mailto:street.naming@barnet.gov.uk) or by telephoning 0208 359 4500.

- 4 The applicant is advised that if any modification is required or proposed to access from the public highway, such works would be subject to a detailed investigation by the Traffic and Development section. Heavy duty access may need to be provided to cater for a heavy duty use and may involve relocation of existing street furniture. The works would be undertaken by the Highway Authority at the applicant's expense. You may obtain an estimate for this and any associated work on the public highway, and further information, from the Traffic and Development Section - Development and Regulatory Services, Barnet House, 1255 High Road, Whetstone N20 0EJ, by telephone on 020 8359 3018, or via [crossovers@barnet.gov.uk](mailto:crossovers@barnet.gov.uk).

## **Officer's Assessment**

### **1. Site Description**

The application site is located on the southern side of Lullington Garth at the junction with Cissbury Ring. The site comprises a two-storey semi-detached dwelling with a detached single-storey double garage adjacent to the site boundary with no.37 Lullington Garth. There are four sets of semi-detached properties located in a planned layout format around the junction with Lullington Garth and Cissbury Ring. The site has a large triangular-shaped rear garden. The surrounding area is characterised by semi-detached single-family dwellings, with a local shopping parade located to the east at the roundabout where Lullington Garth and Chanctonbury Way meet.

The site is not located within a Conservation Area and is neither a statutory or locally listed building. No trees subject to Tree Preservation Orders (TPO) are located within the curtilage of the application site. The application site is located within Flood Zone 1.

### **2. Site History**

Reference: N09349

Address: 39 Lullington Garth, London N12 7LT

Description: Erection of a detached house and garage and a garage for number 39 Lullington Garth.

Decision: Refused

Decision Date: 25/07/1989

Reasons for refusal:

1. The proposed development, by reason of its excessive size and unsatisfactory siting would detract from the character and appearance of the street scene and be detrimental to the visual and residential amenities of the occupiers of adjacent properties.
2. The proposal would result in an unsatisfactory form of development in which the rear garden of the proposed house would be directly overlooked from no.39 Lullington Garth, which would be seriously detrimental to the privacy that the future occupiers of the property could reasonably expect to enjoy.

### **3. Proposal**

- Demolition of existing single-storey double garage;
- Erection of a new two-storey three-bedroom detached single-family dwelling;
- Erection of a single-storey rear extension to 39 Lullington Garth;
- New dropped kerb for vehicular access to 39 Lullington Garth;
- Private amenity space for existing and proposed dwellings;
- Two onsite parking spaces each for existing and proposed dwellings.

### **4. Public Consultation**

Consultation letters were sent to 68 neighbouring properties. 9 public responses were received comprising 0 letters of support, 3 letters of representation and 6 letters of objection. These can be summarised as follows:

Representation:

Woodside Park Garden Suburb Residents Association:

- No objection to the proposal but a condition should be attached which prevents any further extensions to the two houses in the future.
- The new house will be much nicer than looking at an old garage.

Objection:

- The detached house would not be in keeping with the stylistic context of the street of semi-detached properties.
- The development will have a negative impact due to increased noise, overshadowing, loss of privacy and dust and vibration.
- The development will cause traffic and safety concerns resulting from more comings and goings to the site on a busy road.
- Concern about risk of subsidence to adjoining properties due to any deep digging on the proposed detached house.
- Proposed detached house would be out of character and would set an unwelcome precedent.

## **5. Planning Considerations**

### **5.1 Policy Context**

National Planning Policy Framework and National Planning Practice Guidance

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

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

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

The Mayor's London Plan 2016

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

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

The Mayor's Draft London Plan

Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the



Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the 2016 London Plan.

#### Barnet's Local Plan (2012)

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

- Relevant Core Strategy Policies: CS NPPF, CS1, CS4, CS5, CS14.
- Relevant Development Management Policies: DM01, DM02, DM03, DM08, DM17.

#### Supplementary Planning Documents

Residential Design Guidance SPD (October 2016)

Sustainable Design and Construction SPD (October 2016)

### **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Principle of development;
- Whether harm would be caused to the character and appearance of the application site, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents;
- Whether adequate amenity would be provided for future occupiers;
- Impact on highways;
- Provision of refuse storage

### **5.3 Assessment of proposals**

#### **Principle of development**

As outlined in the site description section above, the predominant character of Lullington Garth and the surrounding area, including Cissbury Ring is residential. There are some small retail shops, with first-floor flats on the corner of Lullington Garth and Chanctonbury Way, but aside from these, two-storey single-family dwellings are the characteristic form and use surrounding the application site. Consequently, the creation of a new two-storey single-family dwelling fronting onto Lullington Garth is considered acceptable in-principle and an appropriate use in keeping with the highlighted character of the area.

#### **Character and appearance**

All new development is expected to preserve and respect the established character and appearance of the surrounding area. Policy DM01 states that:

- b. 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.

This application would result in the creation of a two-storey detached dwelling located between two pairs of semi-detached properties at nos. 37 and 39 Lullington Garth. The junction of Lullington Garth and Cissbury Ring comprises of four pairs of two-storey semi-detached dwellings in a planned layout form, each facing into the centre of the junction. The proposed dwelling would therefore create a slight departure from the established visual appearance of this junction by introducing a two-storey detached dwelling where a single-storey double garage serving no.39 Lullington Garth is currently located. However, while the proposed development would represent the first detached dwelling at the junction

in which the application site is located, it would not be the only detached dwelling within the streetscene and is not considered to establish a precedent that would cause harm to the character and appearance of Lullington Garth.

At both adjacent junctions on Lullington Garth to the west (Cissbury Ring) and east (Chanctonbury Way) where there is a similar planned layout form to the junction in which the application site is located, there are examples of detached properties sited between semi-detached properties. While it is acknowledged that the junction between Lullington Garth and Chanctonbury Way has a slightly different visual character given the presence of a local parade of shops, it serves to inform the established pattern of development along Lullington Garth. However, the other junction at Lullington Garth and Cissbury Ring (180m from the application site) is solely residential and provides a more direct character reference to the application site. Here, there are three detached dwellings located between semi-detached properties in a similar planned layout form. Moreover, these dwellings have an architectural form and set of external facing materials that closely match those at the junction in which the application site resides. The junction in which the application site resides is therefore not deemed of a sufficient distance from this junction (180m), or of a different visual appearance to be considered to have a distinctly different character. Therefore, it is not considered that the proposed development would create a design precedent out of keeping with the established pattern of development and visual appearance of Lullington Garth and Cissbury Ring, where there are already detached dwellings located between pairs of semi-detached dwellings.

Given the proposed development will be primarily sited on Lullington Garth as opposed to facing into the junction with Cissbury Ring like the existing dwelling at the application site does, it will have a greater visual relationship with no.37. Therefore, the proposed design has replicated the architectural form, building width and facing materials used at no.37 to aid its visual assimilation into the established streetscene. Furthermore, the proposed ridge height is 9m, whilst the ridge height of no.37 is 9.5m. However, the proposed dwelling sits on a higher ground level than no.37, therefore the height of the two buildings will appear comparable within the streetscene. The existing building at no.39 would sit 1.8m higher than the proposed partly due to the fact no.39 is built at a higher ground level than the proposed dwelling.

The proposed development has been sited where the existing single-storey double garage is located and will be served by the site's existing dropped kerb and driveway. It has a set-back of 10m from no.39 to the front and 2.93m to the rear and includes a set-back of 5.9m from no.37 (single-storey garage between proposed development and no.37). It would also be set-in 1.15m from the site boundary with no.37 and 1.5m from no.39. The distances maintained are normally considered acceptable within Section 14 of the Residential Design Guidance SPD (2016) when assessing the proximity of a two-storey building to the adjacent site boundary. Based on these set-backs, and the matching building scale and width of no.37, it is considered that the proposed development would maintain a good level of visual separation between adjacent properties and would not result in a visually cramped form of development.

As highlighted above, the proposed development would be served by an existing dropped kerb and driveway and would provide a soft landscaped front garden. A soft landscaping condition will be attached to planning permission to secure an acceptable appearance for the proposed development. This section of the site is currently characterised by a single-storey double car garage and boundary fence enclosing the garden behind. It is considered that the proposed development would result in an improved visual appearance

to the benefit of the wider streetscene. This is considered to comply with Policy DM01 which states:

Development proposals will be required to include hard and soft landscaping that:

- i. is well laid out in terms of access, car parking and landscaping
- ii. considers the impact of hardstandings on character
- iii. achieve a suitable visual setting for the building
- iv. provide an appropriate level of new habitat including tree and shrub planting
- v. make a positive contribution to the surrounding area

In terms of the existing dwelling at no.39, a new dual driveway and crossover (subject to a separate crossover application) will be created, similar in siting to the driveway at no.38 Lullington Garth opposite to the application site. The majority of the existing front garden will be retained. As outlined above, a soft landscaping plan to the front of the site will be secured via condition. Furthermore, both existing and proposed dwellings will have large gardens exceeding 110m<sup>2</sup> which is considered sufficient to retain the suburban character of the application site stated as a priority in paragraph 2.9.1 of Policy DM01.

The proposed single-storey rear extension at no.39 would measure 1.6m in depth and less than 4m in height and therefore would comply with Section 14 of the Residential Design Guidance SPD (2016) which normally allows for a single-storey rear extension depth of 3.5m for semi-detached properties. Consequently, it would have no appreciable adverse impact on the character and appearance of the dwelling house or the wider area.

Based on the above, it is considered that the design, scale and siting of the proposed detached dwelling would have an acceptable impact on the established pattern of development and character and appearance of Lullington Garth and Cissbury Ring, and given the distances afforded from adjacent dwellings, would not result in a cramped form of development. Moreover, it is not considered that its development would set an undesirable design precedent which if replicated would be detrimental to the visual appearance of the wider streetscene. Consequently, it is considered that the proposed development is in compliance with Policy DM01 and is therefore recommended for approval on character and appearance grounds.

### **Neighbouring Amenity**

Paragraph 2.7.1 of Policy DM01 states that:

Schemes which significantly harm the amenity of neighbouring occupiers will be refused planning permission. Protecting amenity helps to protect the well-being of the boroughs residents. It is important to ensure that developments do not significantly overshadow neighbouring buildings, block daylight, reduce sunlight, or result in a loss of privacy or outlook.

It is considered that the proposed development would have an acceptable impact on the residential amenity of neighbouring occupiers by way of outlook, daylight / sunlight, privacy and enclosure. The proposed two-storey detached dwelling would not project beyond the rear building line of the adjacent property at no.37 and would be set-in 1.15m from the site boundary and a gap of 5.9m will be maintained from the flank wall. This is in line with the design guidance contained in Section 14 of the Residential Design Guidance SPD (2016) which requires a gap of 2m between the flank walls of two properties and 1m from a neighbouring site boundary. The proposed development would not restrict the south-facing

outlook currently enjoyed by the occupiers of no.37, and given the stated distances, it is not expected that overshadowing would occur. The proposed first-floor flank wall serves a staircase and whilst this is not a habitable area, a condition will be attached to ensure the window is obscure glazed and permanently fixed shut. Consequently, the proposed development is not expected to result in a loss of privacy for the occupiers of no.37.

Regarding no.39 Lullington Garth (application site), there would be a gap of 2.94m between the flank walls of the properties to the rear of the site. The depth of the proposed development and the single-storey rear extension at no.39 has been designed to ensure unobstructed 45-degree outlook at ground-floor level for occupiers of no.39 and unhindered outlook at first-floor level. Given the rear of no.39 is south-facing, the proposed development is not expected to detrimentally impact the level of daylight / sunlight enjoyed by the occupiers of no.39, or result in a harmful level of overshadowing. Furthermore, one first-floor flank wall window facing no.39 is also proposed, but this serves a bathroom and therefore will be conditioned to be obscure glazed. Consequently, the proposed development is not expected to result in a loss of privacy for the occupiers of no.39. As outlined above, an obscure glazing condition will be attached to any permission. Lastly, the stated set-backs are in compliance with Section 14 of the Residential Design Guidance SPD (2016) and therefore, the proposed development is not expected to result in a harmful level of enclosure to the occupiers of no.39.

Based on the above, it is considered that the proposed development would have an acceptable impact on the residential amenity of neighbouring occupiers by way of outlook, daylight / sunlight, privacy and enclosure, and is consequently recommended for approval on amenity grounds.

### **Living standards for future occupiers**

#### **Floor Area:**

The London Plan (2016) and Section 2.1 of the Sustainable Design SPD (Oct 2016) set out the minimum gross internal area (gia) space requirements for residential units. A bedroom measuring 11.5m<sup>2</sup> and above is calculated as a two-person room. The proposed dwelling complies with these standards as evidenced below:

- 3-bed, 5-person, 2-storeys: 93m<sup>2</sup> required / 102m<sup>2</sup> provided.

Table 2.2 contained within the Sustainable Design and Construction SPD (Oct 2016) states that bedrooms should meet the following requirements.

- Single bedroom: minimum area should be 7.5 m<sup>2</sup> and is at least 2.15m wide;
- Double/twin bedroom: minimum area should be 11.5 m<sup>2</sup> and is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide.

All proposed bedrooms meet the above standards.

#### **Floor to ceiling height:**

Table 3.3 of Policy 3.5 of the London Plan states that a minimum ceiling height of 2.3 metres is required for at least 75% of the gross internal area of a dwelling.

The proposed dwelling meets the above standard.

Light/outlook:

Barnet's Sustainable Design & Construction SPD (Oct 2016) section 2.4 states that glazing to all habitable rooms should not normally be less than 20% of the internal floor area of the room and that bedrooms and living rooms /kitchens should have a reasonable outlook with clear glazed windows.

It is considered that the proposed dwelling would benefit from dual aspect outlook and an acceptable level of daylight / sunlight provision to all habitable rooms.

Amenity Space:

Section 2.3 of the Sustainable Design & Construction sets out the external amenity space requirements for houses. Both the proposed and existing dwellings would meet the external amenity space requirements as demonstrated below:

Existing (no.39): 85m<sup>2</sup> (eight habitable rooms) required / 141m<sup>2</sup> provided

Proposed: 55m<sup>2</sup> (five habitable rooms) required / 112m<sup>2</sup> provided

Based on the above, it is considered that the proposed development would provide an acceptable level of amenity for future occupiers and consequently, this application is recommended for approval on amenity for future occupier grounds.

## **Highways**

Based on the proposed floor plans and Policy DM17, the proposed development would have the following parking requirements:

Existing (no.39): 1.5 to 2 parking spaces

Proposed: 1 to 1.5 parking spaces

Two onsite parking spaces are provided for each dwelling and therefore this is considered in compliance with Policy DM17. The proposed dwelling would be served by the site's existing crossover and driveway, while the existing dwelling at no.39 proposes a new driveway and dropped curb. The applicant has been advised that a separate crossover application will need to be made for the proposed dropped curb.

Two secure cycle parking spaces have been provided for the proposed dwelling along the flank wall facing no.39. This is considered compliant with Policy 6.9 of the London Plan (2016).

Based on the above, this application is considered acceptable on highways grounds and is consequently recommended for approval.

## **Refuse**

The proposed development is required to comply with Barnet's Waste and Recycling Strategy (2018). Refuse and recycling storage has been located along the flank wall facing no.39 and is screened from the public highway by a side gate. This is considered acceptable and in compliance with the stated policy requirements.

## **5.4 Response to Public Consultation**

Public comments have been received and addressed where relevant in the report above. For clarity please see below:

- The detached house would not be in keeping with the stylistic context of the street of semi-detached properties:

See character section above.

- The development will have a negative impact due to increased noise, overshadowing, loss of privacy and dust and vibration:

A Demolition and Construction Method Statement is proposed as a pre-commencement condition and therefore development will only proceed once Environmental Health and Highways are satisfied that the impact of development from construction noise, disturbance and dust is appropriately mitigated and managed.

See amenity section above regarding overshadowing and loss of privacy concerns.

- The development will cause traffic and safety concerns resulting from more comings and goings to the site on a busy road:

It is considered that the impact from a highways perspective is acceptable. Two onsite parking spaces are provided for the proposed development as per Policy DM17.

- Concern about risk of subsidence to adjoining properties due to any deep digging on the proposed detached house:

This is not a material planning consideration.

- Proposed detached house would be out of character and would set an unwelcome precedent:

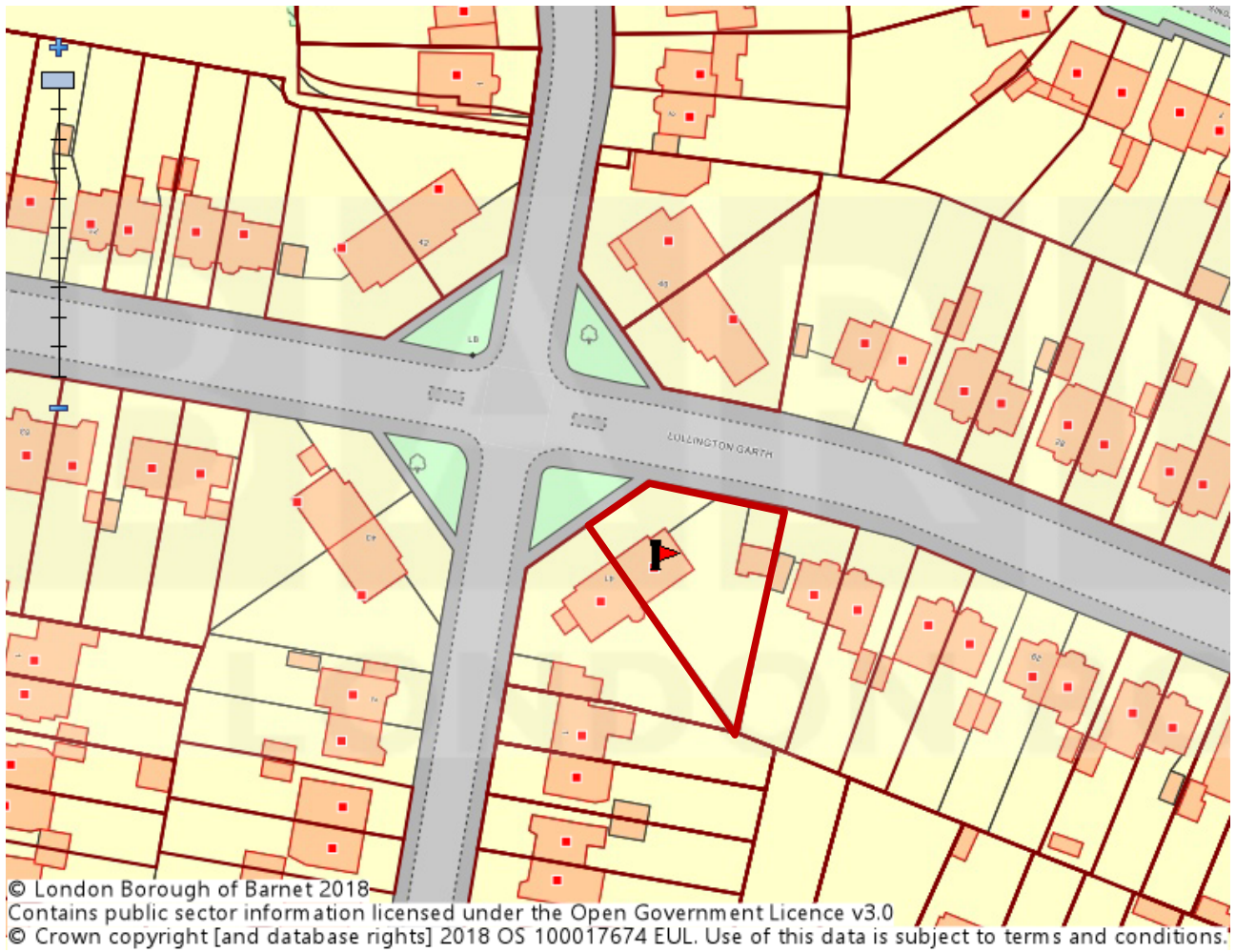
See character section above.

## **6. Equality and Diversity Issues**

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

## **7. Conclusion**

The proposed development is considered to have an acceptable impact on the character and appearance of the application site and the wider streetscene of Lullington Garth. Furthermore, it is considered that the proposed development would have an acceptable impact on the residential amenity of neighbouring occupiers and would provide sufficient amenity for future occupiers by way of internal and external space compliance and good levels of outlook and daylight /sunlight. The proposed development is also considered acceptable on highways grounds. Consequently, this application is recommended for approval.



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**Location**                      **66 Woodside Park Road London N12 8RY**

**Reference:**                      **18/3499/FUL**

Received: 6th June 2018

Accepted: 8th June 2018

**Ward:**                              **Totteridge**

Expiry 3rd August 2018

**Applicant:**                      **Cloudysky Investing Ltd**

**Proposal:**                      Demolition of existing building and erection of a three storey building plus basement level to provide 9no self-contained flats. Provision of 4 car parking spaces, refuse and recycling, cycle store and amenity space

**AGENDA ITEM 10**

**Recommendation:** Approve subject to conditions

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

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

- Location Plan (P010 Rev. A)
- Demolition Basement Plan (D090)
- Demolition Ground Floor Plan (D100)
- Demolition First Floor Plan (D110)
- Demolition Second Floor Plan (D120)
- Demolition Roof Plan (D130)
- Demolition East Elevation (D300)
- Demolition South Elevation (D301)
- Demolition North Elevation (D302)
- Demolition West Elevation (D303)
- Existing Site Plan (X010)
- Existing Basement Plan (X090)
- Existing Ground Floor Plan (X100)
- Existing First Floor Plan (X110)
- Existing Second Floor Plan (X120)
- Existing Roof Plan (X130)
- Existing East Elevation (X300)
- Existing South Elevation (X301)
- Existing North Elevation (X302)
- Existing West Elevation (D303)
- Proposed Ground Floor Plan (P100 Rev. B)
- Proposed First Floor Plan (P110 Rev. B)

- Proposed Second Floor Plan (P120 Rev. B)
- Proposed Roof Plan (P130 Rev. A)
- Proposed Section A-A (P200 Rev. A)
- Proposed Section B-B (P201 Rev. A)
- Proposed East Elevation (P300 Rev. A)
- Proposed South Elevation (P301 Rev. A)
- Proposed North Elevation (P302 Rev. A)
- Proposed West Elevation (P303 Rev. A)
- Proposed East Street Elevation (P304 Rev. A)
- Proposed South Street Elevation (P305 Rev. A)
- Comparative Street Elevation (P320 Rev. A)
- Comparative Street Elevation (P321 Rev. A)
  
- Arboricultural Impact Assessment (Landmark Trees - Ref: KSR/66WDP/AIA/01a - 17th April 2018)
- 66 Woodside Park - Parking Survey (Caneparo Associates - 2nd October 2018)

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

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

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

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

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

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

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

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

Reason: To safeguard the character and visual amenities of the site and wider area and to ensure that the building is constructed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012) and Policies 1.1, 7.4, 7.5 and 7.6 of the London Plan 2016.

- 5 a) No development or site works shall take place on site until a 'Demolition and Construction Management and Logistics Plan' has been submitted to and approved in writing by the Local Planning Authority. The Demolition and Construction Management and Logistics Plan submitted shall include, but not be limited to, the following:
- i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
  - ii. site preparation and construction stages of the development;
  - iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
  - iv. details showing how all vehicles associated with the construction works are properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;
  - v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;
  - vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;
  - vii. noise mitigation measures for all plant and processors;
  - viii. details of contractors compound and car parking arrangements;
  - ix. details of interim car parking management arrangements for the duration of construction;
  - x. details of a community liaison contact for the duration of all works associated with the development.
- b) The development shall thereafter be implemented in accordance with the measures detailed within the statement.

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

- 6 a) Before the development hereby permitted is first occupied, details of enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins or other refuse storage containers where applicable, together with a satisfactory point of collection shall be submitted to and approved in writing by the Local Planning Authority.
- b) The development shall be implemented in full accordance with the details as approved under this condition prior to the first occupation and retained as such thereafter.

Reason: To ensure a satisfactory appearance for the development and satisfactory accessibility; and to protect the amenities of the area in accordance with policies

DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS14 of the Adopted Barnet Core Strategy DPD (2012).

- 7
- a) A scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any soft landscaping, shall be submitted to and agreed in writing by the Local Planning Authority prior to the occupation of the hereby approved development.
  - b) All work comprised in the approved scheme of landscaping shall be carried out before the end of the first planting and seeding season following occupation of any part of the buildings or completion of the development, whichever is sooner, or commencement of the use.
  - c) Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of appropriate size and species in the next planting season.

Reason: To ensure a satisfactory appearance to the development in accordance with Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012), Policy DM01 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and 7.21 of the London Plan 2016.

- 8
- a) No site works or development (including any temporary enabling works, site clearance and demolition) shall take place until a dimensioned tree protection plan in accordance with Section 5.5 and 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) have been submitted to and approved in writing by the Local Planning Authority.
  - b) No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

Reason: To safeguard the health of existing trees which represent an important amenity feature in accordance with Policy DM01 of the Development Management Policies DPD (adopted September 2012), Policies CS5 and CS7 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy 7.21 of the London Plan 2016.

- 9
- Prior to the first occupation of the units, copies of Pre-completion Sound Insulation Test Certificates shall be submitted to the Local Planning Authority, confirming compliance with Requirement E of the Building Regulations 2010 (or any subsequent amendment in force at the time of implementation of the permission).

Reason: To protect the amenities of future and neighbouring residential occupiers in accordance with Policies DM02 and DM04 of the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted April 2013).

- 10 Before the development hereby permitted is first occupied or the use first commences the parking spaces shown on Drawing No. P100 Rev. B shall be provided and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

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

- 11 a) Before the development hereby permitted is first occupied cycle parking spaces and cycle storage facilities shall be provided in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

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

Reason: To ensure that cycle parking facilities are provided in accordance with the minimum standards set out in Policy 6.9 and Table 6.3 of The London Plan (2016) and in the interests of promoting cycling as a mode of transport in accordance with London Borough of Barnet's Local Plan Policy CS9 of Core Strategy (Adopted) September 2012 and Policy DM17 of Development Management Policies (Adopted) September 2012.

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

b) The development shall be implemented in accordance with the details approved as part of this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the proposed development does not prejudice the appearance of the locality and/or the amenities of occupiers of adjoining residential properties and to confine access to the permitted points in the interest of the flow of traffic and conditions of general safety on the adjoining highway in accordance with Policies DM01, DM03, DM17 of the Development Management Policies DPD (adopted September 2012), and Policies CS NPPF and CS1 of the Local Plan Core Strategy (adopted September 2012).

- 13 a) Before the development hereby permitted is first occupied, details of the sub-division of the amenity area(s) shall be submitted to and approved in writing by the Local Planning Authority.

b) The development shall be implemented in accordance with the details approved under this condition before first occupation or the use is commenced and retained as such thereafter.

Reason: To ensure that the development does not prejudice the amenity of future occupiers or the character of the area in accordance with policies DM01 and DM02 of the Development Management Policies DPD (adopted September 2012) and the Sustainable Design and Construction SPD (adopted April 2013).

- 14 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 6.00 pm 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 Development Management Policies DPD (adopted September 2012).

- 15 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.

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

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

- 17 Prior to the first occupation of the development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures which achieve an improvement of not less than 10% in carbon dioxide emissions when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2010 Building Regulations. The development shall be maintained as such in perpetuity thereafter.

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

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

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

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

- 19 The level of noise emitted from the all machinery and plant hereby approved shall be at least 5dB(A) below the background level, as measured from any point 1 metre outside the window of any room of a neighbouring residential property.

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

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

- 20 a) No development other than demolition works shall commence on site in connection with the development hereby approved until a report has been carried out by a competent acoustic consultant that assesses the likely noise impacts from the development of the ventilation/extraction plant, and mitigation measures for the development to reduce these noise impacts to acceptable levels, and has been submitted to and approved in writing by the Local Planning Authority.

The report shall include all calculations and baseline data, and be set out so that the Local Planning Authority can fully audit the report and critically analyse the content and recommendations.

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

Reason: To ensure that the proposed development does not prejudice the amenities of occupiers of neighbouring properties in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2013) and Policy 7.15 of the London Plan 2015.

#### **Informative(s):**

- 1 In accordance with paragraphs 38-57 of the NPPF, the Local Planning Authority (LPA) takes a positive and proactive approach to development proposals, focused on solutions. The LPA has produced planning policies and written guidance to assist applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered and the Applicant

engaged with this prior to the submissions of this application. The LPA has negotiated with the applicant/agent where necessary during the application process to ensure that the proposed development is in accordance with the Development Plan.

- 2 The Community Infrastructure Levy (CIL) applies to all 'chargeable development'. This is defined as development of one or more additional units, and / or an increase to existing floor space of more than 100 sq m. Details of how the calculations work are provided in guidance documents on the Planning Portal at [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

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

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

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

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

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

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

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

Relief or Exemption from CIL:

If social housing or charitable relief applies to your development or your development falls within one of the following categories then this may reduce the final amount you are required to pay; such relief must be applied for prior to



commencement of development using the 'Claiming Exemption or Relief' form available from the Planning Portal website: [www.planningportal.gov.uk/cil](http://www.planningportal.gov.uk/cil).

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

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

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

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

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

- 3 Applicants and agents are encouraged to sign up to the Considerate Contractors Scheme ([www.ccscheme.org.uk](http://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.
- 4 The applicant is advised that if any modification is required or proposed to access from the public highway, such works would be subject to a detailed investigation by the Traffic and Development section. Heavy duty access may need to be provided to cater for a heavy duty use and may involve relocation of existing street furniture. The works would be undertaken by the Highway Authority at the applicant's expense. You may obtain an estimate for this and any associated work on the public highway, and further information, from the Traffic and Development Section - Development and Regulatory Services, Barnet House, 1255 High Road, Whetstone N20 0EJ, by telephone on 020 8359 3018, or via [crossovers@barnet.gov.uk](mailto:crossovers@barnet.gov.uk).
- 5 Demolition should be carried out by an approved contractor and residents notified at least seven days before commencement.
- 6 The submitted Construction Method Statement shall include as a minimum details of:
  - Site hoarding
  - Wheel washing
  - Dust suppression methods and kit to be used
  - Site plan identifying location of site entrance, exit, wheel washing, hoarding, dust suppression, location of water supplies and location of nearest neighbouring receptors. Explain reasoning if not applicable.
  - Confirmation whether a mobile crusher will be used on site and if so, a copy of the permit and indented dates of operation.

- Confirmation of the following: log book on site for complaints, work in accordance with British Standards BS 5228-1:2009+A1:2014 and best practicable means are employed; clear contact details on hoarding. Standard construction site hours are 8am-6pm Monday - Friday, 8am-1pm Saturday and not at all on Sundays and Bank Holidays. Bonfires are not permitted on site.
- Confirmation that an asbestos survey has been carried out.

7 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 (including CLR11 'Model Procedures for the Management of Land Contamination');
- 2) National Planning Policy Framework (2012) / National Planning Practice Guidance (2014);
- 3) BS10175:2011 - 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;
- 5) CIRIA report C665 - Assessing risks posed by hazardous ground gases to buildings;
- 6) CIRIA report C733 - Asbestos in soil and made ground: a guide to understanding and managing risks.

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.

8 The applicant is 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 Sustainable Design and Construction Supplementary Planning Document 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(2003) Pt 1, BS7445 (1991) Pts 2 & 3 - Description and measurement of environmental noise;
- 2) BS 4142:2014 - Method for rating industrial noise affecting mixed residential and industrial areas;

- 3) BS 8223: 2014 - Guidance on 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) National Planning Policy Framework (2012)/ National Planning Policy Guidance (2014).

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.

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

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

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

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

## **Officer's Assessment**

### **1. Site Description**

The application site is a two-storey (plus habitable rooms at roof and basement level) detached late Victorian house located on the northern side of Woodside Park Road at the junction with Woodside Avenue. The property is sub-divided into 3.no self-contained flats. The application site has a prominent gable-ended pitched roof form, with a two-storey bay window feature to the front elevation. The site also has a prominent single-storey integral garage with a steep pitched roof. The rear of the property has a somewhat confused form, incorporating a mixture of different roof pitches, angles and window siting. There is an external metal staircase serving the application site located between the application site and adjacent property on Woodside Park Road. Given the site's corner plot location, the building and rear garden are visually prominent within the streetscene. The surrounding area is characterised predominantly by residential dwellings and flats. On the south side of Woodside Park Road, there are a number of purpose-built apartment blocks of three to five storeys, with adjacent properties on the north of Woodside Park Road and along Woodside Avenue constituting more two to three storeys in scale. As a result, there is a mixture of different architectural forms and styles.

The site is not located within a conservation area and is neither a statutory or locally listed building. The site has a TPO tree registered on the site, but upon a site visit the tree appears to have been removed some time ago. The application site is in Flood Zone 1.

### **2. Site History**

n/a

### **3. Proposal**

- Demolition of existing two-storey (plus habitable rooms at roof and basement level) building;
- Construction of a new 3.no storey building (plus habitable rooms at basement level) to accommodate 9.no self-contained flats;
- 4.no on-site parking spaces;
- Private and communal amenity space via balconies and a rear garden;
- 16 onsite cycle parking spaces;
- Onsite refuse storage.

### **4. Public Consultation**

Consultation letters were sent to 207 neighbouring properties. 7 public responses were received comprising 7 letters of objection. These can be summarised as follows:

- Insufficient onsite parking will result in traffic congestion.
- Junction adjacent to the site is bad for traffic accidents. This Planning and Highways department should take a careful look at this and consider how the proposed development will impact road safety.
- Balconies will result in a loss of privacy for neighbouring residents. There should be a distance of 21m between facing windows.
- The scale and massing of the proposed development is disproportionate to the original Victorian residential property and out of keeping with the surrounding buildings. It also does not align with the established building line.

- Reasonable construction hours should be adhered too.
- The building projects too deep into the site with a consequential reduction in garden space.
- The height and depth of the proposed building will detrimentally impact the visual amenity of the neighbouring garden as a result of overshadowing. The neighbouring rear garden will also be overlooking from the proposed balconies.
- Loss of outlook and light to neighbouring units.
- Loss of another period home.
- Loss of trees impacts character of the area.
- Form of overdevelopment.
- Public services and schools are already over-burdened and over-subscribed in the area. GPs appointments and school places are becoming increasingly hard to attain.
- The character of the road is being irreversibly changed with fewer and fewer houses and increasingly larger blocks of flats on the road.
- With increasing crime in the area, a more transitional population could lead to further increases in crime.
- Basement level construction is of concern to us as there are few cases for basement construction for blocks in this area.

Statutory Consultees:

Highways: Approve subject to conditions

Environmental Health: Approve subject to conditions

Arboriculturalist: Approve subject to conditions

Fire Service: No objection

Thames Water: No objection

## **5. Planning Considerations**

### **5.1 Policy Context**

National Planning Policy Framework and National Planning Practice Guidance

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

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

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

The Mayor's London Plan 2016

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

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

#### The Mayor's Draft London Plan

Whilst capable of being a material consideration, at this early stage very limited weight should be attached to the Draft London Plan. Although this weight will increase as the Draft London Plan progresses to examination stage and beyond, applications should continue to be determined in accordance with the 2016 London Plan.

#### Barnet's Local Plan (2012)

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

- Relevant Core Strategy Policies: CS NPPF, CS1, CS4, CS5, CS14.
- Relevant Development Management Policies: DM01, DM02, DM03, DM08, DM17.

#### Supplementary Planning Documents

Residential Design Guidance SPD (October 2016)

Sustainable Design and Construction SPD (October 2016)

### **5.2 Main issues for consideration**

The main issues for consideration in this case are:

- Principle of development;
- Whether harm would be caused to the character and appearance of the application site, the street scene and the wider locality;
- Whether harm would be caused to the living conditions of neighbouring residents;
- Whether adequate amenity would be provided for future occupiers;
- Impact on highways;
- Provision of refuse storage

### **5.3 Assessment of proposals**

#### **Principle of development**

As outlined in the site description section above, the predominant character of Woodside Park Road is residential, with a range of single-family dwellings, purpose-built flats and lodges. The application site is a two-storey (plus habitable rooms at basement and loft level) residential property containing three self-contained flats. The proposed development comprises nine self-contained flats and therefore is considered acceptable in-principle and in keeping with the residential character and use along the street.

The application site is neither a statutory or locally listed building and therefore benefits from no planning protection. Therefore, its demolition and subsequent redevelopment for flats is considered acceptable in-principle.

#### **Character and appearance**

All new development is expected to preserve and respect the established character and appearance of the surrounding area. Policy DM01 states that:

b. 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.

The proposed development comprises of a three-storey (plus habitable rooms at basement level) residential building accommodating nine self-contained flats. It has been designed with a contemporary aesthetic, but one which draws upon the more traditional pitched front gable roof form of the adjacent building at no.68. This consequently provides a degree of visual and architectural relevance when viewed within the wider streetscene of Woodside Park Road. There are a number of examples surrounding the application site where purpose-built flatted development has moved away from the traditional pitched roof form that is characteristic of Woodside Park Road, but the proposed development has been designed to better respond to this predominant visual aesthetic. The building wraps around onto Woodside Avenue where the main residential entrance is proposed, with the gable roof form evident on the Woodside Park Road elevation also replicated on this elevation too. This visual consistency is to ensure the building as a corner plot more effectively relates to both Woodside Park Road and Woodside Avenue and creates a greater sense of visual engagement and street activity. This is compliant with Policy DM01 which states:

Development proposals should ensure attractive, safe and, where appropriate, vibrant streets which provide visual interest, particularly at street level and avoid blank walls.

The scale and massing of the building is an increase from the existing building, but these increases have been designed and subsequently revised, to ensure the increase is proportionate and has an acceptable visual impact when viewed within the streetscene. Indeed, the proposed ridge height is only 1m above the existing ridge height and the width of the front elevation is only 0.8m wider than the existing. It is acknowledged that the proposed development does contain greater massing than the existing building, but a large portion of this is set-back from the Woodside Park Road elevation to maintain a more slender twin gable form when viewed from the Woodside Park Road. This scale and form is comparable to the adjacent building at no.68. It should be noted that since this application was formally submitted, the building line along Woodside Avenue has been set-back by 1.5m to reduce the width of the front gables when viewed from Woodside Park Road, and to decrease the visual bulk along Woodside Avenue. This also serves to lessen the visual prominence of the building which resides on a corner plot and allows it to better visually relate with no.68 and its surrounding streetscene. Therefore, the proposed development is considered to have a measured increase in visual bulk and scale that is not deemed to appear overly dominant, or overbearing when viewed within the streetscene and in relation to no.68. It is also worth noting that directly opposite the application site is St Johnstone House and Greville Lodge that are both built to four-storey level. Therefore, while it is considered that the proposed scale is acceptable on its own merits, it is acknowledged that it is located within a section of Woodside Park Road where there are four and five storey buildings present. Consequently, the proposed development is considered proportionate and in keeping with the visual character of this section of Woodside Park Road and Woodside Avenue.

The proposed facing materials, including brick and clay shingles, have been chosen to provide a high-quality finish that respects the brick cladding that is characteristic within building designs along Woodside Park Road and Woodside Avenue, whilst providing a more contemporary brick and shingle patterning and texturing to provide visual interest. More contemporary designed dormers, balconies and window detailing have been sensitively applied to provide a contrast to the more traditional brick and clay shingle

cladding. It is considered that the visual appearance of the proposed development would have a positive impact on the mixed character of Woodside Park Road and Woodside Avenue, providing a well-considered and designed building which both maximises the development of the site, whilst providing a scale, massing and form which respects the adjacent streetscene. Indeed, this section of Woodside Park Road contains a range of architectural forms and facing materials including a yellow and red banded brick-clad building at Emerald Court, a mansard style roof form at St Johnstone House and flat roofed, light yellow and grey brick-clad buildings at Greville Lodge and Ashborne Court. Within this context, it is considered that the proposed design is acceptable.

The proposed development extends beyond the adjacent property at no.68 by 8m, but at a set-back from the site boundary at its deepest extent of 5.5m at ground floor level and 6.5m at first and second floor. There would be a set-back of 8.9m from the nearest habitable window at no.68. This provides an unhindered 45-degree range of outlook for occupiers of the neighbouring property at no.68. These set-backs are the result of design revisions made following the formal submission of this application which are now considered appropriate in view of their visual impact on no.68.

The proposed development will result in the loss of trees to the front of the site facing onto Woodside Park Road. However, a landscaping plan will be secured via condition to provide appropriate mitigation. It is worth noting that the trees that are proposed to be removed are not protected by a Tree Preservation Order (TPO).

Based on the above, it is considered that the proposed development would have an acceptable impact on the character and appearance of both Woodside Park Road and Woodside Avenue. Indeed, it is deemed that the increase in building scale, massing and footprint is measured and respects the adjacent building forms and lines. The proposed building form and facing materials are considered appropriate and reflect the pitched roof form and brick and clay cladding characteristic along Woodside Park Road and Woodside Avenue. Given the mixed character and varied building forms, scale and massing surrounding the application site, it is considered that the proposed development would have an acceptable and positive visual impact within the streetscene. Consequently, it is considered that the proposed development complies with Policy DM01 and is therefore recommended for approval on character and appearance grounds.

## **Neighbouring Amenity**

Paragraph 2.7.1 of Policy DM01 states that:

Schemes which significantly harm the amenity of neighbouring occupiers will be refused planning permission. Protecting amenity helps to protect the well-being of the boroughs residents. It is important to ensure that developments do not significantly overshadow neighbouring buildings, block daylight, reduce sunlight, or result in a loss of privacy or outlook.

It is considered that the proposed development would have an acceptable impact on the residential amenity of neighbouring occupiers by way of outlook, daylight / sunlight provision, privacy and enclosure. Regarding no.64 Woodside Park Road located on the opposite side of Woodside Avenue from the application site, there is a distance of 22.2m between facing windows. This would comply with paragraph 7.3 of the Residential Design Guidance SPD (2016) which states that:



In new residential development there should be a minimum distance of about 21 metres between properties with facing windows to habitable rooms to avoid overlooking.

As outlined above, the proposed development was amended post formal submission, to set the building back by 1.5m from Woodside Avenue. This was done for both character and amenity purposes, with the amenity consideration being the necessity to provide a 21m set-back for facing windows between the application site and no.64 Woodside Park Road.

Regarding the adjacent property at no.68, the proposed scheme has also been revised post formal submission to increase the set-back between the proposed flank wall and the site boundary with no.68. There is now a 5.5m set-back from the site boundary at ground floor level and a 6.4m set-back at first and second-floor levels at the furthest extent of the building's northern projection. This ensures that there is a minimum 45-degrees of unhindered outlook for the closest rear windows serving habitable rooms at no.68. This is considered acceptable in relation to neighbouring occupier outlook and daylight provision.

The proposed northern projection is likely to result in some overshadowing to the rear garden of no.68, but not to level which is considered unacceptable. Indeed, it is considered that the stated set-backs are reasonable and would have an acceptable impact on the rear garden of no.68 by way of overbearing and overshadowing. Any overshadowing would be limited to the morning given the rear gardens north-facing orientation.

Regarding privacy, no flank wall windows facing no.68 have been located above ground floor level and the one included at ground floor level will be obscured glazed. Furthermore, it is considered that only one of the proposed rear balconies would provide opportunities for overlooking into the rear garden of no.68, and this balcony is located on ground floor level and set-back 5.9m from the site boundary. This balcony (serving Unit 1) would not provide opportunities to look back into window serving habitable rooms at no.68. The other rear balconies proposed are located 17.4m from the site boundary with no.68 and are therefore not expected to result in a harmful level of overlooking into no.68. Given the above, it is deemed that the proposed development would not result in significant harm to the privacy of neighbouring residential occupiers at no.68.

The proposed development will result in an increased level of site occupancy and comings and goings, but not to a level which is considered unreasonable, or out of keeping with the wider context of this part of Woodside Park Road. Indeed, as stated above, there are a number of four and five storey purpose-built blocks of flats located directly opposite and adjacent to the application site which result in more site activity and comings and goings than the proposed development would cause. Furthermore, the proposed development only provides 4 onsite parking spaces, 2 less than the 6 that can be accommodated at no.68. Therefore, comings and goings to the application site from cars and the associated noise and disturbance, is less than the amount currently experienced at no.68. Lastly, site access for vehicles and residents is dispersed across the site, with residential access located on Woodside Avenue and vehicular access on Woodside Park Road. Based on the above, it is considered that the proposed increase in comings and goings to the site and any associated noise and disturbance is reasonable in view of wider occupancy levels within surrounding buildings on Woodside Park Road and the fact vehicular access to the site is less than experienced at the adjacent property at no.68.

Based on the above, it is considered that the proposed development would have an acceptable impact on the residential amenity of neighbouring occupiers by way of overlooking, daylight / sunlight provision, privacy and enclosure. The proposed building

set-backs, distance from facing windows, the location of balconies and lack of flank wall windows facing no.68, is considered to result in a design which would have an acceptable impact on neighbouring amenity. Consequently, this application is considered in compliance with Policy DM01 and is therefore recommended for approval on amenity grounds.

### **Living standards for future occupiers**

#### **Floor Area:**

The London Plan (2016) and Section 2.1 of the Sustainable Design SPD (Oct 2016) set out the minimum gross internal area (gia) space requirements for residential units. A bedroom measuring 11.5m<sup>2</sup> and above is calculated as a two-person room. Each of the proposed units meets these standards as evidenced below:

- Unit 1: 3-bed, 5-person, 2-storeys: 93m<sup>2</sup> required / 121.9m<sup>2</sup> provided
- Unit 2: 3-bed, 5-person, 2-storeys: 93m<sup>2</sup> required / 123.9m<sup>2</sup> provided
- Unit 3: 3-bed, 5-person, 1-storey: 86m<sup>2</sup> required / 116.9m<sup>2</sup> provided
- Unit 4: 3-bed, 5-person, 1-storey: 86m<sup>2</sup> required / 110.9m<sup>2</sup> provided
- Unit 5: 2-bed, 3-person, 1-storey: 61m<sup>2</sup> required / 62.5m<sup>2</sup> provided
- Unit 6: 1-bed, 2-person, 1-storey: 50m<sup>2</sup> required / 51.4m<sup>2</sup> provided
- Unit 7: 3-bed, 5-person, 1-storey: 86m<sup>2</sup> required / 110.9m<sup>2</sup> provided
- Unit 8: 2-bed, 3-person, 1-storey: 61m<sup>2</sup> required / 62.5m<sup>2</sup> provided
- Unit 9: 1-bed, 2-person, 1-storey: 50m<sup>2</sup> required / 51.4m<sup>2</sup> provided

Table 2.2 contained within the Sustainable Design and Construction SPD (Oct 2016) states that bedrooms should meet the following requirements.

- Single bedroom: minimum area should be 7.5 m<sup>2</sup> and is at least 2.15m wide;
- Double/twin bedroom: minimum area should be 11.5 m<sup>2</sup> and is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide.

All proposed bedrooms meet the above standards.

#### **Floor to ceiling height:**

Table 3.3 of Policy 3.5 of the London Plan states that a minimum ceiling height of 2.3 metres is required for at least 75% of the gross internal area of a dwelling.

All proposed units meet the above standard.

#### **Light/outlook:**

Barnet's Sustainable Design & Construction SPD (Oct 2016) section 2.4 states that glazing to all habitable rooms should not normally be less than 20% of the internal floor area of the room and that bedrooms and living rooms /kitchens should have a reasonable outlook with clear glazed windows.

All flats except for Units 1 and 2 are either dual aspect, or south-facing and therefore provide sufficient outlook and daylight / sunlight for future occupiers. While Units 1 and 2 are primarily north-facing, it is considered they provide sufficient daylight for future occupiers, and given their direct access to external balconies, would have access to direct sunlight at both morning and evening times. Therefore, while single-aspect north-facing

units are not normally supported, in this instance it is considered that both units would provide unhindered outlook, acceptable levels of daylight, and direct sunlight via external balconies directly access via livingrooms.

#### Amenity Space:

Section 2.3 of the Sustainable Design & Construction states that for flats, 5m<sup>2</sup> of usable external amenity space should be provided per habitable room. A room of 20m<sup>2</sup> or more is calculated as two habitable rooms. The proposed development provides 123m<sup>2</sup> of private and 254m<sup>2</sup> of communal amenity space to the rear of the site. Conditions to agree the means of sub-division and soft landscaping will be attached to ensure suitable privacy protection, particularly at lower ground and ground floor levels. It is considered that through the provision of both private and communal amenity space, the proposed development complies with the stated standards.

Based on the above, it is considered that the proposed development would provide an acceptable level of amenity for future occupiers and therefore, this application is recommended for approval on amenity for future occupier grounds.

#### Highways

Based on the proposed floor plans and Policy DM17, the proposed development would have a parking requirement of 5 to 12.5 spaces. The PTAL rating for the site is 3 which represents an average level of accessibility. Both Woodside Park Road and Woodside Avenue surrounding the application site are subject to Controlled Parking Zones (CPZ).

The proposed development would provide 4 onsite parking spaces which in view of the stated parking requirement, would represent an insufficient provision of parking contrary to Policy DM17. As a result, the applicants have submitted a parking survey to assess the parking stress levels on the adjacent road network. The parking survey provided showed parking stress levels within walking distance of the application site at 76.1% on 11th September 2018 (survey conducted at 01:00) and 77.8% on 12th September 2018 (survey conducted at 01:30). The Council's Highways Officer reviewed the survey provided and concluded that:

Using census car ownership and the proposed off-street parking provision, there is sufficient space on street to accommodate over spill vehicles from the proposed development and protect existing residents parking amenity.

No objection was made by the Highways Officer regarding highways safety issues resulting from the proposed development. A separate dropped kerb application will be required to alter site access.

A cycle store is proposed adjacent to the site boundary with no.68. The store is able to provide secure and weatherproofed parking for 16 cycles. This represents 2 parking spaces per unit. This is considered acceptable and in compliance with Policy 6.9 of the London Plan (2016).

Therefore, based on the above, it is considered that the proposed development is acceptable on highways grounds. Indeed, while an insufficient amount of onsite parking has been provided, it has been demonstrated to the satisfaction of the Council's Highways Officer that there is sufficient on-street capacity to accommodate any over spill parking

from the proposed development. Consequently, this application is considered acceptable on highways grounds and recommended for approval.

## **Refuse**

The proposed development is required to comply with Barnet's Waste and Recycling Strategy (2018). Refuse and recycling storage has been located to the front of the site adjacent to the 4 onsite parking spaces for easier access and collection. Other parts of the site were explored as locations for the bin store, but due to site levels and topography it was concluded that its siting to the front of the site was the only viable option. Final details of the bin store in terms of size and external finish will be secured via condition, as will a site landscaping plan with the aim of screening the bin store from the public highway. It is considered that there is sufficient capacity to provide a policy compliant provision of refuse and recycling storage at the proposed location on site.

## **5.4 Response to Public Consultation**

Public comments have been received and where appropriate have been addressed in the report above. For the purposes of clarity, please see below:

- Insufficient onsite parking will result in traffic congestion:

A parking survey has been provided which demonstrates sufficient on-street capacity to accommodate any over flow parking resulting from the proposed development. This has been reviewed by the Highways Officer, with a subsequent recommendation for approval on highways grounds.

- Junction adjacent to the site is bad for traffic accidents. This Planning and Highways department should take a careful look at this and consider how the proposed development will impact road safety:

The Highways Officer has reviewed the proposed development's impact on highways grounds and has raised no comment or concerns relating to highways safety.

- Balconies will result in a loss of privacy for neighbouring residents. There should be a distance of 21m between facing windows:

There is a 22.2m distance between facing first and second-floor windows between the proposed development and no.64 Woodside Park Road.

- The scale and massing of the proposed development is disproportionate to the original Victorian residential property and out of keeping with the surrounding buildings. It also does not align with the established building line:

See character section above.

- Reasonable construction hours should be adhered too:

Construction working hours condition is proposed.

- The building projects too deep into the site with a consequential reduction in garden space:

There is sufficient external amenity space for all future occupiers.

- The height and depth of the proposed building will detrimentally impact the visual amenity of the neighbouring garden as a result of overshadowing. The neighbouring rear garden will also be overlooking from the proposed balconies:

See amenity section above.

- Loss of outlook and light to neighbouring units:

See amenity section above.

- Loss of another period home:

While this may be regrettable, the application site benefits from no planning protection and the replacement scheme is deemed acceptable on character grounds.

- Loss of trees impacts character of the area:

A Tree Method Statement, Tree Protection Plan and Landscaping Plan will be secured via condition. The Tree Protection and Method Statement are pre-commencement conditions.

- Form of overdevelopment:

See character and amenity section above.

- Public services and schools are already over-burdened and over-subscribed in the area. GPs appointments and school places are becoming increasingly hard to attain:

This is not a material planning consideration in the application.

- The character of the road is being irreversibly changed with fewer and fewer houses and increasingly larger blocks of flats on the road:

Woodside Park Road has a mixed residential character. Therefore, given the existing use of the property is for flats, the proposed use is acceptable in-principle.

- With increasing crime in the area, a more transitional population could lead to further increases in crime:

Woodside Park Road has a mixed residential character. Therefore, the proposed use is acceptable in-principle. The proposed development would provide active frontages on both Woodside Park Road and Woodside Park Avenue which the current building does not.

- Basement level construction is of concern to us as there are few cases for basement construction for blocks in this area.

The application site already benefits from a basement level.

## **6. Equality and Diversity Issues**

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

## 7. Conclusion

The proposed development is considered to have an acceptable impact on the character and appearance of the application site and the wider streetscene of Woodside Park Road and Woodside Avenue. Furthermore, it is considered that the proposed development would have an acceptable impact on the residential amenity of neighbouring occupiers and would provide sufficient amenity for future occupiers. The proposed development is also considered acceptable on highways grounds. Consequently, this application is recommended for approval.

