

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.

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.

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

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

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

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

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

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

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

Relief or Exemption from CIL:

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

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

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

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

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

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

- 3 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 or by telephoning 0208 359 4500.

- 4 Applicants and agents are encouraged to sign up to the Considerate Contractors Scheme (www.ccscheme.org.uk) whereby general standards of work are raised and the condition and safety of the Borough's streets and pavements are improved.
- 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 260m². Each four bedroom house will contain an internal floor area of circa 104m² and external amenity space of 73m². 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 - its 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

