

Location 393 - 395 Hendon Way London NW4 3LP

Reference: 21/3308/FUL Received: 15th June 2021
Accepted: 15th June 2021

Ward: West Hendon Expiry: 14th September 2021

Case Officer: Dominic Duffin

Applicant: N/A

Proposal: Demolition of existing building, and the erection of a three storey building comprising 19no. self-contained flats, with associated hard and soft landscaping, biodiversity enhancements, amenity space, disabled car parking, cycle parking and refuse storage

OFFICER'S RECOMMENDATION

Approve subject to s106

AND the Committee grants delegated authority to the Service Director – Planning and Building Control 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 their 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. 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. 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. Affordable Housing
 - Contribution of £293,000 towards Affordable Housing provision within the borough paid at the start of construction phase.
 - An Early Stage Viability Review if the development has not been completed to the ground floor slab level within two years of the permission being granted
 - A Late Stage Viability Review, triggered when 75 per cent of the units in the scheme are sold or let
4. Carbon Offset Payment
 - Payment of £36,024 towards Carbon Offset to meet mayoral zero carbon target.
 - An obligation to ensure compliance with the GLA "Be Seen" energy use monitoring scheme.
5. Meeting the Council's costs of monitoring the planning obligation

RECOMMENDATION II:

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

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

Location Plan - Fey_00
Existing and Proposed Site Plans - Fey_00 Rev A
Proposed Ground Floor and Basement layouts - Fey_01 Rev D
Proposed First Floor layout - Fey_02 Rev D
Proposed Second Floor layout - Fey_03 Rev B
Proposed Roof Plan - Fey_04 Rev B
Proposed Front (east) & Rear (west) Elevations - Fey_11 Rev E
Proposed South & North Elevations & Cycle Store - Fey_12 Rev B
Proposed Sections a-a, b-b, c-c, d-d - Fey_021 Rev D
Landscape Plan - Tim Moya (90801-LP-01 Rev E)
Urban Greening Factor - Tim Moya (90801-LP-02 Rev A)
Swept Path (Private vehicle) - 2019-5157-001 REV E
Swept Path (Delivery vehicle) - 2019-5157-002 REV E
Swept Path (Fire appliance) - 2019-5157-003 REV E

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 other than demolition works, 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.

- 4 a) No development above ground floor slab level 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 D3, D4, D5 and D6 of the London Plan 2021.

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

- i. details of the routing of construction vehicles to the site, hours of access, access and egress arrangements within the site and security procedures;
- ii. site preparation and construction stages of the development;
- iii. details of provisions for recycling of materials, the provision on site of a storage/delivery area for all plant, site huts, site facilities and materials;
- iv. details showing how all vehicles associated with the construction works are

properly washed and cleaned to prevent the passage to mud and dirt onto the adjoining highway;

v. the methods to be used and the measures to be undertaken to control the emission of dust, noise and vibration arising from construction works;

vi. a suitable and efficient means of suppressing dust, including the adequate containment of stored or accumulated material so as to prevent it becoming airborne at any time and giving rise to nuisance;

vii. noise mitigation measures for all plant and processors;

viii. details of contractors compound and car parking arrangements;

ix. details of interim car parking management arrangements for the duration of construction;

x. details of a community liaison contact for the duration of all works associated with the development.

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

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

Reason: In the interests of highway safety, noise and good air quality in accordance with Policies DM04 and DM17 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted October 2016) and Policies SI 1, SI 7, D14 and T7 of the London Plan 2021.

6 a) Prior to first occupation of the development, a parking layout plan showing details of 2no disabled spaces within the site shall be submitted to and approved in writing by the Local Planning Authority.

b) Thereafter, 2no disabled off-street parking spaces shall be provided in accordance with those approved details and shall be used only as agreed and not to be used for any purpose other than the parking and turning 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 and policy T.6.1 of the London Plan 2021.

7 a) Prior to first occupation of the development details of cycle parking for a minimum of 30 (long stay) and 4 (short stay) cycle spaces in accordance with the London Plan Cycle Parking Standards and London Cycle Design Standards - including the type of stands, gaps between stands, location of cycle parking and type of store proposed - shall be submitted to and approved in writing by the Local Authority.

b) Thereafter, before the development hereby permitted is occupied, cycle parking in accordance with those approved details 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 and policy T5 of the London Plan 2021.

8 a) Before the permitted development is occupied, details of refuse storage and collection arrangements shall be submitted to and approved in writing by the Local Planning Authority.

b) The development thereafter shall only be operated in accordance with the approved refuse storage and collection arrangements.

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

9 The mitigation measures approved under this condition as set out in the Noise Impact Assessment by Create Consulting Engineers Ltd, dated February 2021 shall be implemented in their entirety prior to the commencement of the use/first occupation of the development and retained as such thereafter.

Reason: To ensure that the amenities of occupiers are not prejudiced by rail and/or road traffic and/or mixed use noise in the immediate surroundings in accordance with Policy DM04 of the Development Management Policies DPD (adopted September 2012), the Sustainable Design and Construction SPD (adopted April 2016) and Policy D14 of the London Plan 2021.

10 The level of noise emitted from any installed 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 policy D.14 of the London Plan 2021.

- 11 a) No occupation of the development hereby approved shall take place 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 2016) and Policies D13 and D14 of the London Plan 2021.

- 12 All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance.

Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the local planning authority.

The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>

Reasons: In the interest of good air quality in accordance with London Plan policy SI.1.

- 13 Part 1

Before development commences other than for investigative work:

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

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

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

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

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

Part 2

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

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

- 14 Prior to the first occupation of the development hereby approved, details shall be submitted to and approved, in writing, by the Local Planning Authority to demonstrate that the building can achieve full 'Secured by Design' Accreditation and 'Secured by Design' accreditation shall be obtained for the approved development.

The development shall only be carried out in accordance with the approved details.

Reason: To protect the amenity of the area in accordance with Policies DM01 and DM04 of the Barnet Development Management Policies (adopted) September 2012.

- 15 a) A scheme of hard and soft landscaping, shall be provided in accordance with the submitted details under Landscape Plan Dwg No. 190801-LP-01 Rev C & Urban Greening Factor 190801-LP-02.

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 G.7 of the London Plan 2021.

16 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 G.7 of the London Plan

17 a) No lighting shall be fixed on the external faces of the building hereby approved, unless and until details of external lighting are submitted to and approved in writing by the Local Planning Authority beforehand.

Any lighting must be designed and used to minimise impacts on bats and their insect food. All exterior lighting should follow the guidance of the Bat Conservation Trust. Current (June 2014) advice is at <http://www.bats.org.uk/>.

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

Reason: To ensure the development makes a positive contribution to the protection, enhancement, creation and management of biodiversity and would not have a significant adverse effect on protected species in accordance with Policy DM16 of Barnet's Development Management Policies Document (DPD) 2012 and London Plan Policy G.6

- 18 Prior to occupation of the development hereby approved, the scheme of ecological enhancements to incorporate ecological net gain, as detailed in section 9 of the Tim Moya Associates Preliminary Ecological Appraisal, shall be provided as part of the development.

The enhancements as provided shall be incorporated into the design, and managed after in perpetuity.

Reason: To ensure the development makes a positive contribution to the protection, enhancement, creation and management of biodiversity and would not have a significant adverse affect on protected species in accordance with Policy DM16 of Barnet's Development Management Policies Document DPD (2012) and London Plan Policy G.6

- 19 a) No development other than demolition work shall take place unless and until a Drainage Strategy detailing all drainage works to be carried out in respect of the development herby 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 herby 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 manages surface water in accordance with Policy CS13 of the Barnet Local Plan, Policy SI.13 of the London Plan, and changes to SuDS planning policy in force as of 6 April 2015 (including the Written Ministerial Statement of 18 December 2014, Planning Practice Guidance and the Non-statutory Technical Standards for Sustainable Drainage Systems).

- 20 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).

- 21 Prior to the first occupation of the new dwellinghouses (Use Class C3) hereby approved they shall 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. Each residential phase of 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 SI5 of the London Plan 2021.

- 22 Prior to the first occupation of development hereby approved it shall be constructed incorporating carbon dioxide emission reduction measures as detailed in the submitted Energy & Sustainability Assessments by Eight Associates which achieves an improvement of not less than 35% in carbon dioxide emissions, when compared to a building constructed to comply with the minimum Target Emission Rate requirements of the 2013 Building Regulations.

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), and Policy SI2 of the London Plan 2021.

- 23 Notwithstanding the details shown in the drawings submitted and otherwise hereby approved, prior to the first occupation of the new dwellinghouses (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) and 10% constructed to meet and achieve all the relevant criteria of Part M4(3) of the abovementioned regulations. 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 Policy D7 of the London Plan 2021.

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

Reason: To enable the Local Planning Authority to exercise control of the type of use within the category in order to safeguard the amenities of the area in accordance with policy DM01 of the Development Management Policies DPD (adopted September 2012).

- 25 Before the building hereby permitted is first occupied, any window openings, identified in the approved plans as obscure glazed, 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).

- 26 No flat shall be occupied until the following details have been submitted to and approved in writing by the Local Planning Authority, and have been installed in their entirety;

-Details of screens along first and second floor access decks, as identified on the approved plans, and,

-Details of screens to east elevation flats, as identified on the approved plans,

-Details of a screen to be affixed along the boundary between the site and the raised rear terrace serving Hendon Motors.

-Details of deep window frames to flats 11 and 12.

The screens shall be erected as agreed, to protect the amenity of existing neighbouring occupiers, and future occupiers of the development, and permanently retained as agreed thereafter.

Reason: To safeguard the privacy and amenities of occupiers at the development and 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).

- 27 Prior to the first occupation of the development, hereby approved, a full Delivery and Servicing Plan (DSP) shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall only be operated in accordance with the approved delivery service plan, and all loading shall take place within the site.

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

- 28 a) Prior to occupation of the development hereby permitted, details of the size, design and siting of all photovoltaic panels to be installed as part of the development shall be submitted and approved in writing by the Local Planning Authority.

b) The development shall be carried out and constructed in accordance with the approved details, prior to occupation of any of the residential units.

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 CS5 and DM01 of the Barnet Local Plan Development Management Policies DPD (2012) and Policies D3 and SI 2 of the London Plan (2021)

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

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

Reason: To ensure that the proposed development does not prejudice the enjoyment of the occupiers of their homes in accordance with Policies G5 and G6 of the London Plan (2021) and Policies DM01 and DM16 of the Development Management Policies DPD (adopted September 2012).

30 a) Prior to its first use, details of the car access warning (signal control) system and the access to the parking area from the public highway shall be submitted to and approved in writing by the Local Planning Authority.

b) The development shall thereafter be carried out and subsequently operated and maintained in full accordance with the approved details.

Reason: In the interests 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.

RECOMMENDATION III:

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

2 That if the above agreement has not been completed or Section 106 agreement has not been submitted by 31 December 2021, unless otherwise agreed in writing, the Service Director for Planning and Building Control REFUSE the application under delegated powers for the following reason(s):

1. The proposed development does not include a formal undertaking to meet the costs of provision of affordable housing or to secure early and late stage viability reviews to assess potential contributions to affordable housing. The proposal would therefore not address the impacts of the development, contrary to Policy DM08 of the Local Plan Development Management Policies (2012), CS15 of the Local Plan Core Strategy (adopted September 2012), and the Planning Obligations SPD (adopted April 2013), and Policy H5 of the London Plan 2021.

2. The proposed development does not include a formal undertaking to meet the costs of the required carbon off-set provision. The proposal would therefore not address the impacts of the development, contrary to Policy SI.2 of the London Plan (2016), Policy CS9 of the Local Plan Core Strategy (adopted September 2012) and Policy DM04 of the Adopted Development Management Policies DPD.

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.

We believe that your development is liable for CIL. The Mayor of London adopted a CIL charge on 1st April 2012 setting a rate of £60 per sq m on all forms of development in Barnet except for education and health developments which are exempt from this charge. The London Borough of Barnet first adopted a CIL charge on 1st May 2013. A new Barnet CIL Charging Schedule applies from 1 April 2022 (<https://www.barnet.gov.uk/planning-and-building/planning/community-infrastructure-levy>) which applies a charge to all residential (including sui generis residential), hotel, retail and employment uses.

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.

- 3 A Planning Obligation under Section 106 of the Town & Country Planning Act 1990 (as amended) relates to this permission.
- 4 If a pump lorry is to be operated from the surface of the public highway, 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 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.
- 6 The developer is informed that hoarding, scaffolding, crane and skips on or abutting the public highway require a licence. To make an application for these licenses please contact the council's Highways Licence Team on 0208 359 3555 for any necessary Highways Licences or email highwayscorrespondence@barnet.gov.uk.
- 7 The applicant is advised that an application under the Highways Act (1980) will need to be submitted for any works proposed on the public highway to facilitate the development. The works on public highway shall either be carried out under S184 or S278 of the Highways Act (1980). As part of the application, the applicant shall submit proposed design and construction details to the Development Team for approval. The applicant is also advised that the cost of repairing any consequential damage to public highway as a result of the development proposal shall be borne by the applicant

- 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 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.

- 10 The submitted Construction Method Statement shall include as a minimum details of:
- o Site hoarding
 - o Wheel washing
 - o Dust suppression methods and kit to be used
 - o 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.
 - o Confirmation whether a mobile crusher will be used on site and if so, a copy of the permit and indented dates of operation.
 - o 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.
 - o For major developments only: provide a copy of an asbestos survey; For smaller developments -confirmation that an asbestos survey has been carried out.

 - o For major developments only: confirmation that all Non Road Mobile Machinery (NRMM) comply with the Non Road Mobile Machinery (Emission of Gaseous and Particulate Pollutants) Regulations 1999.

The statement shall have regard to the most relevant and up to date guidance including: Guidance on the assessment of dust from demolition and construction, Institute of Air Quality Management, January 2014.

- 11 Tree and shrub species selected for landscaping/replacement planting provide long term resilience to pest, diseases and climate change. The diverse range of species and variety will help prevent rapid spread of any disease. In addition to this, all trees, shrubs and herbaceous plants must adhere to basic bio-security measures to prevent accidental release of pest and diseases and must follow the guidelines below.

"An overarching recommendation is to follow BS 8545: Trees: From Nursery to independence in the Landscape. Recommendations and that in the interest of Bio-security, trees should not be imported directly from European suppliers and planted straight into the field, but spend a full growing season in a British nursery to ensure plant health and noninfection by foreign pests or disease. This is the appropriate measure to address the introduction of diseases such as Oak Processionary Moth and Chalara of Ash. All trees to be planted must have been held in quarantine."

OFFICER'S ASSESSMENT

Notwithstanding the number of objections received, this application was also called to committee by Cllr Farrier for the following reason:

"I would like to call this application in to a planning committee, if officers recommend approval. I realise that the number of objections should ensure that the application is heard by a planning committee, but my call in is to ensure this outcome. The reasons for call in are that the proposed development is too large and out of keeping with the site, and will cause harm to the environment and amenities of local residents.

I request the call in because I have been contacted personally by local residents. I have heard their concerns with no comment, and my request for call in does not indicate that I have predetermined my view on the application one way or another."

1. Site Description

The application site is situated on the west side of the Hendon Way A41 Trunk Road. The site forms part of Hendon Way Motors consisting of a large storage building, currently used for the storage of cars, with a large open yard area to the south of the building.

To the west are the rear gardens of properties in Allington Road. To the north is a car parking area/ service road serving commercial properties fronting onto Hendon Way. To the east are commercial units facing Hendon Way.

The car showroom connected to the site is also to the east fronting Hendon Way, and the access to the site runs along the side of the showroom. Kennyland Court is a 4 storey block of flats above a number of the ground floor units to the south-east of the application site.

The southern boundary is formed by a brick wall and two gates which allow for vehicular access to Graham Road, via the rear of other commercial properties that front Hendon Way. This access road is used by those same commercial properties.

The area is one of mixed character, predominantly shops and commercial premises, with residential over, to the east, and conventional rows of traditional residential dwellings to the west.

The site falls within Hendon Central Town Centre, close to good public transport links including the Hendon Central underground station. There are a number of bus stops within walking distance of the site. There are a row of trees running along the western boundary separating the site from the residential properties on Allington Road.

2. Relevant Site History

Reference 20/0302/QCM

Address: Hendon Way Motors, Land At The Rear Of 397-413 Hendon Way, London, NW4 3LP

Decision: Advice issued

Decision Date: 29.10.2020

Description: Follow-up meeting and advice in relation to 20/0062/QCD Proposed erection of 19 apartments, comprising 6 x studios, 7 x 1-bedroom and 6 x 2-bedroom

Reference 20/0062/QCD

Address: Hendon Way Motors, Land At The Rear Of 397-413 Hendon Way, London, NW4 3LP

Decision: Advice issued

Decision Date: 18.03.2020

Description: Proposed erection of 19 apartments, comprising 9 x 1-bedroom, 6 x 2-bedroom and 4 x 3 bedroom

Reference H/03511/13

Address: Hendon Way Motors, Land At The Rear Of 397-413 Hendon Way, London, NW4 3LP

Decision: Approved

Decision Date: 07.10.2013

Description: Submission of details for Condition 6 (services adjacent to trees), 7 (aboriculturalist method statement), 12 (air pollution mitigation), 13 (acoustic report), 17 (contamination measures), and 18 (drainage details) pursuant to planning permission reference H/04337/10 dated 06/12/2010.

Reference H/01180/13

Address: Hendon Way Motors, Land At The Rear Of 397-413 Hendon Way, London, NW4 3LP

Decision: Approved

Decision Date: 10.06.2013

Description: Submission of details of conditions no.3 (Landscaping), no.9 (Levels), no.14 (Ramp, gradient and basement layout) and no. 16 (Soil investigation report) pursuant to planning permission H/04337/10 dated 06/12/10.

Reference H/04337/10

Address: Hendon Way Motors, Land At The Rear Of 397-413 Hendon Way, London, NW4 3LP

Decision: Approved subject to conditions

Decision Date: 09.12.2010

Description: Extension of time limit for implementation pursuant to planning application W/00189/S/06 involving 'Erection of 2 No. two storey blocks to provide a total of 9 self contained flats and associated car parking spaces accessed off Hendon Way.

Reference W00189S/06

Address: Hendon Way Motors, Land At The Rear Of 397-413 Hendon Way, London, NW4 3LP

Decision: Refused. Appeal allowed (APP/N5090/A/07/2048739)

Decision Date: 02.02.2007

Description: Erection of 2 No. two storey blocks to provide a total of 9 self contained flats and associated car parking spaces accessed off Hendon Way. Provision of basement level to provide commercial car storage for Hendon Way Motors with associated single storey pavilion building for pedestrian access to basement level.

Reference W00189Q/04

Address: Hendon Way Motors, Land At The Rear Of 397-413 Hendon Way, London, NW4 3LP

Decision: Refused. Appeal dismissed (APP/N5090/A/04/1161094)

Decision Date: 02.09.2004

Description: Demolition of existing car storage building and erection of a three-storey block to provide a total of 14 self-contained flats. Provision of basement level to provide resident parking and car storage for Hendon Way Motors with associated single storey pavillion building for pedestrian access to basement level. Provision of basement level to provide commercial car storage for Hendon Way Motors with associated pavilion building allowed on appeal ref: APP/N5090/A/07/2048739 dated 08/11/07.

3. Proposal

The application seeks planning permission for the demolition of the existing building and construction of a 3-storey building to provide 19 residential units, associated hard and soft landscaping, biodiversity enhancements, amenity space, disabled car parking, cycle parking and refuse storage.

The dwelling mix would provide 10 x 1 bedroom and 9 x 2 bedroom units. The existing Hendon Way vehicular access would provide access/egress to the site. A communal amenity area would be provided to the rear of the flats, with a smaller communal area at the front.

The ground floor units will be independently accessed, whereas those at 1st and 2nd floor will be accessed via a centrally located stairs or lift, leading to front and rear access balconies.

No resident car parking is proposed, though the proposal does include 2 x disabled spaces at the front of the proposed building. A communal bin enclosure will be provided towards the front of the Site, and 33 cycle parking spaces would also be provided.

The building would be largely finished in brick, a three-storey facing wall to the rear, with insets and tiers to the front, balcony features, and a flat, green roof, providing ecological enhancements, and associated hard and soft landscaping around the plot.

4. Public Consultation

Consultation letters were sent to 357 neighbouring properties.

33 responses have been received, comprising 31 letters of objection and a petition of objection signed by 27 residents, and 1 letter of support.

The objections received can be summarised as follows:

- Unduly overbearing and visually obtrusive, detrimental to the visual and residential amenities of the occupiers of Kennyland Court
 - An unacceptable level of overlooking and loss of privacy to the occupiers of neighbouring residential properties namely: Kennyland Court, Allington Road Homes and Flats above business premises on 397- 405 Hendon Way.
 - The development is out of character with the surrounding area.
 - Approval would be contrary to previous appeal decision which refused a 3-storey development.
 - Loss of privacy to the residents of Kennyland Court.
 - Loss of privacy for the residents of Allington Road, as the new proposal would be very close to their back gardens and the rear of their houses.
 - Overbearing impact on adjoining residents.
-
- Development would reduce noticeably the daylight and sunlight available to nearby dwellings and open spaces.
 - Over-development of the site.
 - Proposal will lead to overspill parking onto surrounding roads, the parking survey submitted is not extensive.
 - Issues with regards to access for servicing, and emergency vehicles.
 - The proposed development would provide flats very close to the A41 Hendon Way which suffers from poor air quality and an excess of local air quality standards, and would as a result provide for a poor air and environmental quality for future occupiers
 - By nature of its scale the new proposal would seriously threaten the lives of the tall trees that line the back of the gardens of the properties on Allington Road. Trees that have been there for over 25 years. These trees provide sound barriers, aid reduction of pollution and are a positive amenity. Effected Allington Road residents would lose the tree screen boundary and gain a loss of privacy and overlooking.
 - The additional influx of people (new residents and their families / guests etc) and additional traffic will increase the levels of noise and disturbance in an already very busy area, particularly effecting the neighbouring residents of Kennyland Court, Allington Road and Graham Road.
 - The applicant did not seek to engage with local residents.
 - Owners of the properties 397- 405 Hendon Way have a right of way along the proposed access route to the back of their buildings. The applicant has blocked this route with fencing, despite several protests.
-
- The applicant claims permission H/04337/10 is extant, however, no evidence has been provided to demonstrate it is the case.
 - The allegedly extant permission is for the construction of only 9 units on site, the proposed 19 units would be of a completely different scale and intensity.
 - There are no examples of residential backland development along Hendon Way. As such, the proposed development and the construction of a three-storey building to the rear of the site would fail to respect the character of the local area.
 - The applicant also fails to demonstrate the principle of the change of use of the site is acceptable. Policy DM14 states: "Proposals to redevelop or reuse an existing employment space which reduces the levels of employment use and impacts negatively on the local economy will be resisted."

- The site is currently used for car showroom (Sui Generis), the business is still in operation and the site has not been vacant.
- Policy DM08 of the Development Management Policies states the Council's highest priorities for market housing are 3 and 4-bedroom units.
- The proposed development would comprise 10 two-bedroom flats and 9 one-bedroom flats, and would therefore fail to comply with Policy DM08.
- No provision of affordable housing proposed on-site, with no justifiable reasons.
- The development would clearly not relate well to its surroundings and would result in a cramped appearance for the site.
- The introduction of external corridors would also be an awkward feature that does not exist along this part of Hendon Way.
- The proposed fenestration of the proposal is also incongruous and completely out of character with the local area and the host building itself.
- Flat 16 is a substandard one-bedroom flat with a GIA of only 43sqm. The applicant proposes the creation of sub-standard accommodation, contrary to Policy D6 of the London Plan 2021.
- The proposed development would create flats that are dark, enclosed between tall trees and the 3-4 storey buildings on Hendon Way, resulting in a poor quality of accommodation for the future residents.
- Don't believe people will use public transport and this scheme will cause further parking issues in the locality.
- Concern about the real possibility of damage to the property from delivery, refuse and other vehicles using the lane.
- Concerned for the safety of people using the pavement outside my property on Hendon Way when crossing the lane
- Gardens are about 4/5 meters below 393-395 Hendon Way and to have additional 19 flats above will overshadow gardens.
- This development has no merit in an overcrowded area with stretched public amenities including parking.
- There will also be an impact on the trees which, as far as I am aware, are subject to a Tree Preservation Order.
- The additional noise will cause additional disturbance on the amenities and occupiers of the area.
- This a small space and can't see how it will house 19 flats and keep the nice neighbourhood feel of the area.
- This will create a huge amount of disruption in the area due to the loud construction work and will make the already bad parking situation in the area worse.
- The width of the development entrance is only 3.8m. It only allows for a single passageway for vehicle access. A turning circle is necessary for the development site.
- As a child care provider, this is of course a major concern of ours. We do not want any additional residence or property that has the ability to look over our rear garden where the children play daily.
- Another major concern is building noise during the day when our nursery is operating. Due to the size of proposed scheme, this will inevitably go on for a long time and will likely cause our business disruption.
- The sunlight analysis has demonstrated that the proposed development would endanger the right of light of surrounding properties both during summer and winter time.

Internal Consultations

Traffic and Development:

No objection subject to legal agreement, conditions and informatives;

- S106 agreement: To deny residents of the development the right to purchase CPZ permits

Environmental Health Officer:

No objection subject to conditions

Drainage Officer:

Following discussion with the applicant, no objection, subject to conditions

Refuse/Recycling Officer:

No objection, subject to conditions.

Trees and Landscaping Officer:

Ideally this application should not be granted due to the poor relationship with existing boundary trees and gardens. However, the 2010 decision constrains this advice. There are no landscape or arboricultural reasons to object to this application, however if it is likely to be recommend for approval without revision, or in the event of an appeal, conditions are suggested to obtain a more suitable development.

External Consultations

Ecology Officer:

The building was found to have negligible potential for bat roosts. Therefore, no further bat surveys are required in association with the building. We propose mitigation through ecological planning conditions.

TfL:

Based the information provided, and the comments offered above, TfL does not object to the proposal. Car free development is welcomed.

Metropolitan Police Service:

With the re-design of the site and based upon the revised set of plans, I am happy to support this re-development from a crime prevention perspective.

Respectfully request that a planning condition is attached to any approval, whereby the development must achieve Secured By Design accreditation, prior to occupation

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 revised National Planning Policy Framework (NPPF) was published on in July 2021. 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 2021

The new London Plan which sets out the Mayor's overarching strategic planning framework for the next 20 to 25 years was adopted on the 2nd March 2021 and supersedes the previous 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, CS2, CS3, CS4, CS5, CS6, CS9, CS14, CS15.
- Relevant Development Management Policies: DM01, DM02, DM03, DM04, DM08, DM10, DM14, DM16, 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.

Barnet's Local Plan (Reg 22) 2021

Barnet's Draft Local Plan -Reg 22 - Submission was approved by the Council on 19th October 2021 for submission to the Secretary of State. Following submission the Local Plan will now undergo an Examination in Public. The Reg 22 document sets out the Council's draft planning policy framework together with draft development proposals for 65 sites. It represents Barnet's draft Local Plan.

The Local Plan 2012 remains the statutory development plan for Barnet until such stage as the replacement plan is adopted and as such applications should continue to be determined in accordance with the 2012 Local Plan, while noting that account needs to be taken of the policies and site proposals in the draft Local Plan and the stage that it has reached.

Supplementary Planning Documents

Residential Design Guidance SPD (2016)

- Sets out information for applicants to help them design developments which would receive favourable consideration by the Local Planning Authority. 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 developments 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 it states that developments 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.

Barnet Trees Policy (October 2013)

- Planning Obligation SPD (adopted April 2013)

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Planning History;
- Principle of Development;
- Viability/Affordable Housing;

- Impact on the character and appearance of the application site, the street scene and the wider locality;
- Trees and Soft Landscaping
- Impact of the proposal on the amenity of neighbouring residents;
- Impact of the proposal on the amenity of future occupants of the development;
- Highway and Pedestrian Safety;
- Refuse and Recycling;
- Ecology and Biodiversity;
- Flood Risk and Drainage; and
- Sustainability.

5.3 Assessment

Planning History

As detailed above there has been some recent planning history, relating to the redevelopment of this site for residential purposes. Under the initial application, W00189Q/04, a three-storey block to provide a total of 14 self-contained flats, was refused for a number of reasons, relating to character, amenity of neighbours and parking. The applicant appealed the decision and at appeal, the Inspector agreed with the council that the proposal would adversely affect neighbouring residents' amenity, regarding overlooking and visual impact. He noted that windows in the proposed development would directly face bedroom windows in Kennyland Court.

He also opined that the three-storey nature of the development would be overbearing, amplified by the blank nature of the southern section of the proposal where it faced Kennyland Court. For these reasons, the Inspector said that the amenity of future residents of the development would also suffer because of overlooking from the flats at Kennyland Court.

Application W00189S/06 sought to address the previous reasons for refusal and proposed the 'Erection of 2 x two-storey blocks to provide a total of 9 self-contained flats and associated car parking spaces accessed off Hendon Way. Provision of basement level to provide commercial car storage for Hendon Way Motors with associated single storey pavilion building for pedestrian access to basement level'. This application was refused planning permission but allowed on appeal (ref: APP/N5090/A/07/2048739).

The Planning Inspector stated that the block to replace the existing utilitarian building used for car storage would be close to mainly commercial buildings that front Hendon Way, therefore, it would not adversely affect living conditions or the character and appearance of the area.

Regarding the second block, the Planning Inspector said that the two-storey block would not adversely affect the amenities of residents within Kennyland Court and specifically noted that it would be circa 18 metres from its rear elevation and although it represents a noticeable change, it would not be visually dominant or harmful to the outlook of occupants. The use of obscure glazing in the development was also considered to be sufficient to protect the amenity of residents within Kennyland Court.

Application H/04337/10 sought an extension of time limit for implementation pursuant to planning application W/00189/S/06 and this was granted. Planning applications H/03511/13 and H/01180/13 were applications for planning conditions associated with H/04337/10 were subsequently granted. The monies associated with the relevant S.106 agreement, dated 12th November 2010, were paid. This payment followed numerous exchanges of email and other correspondence between the council and applicant, with the former noting the development had commenced, therefore payment of the monies was due. The applicant duly paid the monies (£42,456.82) via a cheque that accompanied a letter to dated 19th September 2014.

Accordingly, the S.106 agreement monies have been paid, pre-commencement conditions had been discharged and the development was commenced via the digging of foundations and therefore, the council have accepted that the planning permission reference H/04337/10 remains extant and is a material planning consideration as part of this application, and an implementable permission that remains, and could be developed out.

It is noted that third party representation have made the point that there is no evidence of the development having been commenced. As above, conditions were cleared within time (7th October 2013), consent had been granted on 06 December 2010, with a three-year commencement condition. S106 contributions following commencement were paid, as the council were content that a meaningful start had been made through the digging of foundations. Whilst no Certificate of Lawful Development exists, it is accepted this development could be completed and provides a viable fallback position, albeit there are material differences as to what is proposed under this application which have to be assessed.

Principle of Development

The site is located within a town centre, but outside of the Primary and Secondary Frontage. The proposals seek to provide a residential development which is suitable in-principle within a town centre and will bring many sustainable benefits, including the promotion of the night-time economy. The area is mixed in character; however, examples of residential development in the immediate locality are present, including flats, and a residential, flatted scheme is therefore appropriate.

Policy DM14: New and Existing Employment Space

Policy DM14 states;

a: Existing employment space

iv. Proposals to redevelop or reuse an existing employment space which reduces the levels of employment use and impacts negatively on the local economy will be resisted.

v. Where appropriate, loss of employment space will be expected to provide mitigation in the form of contributions to employment training.

The proposal seeks the redevelopment of the rear of the site which is used in conjunction with, and ancillary to the existing car showroom which fronts Hendon Way, a sui generis use.

However, the Local Plan identifies existing employment space as uses within the "B" Class and as such there would be no loss of this floorspace such as to require mitigation. The loss of the yard/storage space would not require a marketing exercise or specific justification given that, although it is used storage, its use is ancillary to the showroom, and therefore not within the B use class. Furthermore, the proposed scheme would result in the creation of less than twenty-five residential units. Therefore, it would not meet the threshold set out in the Council's 'Delivering Skills, Employment, Enterprise and Training from Development through S106 SPD (2014)' which requires a scheme to enter into a Local Employment Agreement (LEA).

The redevelopment of the site is therefore acceptable having regard to policy DM14.

Previously Developed Land

The NPPF, London Plan and Barnet's Local Plan are relevant and support the provision of residential development in appropriate locations. Paragraph 120 of the NPPF advises that LPA's should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land. The location of the proposed development on a under-utilised and previously developed site therefore meets the objectives of the NPPF which reiterates the Government's ongoing commitment to boosting housing supply and upholds the presumption in favour of sustainable development.

London Plan Policy H1 requires LPA's to:

"optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions, especially the following sources of capacity:

- a) sites with existing or planned public transport access levels (PTALs) 3-6 or which are located within 800m distance of a station or town centre boundary
- b) mixed-use redevelopment of car parks and low-density retail parks and supermarkets.
- c) housing intensification on other appropriate low-density sites in commercial, leisure and infrastructure uses

The site has the characteristics that are set out in Policy H1, in that it is:

- o A brownfield site;
- o It has a PTAL that falls within the range of 3-6 - the sites PTAL is 5;
- o It is well within 800 meters of both Hendon Central Station and is within the Town Centre;
- o It is the redevelopment of a low-density car park;
- o It is the redevelopment of an appropriate low-density sites in commercial use.

The gross site area for density purposes is approximately 0.13 hectares. The site is considered to sit within an urban context. A density of 146 units per hectare is proposed. This is within a suitable density under the old London Plan density requirements. The new London Plan (2021) takes a less prescriptive methodology and considers a designed approach to determine the capacity of the site, including site context, accessibility and capacity of surrounding infrastructure.

The site is within Hendon Town Centre which features an array of public services, shops and transport options making it a sustainable location for residential development.

Unit sizes, the quality of accommodation and impact on the amenity of neighbouring occupiers are just as key considerations as well as striking an appropriate density, however this is a suitable level of development for this site, subject to the aforementioned considerations, and the general principle is acceptable.

Unit Mix

The proposed development provides the following mix of units:

- o 10 x 1-bedroom units;
- o 9 x 2-bedroom units; and

Policy DM08 of the Development Management Policies states that:

Development should provide where appropriate a mix of dwelling types and sizes in order to provide choice for a growing and diverse population for all households in the borough.

Dwelling size priorities are:

- i. For social rented housing - homes with 3 bedrooms are the highest priority
- ii. For intermediate affordable housing - homes with 3/4 bedrooms are the highest priority
- iii. For market housing - homes with 4 bedrooms are the highest priority, homes with 3 bedrooms are a medium priority.'

The proposals would provide a mix of one/two-bedroom units. Given the location of the site and the constraints in respect of the shape of the plot, provision of amenity space and to a lesser extent parking, as well as its reasonable accessibility, the mix of accommodation is considered appropriate.

The supporting text to the policy does state that it is intended to be applied flexibly. It further states that it may not be appropriate to meet the standards in town and local centres. The site is within a town centre. Policy H10 of the London Plan recognises the role that one and two bed units can play in freeing up existing family housing. It also recognises a higher proportion of one and two bed units are generally more appropriate in locations which are closer to a town centre or underground station, or with higher public transport access and connectivity. Given the constraints of the site, and the financial realities of the London property market which means a demand also exists for smaller units, the mix can, on balance, be accepted. There are some concerns, but the scheme offers the opportunity to redevelop a brownfield site and contribute to the housing requirement of the borough in a meaningful way.

Viability/Affordable Housing

As the proposed scheme would provide more than 10 units, it is required to provide affordable housing in line with Policy DM10 below:

Having regard to the borough-wide target that 40% of housing provision should be affordable, the maximum reasonable amount of affordable housing will be required on site, subject to viability, from all new sites providing 10 or more units gross or covering an area of 0.4 hectares or more.

The tenure mix required would be 60% social rented and 40% intermediate as confirmed by the Housing Officer. The proposed development is providing no affordable housing as part of the scheme. Consequently, the overall provision falls considerably short of the target set by policy DM10.

The applicant has provided a viability report which concludes that "the combination of the Site's Existing Use Value, which factors the extant planning permission, site constraints including 'abnormal' costs, and the relatively small scale but inevitable complicated build would mean the provision of affordable housing might not be possible".

In addition, the applicant contends that AH within the proposed development would be complicated due to existence of shared communal areas and the consequences of organising and paying for the maintenance and management responsibilities.

The Viability Report submitted with the application (prepared by rg+p), advises that Affordable Housing provision cannot be made, even off-site or as a payment in lieu. The Viability Report and the applicant do however propose a modest developer financial contribution in lieu of the provision of affordable housing, equating to £86,495.00. This is added because, it is stated, the developer is reducing its target profit levels to 15%, which is below normal expectations. It concludes that full S.106 and CIL costs, site specific abnormal costs, and the existing use value means the development cannot afford the provision of AH.

The council has had the Viability Report independently appraised by Bailey Venning Associates (BVA). Under BVA's initial appraisal a surplus of £734,000 was identified which could be directed to affordable housing. An extant permission exists for the nine unit scheme, granted consent at appeal, and the conclusions outline that when the costs were deducted from the sales values of the units the resulting residual land value (£1,970,414) (site value) was more than the Benchmark Land Value (£1,236,250) (the value of the site for the 9-unit extant permission scheme). An affordable housing contribution would therefore be viable and could be in the region of £734,000.

A second round of discussions were undertaken between the council's consultants and the applicant in relation to the scheme. The extant scheme included a large basement area which the applicant has advised, given the scale down in operations at the site, they would not wish to build out. Whilst the basement was to store cars, as a replacement for the existing building, there are no strong policy reasons to insist on its inclusion, and as discussed there is now a plan to remove this space from the business under the current application. Whilst its omission may not be non-material, a replacement nine unit scheme would raise no policy objections. As such a benchmark land value of a nine unit scheme minus the costs of constructing a large basement area, is considered acceptable. This increases the benchmark land values to £1,515,847. Under discussion further costs have been identified;

Pumped foul drainage, adjusted to £40,000 Secured by Design access gates to £30,000
Green roof estimated at £60,000 PV / heatpump at £35,000.

Following discussions with the council consultant the costs are considered reasonable, The remodelled surplus for a cash in lieu contribution to affordable housing is calculated to be £293,000. It is considered that this method of delivery is appropriate given the level of surplus involved.

The applicant accepts this contribution and a planning obligation can be used to secure benefits from future viability reviews.

Impact of the proposal on character and appearance of the application site, the street scene and the wider locality.

Development proposals involving the redevelopment of sites are required to reflect the character of their street and the scale and proportion of surrounding houses. This is supported by Policy DM01 of Council's Development Management Policies which states that development should understand local characteristics and 'preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets'.

The wider area does have a mixed character, typically town centre to the east with conventional rows of residential dwellings to the west. The site is a backland development, but it is not considered its redevelopment would run contrary to the established pattern of development. The traditional rows of residential properties would be unaffected and as noted above local authorities should look for opportunities to redevelop previously developed land more efficiently. The extant permission has agreed the principle of residential development of the site, and within a town centre its development would not appear out of place. The proposal would involve the development of one long block, as opposed to two separate buildings under the extant scheme, but this would not appear discordant with the parade buildings along the A41 and would ensure a more efficient use of the plot, subject to other materials considerations including the amenity of neighbours and the future amenity of occupants.

The site is somewhat standalone, which allows greater freedom with regards to design, but the blocks to the front of the site along Hendon Way are three and four storey in height, and a three storey development would be acceptable, and would accord with neighbouring development.

The massing of the front elevation would be broken up with the ground floor extending forward from the inset first and second floors. The breaking up of the massing and use of balcony areas adds visual interest and the building would not appear bland. A contemporary flatted development would occupy the space, and thought has been given to the overall concept of how to utilise this space being mindful of the proximity of other development and the constraint this places on design, bulk and scale.

The rear elevation would be three storeys in height, largely a facing wall, but with the bulk broken up with external access terraces and the use of fenestration further breaks the mass, with a suitable window to brickwork ratio. It is not considered from a design perspective that the appearance of the rear aspect would appear excessively bulky.

The material palette references adjoining built form, but with a more contemporary approach and the aesthetic appearance would assimilate successfully into this setting. Further details of materials can be agreed by condition.

Overall, the proposed building has been designed to respect the setting in which the site resides, and the use of landscaping and retention of existing planting should ensure a softer setting, notwithstanding the relatively urban location of the site.

The design and appearance of the scheme is considered appropriate.

Trees and Soft Landscaping

Policy DM01 of the Adopted Barnet Development Management Policies advises that trees should be safeguarded. When protected trees are to be felled the council will require replanting with suitable size and species of tree where appropriate. High quality landscape design can help to create spaces that provide attractive settings for both new and existing buildings, contributing to the integration of a development into the established character of an area. The council will seek to retain existing wildlife habitats such as trees, shrubs, ponds and hedges wherever possible. Where trees are located on or adjacent to a site the council will require the submission of a tree survey with planning applications indicating the location, species, size and condition of trees. Trees should be retained wherever possible and any removal will need to be justified in the survey. Where removal of trees and other habitat can be justified appropriate replacement should consider both habitat creation and amenity value.

The council's Trees Officer has assessed the submission including the submitted arboricultural information;

Arboricultural Report Tree report for planning purposes, 397-413 Hendon Way, London NW4 3LP, October 2020 190801-PD-11
Landscape Plan dwg. no. 190801-LP-01 rev C
Urban Greening Factor 190801-LP-02

"T1 to T5 are mature Lombardi poplar trees, these were reduced to 10m many years ago, the crowns have re-established to a height of around 17m. This historic reduction may have led to the 2010 decision on the basement.

These trees should now be reduced again to avoid unplanned failure of stems in high winds. If this were to occur the current proposal would be broadly acceptable in terms of it's impact on trees. T22 to T24 are smaller sycamore and ash trees that are the succession trees to the Lombardi poplar trees."

This work remains outstanding as this aspect is beyond the control of the applicant. Implementing this work will expose the residential gardens to be overlooked from the development.

Landscape:

The submitted landscape plan makes good use of the limited available space and meets 0.45 of the Urban Greening Factor. The implementation of the submitted landscape plans can be a condition of any approval.

Tree protection measures can be agreed by condition to ensure the retention of trees under ownership. It is evident that at a total building height of 10.7m, 9.5m to the top of windows, the reduction in the Poplar trees should ensure that a screening would still exist between the proposed building and the adjoining gardens.

Impact of the proposal on the amenities of neighbours

One of the Council's key objectives is to improve the quality of life for people living in the Borough and therefore development that results in unacceptable harm to neighbour's amenity is unlikely to be supported. Good neighbourliness is a yardstick against which proposals can be measured.

Any development, particularly in a constrained site should ensure that the amenities of neighbouring occupiers are respected.

Policy DM01 in Council's Development Management Policies DPD stipulates that development proposals should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining and potential occupiers and users.

Barnet's Sustainable Design and Construction SPD (2016) contains standards of distancing for new development to prevent overlooking and loss of privacy. It states that a minimum of 21 metres is required between facing windows of habitable rooms and a minimum of 10.5 metres between windows and neighbouring amenity spaces.

Concern has been raised from a number of neighbouring properties with regards to potential impacts on the amenity of neighbouring properties. There are several semi-detached houses to the rear of the site on Allington Road, with flats to the front including at Kennyland Court. The scheme would see the introduction of a significant level of built form in close proximity to these residential developments.

As detailed above in the planning history a 9 unit scheme was granted consent in 2007 when the Inspector concluded that the proposed scheme would have an acceptable impact on the amenity of adjoining residents. The applicant makes the case that the separation distances and general site circumstances, including the amount of development proposed here, means that the previously acceptable relationships agreed at appeal, will ensure there would be no worsening of the relationship between existing and proposed development under this application.

The submission states the following;

..."The flats will be dual aspect, which also accords with the Council's requirement to achieve the status of good design. The siting of the flats and the size and position of windows will ensure that despite the provision of dual aspect living, the amenities of future occupiers and those of the flats within Kennyland Court and the houses on Allington Road are protected from the adverse impact of overlooking. Notwithstanding the advice contained within the Council's Residential Design Guide that concerns separation distances between dwellings, during the pre-application process the Council acknowledged that the flats of the extant permission are only 18 metres distant from the rear of Kennyland Court (and marginally closer than the current proposal to the rear of houses fronting Allington Road). As such, where this planning application also respects the extant planning permission's 18-metre separation distance to the rear of Kennyland Court, the proposal does not amount to any worsening of the approved arrangement.

In respect to the position of the proposed flats, the shared boundary to the west, and the position of the houses that front Allington Road, considering the extant planning permission and the existence of boundary trees that will not be affected by the proposal, there will be no adverse impact to amenity. The back-to-back distances would be between

30-33 metres. This means there will be no overlooking of habitable rooms and there would be no worse views of the rear gardens of properties fronting Allington Road than already exists, where the houses can view the rear gardens of their neighbours"...

There was also an appeal determination on the original initial application, W00189Q/04, and this appeal was dismissed.

Application W00189Q/04 related to a proposal to construct 14 and one and two bedroom units on the site in a three storey "L" shaped building. Under this appeal the Inspector had concern that the close proximity of windows to Kennyland Court and the three-storey nature of the proposal would result in material overlooking and an overbearing impact when viewed from lower flats on Kennyland Court.

With regards to Allington Road, the Inspector was of the view that located 1-4m from the common boundary, and extending 50m along the boundary, the new building would appear overbearing when viewed from the garden areas of these properties.

The Inspector also considered that the proposal would result in mutual overlooking of first and second floor windows on the new development.

As discussed above under Application W00189S/06 the Inspector considered a distance of 18.0m between elevations was suitable.

Under Pre-application discussions the council raised concern about potential impacts on the amenity of neighbours to both sides. Discussion was also centred around how any impacts from the rear elevation on properties in Allington Road could be rectified, it was acknowledged that window to window distances were acceptable, but that the rear elevation was in close proximity to the common boundary. It was noted that the separation distance from window to window of the Allington Road properties would be in excess of the SPD's overall 21 metres, however the 10.5m boundary distance would be significantly compromised.

It was stated therefore, that measures would need to be put in place to ensure that any harmful overlooking into the private amenity space / gardens is not created. It was noted that the extant scheme had only one first floor window approved to this rear elevation, with the majority of the fenestration to the south east and north east elevations.

The council has accepted that the 9-unit scheme has been commenced on site and as such provides a "fallback" position with regards to this submission. There is no reason to believe the scheme would not be built out if required, and so this is a viable fallback which must be afforded material weight. However, whilst a viable fallback exists, as referenced above, there are material differences between the fallback scheme and this proposal. The three-storey aspect and length of the building are more akin to the 2006 dismissed appeal scheme.

The gardens of the Allington Road properties will be partially obscured by trees. The tree screen consists predominantly of Lombardi Poplar/Ash/Sycamore, which are deciduous species. It is evident that during winter months the tree cover will be of more limited value. Even in summer, the ash and sycamore, located at the southern section of the site provides limited screening, and new screening would take time to take hold. There is also some concern about the long-term health of the trees, given the proximity of the development and the need to reduce the height of the Poplars.

Under revised plans, the applicant has seen alterations to both the front and rear elevations of the submitted scheme. The plans now indicate that with regards to the elevation facing Allington Road, the windows in the southern section of the building, serving flats 8 and 14, would now be obscure glazed, and the external access deck serving upper floor units, would also be screened in order to prevent overlooking of rear garden areas adjoining the site.

The northern section of the building retains a greater separation distance to the boundary, and is in a similar position, with a similar relationship, to the extant scheme. Within that context, it is not considered justified to screen these rear facing windows.

With regards to these measures, obscure glazing of adjoining windows would prevent overlooking of gardens. Revised plan Fey_21 Rev D includes details of a "Brise Soleil" style screen to be affixed along the access decks and this could be angled to obscure views into adjoining gardens. Further details could be secured by condition.

It should be acknowledged that given the proximity of the southern section of the building there will be some level of impact on amenity. Existing trees cannot be relied on to screen the development. However, the measures outlined above would mitigate the impact and remove the concern with regards to privacy and overlooking. Whilst there would be some impact on outlook from residential gardens that adjoin the site, officers consider that, the measures outlined with regards to Allington Road, can on balance, be accepted and reduce impacts to an acceptable level.

Revised plans indicate that accessible rear terrace areas from ground floor units on the southern side would also be provided. Given that tree cover would not be substantial, details of an appropriate boundary treatment would need to be agreed by condition.

With regards to Kennyland Court, the 18.0m distance between upper floor windows could be retained from the extant approval. This is a significant building and the outlook to the rear will change however given the set-back at first and second floor to 18.0m, it is not considered the proposal would look excessively overbearing or significantly harm outlook, or result in excessive impacts on daylight/sunlight.

Similarly it is considered the scheme retains an adequate distance to premises above No's 397- 405 Hendon Way with a similar relationship to the fallback scheme retained.

In light of the above, it is considered that, the proposed measures of mitigation reduce impacts on adjoining neighbours to an acceptable level and, on balance, the scheme can be justified from a neighbouring amenity perspective.

Impact on amenity of future occupiers

Internal Space Standards:

In terms of the amenity for future occupiers, the Planning Authority expects a high standard of internal design and layout in new residential development in order to provide an adequate standard of accommodation. The London Plan and Barnet's Sustainable Design and Construction SPD sets out the minimum space requirements for residential units.

A mix of 1 and 2 bedroom units are proposed, with the following London Plan requirements;

- (1 Bedroom/1 person): London Plan requirement = 39m²
- (1 Bedroom/2 persons): London Plan requirement = 50m²
- (2 bedroom/3 person): London Plan requirement = 61m²
- (2 Bedroom/4 Persons): London Plan requirement = 70m²

In terms of the size of the units; some of the internal floorspaces exceed the requirement, with some meeting the minimum standard. Unit 16 is labelled as a 1 bed/1 person unit but is laid out like a 1 bed/2 person unit served by a double room. It is approximately 7sq. m under the requirement for a 1 bed/2 person unit of 50 sq. m but 4 sq. m over the requirement for a 1 bed/1 person unit.. This is considerably under the minimum standard and would result in sub-standard living conditions for occupants of that unit if a 2-person unit. However the bedroom size at 10.5 sq. m is below the minimum standard for a double room and, although a generous provision for a single person room, it is accepted that this is intended as a 1 bedroom/1 person unit and the Space Standard requires it to be considered as such.

The SPD standards for bedrooms require double bedrooms to provide a minimum floor area of 11.5sqm and single bedrooms a minimum floor area of 7.5sqm. Each of the proposed bedrooms complies with this requirement.

The London Plan states that a minimum ceiling height of 2.5 metres is required for at least 75% of the gross internal area of a dwelling. Each of the proposed units complies with this requirement.

Daylight/Sunlight/Outlook:

All proposed residential development should provide suitable outlook and daylight for future occupants. Primary windows serving habitable rooms are not provided on flank walls and the units would all be double aspect.

A Daylight and Sunlight survey has been submitted with the proposal (Right to Light Consulting, March 2021), and the units are in close proximity to trees at the rear of the site.

BRE Guidelines

The submission uses the calculations for daylight and sunlight amenity with reference to the various numerical tests laid down in the Building Research Establishment (BRE) guide 'Site Layout Planning for Daylight and Sunlight: a guide to good practice, 2nd Edition' by P J Littlefair 2011.

To achieve a predominately daylight appearance, the guide recommends an ADF of 5% or more if there is no supplementary electric lighting, or 2% or more if supplementary lighting is provided. The guide also gives minimum recommendations for dwellings of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. The minimum targets have been adopted for the purpose of the study.

The BRE guide states that, in general, a dwelling or non-domestic building which has a particular requirement for sunlight, will appear reasonably sunlit if:

- at least one main window wall faces within 90 degrees of due south, and

- the centre of at least one window to a main living room can receive 25% of annual probable sunlight hours, including at least 5% of the annual probable sunlight hours during the winter months between 21st September and 21st March.

The guide states that, where groups of dwellings are planned, site layout design should aim to maximise the number of dwellings with a main living room that meets the above recommendations. The guide states that sunlight is viewed as less important in kitchens and bedrooms.

Trees and Hedges:

Appendix H of the BRE guide gives guidance on trees and hedges. Trees and hedges vary in their effects on skylight and sunlight. Most tree species will cast partial shade for deciduous trees, this will vary with the time of year. It is generally more difficult to calculate the effects of trees on daylight and sunlight because of their irregular shape and because some light will generally penetrate through the tree crown.

Overshadowing to Gardens and Open Spaces:

The availability of sunlight should be checked for all open spaces where sunlight is required. This would normally include:

- Gardens, usually the main back garden of a house
- Parks and playing fields
- Children's playgrounds
- Outdoor swimming pools and paddling pools
- Sitting out areas, such as those between non-domestic buildings and in public squares
- Focal points for views such as a group of monuments or fountains.

Results -

In the case of the proposed development, the submission indicates that 39 of the 48 (81%) rooms tested meet or surpass the BRE winter ADF targets.

The BRE guide acknowledges that, in some cases, it may not be possible for every dwelling to achieve ideal levels of sunlight. The guide explains that, where groups of dwellings are planned, the aim should be to maximise the number of dwellings that:

- have at least one main window that faces within 90 degrees of due south, and
- have at least one window to a main living room that meets the BRE numerical targets.

In the case of the proposed development, 18 of the 19 units have a living room window which faces within 90 degrees of due south.

The results show that 100% of the area of the amenity space will receive at least two hours of sunlight on 21 March. The proposed development therefore passes the BRE overshadowing to gardens and open spaces test.

The NPPF at para. 125 (d) "Achieving appropriate densities" states;

"local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise

inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards)".

Whilst a number of rooms do not meet the recommendations, it is not considered the results are unusual in the context of an urban location. It is evident the close proximity to the rear boundary and trees will have an impact on windows on this elevation. This will also have some impact on outlook, given the close proximity of some of the windows to vegetation, albeit as above some windows will be obscure glazed to guard against overlooking.

This part of the policy requires a balancing with regards to meeting the challenges of achieving appropriate densities and developing sites more efficiently. Whilst some impact is noted, units are all dual aspect and units will be served by living rooms which will broadly receive adequate natural light provision.

It is considered that the proposed layout in relation to daylight/sunlight can be generally accepted.

Amenity Space Provision

The proposal would have a private amenity space requirement of 330 sq. m. It is noted a communal area of private amenity space is proposed which would meet this requirement. It is acknowledged that to some degree the tree cover will compromise the quality of this space, being located between the trees and the rear of the building. However, Hendon Park is nearby, and given the quality and quantum of space at Hendon Park, and its proximity to the application site, and the town centre location providing excellent transport links to amenity space in the wider area, this provision is considered acceptable. It is accepted the site is constrained and concerns about neighbour amenity has removed the potential for private space through balconies or terraces. Given these characteristics, the provision can be accepted.

Room Stacking:-

The proposed internal stacking of the units is considered acceptable.

Privacy and overlooking:-

Window placements are such that there is no internal overlooking between units. However, some units are accessed from external "access decks". In some cases, this would involve occupants walking past units to access their own units. The council would likely require that any windows that involve other occupants of the block passing, would require obscure glazing. In some cases, with decks to the front, this would involve bedroom windows, which it would be inappropriate to obscure glaze. Given the location of trees, and for general living conditions, it would not be ideal to obscure any windows, but this would be necessary, and the obscure glazing of bedroom windows would be necessary and is a concern.

In order to overcome this concern the applicant has advised that "with regards to bedroom windows it is proposed the windows will have 300mm deep metal frames and planters on the access decks". It is also now proposed to obscure glaze windows serving kitchens and bathrooms located along the access decks.

It is accepted that obscure glazing of bathroom windows would be acceptable. The kitchens form a single, open room, with the dining area which extend from the front to the rear of the unit. Whilst the SPG does class kitchens as not being habitable rooms, they are separate rooms where occupants might spend a reasonable amount of time, and they form an important part of the space within each relevant flat, which the council's SPG Guidance (Sustainable Design and Construction) advises should receive reasonable outlook. However, officers would not insist on clear glazing for these windows and it is deemed necessary to require obscure glazing to guard against the compromise on amenity. It is considered that the obscure glazing of access deck windows would prevent loss of amenity to occupants of these units, and reasonable outlook from the open plan rooms would remain.

High set windows, obscure glazing, and the 300mm frames/planters would provide better privacy; visualisation that have been submitted demonstrate that the deep frames would only significantly reduce the potential for loss of privacy, with only really glancing views when directly in front of the window possible. The proposed measures can be accepted and can be agreed by condition.

With regards to the ground floor units on the new scheme, these would be located 10.5m from windows on Kennyland Court and 6.5m from a raised decking area to the rear. Previously any concern about overlooking was addressed by a pavilion building which would prevent overlooking from the flats. This option is not available this time and the applicant proposes planters in lieu of the previous pavilion building. At pre-app stage the council sought further details on proposed methods of mitigation. However, the ability of planting to adequately prevent overlooking, particularly from upper floor windows would likely be limited.

Further revisions suggest that a brise soleil style screens and a screen on the existing raised decking, which is under applicant ownership, could alleviate this concern. The screen would allow occupants to achieve sufficient levels of outlook from within the units but would also reduce any potential for loss of privacy from upper floor residential units at Kennyland Court.

In light of these measures it is considered that the proposed units would, on balance, provide adequate levels of amenity for future occupants.

Highway and Pedestrian Safety

Policy CS9 of the Barnet Core Strategy (Providing safe, effective and efficient travel) identifies that the Council will seek to ensure more efficient use of the local road network and more environmentally friendly transport networks, require that development is matched to capacity and promote the delivery of appropriate transport infrastructure. Policy DM17 (Travel impact and parking standards) of the Barnet Development Management Plan document sets out the parking standards that the Council will apply when assessing new developments.

Other sections of Policies DM17 and CS9 seek that proposals ensure the safety of all road users and make travel safer, reduce congestion, minimise increases in road traffic, provide suitable and safe access for all users of developments, ensure roads within the borough are used appropriately, require acceptable facilities for pedestrians and cyclists and reduce the need to travel.

The council's Highways Officer has commented on this submission and his considerations are detailed below.

The road fronting the site is Hendon Way (A41), it forms part of London's Red Route Network managed by Transport for London. The red route on Hendon Way is protected by no stopping restrictions which operate between 7am and 7pm with exemptions at few locations to allow for loading/unloading (max 20mins) and short term parking (parking for 90mins no return within 2 hours). Surrounding roads are covered by CPZs (Cheyne Walk: Mon-Sat, 8am -6.30pm; Vivian Avenue, Queens Road, Graham Road: Mon- Fri, 11am - 12noon)

The site is in a town centre location and is at the rear of a 4 storey block with retail on the ground floor and residential above. There is a northbound bus stop about 30 metres to the south of the site on the A41 and it is served by 7 bus routes including a night bus. A southbound bus stop is located about 200 metres to the south of the site and it is accessible via a pedestrian underpass. Hendon Tube Station is within 2 minutes distance to the north of the site. The site has a PTAL rating of 5 (very good) and this indicates a good level of public transport accessibility.

The proposal is to construct a three storey block of flats comprising 19 units (9x1bed, 10x2bed) which attracts a maximum parking demand of between 10 and 24 car parking spaces. Given the PTAL rating of 5, Highways would accept 12 parking spaces. The current scheme proposes 2 disabled spaces which leaves a shortfall of 10 spaces. Surrounding roads are in a CPZ that operates Mon-Fri, between 11 and 12noon.

Given the site's good access to public transport and the applicant has carried out a parking survey which suggests that an average parking stress of 37% with over 72 parking spaces available on street within a 200m radius of the site. However, given the good PTAL score of the site, Highways would accept a car free scheme subject to the applicant agreeing to enter into a s106 with the council to deny residents of the development the right to purchase CPZ permits.

Highways have further advised that whilst a CPZ restriction in order to promote sustainable travel is recommended, this would not be insisted on. Given the submitted Parking Survey, demonstrates that parking stress levels are reasonably low, and on street availability would accommodate overspill parking, officers consider that there is not sound justification for a permit restriction in connection with this development. The restriction will therefore not be imposed.

Cycle parking is provided at the western end of the site the property. A minimum of 29 long-stay and 2 short stay cycle parking spaces are requested based on current London Plan standards. 30 long stay and 4 short stay cycle spaces are proposed which is acceptable.

Short stay cycle parking should be provided in a covered, sheltered, secure, lockable and enclosed environment. Also, the type of stands used must allow both wheels and the frame of the bicycle to be locked. Details of cycle parking are therefore requested by way of a condition.

The vehicle access to the site is from the A41 and swept path drawings have been supplied by the applicant which show that a 7.5T vehicle and a fire tender can enter and exit the site in forward gear.

Refuse vehicle will pick up from A41 and this is acceptable provided the applicant will arrange to move the bins to the road side on collection point days and return them to the bin storage area afterwards. If refuse vehicles are to pick up from the site then, the access road must be constructed to adoptable standards. Details of refuse storage/collection arrangements are requested by way of a condition.

There are only 2 deliveries expected a day and trip generation by the site is not expected to be an issue given the number and size of units proposed.

Given that the site access road can accommodate flow in one direction at a time, traffic light system is recommended to control vehicle access to the site. Servicing arrangements for the site are acceptable as most of the delivery vehicles are expected to be box vans.

A construction management plan is requested by way of a condition. The applicant has provided a travel plan statement and this is acceptable in its current form.

Highways would raise no objection to the proposal.

Ecology and Biodiversity

The applicant has provided a Preliminary Ecological Appraisal (Tim Moya Associates February 2021). There is one statutory site Brent Cross Reservoir (SSSI and LNR) located 1.1km south west of the site. All other statutory sites are located over 2km away.

The development does not fall into any of the categories listed by Natural England that would require consultation.

The building was found to have negligible potential. Therefore, no further bat surveys are required in association with the building.

The council's ecologist has assessed the submission and is content with the conclusions and advises that ecological enhancements could be agreed by condition.

Flood Risk and Drainage

National standards for SuDS require the Council as Lead Local Flood Authority (LLFA) to be satisfied that major development meets the minimum standards of operation and that there are clear arrangements in place for on-going maintenance over the lifetime of the development.

Although the site has not been identified as being located in an area with a high probability of flooding (Flood Zone 1), the application has been accompanied by a Drainage Strategy. The development must be designed to provide suitable Sustainable Urban Drainage solutions, in accordance with the Sustainable Design and Construction SPD. The LLFA have assessed the submitted information and are content that there would be no concerns from a flood risk/drainage perspective, subject to an appropriate condition agreeing further details of the SUDS scheme. This can be secured by condition.

MET Police

The Crime Prevention Officer has reviewed the submission and though initially highlighting some design concerns, the applicant has amended the plans in response to comments, including the use of a gated entrance/exit, and the Crime Prevention Officer concludes no objection to this proposal. Due to the reported issues affecting the ward and high levels of burglary in Barnet, it is recommended that a planning condition be attached to any approval whereby this development must achieve Secured By Design accreditation, prior to occupation. Any approval could be conditioned accordingly.

Environmental Health Comments

A Noise Impact assessment has been submitted by Create Consulting Engineers (Feb 21) and has been reviewed by the council's Environmental Health section.

The Environmental Health section of the council raise no objection subject to conditions. These include requirements regarding acoustic mitigation as included within the report, restricting noise from plant, and a contaminated land risk assessment.

Refuse/Recycling

Refuse collection would be to the front of the site from Hendon Way. Refuse would be put out on the street in the same way existing residents along the street put their refuse out on collection days. The bin provision and storage area are acceptable to the Street Scene Operations team.

Sustainability

London Plan Policy SI.2 requires development proposals to make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

- Be lean: use less energy
- Be clean: supply energy efficiently
- Be green: use renewable energy
- Be seen: monitor, verify and report on energy performance

The London Plan goes on to set out the sustainable design and construction measures required in new developments. Proposals should achieve the highest standards of sustainable design and construction and demonstrate that sustainable design standards are integral to the proposal, including its construction and operation.

Major development should be net zero-carbon, with a minimum on-site reduction of at least 35 per cent beyond Building Regulations

Local Plan policy DM01 states that all development should demonstrate high levels of environmental awareness and contribute to climate change mitigation and adaptation. Policy DM04 requires all major developments to provide a statement which demonstrate compliance with the Mayors targets for reductions in carbon dioxide emissions, within the framework of the Mayor's energy hierarchy.

The application is accompanied by an Energy Statement from Mendick Waring Limited (March 2021) which sets out how the development accords to the London Plan energy hierarchy.

Be Lean

For the Be Lean scenario, a combination of all feasible passive measures has been incorporated to all the units of the development. These measures are assessed as providing a 12.88% reduction in regulated CO2 emissions which exceeds the required 10%..

Be Clean

There aren't any Be Clean results as the implemented system, of this development, is Air Source Heat Pumps and not CHP.

Be Green

The proposed scheme incorporates individual heat pumps for each apartment. Further, solar PV will be provided to the roof. A reduction of 35.88% in regulated CO2 emissions, over the Building Regulations Part L 2013 Baseline, has been achieved for the new-build residential units (19 flats) for the "Be Green" case of the Energy Hierarchy.

An on-site reduction of 35.88% in regulated emissions compared to a 2013 Building regulations compliant development is expected for the development,. The carbon dioxide savings exceed the 35% on-site target set within the London Plan.

New residential developments are required to meet the zero-carbon target. The applicant is therefore required to mitigate the regulated CO2 emissions, equating to a financial contribution of £36,024 to the Borough's offset fund (12.64 tonne shortfall x £95 x 30 years).

In terms of water consumption, a condition would be attached to any permission to require each unit to receive water through a water meter, and be constructed with water saving and efficiency measures to ensure a maximum of 105 litres of water is consumed per person per day, to ensure the proposal accords with Policy 5.15 of the London Plan (2016 Minor Alterations).

The proposed development therefore could be conditioned to meet the necessary sustainability and efficiency requirements of the London Plan in the event of an approval.

5.4 Response to Public Consultation

It is considered that the majority of third-party comment have been addressed within the report.

- Unduly overbearing and visually obtrusive, detrimental to the visual and residential amenities of the occupiers of Kennyland Court
- The development is out of character with the surrounding area.
- Loss of privacy to the residents of Kennyland Court.
- Loss of privacy for the residents of Allington Road, as the new proposal would be very close to their back gardens and the rear of their houses.

- Overbearing impact on adjoining residents.
- An unacceptable level of overlooking and loss of privacy to the occupiers of neighbouring residential properties namely: Kennyland Court, Allington Road and Homes and Flats above business premises on 397- 405 Hendon Way.

Addressed within the report.

- Proposal will lead to overspill parking onto surrounding roads, the parking survey submitted is not extensive.
- Issues with regards to access for servicing, and emergency vehicles.
- The width of the development entrance is only 3.8m. It only allows for a single passageway for vehicle access. A turning circle is necessary for the development site.
- Don't believe people will use public transport and this scheme will cause further parking issues in the locality.
- Concern about the real possibility of damage to the property from delivery, refuse and other vehicles using the lane.
- Concerned for the safety of people using the pavement outside my property on Hendon Way when crossing the lane

Highways accept the proposal and have provided detailed comments.

- By nature of its scale the new proposal would seriously threaten the lives of the tall trees that line the back of the gardens of the properties on Allington Road. Trees that have been there for over 25 years. These trees provide sound barriers, aid reduction of pollution and are a positive amenity. Effected Allington Road residents would lose the tree screen boundary and gain a loss of privacy and overlooking.
- There will also be an impact on the trees which, as far as I am aware, are subject to a Tree Preservation Order.

Discussed in the trees section, Tree's Officer has no objection on impact on trees.

- The proposed development would provide flats very close to the A41 Hendon Way which suffers from poor air quality and an excess of local air quality standards, and would as a result provide for a poor air and environmental quality for future occupiers
- The additional influx of people (new residents and their families / guests etc) and additional traffic will increase the levels of noise and disturbance in an already very busy area, particularly effecting the neighbouring residents of Kennyland Court, Allington Road and Graham Road.
- The additional noise will cause additional disturbance on the amenities and occupiers of the area.

Environmental Health section have advised and accept the scheme subject to conditions.

- This will create a huge amount of disruption in the area due to the loud construction work and will make the already bad parking situation in the area worse.

Disturbance during construction could be mitigated with a Construction Management Plan which could be agreed by condition.

- As a child care provider, this is of course a major concern of ours. We do not want any additional residence or property that has the ability to look over our rear garden where the children play daily.
- Another major concern is building noise during the day when our nursery is operating. Due to the size of proposed scheme, this will inevitably go on for a long time and will likely cause our business disruption.

Given the position of the nursery relative to the development it is not considered there would be a serious or adverse impact.

- The proposed development would create flats that are dark, enclosed between tall trees and the 3-4 storey buildings on Hendon Way, resulting in a poor quality of accommodation for the future residents.
- Gardens are about 4/5 meters below 393-395 Hendon Way and to have additional 19 flats above will overshadow garden

Amenity of the proposed units has been discussed above.

- The development would clearly not relate well to its surroundings and would result in a cramped appearance for the site.
- The introduction of external corridors would also be an awkward feature that does not exist along this part of Hendon Way.

The proposed design has been discussed above and considered acceptable.

- Policy DM08 of the Development Management Policies states the Council's highest priorities for market housing are 3 and 4-bedroom units.
- The proposed development would comprise 10 two-bedroom flats and 9 one-bedroom flats, and would therefore fail to comply with Policy DM08.
- No provision of affordable housing proposed on-site, with no justifiable reasons.
- The applicant claims permission H/04337/10 is extant, however, no evidence has been provided to demonstrate it is the case.
- The allegedly extant permission is for the construction of only 9 units on site, the proposed 19 units would be of a completely different scale and intensity.
- There are no examples of residential backland development along Hendon Way. As such, the proposed development and the construction of a three-storey building to the rear of the site would fail to respect the character of the local area.
- The applicant also fails to demonstrate the principle of the change of use of the site is acceptable. Policy DM14 states: "Proposals to redevelop or reuse an existing employment space which reduces the levels of employment use and impacts negatively on the local economy will be resisted."
- The site is currently used for car showroom (Sui Generis), the business is still in operation and the site has not been vacant.

Discussed in the principle of development and planning history sections above.

- The applicant did not seek to engage with local residents.
- Owners of the properties 397- 405 Hendon Way have a right of way along the proposed access route to the back of their buildings. The applicant has blocked this route with fencing, despite several protests.

Whilst discussions with adjoining neighbours is strongly encouraged as good practice, there is no requirement from the Local Planning Authority for this. Issues with access is a civil matter.

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

In light of the above appraisal, it is considered that the proposed scheme as amended would have an acceptable level of impact on the amenity of existing and future occupants. The design and layout can be accepted in principle, and the scheme would make a more efficient use of a previously developed site, in line with adopted policy. It is therefore recommended for APPROVAL subject to conditions and s106 contributions.

